

2608--C

I N S E N A T E

January 22, 2013

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

AN ACT to authorize funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2013-2014; and to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund (Part A); to amend the tax law, in relation to the statewide transmission tax and to amend part U1 of chapter 62 of the laws of 2003 amending the vehicle and traffic law and other laws relating to increasing certain motor vehicle transaction fees, in relation to the effectiveness thereof (Part B); to amend the vehicle and traffic law, in relation to imposing drivers license sanctions (Part C); to amend the vehicle and traffic law, in relation to the hours of operation of the department of motor vehicles (Part D); intentionally omitted (Part E); to amend the environmental conservation law and the state finance law, in relation to establishing the "Cleaner, Greener NY Act of 2013"; and repealing section 27-1017 of the environmental conservation law relating thereto (Part F); to amend the environmental conservation law, in relation to waste tire management and recycling fees (Part G); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part H); to amend chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements, in relation to extending certain authority of the dormitory authority of the state of New York (Part I); intentionally omitted (Part J); to authorize and direct the New York state energy research and development authority to make a payment to the general fund of up to \$913,000 (Part K); intentionally omitted (Part

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

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L); to authorize the department of health to finance certain activities with revenues generated from an assessment on cable television companies (Part M); to amend the public service law, in relation to reducing the amount a utility can be assessed (Part N); intentionally omitted (Part O); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending the expiration date thereof (Part P); intentionally omitted (Part Q); to amend the environmental conservation law, in relation to the issuance of hunting and fishing licenses; to amend part AA of chapter 60 of the laws of 2011, amending the environmental conservation law relating to saltwater recreational fishing registrations, in relation to making the provisions of such part permanent; and to repeal certain provisions of the environmental conservation law relating thereto (Part R); to amend the public authorities law, in relation to a grant program for alternate generated power sources at retail gasoline outlets (Part S); to amend the environmental conservation law, in relation to the use of ultra low sulfur diesel fuel and best available technology by the state (Part T); to amend the vehicle and traffic law, in relation to qualifications of bus drivers (Part U); to amend the vehicle and traffic law, in relation to certain registrations of vehicles (Part V); to amend the vehicle and traffic law, in relation to authorizing the department of environmental conservation to establish certain speed limits (Part W); to amend the transportation law, in relation to sign property licensing in certain cities (Part X); to amend the vehicle and traffic law, the executive law, the penal law and the criminal procedure law, in relation to driving while intoxicated and ignition interlock devices (Part Y); to amend the state finance law, in relation to the payment of interest due to not-for-profit organizations (Part Z); to amend the vehicle and traffic law, in relation to signs on school buses (Part AA); to amend the agriculture and markets law and the not-for-profit corporation law, in relation to licensure of exhibits or entertainment on fair grounds (Part BB); to amend the agriculture and markets law, in relation to agricultural assessment values (Part CC); to amend the canal law, the public officers law, the state finance law, the navigation law, the transportation law, the economic development law, the environmental conservation law, the parks, recreation and historic preservation law, the retirement and social security law, and the public authorities law, in relation to transferring jurisdiction over the New York state canal system to the department of transportation; and to repeal certain provisions of the canal law, the transportation law and the public authorities law, relating thereto (Part DD); to amend the public service law, in relation to the publication of certain rates and terms (Part EE); to amend the environmental conservation law, in relation to providing the definition of integrated pest management (Part FF); to amend the economic development law and the public authorities law, in relation to enacting the northern New York power proceeds allocation act (Part GG); to amend the state finance law, in relation to requiring release of appropriated funds to specific regional transportation authorities (Part HH); to amend the public authorities law, in relation to the issuance of bonds for eligible electric generating facilities (Part II); to amend the state finance law, in relation to establishing the repowering and local mitigation fund (Part JJ); to amend the environmental conserva-

tion law, in relation to authorizing crossbow hunting in certain regions of the state (Part KK); enacting the "Rockland Bergen Bi-state watershed flood prevention and protection act" and creating the Rockland Bergen Bi-state River Commission (Part LL); to amend the environmental conservation law, in relation to providing for the regulation of electricity imported into the state from any state or province outside of the multi-state program (Part MM); to amend the environmental conservation law and the tax law, in relation to brownfield site cleanup; to amend the environmental conservation law and the general municipal law, in relation to the brownfield opportunity area program; to amend the navigation law, in relation to responsible parties for petroleum contaminated sites and incentives to parties who are willing to remediate petroleum contaminated sites; and to repeal section 31 of part H of chapter 1 of the laws of 2003 amending the tax law relating to brownfield redevelopment tax credits, relating thereto (Part NN); to amend the executive law, in relation to establishing the office of risk assessment and management (Part OO); to amend chapter 56 of the laws of 2011 relating to permitting authorized state entities to utilize the design-build method for infrastructure projects, in relation to the definition of authorized state entities (Part PP); to amend the racing, pari-mutuel wagering and breeding law, in relation to the New York city off-track betting corporation (Part QQ); and to require the public service commission to develop recommendations regarding the establishment of microgrids (Part RR)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2013-2014
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through RR. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. The sum of five hundred two million seven hundred ninety-
14 seven thousand dollars (\$502,797,000), or so much thereof as shall be
15 necessary, and in addition to amounts previously appropriated by law, is
16 hereby made available, in accordance with subdivision 1 of section 380
17 of the public authorities law as amended, according to the following
18 schedule. Payments pursuant to subdivision (a) of this section shall be
19 made available as moneys become available for such payments. Payments
20 pursuant to subdivisions (b) and (c) of this section shall be made
21 available on the fifteenth day of June, September, December and March or
22 as soon thereafter as moneys become available for such payments. No
23 moneys of the state in the state treasury or any of its funds shall be
24 available for payments pursuant to this section:

25 SCHEDULE

1 (a) Thirty-nine million seven hundred thousand dollars (\$39,700,000)
2 to municipalities for repayment of eligible costs of federal aid municipi-
3 pal street and highway projects pursuant to section 15 of chapter 329 of
4 the laws of 1991, as added by section 9 of chapter 330 of the laws of
5 1991, as amended. The department of transportation shall provide such
6 information to the municipalities as may be necessary to maintain the
7 federal tax exempt status of any bonds, notes, or other obligations
8 issued by such municipalities to provide for the non-federal share of
9 the cost of projects pursuant to chapter 330 of the laws of 1991 or
10 section 80-b of the highway law.

11 The program authorized pursuant to section 15 of chapter 329 of the
12 laws of 1991, as added by section 9 of chapter 330 of the laws of 1991,
13 as amended, shall additionally make payments for reimbursement according
14 to the following schedule:

15 State Fiscal Year	Amount
16 2013-14	\$39,700,000

17 (b) Three hundred eighty-eight million three hundred thousand dollars
18 (\$388,300,000) to counties, cities, towns and villages for reimbursement
19 of eligible costs of local highway and bridge projects pursuant to
20 sections 16 and 16-a of chapter 329 of the laws of 1991, as added by
21 section 9 of chapter 330 of the laws of 1991, as amended. For the
22 purposes of computing allocations to municipalities, the amount distrib-
23 uted pursuant to section 16 of chapter 329 of the laws of 1991 shall be
24 deemed to be \$155,320,000. The amount distributed pursuant to section
25 16-a of chapter 329 of the laws of 1991 shall be deemed to be
26 \$232,980,000. Notwithstanding the provisions of any general or special
27 law, the amounts deemed distributed in accordance with section 16 of
28 chapter 329 of the laws of 1991 shall be adjusted so that such amounts
29 will not be less than 83.807 percent of the "funding level" as defined
30 in subdivision 5 of section 10-c of the highway law for each such muni-
31 cipality. In order to achieve the objectives of section 16 of chapter
32 329 of the laws of 1991, to the extent necessary, the amounts in excess
33 of 83.807 percent of the funding level to be deemed distributed to each
34 municipality under this subdivision shall be reduced in equal propor-
35 tion.

36 (c) Seventy-four million seven hundred ninety-seven thousand dollars
37 (\$74,797,000) to municipalities for reimbursement of eligible costs of
38 local highway and bridge projects pursuant to sections 16 and 16-a of
39 chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of
40 the laws of 1991, as amended. For the purposes of computing allocations
41 to municipalities, the amount distributed pursuant to section 16 of
42 chapter 329 of the laws of 1991 shall be deemed to be \$29,918,800. The
43 amount distributed pursuant to section 16-a of chapter 329 of the laws
44 of 1991 shall be deemed to be \$44,878,200. Notwithstanding the
45 provisions of any general or special law, the amounts deemed distributed
46 in accordance with section 16 of chapter 329 of the laws of 1991 shall
47 be adjusted so that such amounts will not be less than 16.193 percent of
48 the "funding level" as defined in subdivision 5 of section 10-c of the
49 highway law for each such municipality. In order to achieve the objec-
50 tives of section 16 of chapter 329 of the laws of 1991, to the extent
51 necessary, the amounts in excess of 16.193 percent of the funding level
52 to be deemed distributed to each municipality under this subdivision
53 shall be reduced in equal proportion. To the extent that the total of
54 remaining payment allocations calculated herein varies from \$74,797,000,
55 the payment amounts to each locality shall be adjusted by a uniform
56 percentage so that the total payments equal \$74,797,000.

1 The program authorized pursuant to sections 16 and 16-a of chapter 329
2 of the laws of 1991, as added by section 9 of chapter 330 of the laws of
3 1991, as amended, shall additionally make payments for reimbursement
4 according to the following schedule:

State Fiscal Year	Amount
2013-14	\$463,097,000

7 S 2. Subdivision (f) of section 16 of chapter 329 of the laws of 1991,
8 amending the state finance law and other laws relating to the establish-
9 ment of the dedicated highway and bridge trust fund, as amended by
10 section 2 of part A of chapter 58 of the laws of 2012, is amended to
11 read as follows:

12 (f) For purposes of this section and section 10-c of the highway law,
13 local highway and bridge projects may also include the following work
14 types: (1) microsurfacing, (2) paver placed surface treatment, (3)
15 single course surface treatment involving chip seals and oil and stone,
16 and (4) double course surface treatment involving chip seals and oil and
17 stone. Reimbursement for projects using these treatments may be made
18 from the proceeds of bonds, notes or other obligations issued by the New
19 York state thruway authority pursuant to section 380 of the public
20 authorities law or otherwise as determined by the director of the budg-
21 et.

22 S 3. Subdivision (f) of section 16-a of chapter 329 of the laws of
23 1991, amending the state finance law and other laws relating to the
24 establishment of the dedicated highway and bridge trust fund, as amended
25 by section 3 of part A of chapter 58 of the laws of 2012, is amended to
26 read as follows:

27 (f) For purposes of this section and section 10-c of the highway law,
28 local highway and bridge projects may also include the following work
29 types: (1) microsurfacing, (2) paver placed surface treatment, (3)
30 single course surface treatment involving chip seals and oil and stone,
31 and (4) double course surface treatment involving chip seals and oil and
32 stone. Reimbursement for projects using these treatments may be made
33 from the proceeds of bonds, notes or other obligations issued by the New
34 York state thruway authority pursuant to section 380 of the public
35 authorities law or otherwise as determined by the director of the budg-
36 et.

37 S 4. Subdivision (d) of section 11 of chapter 329 of the laws of 1991,
38 amending the state finance law and other laws relating to the establish-
39 ment of the dedicated highway and bridge trust fund, as amended by
40 section 4 of part A of chapter 58 of the laws of 2012, is amended to
41 read as follows:

42 (d) Any such service contract (i) shall provide that the obligation of
43 the director of the budget or the state to fund or to pay the amounts
44 therein provided for shall not constitute a debt of the state within the
45 meaning of any constitutional or statutory provisions in the event the
46 thruway authority assigns or pledges service contract payments as secu-
47 rity for its bonds or notes, (ii) shall be deemed executory only to the
48 extent moneys are available and that no liability shall be incurred by
49 the state beyond the moneys available for the purpose, and that such
50 obligation is subject to annual appropriation by the legislature, and
51 (iii) shall provide that no funds shall be made available from the
52 proceeds of bonds or notes issued pursuant to this chapter unless the
53 commissioner of transportation has certified to the chairman of the
54 thruway authority that such funds shall be used exclusively for the
55 purposes authorized by subdivision (a) of this section, and/or
56 construction, reconstruction or improvement of local highways, bridges

1 and/or highway-railroad crossings, including right of way acquisition,
2 preliminary engineering, and construction supervision and inspection,
3 where the service life of the project is at least ten years or where the
4 project is: (1) microsurfacing, (2) paver placed surface treatment, (3)
5 single course surface treatment involving chip seals and oil and stone
6 and (4) double course surface treatment involving chip seals and oil and
7 stone, and unless the director of the budget has certified to the chair-
8 man of the thruway authority that a spending plan has been submitted by
9 the commissioner of transportation and has been approved by the director
10 of the budget.

11 S 5. Subdivision (b) of section 16 of chapter 329 of the laws of 1991,
12 amending the state finance law and other laws relating to the establish-
13 ment of the dedicated highway and bridge trust fund, as amended by
14 section 5 of part A of chapter 58 of the laws of 2012, is amended to
15 read as follows:

16 (b) Each county, city, town and village shall certify to the commis-
17 sioner of transportation that amounts to be reimbursed are for
18 construction, reconstruction or improvement of local highways, bridges
19 and/or highway-railroad crossings, including right of way acquisition,
20 preliminary engineering, and construction supervision and inspection
21 where the service life of the project is at least ten years or where the
22 project is: (1) microsurfacing, (2) paver placed surface treatment, (3)
23 single course surface treatment involving chip seals and oil and stone
24 and (4) double course surface treatment involving chip seals and oil and
25 stone. Such certification shall include any such information as may be
26 necessary to maintain the federal tax exempt status of bonds, notes or
27 other obligations issued by the New York state thruway authority pursu-
28 ant to section 380 of the public authorities law. The commissioner of
29 transportation shall in writing request the municipalities to furnish
30 such information as may be necessary to comply with this section.

31 S 6. Subdivision (b) of section 16-a of chapter 329 of the laws of
32 1991, amending the state finance law and other laws relating to the
33 establishment of the dedicated highway and bridge trust fund, as amended
34 by section 6 of part A of chapter 58 of the laws of 2012, is amended to
35 read as follows:

36 (b) Each county, city, town and village shall certify to the commis-
37 sioner of transportation that amounts to be reimbursed are for
38 construction, reconstruction or improvement of local highways, bridges
39 and/or highway-railroad crossings, including right of way acquisition,
40 preliminary engineering, and construction supervision and inspection
41 where the service life of the project is at least ten years or where the
42 project is: (1) microsurfacing, (2) paver placed surface treatment, (3)
43 single course surface treatment involving chip seals and oil and stone
44 and (4) double course surface treatment involving chip seals and oil and
45 stone. Such certification shall include any such information as may be
46 necessary to maintain the federal tax exempt status of bonds, notes or
47 other obligations issued by the New York state thruway authority pursu-
48 ant to section 380 of the public authorities law. The commissioner shall
49 in writing request the municipalities to furnish such information as may
50 be necessary to comply with this section.

51 S 7. This act shall take effect immediately.

1 Section 1. Subdivision 3 of section 205 of the tax law, as added by
2 section 8 of part U1 of chapter 62 of the laws of 2003, is amended to
3 read as follows:

4 3. [From the] THE moneys collected from the taxes imposed by sections
5 one hundred eighty-three and one hundred eighty-four of this article on
6 and after April first, two thousand [four] THIRTEEN, after reserving
7 amounts for refunds or reimbursements, SHALL BE DISTRIBUTED AS FOLLOWS:
8 twenty percent of such moneys shall be deposited to the credit of the
9 dedicated highway and bridge trust fund established by section eighty-
10 nine-b of the state finance law[. The remainder], FIFTY-FOUR PERCENT OF
11 SUCH MONEYS shall be deposited in the mass transportation operating
12 assistance fund to the credit of the metropolitan mass transportation
13 operating assistance account created pursuant to section eighty-eight-a
14 of the state finance law AND TWENTY-SIX PERCENT OF SUCH MONEYS SHALL BE
15 DEPOSITED IN THE MASS TRANSPORTATION OPERATING ASSISTANCE FUND TO THE
16 CREDIT OF THE PUBLIC TRANSPORTATION SYSTEMS OPERATING ASSISTANCE ACCOUNT
17 CREATED PURSUANT TO SECTION EIGHTY-EIGHT-A OF THE STATE FINANCE LAW.

18 S 2. Section 13 of part U1 of chapter 62 of the laws of 2003 amending
19 the vehicle and traffic law and other laws relating to increasing
20 certain motor vehicle transaction fees, as amended by section 1 of part
21 P of chapter 59 of the laws of 2009, is amended to read as follows:

22 S 13. This act shall take effect immediately; provided however that
23 sections one through SEVEN OF THIS ACT, THE AMENDMENTS TO SUBDIVISION 2
24 OF SECTION 205 OF THE TAX LAW MADE BY SECTION EIGHT OF THIS ACT, AND
25 SECTION nine of this act shall expire and be deemed repealed on March
26 31, 2015; provided further, however, that the provisions of section
27 eleven of this act shall take effect April 1, 2004 and shall expire and
28 be deemed repealed on March 31, 2015.

29 S 3. This act shall take effect on the same date and in the same
30 manner as the expiration and repeal of subdivision 3 of section 205 of
31 the tax law as provided in section 2 of part P of chapter 59 of the laws
32 of 2012, as amended.

33 PART C

34 Section 1. Paragraph (a) of subdivision 4 of section 510-a of the
35 vehicle and traffic law, as amended by section 14 of part E of chapter
36 60 of the laws of 2005, is amended to read as follows:

37 (a) A serious traffic violation shall mean operating a commercial
38 motor vehicle IN VIOLATION OF A STATE OR LOCAL LAW OR ORDINANCE
39 RESTRICTING OR PROHIBITING THE USE OF A HAND-HELD MOBILE TELEPHONE OR A
40 PORTABLE ELECTRONIC DEVICE WHILE DRIVING OR in violation of any
41 provision of this chapter or the laws of any other state, the District
42 of Columbia or any Canadian province which (i) limits the speed of motor
43 vehicles, provided the violation involved fifteen or more miles per hour
44 over the established speed limit; (ii) is defined as reckless driving by
45 state or local law or regulation; (iii) prohibits improper or erratic
46 lane change; (iv) prohibits following too closely; (v) relates to motor
47 vehicle traffic (other than parking, standing or stopping) and which
48 arises in connection with a fatal accident; (vi) operating a commercial
49 motor vehicle without first obtaining a commercial driver's license as
50 required by section five hundred one of this title; (vii) operating a
51 commercial motor vehicle without a commercial driver's license in the
52 driver's possession; or (viii) operating a commercial motor vehicle
53 without the proper class of commercial driver's license and/or endorse-

1 ment for the specific vehicle being operated or for the passengers or
2 type of cargo being transported.

3 S 2. Paragraphs (c) and (e) of subdivision 1 of section 1225-c of the
4 vehicle and traffic law, as added by chapter 69 of the laws of 2001, are
5 amended to read as follows:

6 (c) "Using" shall mean holding a mobile telephone to, or in the imme-
7 diate proximity of, the user's ear, DIALING OR ANSWERING A MOBILE TELE-
8 PHONE BY PRESSING MORE THAN A SINGLE BUTTON, OR REACHING FOR A MOBILE
9 TELEPHONE IN A MANNER THAT REQUIRES A DRIVER TO MANEUVER SO THAT SUCH
10 DRIVER IS NO LONGER IN A SEATED POSITION, RESTRAINED BY A SEAT BELT THAT
11 IS INSTALLED IN ACCORDANCE WITH 49 CFR 393.93 AND ADJUSTED IN ACCORDANCE
12 WITH THE VEHICLE MANUFACTURER'S INSTRUCTIONS.

13 (e) "Hands-free mobile telephone" shall mean a mobile telephone that
14 has an internal feature or function, or that is equipped with an attach-
15 ment or addition, whether or not permanently part of such mobile tele-
16 phone, by which a user engages in a call without the use of either hand,
17 whether or not the use of either hand is necessary to activate, deacti-
18 vate or initiate a function of such telephone, PROVIDED, HOWEVER, THAT A
19 TELEPHONE THAT REQUIRES DIALING OR ANSWERING SUCH TELEPHONE BY PRESSING
20 MORE THAN A SINGLE BUTTON SHALL NOT CONSTITUTE A HANDS-FREE MOBILE TELE-
21 PHONE.

22 S 3. Paragraphs (a) and (b) of subdivision 2 of section 1225-c of the
23 vehicle and traffic law, as added by chapter 69 of the laws of 2001, are
24 amended and a new paragraph (d) is added to read as follows:

25 (a) Except as otherwise provided in this section, no person shall
26 operate a motor vehicle upon a public highway while using a mobile tele-
27 phone to engage in a call while such vehicle is in motion, PROVIDED,
28 HOWEVER, NO PERSON SHALL OPERATE A COMMERCIAL MOTOR VEHICLE, AS DEFINED
29 IN SUBDIVISION FOUR-A OF SECTION TWO OF THE TRANSPORTATION LAW, WHILE
30 USING A MOBILE TELEPHONE ON A PUBLIC HIGHWAY, INCLUDING WHILE TEMPORAR-
31 ILY STATIONARY BECAUSE OF TRAFFIC, A TRAFFIC CONTROL DEVICE, OR OTHER
32 MOMENTARY DELAYS. THE OPERATOR OF A COMMERCIAL MOTOR VEHICLE MAY USE A
33 MOBILE TELEPHONE WHEN SUCH OPERATOR HAS MOVED THE VEHICLE TO THE SIDE
34 OF, OR OFF, A HIGHWAY AND HAS HALTED IN A LOCATION WHERE THE VEHICLE CAN
35 REMAIN STATIONARY UNLESS STOPPING IS PROHIBITED BY LAW, RULES AND REGU-
36 LATIONS OR BY A DIRECTIVE OF LAW ENFORCEMENT.

37 (b) An operator of [a] ANY motor vehicle who holds a mobile telephone
38 to, or in the immediate proximity of his or her ear while such vehicle
39 is in motion is presumed to be engaging in a call within the meaning of
40 this section, PROVIDED, HOWEVER, THAT AN OPERATOR OF A COMMERCIAL MOTOR
41 VEHICLE WHO HOLDS A MOBILE TELEPHONE TO, OR IN THE IMMEDIATE PROXIMITY
42 OF HIS OR HER EAR WHILE SUCH VEHICLE IS TEMPORARILY STATIONARY BECAUSE
43 OF TRAFFIC, A TRAFFIC CONTROL DEVICE, OR OTHER MOMENTARY DELAYS IS ALSO
44 PRESUMED TO BE ENGAGING IN A CALL WITHIN THE MEANING OF THIS SECTION.
45 The presumption established by this subdivision is rebuttable by
46 evidence tending to show that the operator was not engaged in a call.

47 (D) NO MOTOR CARRIER, AS DEFINED IN SUBDIVISION SEVENTEEN OF SECTION
48 TWO OF THE TRANSPORTATION LAW, SHALL ALLOW OR REQUIRE ITS DRIVERS TO USE
49 A HAND-HELD MOBILE TELEPHONE WHILE DRIVING A COMMERCIAL MOTOR VEHICLE.

50 S 4. Subdivision 1 of section 1225-d of the vehicle and traffic law,
51 as added by chapter 403 of the laws of 2009, is amended to read as
52 follows:

53 1. Except as otherwise provided in this section, no person shall oper-
54 ate a motor vehicle while using any portable electronic device while
55 such vehicle is in motion, PROVIDED, HOWEVER, NO PERSON SHALL OPERATE A
56 COMMERCIAL MOTOR VEHICLE, AS DEFINED IN SUBDIVISION FOUR-A OF SECTION

TWO OF THE TRANSPORTATION LAW, WHILE USING A PORTABLE ELECTRONIC DEVICE ON A PUBLIC HIGHWAY, INCLUDING WHILE TEMPORARILY STATIONARY BECAUSE OF TRAFFIC, A TRAFFIC CONTROL DEVICE, OR OTHER MOMENTARY DELAYS. THE OPERATOR OF A COMMERCIAL MOTOR VEHICLE MAY USE A PORTABLE ELECTRONIC DEVICE WHEN SUCH OPERATOR HAS MOVED THE VEHICLE TO THE SIDE OF, OR OFF, A HIGHWAY AND HAS HALTED IN A LOCATION WHERE THE VEHICLE CAN REMAIN STATIONARY UNLESS STOPPING IS PROHIBITED BY LAW, RULES, AND REGULATIONS OR BY A DIRECTIVE OF LAW ENFORCEMENT.

S 5. Section 1225-d of the vehicle and traffic law is amended by adding a new subdivision 1-a to read as follows:

1-A. NO MOTOR CARRIER, AS DEFINED IN SUBDIVISION SEVENTEEN OF SECTION TWO OF THE TRANSPORTATION LAW, SHALL ALLOW OR REQUIRE ITS DRIVERS TO USE A PORTABLE ELECTRONIC DEVICE WHILE DRIVING A COMMERCIAL MOTOR VEHICLE.

S 6. Paragraphs (a) and (b) of subdivision 2 of section 1225-d of the vehicle and traffic law, as added by chapter 403 of the laws of 2009, are amended to read as follows:

(a) "Portable electronic device" shall mean any hand-held mobile telephone, as defined by subdivision one of section twelve hundred twenty-five-c of this article, personal digital assistant (PDA), handheld device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device OR ANY OTHER DEVICE USED TO INPUT, WRITE, SEND, RECEIVE OR READ TEXT.

(b) "Using" shall mean holding a portable electronic device while viewing, taking or transmitting images, INSTANT MESSAGING, PERFORMING A COMMAND OR REQUEST TO ACCESS A WORLD WIDE WEB PAGE, playing games, or composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages, or other electronic data.

S 7. This act shall take effect October 28, 2013 and shall apply to violations committed on or after such date.

PART D

Section 1. Subdivision 1 of section 200 of the vehicle and traffic law, as amended by chapter 60 of the laws of 1993, is amended to read as follows:

1. There shall be in the state government a department of motor vehicles. The head of the department shall be the commissioner of motor vehicles who shall be appointed by the governor, by and with the advice and consent of the senate, and hold office until the end of the term of the appointing governor and until a successor is appointed and has qualified, and who shall receive an annual salary within the amount appropriated therefor. The commissioner of motor vehicles shall have the immediate charge of the department. The commissioner of motor vehicles may appoint, and at pleasure remove, such deputy commissioners of motor vehicles, inspectors, examiners and other assistants and employees of the department as are deemed necessary, within the amounts available therefor by appropriation. The commissioner of motor vehicles and all other officers and employees of the department shall be paid and allowed their necessary, actual and reasonable expenses incurred in the exercise of their duties. All salaries and expenses of the department shall be paid out of the state treasury on the audit and warrant of the comptroller on the certificate of the commissioner of motor vehicles. The principal office of the department shall be in the city of Albany. NOTWITHSTANDING THE PROVISIONS OF SECTION SIXTY-TWO OF THE PUBLIC OFFICERS LAW, THE COMMISSIONER OF MOTOR VEHICLES MAY DESIGNATE CERTAIN

BRANCH OFFICES OF THE DEPARTMENT TO BE OPEN TO SERVE THE PUBLIC AND
TRANSACTION BUSINESS ON SATURDAYS.

S 2. This act shall take effect immediately.

PART E

Intentionally Omitted

PART F

Section 1. This act shall be known and may be cited as the "Cleaner,
Greener NY act of 2013."

S 2. Subdivision 2-a of section 27-1003 of the environmental conserva-
tion law, as added by section 3 of part SS of chapter 59 of the laws of
2009, is amended to read as follows:

2-a. "Bottler" means a person, firm or corporation who:

a. bottles, cans or otherwise packages beverages in beverage contain-
ers except that if such packaging is for [a distributor] ANY OTHER
PERSON, FIRM OR CORPORATION having the right to bottle, can or otherwise
package the same brand of beverage, then such [distributor] OTHER
PERSON, FIRM OR CORPORATION shall be the bottler; or

b. imports filled beverage containers into the United States.

S 3. Subdivisions 2, 3, 4, 5, 7, 8 and 11 of section 27-1007 of the
environmental conservation law, as added by section 4 of part SS of
chapter 59 of the laws of 2009, are amended to read as follows:

2. A dealer shall post a conspicuous sign, at the point of sale, that
states:

"NEW YORK BOTTLE BILL OF RIGHTS

STATE LAW REQUIRES US TO REDEEM EMPTY RETURNABLE BEVERAGE
CONTAINERS OF THE SAME TYPE AND BRAND THAT WE SELL OR OFFER FOR SALE

YOU HAVE CERTAIN RIGHTS UNDER THE NEW YORK STATE RETURNABLE CONTAINER
ACT:

THE RIGHT to return your empties for refund to any dealer who sells
the same brand, type and size, whether you bought the beverage from the
dealer or not. It is illegal to return containers for refund [that you
did not pay] ON WHICH a deposit WAS NEVER PAID in New York state.

THE RIGHT to get your deposit refund in cash, without proof of
purchase.

THE RIGHT to return your empties any day, any hour, except for the
first and last hour of the dealer's business day (empty containers may
be redeemed at any time in 24-hour stores).

THE RIGHT to return your containers if they are REASONABLY CLEAN,
empty and intact. [Washing containers is not required by law, but is
strongly recommended to maintain sanitary conditions.]

The New York state returnable container act can be enforced by the New
York state department of environmental conservation, the New York state
department of agriculture and markets, the New York state department of
taxation and finance, the New York state attorney general and/or by your
local government."

Such sign must be no less than eight inches by ten inches in size and
have lettering a minimum of one quarter inch high, and of a color which
contrasts with the background. The department shall maintain a toll free
telephone number for a "bottle bill complaint line" that shall be avail-
able from 9:00 a.m. to 5:00 p.m. each business day to receive reports of

violations of this title. The telephone number shall be listed on any sign required by this section.

3. [On or after June first, two thousand nine, a] A dealer WHOSE PLACE OF BUSINESS IS LESS THAN TEN THOUSAND SQUARE FEET IN SIZE may limit the number of empty beverage containers to be accepted for redemption at the dealer's place of business to no less than seventy-two containers per visit, per redeemer, per day, provided that:

(a) The dealer has a written agreement with a redemption center, be it either at a fixed physical location within the same county and within ONE AND one-half mile of the dealer's place of business, or a mobile redemption center, operated by a redemption center, that is located within [one-quarter] ONE mile of the dealer's place of business. The redemption center must have a written agreement with the dealer to accept containers on behalf of the dealer; and the redemption center's hours of operation must cover at least 9:00 a.m. through 7:00 p.m. daily or in the case of a mobile redemption center, the hours of operation must cover at least four consecutive hours between 8:00 a.m. and 8:00 p.m. daily. The dealer must post a conspicuous, permanent sign, meeting the size and color specifications set forth in subdivision two of this section, open to public view, identifying the location and hours of operation of the affiliated redemption center or mobile redemption center; [and] OR

(b) The dealer provides, at a minimum, a consecutive two hour period between 7:00 a.m. and 7:00 p.m. daily whereby the dealer will accept up to two hundred forty containers, per redeemer, per day, and posts a conspicuous, permanent sign, meeting the size and color specifications set forth in subdivision two of this section, open to public view, identifying those hours. The dealer may not change the hours of redemption without first posting a thirty day notice[; and

(c) The dealer's primary business is the sale of food or beverages for consumption off-premises, and the dealer's place of business is less than ten thousand square feet in size].

4. A deposit initiator shall accept from a dealer or operator of a redemption center any empty beverage container of the design, shape, size, color, composition and brand sold or offered for sale by the deposit initiator, PROVIDED SUCH CONTAINERS ARE PROPERLY SORTED AS DETERMINED IN RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER and shall pay the dealer or operator of a redemption center the refund value of each such beverage container as established by section 27-1005 of this title. A deposit initiator shall accept and redeem all such empty beverage containers from a dealer or redemption center without limitation on quantity.

5. A deposit initiator's or distributor's failure to pick up empty beverage containers[, including containers processed in a reverse vending machine,] from a redemption center, dealer or the operator of a reverse vending machine, shall be a violation of this title.

7. A deposit initiator [on a brand] WHO INITIATES A DEPOSIT ON A BEVERAGE CONTAINER shall accept SUCH EMPTY BEVERAGE CONTAINER from [a] AND REIMBURSE ANY distributor who [does not initiate deposits on that brand any] ACCEPTED AND REDEEMED SUCH empty beverage [containers of that brand accepted by the distributor] CONTAINER from a dealer or operator of a redemption center [and shall reimburse the distributor] FOR the [refund value of each such beverage container, as established by section 27-1005 of this title] DEPOSIT AND HANDLING FEE PAID BY THE DISTRIBUTOR. [In addition, the deposit initiator shall reimburse such distributor for each such beverage container the handling fee established under subdivi-

sion six of this section.] Without limiting the rights of the department or any person, firm or corporation under this subdivision or any other provision of this [section] TITLE, a distributor shall have a civil right of action to enforce this subdivision, including, upon three days notice, the right to apply for temporary and preliminary injunctive relief against continuing violations, and until arrangements for collection and return of empty containers or reimbursement of [such] THE REDEEMING distributor for such deposits and handling fees are made.

8. It shall be the responsibility of the deposit initiator or distributor to provide to a dealer or redemption center a sufficient number of bags, cartons, or other suitable containers, at no cost, for the packaging, handling and pickup of empty beverage containers that are not redeemed through a reverse vending machine. The bags, cartons, or containers must be provided by the deposit initiator or distributor on a schedule that allows the dealer or redemption center sufficient time to sort the empty beverage containers prior to pick up by the deposit initiator or distributor. In addition:

(a) When picking up empty beverage containers, a deposit initiator or distributor shall not require a dealer or redemption center to load their own bags, cartons or containers onto or into the deposit initiator's or distributor's vehicle or vehicles or provide the staff or equipment needed to do so. HOWEVER, WHERE PALLETS OR SKIDS, BAGS, CARTONS OR CONTAINERS ARE READILY MOVABLE ONLY BY MEANS OF A FORKLIFT OR SIMILAR EQUIPMENT, A DEPOSIT INITIATOR OR DISTRIBUTOR MAY REQUIRE A DEALER OR REDEMPTION CENTER TO MOVE OR LOAD SUCH ITEMS AT NO COST USING A FORKLIFT OR SIMILAR EQUIPMENT BELONGING TO THE DEALER OR REDEMPTION CENTER.

(b) A deposit initiator or distributor [shall not] MAY require empty containers to be counted at a location other than the redemption center or dealer's place of business. The dealer or redemption center shall have the right to be present at the count.

(c) A deposit initiator or distributor shall pick up empty beverage containers from the dealer or redemption center at reasonable times and intervals THAT SHALL ALSO TAKE INTO ACCOUNT A MINIMUM VOLUME OF CONTAINERS NECESSARY FOR SUCH A PICK UP as determined in rules or regulations promulgated by the department OR ON A SCHEDULE MEETING THE MINIMUM REQUIREMENTS OF SUCH REGULATIONS AND AGREED TO IN WRITING BY THE DEPOSIT INITIATOR OR DISTRIBUTOR AND THE REDEMPTION CENTER.

11. [Notwithstanding the provisions of subdivision two of section 27-1009 of this title, a deposit initiator or distributor shall accept and redeem beverage containers as provided in this title, if the dealer or operator of a redemption center shall have accepted and paid the refund value of such beverage containers.] NO PERSON SHALL PROGRAM, TAMPER WITH, MISUSE, RENDER INACCURATE, OR CIRCUMVENT THE PROPER OPERATION OF A REVERSE VENDING MACHINE TO ELICIT DEPOSIT MONIES WHEN NO VALID, REDEEMABLE BEVERAGE CONTAINER HAS BEEN PLACED IN THE REVERSE VENDING MACHINE.

S 4. Section 27-1009 of the environmental conservation law, as amended by section 5 of part SS of chapter 59 of the laws of 2009, is amended to read as follows:

S 27-1009. Refusal of acceptance.

1. A dealer or operator of a redemption center [may] SHALL refuse to accept from a redeemer, and a deposit initiator or distributor [may] SHALL refuse to accept from a dealer or operator of a redemption center any empty beverage container which does not state thereon a refund value

1 as established by section 27-1005 and provided by section 27-1011 of
2 this title.

3 2. A dealer [or], operator of a redemption center, DISTRIBUTOR, OR
4 DEPOSIT INITIATOR may also refuse to accept any BEVERAGE CONTAINER WHICH
5 IS NOT REASONABLY CLEAN OR CONTAINS A SIGNIFICANT AMOUNT OF FOREIGN
6 MATERIAL, ANY broken bottle, ANY corroded, CRUSHED or dismembered [can]
7 CONTAINER, or any beverage container which [contains a significant
8 amount of foreign material,] IS OTHERWISE ALTERED SO THAT IT IS RENDERED
9 UNREDEEMABLE as determined in rules and regulations to be promulgated by
10 the commissioner. SUCH REFUSAL MUST OCCUR AT THE TIME THE BEVERAGE
11 CONTAINER IS TENDERED FOR REDEMPTION. NOTWITHSTANDING THE FOREGOING,
12 CONTAINERS PROCESSED THROUGH REVERSE VENDING MACHINES AUTHORIZED BY A
13 DISTRIBUTOR OR DEPOSIT INITIATOR, AS DOCUMENTED THROUGH REVERSE VENDING
14 MACHINE RECONCILIATION STATEMENTS OR OTHER REASONABLE DOCUMENTATION,
15 SHALL BE ACCEPTED BY A DISTRIBUTOR OR DEPOSIT INITIATOR.

16 S 5. Subdivision 1 of section 27-1011 of the environmental conserva-
17 tion law, as amended by chapter 149 of the laws of 1983, is amended to
18 read as follows:

19 1. a. Every beverage container sold or offered for sale in this state
20 [by a distributor or dealer] shall clearly indicate by permanently mark-
21 ing or embossing the container or by printing as part of the product
22 label the refund value of the container and the words "New York" or the
23 letters "NY" [; provided, however, in the case of private label beverages
24 such information may be embossed or printed on a label which is securely
25 or permanently affixed to the beverage container. Private label beverag-
26 es shall be defined as beverages purchased from a beverage manufacturer
27 in beverage containers bearing a brand name or trademark for sale at
28 retail directly by the owner or licensee of such brand name or trade-
29 mark; or through retail dealers affiliated with such owner or licensee
30 by a cooperative or franchise agreement].

31 b. Such embossing or permanent imprinting on the beverage container
32 shall be the responsibility of the person, firm or corporation which
33 bottles, cans or otherwise fills or packages a beverage container or a
34 brand owner for whose exclusive account private label beverages are
35 bottled, canned or otherwise packaged; provided, however, that the duly
36 authorized agent of any such person, firm or corporation may indicate
37 such refund value by a label securely affixed on any beverage container
38 containing beverages imported into the United States. PRIVATE LABEL
39 BEVERAGES SHALL BE DEFINED AS BEVERAGES PURCHASED FROM A BOTTLER IN
40 BEVERAGE CONTAINERS BEARING A BRAND NAME OR TRADEMARK FOR SALE AT RETAIL
41 DIRECTLY BY THE OWNER OR LICENSEE OF SUCH BRAND NAME OR TRADEMARK; OR
42 THROUGH RETAIL DEALERS AFFILIATED WITH SUCH OWNER OR LICENSEE BY A COOP-
43 ERATIVE OR FRANCHISE AGREEMENT.

44 S 6. Section 27-1012 of the environmental conservation law, as added
45 by section 8 of part SS of chapter 59 of the laws of 2009, is amended to
46 read as follows:

47 S 27-1012. [Deposit and disposition] DISPOSITION of refund values;
48 registration; reports.

49 1. [Each deposit initiator shall deposit in a refund value account an
50 amount equal to the refund value initiated under section 27-1005 of this
51 title which is received with respect to each beverage container sold by
52 such deposit initiator. Such deposit initiator shall hold the amounts in
53 the refund value account in trust for the state. A refund value account
54 shall be an interest-bearing account established in a banking institu-
55 tion located in this state, the deposits in which are insured by an
56 agency of the federal government. Deposits of such amounts into the

1 refund value account shall be made not less frequently than every five
2 business days. All interest, dividends and returns earned on the refund
3 value account shall be paid directly into said account. The monies in
4 such accounts shall be kept separate and apart from all other monies in
5 the possession of the deposit initiator. The commissioner of taxation
6 and finance may specify a system of accounts and records to be main-
7 tained with respect to accounts established under this subdivision.

8 2. Payments of refund values pursuant to section 27-1007 of this title
9 shall be paid from each deposit initiator's refund value account. No
10 other payment or withdrawal from such account may be made except as
11 prescribed by this section.

12 3.] Each deposit initiator shall file quarterly reports with the
13 commissioner of taxation and finance on a form and in the manner
14 prescribed by such commissioner. The commissioner of taxation and
15 finance may require such reports to be filed electronically. The quar-
16 terly reports required by this subdivision shall be filed for the quar-
17 terly periods ending on the last day of May, August, November and Febru-
18 ary of each year, and each such report shall be filed within twenty days
19 after the end of the quarterly period covered thereby. Each such report
20 shall include all information such commissioner shall determine appro-
21 priate including but not limited to the following information:

22 a. [the balance in the refund value account at the beginning of the
23 quarter for which the report is prepared;

24 b. all such deposits credited to the refund value account and all
25 interest, dividends or returns received on such account, during such
26 quarter;

27 c. all withdrawals from the refund value account during such quarter,
28 including all reimbursements paid pursuant to subdivision two of this
29 section, all service charges on the account, and all payments made
30 pursuant to subdivision four of this section; and

31 d. the balance in the refund value account at the close of such quar-
32 ter] THE NUMBER OF CONTAINERS REQUIRED TO HAVE A REFUND VALUE SOLD BY
33 THE DEPOSIT INITIATOR DURING THE QUARTERLY PERIOD;

34 B. THE NUMBER OF CONTAINERS THAT WERE REDEEMED BY THE DEPOSIT INITI-
35 ATOR DURING THE QUARTERLY PERIOD;

36 C. THE NUMBER OF CONTAINERS THAT WERE UNREDEEMED BY THE DEPOSIT INITI-
37 ATOR DURING THE QUARTERLY PERIOD; AND

38 D. THE AMOUNTS PAID TO ANY DISTRIBUTOR, DEALER OR OPERATOR OF A
39 REDEMPTION CENTER FOR HANDLING FEES DURING THE QUARTER.

40 [4.] 2. a. Quarterly payments. [An] PAYMENTS OF REFUND VALUE PURSUANT
41 TO SECTION 27-1007 OF THIS TITLE, IN AN amount equal to eighty percent
42 of the [balance outstanding in the refund value account] UNREDEEMED
43 DEPOSITS HELD BY A DEPOSIT INITIATOR at the close of each quarter shall
44 be paid to the commissioner of taxation and finance at the time the
45 report provided for in subdivision [three] ONE of this section is
46 required to be filed. The commissioner of taxation and finance may
47 require that the payments be made electronically. The remaining twenty
48 percent of the balance outstanding at the close of each quarter shall be
49 the monies of the deposit initiator [and may be withdrawn from such
50 account by the deposit initiator]. If the provisions of this section
51 with respect to such account have not been fully complied with, each
52 deposit initiator shall pay to such commissioner at such time, in lieu
53 of the amount described in the preceding sentence, an amount equal to
54 the balance which would have been outstanding on such date had such
55 provisions been fully complied with. The commissioner of taxation and
56 finance may require that the payments be made electronically.

1 b. [Refund value account shortfall] OVERREDEMPTION. In the event a
2 deposit initiator pays out more in refund values than it collects in
3 deposits of refund values during the course of a quarterly period as
4 described in subdivision [three] ONE of this section, the deposit initi-
5 ator may apply to the commissioner of taxation and finance for a refund
6 of the amount of such excess payment of refund values [from sources
7 other than the refund value account], in the manner as provided by the
8 commissioner of taxation and finance. A deposit initiator must apply for
9 a refund no later than twelve months after the due date for filing the
10 quarterly report for the quarterly period for which the refund claim is
11 made. No interest shall be payable for any refund paid pursuant to this
12 paragraph.

13 c. Final report. A deposit initiator who ceases to do business in this
14 state as a deposit initiator shall file a final report and remit payment
15 of eighty percent of all [amounts remaining in the refund value account]
16 REFUND VALUES HELD BY THE DEPOSIT INITIATOR as of the close of the
17 deposit initiator's last day of business. The commissioner of taxation
18 and finance may require that the payments be made electronically. The
19 deposit initiator shall indicate on the report that it is a "final
20 report". The final report is due to be filed with payment twenty days
21 after the close of the quarterly period in which the deposit initiator
22 ceases to do business. In the event the deposit initiator pays out more
23 in refund values than it collects in such final quarterly period, the
24 deposit initiator may apply to the commissioner of taxation and finance
25 for a refund of the amount of such excess payment of refund values [from
26 sources other than the refund value account,] in the manner as provided
27 by the commissioner of taxation and finance.

28 [5.] 3. All monies collected or received by the department of taxation
29 and finance pursuant to this title shall be deposited to the credit of
30 the comptroller with such responsible banks, banking houses or trust
31 companies as may be designated by the comptroller. Such deposits shall
32 be kept separate and apart from all other moneys in the possession of
33 the comptroller. The comptroller shall require adequate security from
34 all such depositories. Of the total revenue collected, the comptroller
35 shall retain the amount determined by the commissioner of taxation and
36 finance to be necessary for refunds out of which the comptroller must
37 pay any refunds to which a deposit initiator may be entitled. After
38 reserving the amount to pay refunds, the comptroller must, by the tenth
39 day of each month, pay into the state treasury to the credit of the
40 general fund the revenue deposited under this subdivision during the
41 preceding calendar month and remaining to the comptroller's credit on
42 the last day of that preceding month[.]; PROVIDED, HOWEVER, THAT, BEGIN-
43 NING APRIL FIRST, TWO THOUSAND THIRTEEN, AND ALL FISCAL YEARS THEREAFT-
44 ER, FIFTEEN MILLION DOLLARS PLUS ALL FUNDS RECEIVED FROM THE PAYMENTS
45 DUE EACH FISCAL YEAR PURSUANT TO SUBDIVISION FOUR OF THIS SECTION IN
46 EXCESS OF THE AMOUNT RECEIVED FROM APRIL FIRST, TWO THOUSAND TWELVE
47 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND THIRTEEN, SHALL BE DEPOSITED TO
48 THE CREDIT OF THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED PURSUANT TO
49 SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

50 [6.] 4. The commissioner and the commissioner of taxation and finance
51 shall promulgate, and shall consult each other in promulgating, such
52 rules and regulations as may be necessary to effectuate the purposes of
53 this title. The commissioner and the commissioner of taxation and
54 finance shall provide all necessary aid and assistance to each other,
55 including the sharing of any information that is necessary to their

1 respective administration and enforcement responsibilities pursuant to
2 the provisions of this title.

3 [7. a.] 5. Any person who is a deposit initiator under this title
4 before April first, two thousand nine, must apply by June first, two
5 thousand nine to the commissioner of taxation and finance for registra-
6 tion as a deposit initiator. Any person who becomes a deposit initiator
7 on or after April first, two thousand nine shall apply for registration
8 prior to collecting any deposits as such a deposit initiator. Such
9 application shall be in a form prescribed by the commissioner of taxa-
10 tion and finance and shall require such information deemed to be neces-
11 sary for proper administration of this title. The commissioner of taxa-
12 tion and finance may require that applications for registration must be
13 submitted electronically. The commissioner of taxation and finance shall
14 electronically issue a deposit initiator registration certificate in a
15 form prescribed by the commissioner of taxation and finance within
16 fifteen days of receipt of such application or may take an additional
17 ten days if the commissioner of taxation and finance deems it necessary
18 to consult with the commissioner before issuing such registration
19 certificate. A registration certificate issued pursuant to this subdivi-
20 sion may be issued for a specified term of not less than three years and
21 shall be subject to renewal in accordance with procedures specified by
22 the commissioner of taxation and finance. The commissioner of taxation
23 and finance shall furnish to the commissioner a complete list of regis-
24 tered deposit initiators and shall continually update such list as
25 warranted. The commissioner shall share any information with the commis-
26 sioner of taxation and finance that is necessary for the administration
27 of this subdivision.

28 [b. The commissioner of taxation and finance shall have the authority
29 to revoke or refuse to renew any registration issued pursuant to this
30 subdivision when he or she has determined or has been informed by the
31 commissioner that any of the provisions of this title or rules and regu-
32 lations promulgated thereunder have been violated. Such violations shall
33 include, but not be limited to, the failure to file quarterly reports,
34 the failure to make payments pursuant to this subdivision, the providing
35 of false or fraudulent information to either the department of taxation
36 and finance or the department, or knowingly aiding or abetting another
37 person in violating any of the provisions of this title. A notice of
38 proposed revocation or non-renewal shall be given to the deposit initi-
39 ator in the manner prescribed for a notice of deficiency of tax and all
40 the provisions applicable to a notice of deficiency under article twenty-
41 seven of the tax law shall apply to a notice issued pursuant to this
42 paragraph, insofar as such provisions can be made applicable to a notice
43 authorized by this paragraph, with such modifications as may be neces-
44 sary in order to adapt the language of such provisions to the notice
45 authorized by this paragraph. All such notices issued by the commission-
46 er of taxation and finance pursuant to this paragraph shall contain a
47 statement advising the deposit initiator that the revocation or non-re-
48 newal of registration may be challenged through a hearing process and
49 the petition for such a challenge must be filed with the commissioner of
50 taxation and finance within ninety days after such notice is issued. A
51 deposit initiator whose registration has been so revoked or not renewed
52 shall cease to do business as a deposit initiator in this state, until
53 this title has been complied with and a new registration has been
54 issued. Any deposit initiator whose registration has been so revoked may
55 not apply for registration for two years from the date such revocation
56 takes effect.

1 8.] 6. The commissioner of taxation and finance may require the main-
2 tenance of such [accounts,] records or documents relating to the sale of
3 beverage containers, by any deposit initiator, bottler, distributor,
4 dealer or redemption center as such commissioner may deem appropriate
5 for the administration of this section. Such commissioner may make exam-
6 inations, including the conduct of facility inspections during regular
7 business hours, with respect to the [accounts,] records or documents
8 required to be maintained under this subdivision. Such [accounts,]
9 records and documents shall be preserved for a period of three years,
10 except that such commissioner may consent to their destruction within
11 that period or may require that they be kept longer. Such [accounts,]
12 records and documents may be kept within the meaning of this subdivision
13 when reproduced by any photographic, photostatic, microfilm, micro-card,
14 miniature photographic or other process which actually reproduces the
15 original [accounts,] records or documents.

16 [9.] 7. a. Any person required to be registered under this section
17 who, without being so registered, sells or offers for sale beverage
18 containers in this state, in addition to any other penalty imposed by
19 this title, shall be subject to a penalty to be assessed by the commis-
20 sioner of taxation and finance in an amount not to exceed five hundred
21 dollars for the first day on which such sales or offers for sale are
22 made, plus an amount not to exceed five hundred dollars for each subse-
23 quent day on which such sales or offers for sale are made, not to exceed
24 twenty-five thousand dollars in the aggregate.

25 b. Any deposit initiator who fails to maintain [accounts or] records
26 pursuant to this section, unless it is shown that such failure was due
27 to reasonable cause and not due to negligence or willful neglect, in
28 addition to any other penalty imposed by this title, shall be subject to
29 a penalty to be assessed by the commissioner of taxation and finance of
30 not more than one thousand dollars for each quarter during which such
31 failure occurred, and an additional penalty of not more than one thou-
32 sand dollars for each quarter such failure continues.

33 [10.] 8. The provisions of article twenty-seven of the tax law shall
34 apply to the provisions of this title for which the commissioner of
35 taxation and finance is responsible[, including collection of refund
36 value amounts,] in the same manner and with the same force and effect as
37 if the language of such article had been incorporated in full into this
38 section except to the extent that any provision of such article is
39 either inconsistent with a provision of this section or is not relevant
40 to this section as determined by the commissioner of taxation and
41 finance. [Furthermore, for purposes of applying the provisions of arti-
42 cle twenty-seven of the tax law, where the terms "tax" and "taxes"
43 appear in such article, such terms shall be construed to mean "refund
44 value" or "balance in the refund value account".

45 11.] 9. If any deposit initiator fails or refuses to file a report or
46 furnish any information requested in writing by the department of taxa-
47 tion and finance or the department, the department of taxation and
48 finance with the assistance of the department may, from any information
49 in its possession, make an estimate of the deficiency and collect such
50 deficiency from such deposit initiator.

51 [12. Beginning on June first, two thousand nine each deposit initiator
52 shall register the container label of any beverage offered for sale in
53 the state on which it initiates a deposit. Any such registered container
54 label shall bear a universal product code. Such universal product code
55 shall be New York state specific, in order to identify the beverage
56 container as offered for sale exclusively in New York state, and as a

1 means of preventing illegal redemption of beverage containers purchased
2 out-of-state. Registration must be on forms as prescribed by the depart-
3 ment and must include the universal product code for each combination of
4 beverage and container manufactured. The commissioner may require that
5 such forms be filed electronically. The deposit initiator shall renew a
6 label registration whenever that label is revised by altering the
7 universal product code or whenever the container on which it appears is
8 changed in size, composition or glass color.]

9 S 7. Section 27-1013 of the environmental conservation law, as amended
10 by section 9 of part SS of chapter 59 of the laws of 2009, is amended to
11 read as follows:

12 S 27-1013. Redemption centers AND DEALERS.

13 The commissioner is hereby empowered to promulgate rules and regu-
14 lations governing (1) THE REGISTRATION OR PERMITTING OF REDEMPTION
15 CENTERS INCLUDING BUT NOT LIMITED TO CONDITIONS FOR GRANTING A REGISTRA-
16 TION OR PERMIT, GROUNDS FOR REVOCATION OF A REGISTRATION OR PERMIT AND
17 THE PROCESS FOR THE REVOCATION OF A REGISTRATION OR PERMIT; (2) the
18 circumstances in which DEPOSIT INITIATORS, dealers and distributors,
19 individually or collectively, are required to accept the return of empty
20 beverage containers, and make payment therefor; [(2)] (3) the sorting of
21 the containers which a deposit initiator or distributor may require of
22 dealers and redemption centers; [(3)] (4) the collection of returned
23 beverage containers by deposit initiators or distributors, including the
24 party to whom such expense is to be charged, the frequency of such pick
25 ups THAT SHALL ALSO ALLOW A SCHEDULE MEETING THE MINIMUM REQUIREMENTS OF
26 SUCH REGULATIONS AND AGREED TO IN WRITING BY THE DEPOSIT INITIATOR OR
27 DISTRIBUTOR AND THE REDEMPTION CENTER AND THAT SHALL ALSO TAKE INTO
28 ACCOUNT A MINIMUM VOLUME OF CONTAINERS NECESSARY FOR SUCH A PICK UP and
29 the payment for refunds and handling fees thereon; [(4)] (5) the right
30 of dealers to restrict or limit the number of containers redeemed, the
31 rules for redemption at the dealers' place of business, and the redemp-
32 tion of containers from a beverage for which sales have been discontin-
33 ued, and to issue REGISTRATIONS OR permits to persons, firms or corpo-
34 rations which establish redemption centers, subject to applicable
35 provisions of local and state laws, at which redeemers and dealers may
36 return empty beverage containers and receive payment of the refund value
37 of such beverage containers; (6) THE ASSIGNMENT OF A SPECIFIC REGISTRA-
38 TION OR PERMIT IDENTIFICATION NUMBER TO EACH REDEMPTION CENTER; SUCH
39 REGISTRATION OR PERMIT NUMBER, ALONG WITH THE NUMBER OF CONTAINERS
40 CONTAINED THEREIN, SHALL BE AFFIXED TO ANY BOX OR BAG PROFFERED BY A
41 REDEMPTION CENTER TO A DEPOSIT INITIATOR OR DISTRIBUTOR FOR REDEMPTION
42 IN A MANNER MANDATED BY THE COMMISSIONER; AND (7) THE OPERATION OF
43 MOBILE REDEMPTION CENTERS IN ORDER TO ENSURE THAT TO THE BEST EXTENT
44 PRACTICABLE CONTAINERS ARE NOT PROFFERED FOR REDEMPTION TO A DEPOSIT
45 INITIATOR OR DISTRIBUTOR OUTSIDE OF THE GEOGRAPHIC AREA WHERE SUCH
46 DEPOSIT INITIATOR SELLS CONTAINERS AND INITIATES DEPOSITS. No dealer or
47 distributor, as defined in section 27-1003 of this title, shall be
48 required to obtain a permit to operate a redemption center at the same
49 location as the dealer's or distributor's place of business. Operators
50 of such redemption centers shall receive payment of the refund value of
51 each beverage container from the appropriate deposit initiator or
52 distributor as provided under section 27-1007 of this title.

53 S 8. Section 27-1014 of the environmental conservation law, as amended
54 by section 10 of part SS of chapter 59 of the laws of 2009, is amended
55 to read as follows:

56 S 27-1014. Authority to promulgate rules and regulations.

1 In addition to the authority of the commissioner, under sections
2 27-1007, 27-1009 and 27-1013 of this title, the commissioner shall have
3 the power to promulgate rules and regulations necessary and appropriate
4 for the administration of this title AND TO PREVENT FRAUD.

5 S 9. Section 27-1015 of the environmental conservation law, as amended
6 by section 11 of part SS of chapter 59 of the laws of 2009, is amended
7 to read as follows:

8 S 27-1015. Violations.

9 1. [A violation of this title, except as otherwise provided in this
10 section and section 27-1012 of this title, shall be a public nuisance.
11 In addition, except] CIVIL AND ADMINISTRATIVE SANCTIONS. A. EXCEPT as
12 otherwise provided in this section and section 27-1012 of this title,
13 any person who [shall violate] VIOLATES any [provision] OF THE
14 PROVISIONS of, OR FAILS TO PERFORM A DUTY IMPOSED BY, THIS TITLE OR ANY
15 RULE OR REGULATION PROMULGATED PURSUANT THERETO, OR ANY TERM OR CONDI-
16 TION OF ANY REGISTRATION OR PERMIT ISSUED PURSUANT THERETO, OR ANY FINAL
17 DETERMINATION OR ORDER OF THE COMMISSIONER MADE PURSUANT TO this title
18 shall be liable [to the state of New York] for a civil penalty of not
19 more than five hundred dollars FOR EACH VIOLATION, and an additional
20 civil penalty of not more than five hundred dollars for each day during
21 which each such violation continues. Any civil penalty may be assessed
22 BY THE COMMISSIONER following a hearing or opportunity to be heard
23 PURSUANT TO THE PROVISIONS OF SECTION 71-1709 OF THIS CHAPTER OR BY THE
24 COURT IN ANY ACTION OR PROCEEDING PURSUANT TO SECTION 71-2727 OF THIS
25 CHAPTER. IN ADDITION, SUCH PERSON MAY BY SIMILAR PROCESS BE ENJOINED
26 FROM CONTINUING SUCH VIOLATION AND ANY PERMIT OR REGISTRATION ISSUED TO
27 SUCH PERSON MAY BE REVOKED OR SUSPENDED OR A PENDING RENEWAL APPLICATION
28 DENIED.

29 [2. Any] B. IN ADDITION TO ANY PENALTIES IMPOSED BY THE DEPARTMENT OF
30 TAXATION AND FINANCE AS PROVIDED IN SECTION 27-1012 OF THIS TITLE, ANY
31 distributor or deposit initiator who violates any provision of this
32 title, [except as provided in section 27-1012 of this title,] OR FAILS
33 TO PERFORM A DUTY IMPOSED BY THIS TITLE, OR ANY RULE OR REGULATION
34 PROMULGATED PURSUANT THERETO, OR ANY TERM OR CONDITION OF ANY REGISTRA-
35 TION OR PERMIT ISSUED PURSUANT THERETO, OR ANY FINAL DETERMINATION OR
36 ORDER OF THE COMMISSIONER MADE PURSUANT TO THIS TITLE shall be liable
37 [to the state of New York] for a civil penalty of not more than one
38 thousand dollars FOR EACH VIOLATION, and an additional civil penalty of
39 not more than one thousand dollars for each day during which each such
40 violation continues. Any civil penalty may be assessed BY THE COMMIS-
41 SIONER following a hearing or opportunity to be heard PURSUANT TO THE
42 PROVISIONS OF SECTION 71-1709 OF THIS CHAPTER, OR BY THE COURT IN ANY
43 ACTION OR PROCEEDING PURSUANT TO SECTION 71-2727 OF THIS CHAPTER. IN
44 ADDITION, SUCH DEPOSIT INITIATOR OR DISTRIBUTOR MAY BY SIMILAR PROCESS
45 BE ENJOINED FROM CONTINUING SUCH VIOLATION AND ANY PERMIT OR REGISTRA-
46 TION ISSUED TO SUCH PERSON MAY BE REVOKED OR SUSPENDED OR A PENDING
47 RENEWAL APPLICATION DENIED.

48 2. CRIMINAL SANCTIONS. A. ANY PERSON WHO, HAVING ANY OF THE CULPABLE
49 MENTAL STATES DEFINED IN SECTION 15.05 OF THE PENAL LAW, VIOLATES ANY
50 PROVISION OF OR WHO FAILS TO PERFORM ANY DUTY IMPOSED BY THIS TITLE, OR
51 ANY RULE OR REGULATION PROMULGATED PURSUANT THERETO, OR ANY FINAL DETER-
52 MINATION OR ORDER OF THE COMMISSIONER MADE PURSUANT TO THIS TITLE SHALL
53 BE GUILTY OF A VIOLATION AND, UPON CONVICTION, SHALL BE PUNISHED BY A
54 FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR EACH VIOLATION; EACH DAY
55 ON WHICH SUCH VIOLATION OCCURS SHALL CONSTITUTE A SEPARATE VIOLATION;
56 AND FOR EACH SUCH VIOLATION THE PERSON SHALL BE SUBJECT, UPON

1 CONVICTION, TO IMPRISONMENT FOR NOT MORE THAN FIFTEEN DAYS OR TO A FINE
2 OF NOT MORE THAN FIVE HUNDRED DOLLARS, OR TO BOTH IMPRISONMENT AND FINE.

3 B. IN ADDITION TO ANY PENALTIES IMPOSED BY THE DEPARTMENT OF TAXATION
4 AND FINANCE AS PROVIDED IN SECTION 27-1012 OF THIS TITLE, ANY DISTRIBUTU-
5 TOR OR DEPOSIT INITIATOR WHO, HAVING ANY OF THE CULPABLE MENTAL STATES
6 DEFINED IN SECTION 15.05 OF THE PENAL LAW, VIOLATES ANY PROVISION OF OR
7 WHO FAILS TO PERFORM ANY DUTY IMPOSED BY THIS TITLE, OR ANY RULE OR
8 REGULATION PROMULGATED PURSUANT THERETO, OR ANY FINAL DETERMINATION OR
9 ORDER OF THE COMMISSIONER MADE PURSUANT TO THIS TITLE SHALL BE GUILTY OF
10 A VIOLATION AND, UPON CONVICTION, SHALL BE PUNISHED BY A FINE OF NOT
11 MORE THAN ONE THOUSAND DOLLARS FOR EACH VIOLATION; EACH DAY ON WHICH
12 SUCH VIOLATION OCCURS SHALL CONSTITUTE A SEPARATE VIOLATION; AND FOR
13 EACH SUCH VIOLATION THE PERSON SHALL BE SUBJECT, UPON CONVICTION, TO
14 IMPRISONMENT FOR NOT MORE THAN FIFTEEN DAYS OR TO A FINE OF NOT MORE
15 THAN ONE THOUSAND DOLLARS, OR TO BOTH SUCH IMPRISONMENT AND SUCH FINE.

16 [3.] C. It shall be unlawful for [a distributor or deposit initiator]
17 ANY PERSON, acting alone or aided by another, to return any empty bever-
18 age container to a dealer or redemption center for its refund value if
19 [the] A distributor or deposit initiator had previously accepted such
20 beverage container from any dealer or operator of a redemption center,
21 OR IF SUCH CONTAINER WAS PREVIOUSLY ACCEPTED BY A REVERSE VENDING
22 MACHINE. A violation of this [subdivision] PARAGRAPH shall be a misde-
23 meanor punishable by a fine of not less than five hundred dollars nor
24 more than one thousand dollars and an amount equal to two times the
25 amount of money received as a result of such violation, OR IMPRISONMENT
26 FOR NOT MORE THAN ONE YEAR, OR TO BOTH SUCH IMPRISONMENT AND SUCH FINES.

27 D. IN ADDITION TO ANY OTHER PENALTY PROVIDED BY THIS TITLE, ANY PERSON
28 WHO VIOLATES SUBDIVISION ELEVEN OF SECTION 27-1007 OF THIS TITLE, OR ANY
29 RULE OR REGULATION PROMULGATED PURSUANT THERETO, OR ANY FINAL DETERMI-
30 NATION OR ORDER OF THE COMMISSIONER MADE PURSUANT TO THIS TITLE SHALL BE
31 GUILTY OF A MISDEMEANOR AND, UPON CONVICTION, SHALL BE PUNISHED BY A
32 FINE OF NOT MORE THAN ONE THOUSAND DOLLARS PER DAY OF VIOLATION, OR BY
33 IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH SUCH FINE AND IMPRI-
34 SONMENT.

35 E. IN ADDITION TO ANY OTHER PENALTY PROVIDED BY THIS TITLE, ANY DEAL-
36 ER, DISTRIBUTOR OR DEPOSIT INITIATOR, WHO KNOWINGLY OR INTENTIONALLY
37 VIOLATES ANY PROVISION OF OR FAILS TO PERFORM ANY DUTY IMPOSED BY
38 SECTION 27-1005 OR 27-1012 OF THIS TITLE, OR ANY RULE OR REGULATION
39 PROMULGATED PURSUANT THERETO, OR ANY FINAL DETERMINATION OR ORDER OF THE
40 COMMISSIONER MADE PURSUANT TO THIS TITLE SHALL BE GUILTY OF A MISDEMEA-
41 NOR AND, UPON CONVICTION, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN
42 ONE THOUSAND DOLLARS PER DAY OF VIOLATION, OR BY IMPRISONMENT FOR NOT
43 MORE THAN ONE YEAR, OR BY BOTH SUCH FINE AND IMPRISONMENT.

44 [4.] 3. Any person who [willfully] tenders to a dealer, distributor,
45 redemption center or deposit initiator more than forty-eight empty
46 beverage containers for which such person knows or should reasonably
47 know that no deposit was paid in New York state may be assessed [by the
48 department] a civil penalty of up to one hundred dollars for each
49 container or up to twenty-five thousand dollars for each such tender of
50 containers. At each location where a person tenders containers for
51 redemption, dealers and redemption centers must conspicuously display a
52 sign in letters that are at least one inch in height with the following
53 information: "WARNING: Persons tendering for redemption containers on
54 which a deposit was never paid in this state may be subject to a civil
55 penalty of up to one hundred dollars per container or up to twenty-five
56 thousand dollars for each such tender of containers." Any civil penalty

1 may be assessed BY THE COMMISSIONER following a hearing or opportunity
2 to be heard PURSUANT TO THE PROVISIONS OF SECTION 71-1709 OF THIS CHAP-
3 TER, OR BY THE COURT IN ANY ACTION OR PROCEEDING PURSUANT TO SECTION
4 71-2727 OF THIS CHAPTER. IN ADDITION, SUCH PERSON MAY BY SIMILAR PROCESS
5 BE ENJOINED FROM CONTINUING SUCH VIOLATION AND ANY PERMIT OR REGISTRA-
6 TION ISSUED TO SUCH PERSON MAY BE REVOKED OR SUSPENDED OR A PENDING
7 RENEWAL APPLICATION DENIED.

8 [5.] 4. A. The department, the department of agriculture and markets,
9 the department of taxation and finance and the attorney general are
10 hereby authorized to enforce the provisions of this title AND ALL MONIES
11 COLLECTED SHALL BE DEPOSITED TO THE CREDIT OF THE ENVIRONMENTAL
12 PROTECTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE
13 STATE FINANCE LAW. In addition, the provisions of section 27-1005 of
14 this title and subdivisions one, two, three, four, five, ten and eleven
15 of section 27-1007 of this title may be enforced by a county, city, town
16 or village, and the local legislative body thereof may adopt local laws,
17 ordinances or regulations consistent with this title providing for the
18 enforcement of such provisions AND ALL MONIES COLLECTED BY THE ENFORCING
19 COUNTY, CITY, TOWN OR VILLAGE AS FINES OR PENALTIES PURSUANT TO THIS
20 SECTION SHALL BE PAYABLE TO AND BE THE PROPERTY OF THE COUNTY, CITY,
21 TOWN OR VILLAGE.

22 B. IN ADDITION, A VIOLATION OF THIS TITLE, EXCEPT AS OTHERWISE
23 PROVIDED IN THIS SECTION, SHALL BE A PUBLIC NUISANCE, AND WITHOUT LIMIT-
24 ING THE RIGHTS OF THE DEPARTMENT, OR ANY PERSON, FIRM OR CORPORATION
25 UNDER THIS SUBDIVISION OR ANY OTHER PROVISION OF THIS SECTION, A DEALER,
26 OWNER OR OPERATOR OF A REDEMPTION CENTER, DISTRIBUTOR, OR DEPOSIT INITI-
27 ATOR SHALL HAVE A CIVIL RIGHT OF ACTION TO ENFORCE THE PROVISIONS OF
28 SECTION 27-1009 OF THIS TITLE AND SUBDIVISIONS FOUR, FIVE, SIX, AND
29 EIGHT OF SECTION 27-1007 OF THIS TITLE.

30 S 10. Section 27-1017 of the environmental conservation law is
31 REPEALED.

32 S 11. Subdivision 3 of section 92-s of the state finance law, as
33 amended by section 2 of part T of chapter 59 of the laws of 2009, is
34 amended to read as follows:

35 3. Such fund shall consist of the amount of revenue collected within
36 the state from the amount of revenue, interest and penalties deposited
37 pursuant to section fourteen hundred twenty-one of the tax law, the
38 amount of fees and penalties received from easements or leases pursuant
39 to subdivision fourteen of section seventy-five of the public lands law
40 and the money received as annual service charges pursuant to section
41 four hundred four-1 of the vehicle and traffic law, all moneys required
42 to be deposited therein from the contingency reserve fund pursuant to
43 section two hundred ninety-four of chapter fifty-seven of the laws of
44 nineteen hundred ninety-three, all moneys required to be deposited
45 pursuant to section thirteen of chapter six hundred ten of the laws of
46 nineteen hundred ninety-three, repayments of loans made pursuant to
47 section 54-0511 of the environmental conservation law, all moneys to be
48 deposited from the Northville settlement pursuant to section one hundred
49 twenty-four of chapter three hundred nine of the laws of nineteen
50 hundred ninety-six, provided however, that such moneys shall only be
51 used for the cost of the purchase of private lands in the core area of
52 the central Suffolk pine barrens pursuant to a consent order with the
53 Northville industries signed on October thirteenth, nineteen hundred
54 ninety-four and the related resource restoration and replacement plan,
55 the amount of penalties required to be deposited therein by section
56 71-2724 of the environmental conservation law, all moneys required to be

1 deposited pursuant to article thirty-three of the environmental conser-
2 vation law, all fees collected pursuant to subdivision eight of section
3 70-0117 of the environmental conservation law, [as added by a chapter of
4 the laws of two thousand nine,] all moneys collected pursuant to title
5 thirty-three of article fifteen of the environmental conservation law,
6 [as added by a chapter of the laws of two thousand nine] BEGINNING WITH
7 THE FISCAL YEAR COMMENCING ON APRIL FIRST, TWO THOUSAND THIRTEEN, AND
8 ALL FISCAL YEARS THEREAFTER, FIFTEEN MILLION DOLLARS PLUS ALL FUNDS
9 RECEIVED BY THE STATE EACH FISCAL YEAR IN EXCESS OF THE AMOUNT RECEIVED
10 FROM APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH THIRTY-FIRST, TWO
11 THOUSAND THIRTEEN, FROM THE PAYMENTS COLLECTED PURSUANT TO SUBDIVISION
12 TWO OF SECTION 27-1012 OF THE ENVIRONMENTAL CONSERVATION LAW, and all
13 other moneys credited or transferred thereto from any other fund or
14 source pursuant to law. All such revenue shall be initially deposited
15 into the environmental protection fund, for application as provided in
16 subdivision five of this section.

17 S 12. This act shall take effect immediately and shall be deemed to
18 have been in full force and effect on and after April 1, 2013.

19

PART G

20 Section 1. Subdivisions 1 and 2 of section 27-1905 of the environ-
21 mental conservation law, as amended by section 1 of part DD of chapter
22 59 of the laws of 2010, are amended to read as follows:

23 1. Until December thirty-first, two thousand [thirteen] SIXTEEN,
24 accept from a customer, waste tires of approximately the same size and
25 in a quantity equal to the number of new tires purchased or installed by
26 the customer; and

27 2. Until December thirty-first, two thousand [thirteen] SIXTEEN, post
28 written notice in a prominent location, which must be at least eight and
29 one-half inches by fourteen inches in size and contain the following
30 language:

31 "New York State law requires us to accept and manage waste tires from
32 vehicles in exchange for an equal number of new tires that we sell or
33 install. Tire retailers are required to charge a separate and distinct
34 waste tire management and recycling fee of \$2.50 for each new tire sold.

35 The retailers in addition are authorized, at their sole discretion, to
36 pass on waste tire management and recycling costs to tire purchasers.
37 Such costs may be included as part of the advertised price of the new
38 tire, or charged as a separate per-tire charge in an amount not to
39 exceed \$2.50 on each new tire sold."

40 The written notice shall also contain one of the following statements
41 at the end of the aforementioned language and as part of the notice,
42 which shall accurately indicate the manner in which the tire service
43 charges for waste tire management and recycling costs, and the amount of
44 any charges that are separately invoiced for such costs:

45 "Our waste tire management and recycling costs are included in the
46 advertised price of each new tire.", or

47 "We charge a separate per-tire charge of \$_____ on each new tire sold
48 that will be listed on your invoice to cover our waste tire management
49 and recycling costs."

50 S 2. Subdivisions 1, 2 and 3 and paragraph (a) of subdivision 6 of
51 section 27-1913 of the environmental conservation law, subdivisions 1,
52 2, the opening paragraph of subdivision 3 and paragraph (a) of subdivi-
53 sion 6 as amended by section 4 of part DD of chapter 59 of the laws of

2010 and subdivision 3 as amended by section 2 of part E1 of chapter 63 of the laws of 2003, are amended to read as follows:

1. Until December thirty-first, two thousand [thirteen] SIXTEEN, a waste tire management and recycling fee of two dollars and fifty cents shall be charged on each new tire sold. The fee shall be paid by the purchaser to the tire service at the time the new tire or new motor vehicle is purchased.

The waste tire management and recycling fee does not apply to:

(a) recapped or resold tires;

(b) mail-order sales; or

(c) the sale of new motor vehicle tires to a person solely for the purpose of resale provided the subsequent retail sale in this state is subject to such fee.

2. [Until December thirty-first, two thousand thirteen, the] THE tire service shall collect the waste tire management and recycling fee from the purchaser at the time of the sale and shall [remit] PAY such fee to the department of taxation and finance with the quarterly [report] RETURN filed pursuant to subdivision three of this section. THE COMMISSIONER OF TAXATION AND FINANCE MAY REQUIRE THAT THE TIRE SERVICE PAY THE FEE ELECTRONICALLY.

(a) The fee imposed shall be stated as an invoice item separate and distinct from the selling price of the tire.

(b) The tire service shall be entitled to retain an allowance of twenty-five cents per tire from fees collected.

3. Until March thirty-first, two thousand [fourteen] SEVENTEEN, each tire service maintaining a place of business in this state shall make a return to the department of taxation and finance on a quarterly basis[, with the return for December, January, and February being due on or before the immediately following March thirty-first; the return for March, April, and May being due on or before the immediately following June thirtieth; the return for June, July, and August being due on or before the immediately following September thirtieth; and the return for September, October, and November being due on or before the immediately following December thirty-first] IN THE FORM AND MANNER PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE. THE COMMISSIONER OF TAXATION AND FINANCE MAY REQUIRE SUCH RETURNS TO BE FILED ELECTRONICALLY. THE QUARTERLY RETURNS REQUIRED BY THIS SUBDIVISION SHALL BE FILED FOR THE QUARTERLY PERIODS ENDING ON THE LAST DAY OF FEBRUARY, MAY, AUGUST AND NOVEMBER OF EACH YEAR, AND EACH SUCH RETURN SHALL BE FILED WITHIN TWENTY DAYS AFTER THE END OF THE QUARTERLY PERIOD COVERED THEREBY.

(a) Each return shall include:

(i) the name of the tire service;

(ii) the address of the tire service's principal place of business and the address of the principal place of business (if that is a different address) from which the tire service engages in the business of making retail sales of tires;

(iii) the name and signature of the person preparing the return;

(iv) the total number of new tires sold at retail for the preceding quarter and the total number of new tires placed on motor vehicles prior to original retail sale;

(v) the amount of waste tire management and recycling fees due; and

(vi) such other reasonable information as the department of taxation and finance may require.

(b) Copies of each [report] RETURN shall be retained by the tire service for three years.

1 If a tire service ceases business, it shall file a final return and
2 [remit] PAY all fees due under this title [with] TO the department of
3 taxation and finance not more than one month after discontinuing that
4 business.

5 (a) [Until December thirty-first, two thousand thirteen, any] ANY
6 additional waste tire management and recycling costs of the tire service
7 in excess of the amount authorized to be retained pursuant to paragraph
8 (b) of subdivision two of this section may be included in the published
9 selling price of the new tire, or charged as a separate per-tire charge
10 on each new tire sold. When such costs are charged as a separate per-
11 tire charge: (i) such charge shall be stated as an invoice item separate
12 and distinct from the selling price of the tire; (ii) the invoice shall
13 state that the charge is imposed at the sole discretion of the tire
14 service; and (iii) the amount of such charge shall reflect the actual
15 cost to the tire service for the management and recycling of waste tires
16 accepted by the tire service pursuant to section 27-1905 of this title,
17 provided however, that in no event shall such charge exceed two dollars
18 and fifty cents on each new tire sold.

19 S 3. Subdivision 2 of section 27-1915 of the environmental conserva-
20 tion law, as added by section 3 of part VI of chapter 62 of the laws of
21 2003, is amended to read as follows:

22 2. costs of the department of economic development for the following:

23 (a) conducting an updated market analysis of outlets for waste tire
24 utilization including recycling and energy recovery opportunities;

25 (b) establishment of a program to provide funds to businesses to
26 develop technology that leads to increased markets for waste tires;

27 (c) ESTABLISHMENT OF A PROGRAM TO AWARD THROUGH COMPETITIVE PROCESS
28 THE GREATER OF THREE MILLION DOLLARS OR TEN PERCENT OF REVENUE DEPOSITED
29 ANNUALLY IN THE WASTE MANAGEMENT AND CLEANUP FUND ESTABLISHED IN SECTION
30 NINETY-TWO-BB OF THE STATE FINANCE LAW, TO MANUFACTURERS THAT USE RECY-
31 CLED TIRE MATERIALS FOR THE DEVELOPMENT OF PRODUCTS CREATED AND PRODUCED
32 IN NEW YORK STATE; SUCH AWARD SHALL BE MADE PRIOR TO THE FIRST FEE
33 COLLECTION DATE FOLLOWING THE END OF THE YEAR FROM WHICH THE AWARD FUNDS
34 ARE CALCULATED;

35 (D) funding of demonstration projects; and

36 [(d)] (E) administration of requirements of this section.

37 S 4. This act shall take effect immediately, and shall apply to the
38 quarterly periods provided for in the opening paragraph of subdivision 3
39 of section 27-1913 of the environmental conservation law, as amended by
40 section two of this act, beginning on or after the date this act shall
41 have become a law.

42 PART H

43 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
44 New York state urban development corporation act, relating to the powers
45 of the New York state urban development corporation to make loans, as
46 amended by section 1 of part R of chapter 58 of the laws of 2012, is
47 amended to read as follows:

48 S 2. This act shall take effect immediately provided, however, that
49 section one of this act shall expire on July 1, [2013] 2014, at which
50 time the provisions of subdivision 26 of section 5 of the New York state
51 urban development corporation act shall be deemed repealed; provided,
52 however, that neither the expiration nor the repeal of such subdivision
53 as provided for herein shall be deemed to affect or impair in any manner

1 any loan made pursuant to the authority of such subdivision prior to
2 such expiration and repeal.

3 S 2. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2013.

5 PART I

6 Section 1. Section 2 of part BB of chapter 58 of the laws of 2012
7 amending the public authorities law relating to authorizing the dormito-
8 ry authority to enter into certain design and construction management
9 agreements is amended to read as follows:

10 S 2. This act shall take effect immediately and shall expire and be
11 deemed repealed April 1, [2013] 2015.

12 S 2. This act shall take effect immediately and shall be deemed to
13 have been in full force and effect on and after April 1, 2013.

14 PART J

15 Intentionally Omitted

16 PART K

17 Section 1. Notwithstanding any law to the contrary, the comptroller is
18 hereby authorized and directed to receive for deposit to the credit of
19 the general fund the amount of up to \$913,000 from the New York state
20 energy research and development authority.

21 S 2. This act shall take effect immediately and shall be deemed to
22 have been in full force and effect on and after April 1, 2013.

23 PART L

24 Intentionally Omitted

25 PART M

26 Section 1. Notwithstanding any other law, rule or regulation to the
27 contrary, expenses of the department of health public service education
28 program incurred pursuant to appropriations from the cable television
29 account of the state miscellaneous special revenue funds shall be deemed
30 expenses of the department of public service.

31 S 2. This act shall take effect immediately and shall be deemed to
32 have been in full force and effect on and after April 1, 2013.

33 PART N

34 Section 1. Paragraph (g) of subdivision 2 of section 18-a of the
35 public service law, as amended by section 2 of part NN of chapter 59 of
36 the laws of 2009, is amended to read as follows:

37 (g) The total amount which may be charged to any public utility compa-
38 ny under authority of this subdivision for any state fiscal year shall
39 not exceed ONE-THIRD OF one per centum of such public utility company's
40 gross operating revenues derived from intrastate utility operations in
41 the last preceding calendar year, or other twelve month period as deter-
42 mined by the chairman; provided, however, that no corporation or person
43 that is subject to the jurisdiction of the commission only with respect

1 to safety, or the power authority of the state of New York, shall be
2 subject to the general assessment provided for under this subdivision.

3 S 2. This act shall take effect April 1, 2014.

4 PART O

5 Intentionally Omitted

6 PART P

7 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
8 executive law relating to permitting the secretary of state to provide
9 special handling for all documents filed or issued by the division of
10 corporations and to permit additional levels of such expedited service,
11 as amended by section 1 of part L of chapter 60 of the laws of 2011, is
12 amended to read as follows:

13 S 2. This act shall take effect immediately, provided however, that
14 section one of this act shall be deemed to have been in full force and
15 effect on and after April 1, 2003 and shall expire March 31, [2013]
16 2014.

17 S 2. This act shall take effect immediately and shall be deemed to
18 have been in full force and effect on and after March 31, 2013.

19 PART Q

20 Intentionally Omitted

21 PART R

22 Section 1. Subdivisions 5, 6, 7-a, 10, 12, 13, 14, 15, 16 and 17 of
23 section 11-0701 of the environmental conservation law are REPEALED.

24 S 2. Subdivisions 4 and 8 of section 11-0701 of the environmental
25 conservation law are renumbered subdivisions 3 and 4 and subdivisions 1,
26 2, 3, 9-a and 11, subdivisions 1, 3 and 11 as amended by chapter 344 of
27 the laws of 2008, paragraph a of subdivision 2 as amended by chapter 57
28 of the laws of 1993, subparagraph 1 of paragraph a of subdivision 2 as
29 added by section 5 and paragraph b of subdivision 2 as amended by
30 section 6 of part F of chapter 82 of the laws of 2002, paragraph c of
31 subdivision 2 as amended by chapter 25 of the laws of 2011, and subdivi-
32 sion 9-a as added by chapter 237 of the laws of 1993, are amended and a
33 new subdivision 7 is added to read as follows:

34 1. [A small game license entitles a holder who is sixteen years of age
35 or older to hunt wildlife, except big game, and to take with a gun or
36 longbow fish permitted to be so taken, as provided in titles 9 and 13 of
37 this article.

38 2.] a. [(1)] A [small and big game] HUNTING license entitles the resi-
39 dent OR NON-RESIDENT holder WHO IS TWELVE YEARS OF AGE OR OLDER to hunt
40 wildlife, AS PROVIDED IN TITLE 9 OF THIS ARTICLE, subject to the follow-
41 ing:

42 (i) [a holder who is eighteen years of age or older may hunt wildlife
43 as provided in title 9 of this article,

44 (ii)] a holder who is sixteen OR SEVENTEEN years OLD [of age or older]
45 may hunt [wildlife, except] big game[, as provided in title 9] PURSUANT
46 TO THE PROVISIONS OF SECTION 11-0929 of this article, and

47 [(iii)] (II) a holder who is [between the ages of sixteen and eigh-
48 teen] FOURTEEN OR FIFTEEN YEARS OLD may hunt big game pursuant to the

provisions of [title 9 of this article while the holder is accompanied by a parent, guardian or person over the age of eighteen as required by] section 11-0929 of this article[.], AND

(III) A HOLDER WHO IS TWELVE OR THIRTEEN YEARS OLD MAY HUNT WILDLIFE, EXCEPT BIG GAME, PURSUANT TO THE PROVISIONS OF SECTION 11-0929 OF THIS ARTICLE. SUCH HOLDER IS ENTITLED TO POSSESS FIREARMS AS PROVIDED IN SECTION 265.05 OF THE PENAL LAW, AND

(IV) A holder may take fish with a [gun or] longbow as provided in titles 9 and 13 of this article.

[(2) A non-resident big game license entitles a person who has not been a resident of the state for more than thirty days to hunt wild deer as provided in title 9. It entitles such person to hunt bear during the regular open bear season or in an open season fixed by regulation pursuant to subdivision eight of section 11-0903 of this article if such person is also the holder of a non-resident bear tag. It entitles a person who is between the ages of sixteen and eighteen years to exercise the privileges of a big game license subject to the provisions of section 11-0929.]

b. A special antlerless deer license is applicable to the hunting of wild antlerless deer in a special open season fixed pursuant to subdivision 6 of section 11-0903 of this article in a tract within a Wilderness Hunting Area and entitles the holder of a license which authorizes the holder to hunt big game to hunt antlerless deer in such special open season, as provided in title 9 of this article if he OR SHE has on his OR HER person while so hunting both his OR HER license which authorizes the holder to hunt big game and his OR HER special antlerless deer license.

[c. A junior archery license entitles a resident holder who is between the ages of twelve and sixteen years to hunt wild deer and bear with a longbow during the special archery season and during the regular season, as provided in title 9 of this article, as if such person held a license which authorizes the holder to hunt big game with a bowhunting stamp affixed, subject to the provisions of section 11-0929 and subdivision 3 of section 11-0713 of this article. It entitles a non-resident holder who is between the ages of twelve and sixteen years to hunt wild deer and bear with a longbow during the special archery season and during the regular season, as provided in title 9 of this article, as if such person held a non-resident bowhunting license, a non-resident license which authorizes the holder to hunt deer and a non-resident bear tag, subject to the provisions of section 11-0929 and subdivision 3 of section 11-0713 of this article.]

FOR PURPOSES OF THIS TITLE, A NON-RESIDENT IS A PERSON WHO HAS NOT BEEN A RESIDENT OF THE STATE FOR MORE THAN THIRTY DAYS.

[3] 2. A bowhunting [stamp when affixed to] PRIVILEGE INCLUDED ON a [resident] HUNTING license [which authorizes the holder to hunt big game] entitles a holder who is eighteen years of age or older to hunt wild deer and bear with a longbow, as provided in title 9 of this article, in a special longbow season, SUBJECT TO THE PROVISIONS OF SUBDIVISION 3 OF SECTION 11-0713 OF THIS ARTICLE and it entitles a holder who is [sixteen or] TWELVE THROUGH seventeen years of age to exercise the same privileges subject to the provisions of section 11-0929 and subdivision 3 of section 11-0713 of this article.

[9-a] 5. A one-day fishing license entitles the [resident or non-resident] holder to exercise the privileges of a fishing license on the day specified on the license.

1 [11] 6. A muzzle-loading [stamp] PRIVILEGE when [affixed to] INCLUDED
2 ON a [resident] HUNTING license [which authorizes the holder to hunt big
3 game] entitles a holder who is fourteen years of age or older to hunt
4 wild deer and bear with a muzzle-loading firearm, as provided in title 9
5 of this article, in a special muzzle-loading firearm season, SUBJECT TO
6 THE PROVISIONS OF SUBDIVISION 3 OF SECTION 11-0713 OF THIS ARTICLE.

7 7. A. A TRAPPING LICENSE ENTITLES THE RESIDENT OR NON-RESIDENT HOLDER
8 TO TRAP BEAVER, OTTER, FISHER, MINK, MUSKRAT, SKUNK, RACCOON, BOBCAT,
9 COYOTE, FOX, OPOSSUM, WEASEL, PINE MARTEN AND UNPROTECTED WILDLIFE
10 EXCEPT BIRDS, AS PROVIDED IN TITLE 11 OF THIS ARTICLE, SUBJECT TO THE
11 PROVISIONS OF SUBPARAGRAPH 2 OF PARAGRAPH B OF SUBDIVISION 3 OF SECTION
12 11-0713 OF THIS ARTICLE.

13 B. A JUNIOR TRAPPING LICENSE MAY ENTITLE A HOLDER WHO IS LESS THAN
14 TWELVE YEARS OLD TO TRAP BEAVER, OTTER, FISHER, MINK, MUSKRAT, SKUNK,
15 RACCOON, BOBCAT, COYOTE, FOX, OPOSSUM, WEASEL, PINE MARTEN AND UNPRO-
16 TECTED WILDLIFE EXCEPT BIRDS, AS PROVIDED IN TITLE 11 OF THIS ARTICLE,
17 SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH TWO OF PARAGRAPH B OF SUBDIVI-
18 SION 3 OF SECTION 11-0713 OF THIS ARTICLE.

19 S 3. Subdivisions 2, 4, 5 and 6 of section 11-0703 of the environ-
20 mental conservation law, subdivision 2 as amended by chapter 507 of the
21 laws of 2010, subdivision 4 as amended by section 21 and paragraph a of
22 subdivision 5 as amended by section 22 of part F of chapter 82 of the
23 laws of 2002, paragraph b of subdivision 4 as amended by chapter 178 of
24 the laws of 2011, paragraphs d and e of subdivision 4 and subdivision 6
25 as amended by chapter 344 of the laws of 2008, subdivision 5 as amended
26 by chapter 450 of the laws of 1991 and paragraph d of subdivision 5 as
27 relettered by chapter 470 of the laws of 1994, are amended to read as
28 follows:

29 2. Except as provided in section 11-0704 of this title, no license,
30 permit, tag or [stamp] PRIVILEGE is transferable. No person shall alter,
31 change, lend to another or attempt to transfer to another any license or
32 any [button,] permit, tag or [stamp] PRIVILEGE issued therewith. No
33 person, while hunting, shall possess a license, [button,] permit, tag or
34 [stamp] PRIVILEGE which was issued to another person unless actually
35 accompanied by the person to whom such license, [button,] permit, tag or
36 [stamp] PRIVILEGE was issued. No person shall purchase, possess or use
37 more than one [junior archery, junior hunting, small and big game, big
38 game, bowhunting, muzzle-loading, sportsman, or resident super-sportsman
39 license or stamp, non-resident bowhunting or muzzle-loading license,
40 non-resident super-sportsman license, non-resident bear tag] HUNTING
41 LICENSE or special permit for the current license year, except as
42 permitted by regulation of the department. Notwithstanding the prohibi-
43 tions contained in this subdivision, the department may authorize by
44 rule or regulation the transfer of deer management permits, issued
45 pursuant to section 11-0913 of this article, to any person licensed to
46 hunt deer pursuant to this title.

47 4. a. [Non-resident fishing, non-resident super-sportsman, non-resi-
48 dent bowhunting or muzzle-loading, or non-resident trapping licenses, or
49 non-resident bear tags are issuable only to non-residents and persons
50 who have been residents for less than thirty days immediately preceding
51 the date of application.

52 b. A person under the age of fourteen years is ineligible for any
53 license, other than a junior archery license, which authorizes the hold-
54 er to hunt big game. A person under the age of sixteen years is ineligi-
55 ble for a small and big game, sportsman or resident super-sportsman,
56 non-resident super-sportsman, non-resident big game, non-resident

bowhunting license, or bowhunting stamp.] A person is ineligible for a [small game, small and big game, junior hunting, big game, junior archery, sportsman and resident super-sportsman, non-resident super-sportsman, or non-resident] HUNTING LICENSE, bowhunting PRIVILEGE or muzzle-loading [license] PRIVILEGE unless such person meets the requirements of subdivision 3 of section 11-0713 of this title.

[c] B. Only the following persons are eligible for resident [licenses] FEES: (1) persons who have been residents in the state for [more than] thirty days immediately [preceding] PRIOR TO the date of application for the licenses, or who are enrolled [in] AS a full-time [course] STUDENT at a college or university within the state and who are in residence in the state for the school year, or who are out of state or foreign exchange high school students enrolled [in] AS a full-time [course] STUDENT in a high school within the state and who are in residence in the state for the school year; (2) Indian residents or members of the six nations residing on any reservation wholly or partly within the state; (3) members of the United States armed forces in active service, stationed in this state, regardless of the place of residence at the time of entry into the service; and (4) persons privileged under subdivision 5 of section 11-0707 of this article to take wildlife, other than deer and bear, as if they held hunting licenses.

[d] C. Only persons who possess a [small and big game] HUNTING license[, the big game license portion of the free sportsman, a sportsman license or resident super-sportsman license] are eligible for a bowhunting PRIVILEGE or muzzle-loading [stamp, except that the holder of a junior hunting license, who is a resident and who is at least fourteen years old, is eligible for a muzzle-loading stamp] PRIVILEGE.

[e] D. A person under the age of twelve years is ineligible for a [junior] hunting license EXCEPT AS PROVIDED IN PARAGRAPH B OF SUBDIVISION 1 OF SECTION 11-0701 OF THIS ARTICLE.

5. a. One-day and seven-day fishing licenses expire on the date stated on them. A FISHING LICENSE SHALL REMAIN EFFECTIVE ONE YEAR FROM THE DATE ON WHICH IT WAS ISSUED.

b. A fishing license issued without charge to a resident as formerly provided in subdivision 2 of section 11-0715, shall remain effective for the life of the licensee.

c. A special antlerless deer license is effective during the special open season for which it is issued.

d. All other licenses and [stamps] PRIVILEGES defined in section 11-0701 are effective for a license year beginning [October] SEPTEMBER 1 and ending [September 30] AUGUST 31.

6. a. Except as provided in section 11-0707 and section 11-0709 of this title, no person shall (1) hunt wildlife[, other than deer or bear, or take fish with a gun,] unless such person holds and is entitled to exercise the privileges of a [small game, junior hunting, small and big game, free sportsman, sportsman or resident super-sportsman, or non-resident super-sportsman] HUNTING license; (2) hunt antlerless deer in a special open season therefor pursuant to subdivision 6 of section 11-0903 of this article unless such person holds and is entitled to exercise the privileges of and has on his or her person while so hunting a [small and big game, big game, junior archery, free sportsman, junior] hunting [if the licensee is at least fourteen years old, sportsman, resident super-sportsman, non-resident super-sportsman or non-resident] LICENSE, bowhunting PRIVILEGE or muzzle-loading [license] PRIVILEGE, and a special antlerless deer license; (3) take fish or frogs in the manner described in subdivision 4 of section 11-0701 of this title unless such

1 person is entitled to exercise the privileges of a fishing license; (4)
2 trap wildlife unless such person holds a trapping license.

3 b. Except as provided in section 11-0707 and section 11-0709 of this
4 title, no [resident] PERSON shall (1) hunt wild deer or bear unless such
5 person holds and is entitled to exercise the privileges of a [small and
6 big game, junior archery, junior hunting if the licensee is at least
7 fourteen years old, free sportsman, sportsman, or resident super-sports-
8 man] HUNTING license, and meets the requirements of this article; (2)
9 hunt wild deer or bear with a longbow in a special longbow season unless
10 such person holds and is entitled to exercise the privileges of a [small
11 and big game, junior archery, free sportsman, sportsman, or resident
12 super-sportsman] HUNTING license with a bowhunting [stamp affixed] PRIV-
13 ILEGE and meets the requirements of this article; or (3) hunt wild deer
14 or bear with a muzzle-loading firearm in a special muzzle-loading
15 firearm season unless such person IS AT LEAST FOURTEEN YEARS OLD AND
16 holds a [small and big game, free sportsman, sportsman, junior hunting
17 if the licensee is at least fourteen years old, or resident super-
18 sportsman] HUNTING license with a muzzle-loading [stamp affixed] PRIVI-
19 LEGE and meets the requirements of this article.

20 [c. Except as provided in section 11-0707 and section 11-0709 of this
21 title, no non-resident shall (1) hunt wild deer unless such person holds
22 and is entitled to exercise the privileges of a big game, junior arch-
23 ery, junior hunting if the licensee is at least fourteen years old,
24 non-resident super-sportsman, or non-resident bowhunting or muzzle-load-
25 ing license; (2) hunt wild deer with a longbow in a special longbow
26 season unless such person holds and is entitled to exercise the privi-
27 leges of a non-resident super-sportsman, non-resident bowhunting, or
28 junior archery license; (3) hunt wild deer with a muzzle-loading firearm
29 in a special muzzle-loading firearm season unless such person holds a
30 non-resident super-sportsman or non-resident muzzle-loading license; (4)
31 hunt wild bear unless such person holds a junior hunting license if the
32 licensee is at least fourteen years old, a junior archery license, or a
33 non-resident bear tag in combination with one of the non-resident deer
34 licenses listed in subparagraph 1, 2 or 3 of this paragraph.]

35 S 4. Subdivision 2, paragraphs b and c of subdivision 3 and paragraph
36 b of subdivision 4 of section 11-0713 of the environmental conservation
37 law, subdivision 2 as amended by chapter 25 of the laws of 2011, para-
38 graph b of subdivision 3 as amended by section 27 and paragraph b of
39 subdivision 4 as amended by section 28 of part F of chapter 82 of the
40 laws of 2002 and paragraph c of subdivision 3 as amended by chapter 344
41 of the laws of 2008, are amended to read as follows:

42 2. The issuing officer shall not issue a [junior archery license to a
43 person between the ages of twelve and sixteen or a junior] hunting
44 license to a person [between the ages of] AGE twelve [and] THROUGH
45 sixteen years unless, at the time of issuance, THE applicant is accompa-
46 nied by his or her parent or legal guardian who shall consent to the
47 issuance of the license and shall so signify by signing his or her name
48 in ink across the face of it. At no time shall such licenses be issued
49 by mail to persons [between the ages of] AGE twelve [and] THROUGH
50 sixteen years.

51 b. (1) The issuing officer shall not issue a HUNTING license [or stamp
52 which authorizes the holder to exercise the] WITH A BOW HUNTING privi-
53 lege [of hunting big game with a longbow] to any person unless the
54 applicant presents a New York state license [or stamp] which authorizes
55 the holder to exercise the privilege of hunting [big game] with a long-
56 bow issued in 1980 or later, an affidavit as provided in subparagraph 2

1 of paragraph a of this subdivision or a certificate of qualification in
2 responsible bowhunting practices issued or honored by the department.

3 (2) The issuing officer shall not issue a trapping license to any
4 person unless the applicant presents a trapping license issued to him OR
5 HER previously, an affidavit as provided in subparagraph 2 of paragraph
6 a of this subdivision or a certificate of qualification in responsible
7 trapping practices.

8 c. The issuing officer shall not issue a [bowhunting stamp or]
9 muzzle-loading [stamp] PRIVILEGE to any [resident] PERSON unless the
10 applicant IS AT LEAST FOURTEEN YEARS OLD AND presents a [junior] hunting
11 license [if the licensee is at least fourteen years old, or a small and
12 big game, free sportsman, or sportsman or resident super-sportsman
13 license] issued to that person for the corresponding license year.

14 b. A person who has lost or accidentally destroyed a [button or] tag
15 issued with such a license or [stamp] PRIVILEGE may apply to any license
16 issuing officer for a duplicate and the department shall issue a dupli-
17 cate [button or] tag when satisfied that the application is made in good
18 faith. A duplicate free [sportsman] LICENSE, PRIVILEGE OR tag shall be
19 issued free of charge.

20 S 5. Subdivisions 2, 3, 4 and 6 of section 11-0715 of the environ-
21 mental conservation law, subdivision 2 as amended by section 3, subdivi-
22 sion 3 as amended by section 4 and subdivision 4 as amended by section 5
23 of part KK of chapter 59 of the laws of 2009, subdivision 6 as added by
24 section 32 of part F of chapter 82 of the laws of 2002 and paragraph a
25 of subdivision 6 as amended by chapter 344 of the laws of 2008, are
26 amended to read as follows:

27 2. A member of the Shinnecock tribe or the Poospatuck tribe or a
28 member of the six nations, residing on any reservation wholly or partly
29 within the state, is entitled to receive free of charge a fishing
30 license, a [small and big game license, a sportsman] HUNTING license, a
31 muzzle-loading [stamp] PRIVILEGE, [a trapping license, and] a bow hunt-
32 ing [stamp] PRIVILEGE, AND A TRAPPING LICENSE; a resident of the state
33 who is a member of the United States armed forces in active service who
34 is not stationed within the state and has not been herein longer than
35 thirty days on leave or furlough, is entitled to receive free of charge
36 a fishing license, a [small and big game] HUNTING license, and a trap-
37 ping license; a resident of the state who is an active member of the
38 organized militia of the state of New York as defined by section one of
39 the military law, or the reserve components of the armed forces of the
40 United States, and excluding members of the inactive national guard and
41 individual ready reserve, is entitled to receive free of charge a fish-
42 ing license, a [small and big game] HUNTING license, and a trapping
43 license; and a resident who is blind is entitled to receive a fishing
44 license free of charge. For the purposes of this subdivision a person is
45 blind only if either: (a) his or her central visual acuity does not
46 exceed 20/200 in the better eye with correcting lenses, or (b) his or
47 her visual acuity is greater than 20/200 but is accompanied by a limita-
48 tion of the field of vision such that the widest diameter of the visual
49 field subtends an angle no greater than 20 degrees.

50 [A resident in the state for a period of thirty days immediately prior
51 to the date of application who has attained the age of seventy is enti-
52 tled to receive a sportsman license at the cost of ten dollars as a
53 license fee.]

54 A resident in the state for a period of thirty days immediately prior
55 to the date of application who has attained the age of seventy is enti-

1 tled to receive a fishing license, and a [trapping] HUNTING license, at
 2 a cost of five dollars for each license.

3 A resident in the state for a period of thirty days immediately prior
 4 to the date of application who has attained the age of seventy is enti-
 5 tled to receive free of charge a bowhunting [stamp] PRIVILEGE and a
 6 muzzle-loading [stamp] PRIVILEGE.

7 3. Each applicant for a license, permit or [stamp] PRIVILEGE shall pay
 8 to the issuing officer a fee, according to the license, permit or
 9 [stamp] PRIVILEGE issued and the residence or other qualification of the
 10 applicant.

11 a. In the case of persons who have been residents of the state for
 12 [more than] A PERIOD OF thirty days immediately [preceding] PRIOR TO the
 13 date of application or who are enrolled [in] AS a full-time [course]
 14 STUDENT at a college or university within the state and who are in resi-
 15 dence in the state for the school year, OR WHO ARE OUT OF STATE OR
 16 FOREIGN EXCHANGE HIGH SCHOOL STUDENTS ENROLLED AS A FULL-TIME STUDENT IN
 17 A HIGH SCHOOL WITHIN THE STATE AND WHO ARE IN RESIDENCE IN THE STATE FOR
 18 THE SCHOOL YEAR, Indians residing off reservations in the state and
 19 members of the United States armed forces in active service stationed in
 20 this state regardless of place of residence at the time of entry into
 21 service:

License	Fee
(1) [Super-sportsman	\$88.00
(2) Trapper Super-sportsman	\$88.00
(3) Sportsman	\$47.00
(4) Small and big game	\$29.00]
(A) HUNTING	\$22.00
(B) HUNTING AGES FIFTEEN AND UNDER	\$ 5.00
[(5)] (2) Fishing	[\$29.00]25.00
[(6)] (3) Trapping	[\$21.00] 20.00
[(7)] Small game	\$26.00
(8) Junior trapping	\$ 6.00
(9)] (4) Muzzle-loading [stamp]	
PRIVILEGE	[\$21.00]11.00
[(10)] (5) (A) Bowhunting [stamp]	
PRIVILEGE	[\$21.00]20.00
(B) BOWHUNTING PRIVILEGE AGES	
TWELVE THROUGH FIFTEEN	\$ 4.00
[(11)] (6) Turkey permit	\$10.00
[(12)] (7) Seven-day fishing	\$15.00
[(13)] Conservation legacy	\$96.00
(14)] (8) One-day fishing	\$ 5.00

43 b. In the case of a non-resident and persons resident in the state for
 44 less than thirty days, other than persons who are enrolled [in] AS a
 45 full-time [course] STUDENT at a college or university within the state
 46 and who are in residence in the state for the school year and those
 47 members of the United States armed forces as to whom fees are specified
 48 in paragraph a of this subdivision:

License	Fee
(1) [Big game] (A) HUNTING	[\$140.00] \$100.00
(B) HUNTING AGES FIFTEEN AND UNDER	\$ 5.00
[(2)] Small game	\$ 85.00
(3)] (2) Fishing	\$ [70.00] 50.00
[(4)] (3) Seven-day fishing	\$ 35.00
[(5)] (4) Trapping	[\$310.00] 275.00
[(6)] Super-sportsman	\$280.00

1	(7)] (5) (A) Bowhunting	
2	PRIVILEGE	\$[140.00] 40.00
3	(B) BOWHUNTING PRIVILEGE AGES TWELVE	
4	THROUGH FIFTEEN	\$ 4.00
5	[(8)] (6) Muzzle-loading	
6	PRIVILEGE	\$[140.00] 30.00
7	[(9) Bear tag	\$ 50.00
8	(10)] (7) Turkey permit	[\$ 50.00] \$20.00
9	[(11)] (8) One-day fishing	[\$ 15.00] \$10.00

10 c. In all cases:

11	(1) Certificates in lieu of lost license or [stamp]	
12	PRIVILEGE or tag	\$ 5.00
13	(2) Duplicate for lost or destroyed permit[, button]	
14	or tag	\$10.00
15	[(3) Junior hunting license	\$ 5.00
16	(4) Junior archery license	\$ 9.00
17	(5) One-day fishing license	\$15.00
18	(6) Conservation patron license	\$12.00]

19 4. A person, resident in the state for at least thirty days immediate-
 20 ly prior to the date of application, who has been honorably discharged
 21 from service in the armed forces of the United States and certified as
 22 having a forty percent or greater service-connected disability is enti-
 23 tled to receive all licenses, [stamps] PRIVILEGE, tags, [buttons,] and
 24 permits authorized by this title for which he or she is eligible, except
 25 turkey permits, renewable each year for a five dollar fee.

26 6. a. License issuing officers may retain 1.1 percent of the gross
 27 proceeds from the sale of [the following:

28	(1) non-resident small game license
29	(2) non-resident big game license
30	(3) non-resident trapping license
31	(4) bear tag
32	(5) non-resident bowhunting license
33	(6) non-resident muzzle-loading license
34	(7) non-resident super-sportsman license
35	(8) non-resident turkey permit
36	(9)] all lifetime licenses listed in section 11-0702 of this title.

37 b. License issuing officers may retain 5.5 percent of the gross
 38 proceeds from sale of all other [license, stamps] LICENSES, certificates
 39 and permits, including any application fees associated with such
 40 licenses, [stamps,] certificates and permits.

41 S 6. Paragraphs c, d and e of subdivision 1 of section 11-0907 of the
 42 environmental conservation law, paragraph c as amended by section 38 and
 43 paragraphs d and e as added by section 40 of part F of chapter 82 of the
 44 laws of 2002, are amended to read as follows:

45 c. The limit for wild deer is one deer per person in a license year
 46 except that (1) a person entitled to exercise the privileges of a
 47 special antlerless deer license may take an antlerless deer while hunt-
 48 ing pursuant to such license in addition to the limit of one deer in a
 49 license year otherwise applicable, (2) a person who is a member of a
 50 hunting group holding a deer management permit or permits issued pursu-
 51 ant to section 11-0913 of this article may take additional deer while
 52 hunting in accordance with the conditions of the permit or permits, (3)
 53 the holder of a bowhunting [license or stamp] PRIVILEGE or a muzzle-
 54 loading [license or stamp] PRIVILEGE may take up to two additional deer,
 55 pursuant to regulations promulgated by the department, and (4) an eligi-
 56 ble non-ambulatory person, pursuant to subdivision 2 of section 11-0931

1 of this article may take a deer of either sex in any wildlife management
2 unit area where deer management permits have been issued by the depart-
3 ment, while in possession of a valid license which authorizes the holder
4 to hunt big game. Nothing contained in this section shall be construed
5 to limit the power of the department to designate by regulation an area
6 or areas of the state consisting of a county or part of a county where
7 such season shall apply and whether the number of such special permits
8 shall be limited.

9 d. (1) A person who holds licenses or [stamps] PRIVILEGES authorizing
10 the holder to hunt deer during a special archery season and the regular
11 open season and who has taken a deer by longbow in a special archery
12 season and who has not taken a deer in a regular open season may, in
13 addition to the limit of one deer in a license year otherwise applica-
14 ble, take during the same license year additional deer as specified by
15 department regulation in a special archery season following the close of
16 the regular open deer season.

17 (2) A person who holds licenses or [stamps] PRIVILEGES authorizing the
18 holder to hunt deer during a special archery season and the regular open
19 season and who has taken a deer by longbow in the regular open season
20 for deer in Westchester or Suffolk counties may, in addition to the
21 limit of one deer in a license year otherwise applicable, take during
22 the same license year additional deer as specified by department regu-
23 lation during such Westchester or Suffolk county regular open deer
24 season.

25 e. A person who holds licenses or [stamps] PRIVILEGES authorizing the
26 holder to hunt deer during a special muzzle-loading season and the regu-
27 lar open season and who has taken a deer by muzzle-loading firearm in a
28 muzzle-loading season and who has not taken a deer in a regular open
29 season may, in addition to the limit of one deer in a license year
30 otherwise applicable, take during the same year additional deer as spec-
31 ified by department regulation in a special muzzle-loading season
32 following the close of the regular deer season.

33 S 7. Paragraph c of subdivision 1 of section 11-0907 of the environ-
34 mental conservation law, as amended by section 39 of part F of chapter
35 82 of the laws of 2002, is amended to read as follows:

36 c. The limit for wild deer and bear is one deer and one bear per
37 person in a license year except that (1) a person entitled to exercise
38 the privileges of a special antlerless deer license may take an antler-
39 less deer while hunting pursuant to such license in addition to the
40 limit of one deer in a license year otherwise applicable, (2) a person
41 who is a member of a hunting group holding a deer management permit or
42 permits issued pursuant to section 11-0913 of this article may take
43 additional deer while hunting in accordance with the conditions of the
44 permit or permits, (3) the holder of a bowhunting license or [stamp]
45 PRIVILEGE or a muzzle-loading license or [stamp] PRIVILEGE may take up
46 to two additional deer, pursuant to regulations promulgated by the
47 department, and (4) an eligible non-ambulatory person, pursuant to
48 subdivision 2 of section 11-0931 of this article may take a deer of
49 either sex in any wildlife management unit area where deer management
50 permits have been issued by the department, while in possession of a
51 valid license which authorizes the holder to hunt big game. Nothing
52 contained in this section shall be construed to limit the power of the
53 department to designate by regulation an area or areas of the state
54 consisting of a county or part of a county where such season shall apply
55 and whether the number of such special permits shall be limited.

1 S 8. Paragraph a of subdivision 3 of section 11-0907 of the environ-
2 mental conservation law, as amended by section 41 of part F of chapter
3 82 of the laws of 2002, is amended to read as follows:

4 a. In every area identified in column one of the table set forth in
5 subdivision 2 of this section, except Westchester and Suffolk Counties
6 in which a regular open season for taking deer by firearms is estab-
7 lished and effective, a special open season is established for taking
8 deer of either sex, by the use of a long bow only by holders of a [small
9 and big game, sportsman, or free sportsman] HUNTING license [to which]
10 WITH a valid bowhunting [stamp is affixed or to holders of a junior
11 archery, resident or non-resident super-sportsman, or non-resident
12 bowhunting license] PRIVILEGE.

13 S 9. Paragraph a of subdivision 3 of section 11-0907 of the environ-
14 mental conservation law, as amended by section 42 of part F of chapter
15 82 of the laws of 2002, is amended to read as follows:

16 a. In every area identified in column one of the table set forth in
17 subdivision 2 of this section, except Westchester and Suffolk Counties
18 in which a regular open season for taking deer by firearms is estab-
19 lished and effective, a special open season is established for taking
20 deer of either sex, and bear, by the use of a long bow only by holders
21 of a [small and big game, sportsman, or free sportsman] HUNTING license
22 [to which] WITH a valid bowhunting [stamp is affixed or to holders of a
23 junior archery, resident or non-resident super-sportsman, or non-resi-
24 dent bowhunting license] PRIVILEGE.

25 S 10. Paragraph a of subdivision 8 of section 11-0907 of the environ-
26 mental conservation law, as amended by section 45 of part F of chapter
27 82 of the laws of 2002, is amended to read as follows:

28 a. In every area identified in column one of the table set forth in
29 subdivision 2 of this section, except those areas restricted to special
30 seasons for taking deer by longbow only, special open seasons may be
31 established by regulation for taking deer and/or bear, by the use of
32 muzzle-loading firearms, of not less than .44 caliber shooting a single
33 projectile, by the holders of a [small and big game, sportsman or free
34 sportsman] HUNTING license [to which] WITH a valid muzzle-loading [stamp
35 is affixed or to holders of a resident or non-resident super-sportsman,
36 or non-resident muzzle-loading license] PRIVILEGE.

37 S 11. Subdivision 7 of section 11-0913 of the environmental conserva-
38 tion law, as amended by section 6 of part KK of chapter 59 of the laws
39 of 2009, is amended to read as follows:

40 7. The department shall charge and receive a fee of ten dollars for
41 the application and the processing of such permit or permits. Applicants
42 who are successful in the computerized selection shall receive the
43 permit or permits free of any additional charge. The application fee
44 shall be non-refundable. The department may waive the application fee
45 for holders of a lifetime sportsman license existing as of October
46 first, two thousand nine[, junior archery license, resident super-
47 sportsman license, or junior hunting license] AND HOLDERS OF A HUNTING
48 LICENSE LESS THAN SIXTEEN YEARS OF AGE.

49 S 12. Subdivisions 4 and 5 of section 11-0929 of the environmental
50 conservation law are REPEALED, and subdivisions 1 and 2, as amended by
51 chapter 344 of the laws of 2008, are amended to read as follows:

52 1. A licensee who is twelve or thirteen years of age shall not:

53 A. hunt wildlife with a gun or a longbow, OTHER THAN DEER OR BEAR WITH
54 A LONGBOW AS PROVIDED IN PARAGRAPH B OF THIS SUBDIVISION, unless he or
55 she is accompanied by his or her parent or legal guardian, or by a
56 person twenty-one years of age or older designated in writing by his or

her parent or legal guardian on a form prescribed by the department, who holds a license which authorizes the holder to hunt wildlife[.];

B. HUNT DEER OR BEAR WITH A LONGBOW UNLESS:

(1) HE OR SHE IS ACCOMPANIED BY HIS OR HER PARENT OR LEGAL GUARDIAN, OR BY A PERSON DESIGNATED IN WRITING BY HIS OR HER PARENT OR LEGAL GUARDIAN ON A FORM PRESCRIBED BY THE DEPARTMENT WHO IS TWENTY-ONE YEARS OF AGE OR OLDER, AND

(2) SUCH PARENT, GUARDIAN OR PERSON HAS HAD AT LEAST THREE YEARS OF EXPERIENCE IN HUNTING DEER OR BEAR WITH A LONGBOW, AND

(3) SUCH PARENT, GUARDIAN OR PERSON HOLDS A HUNTING LICENSE, AND

(4) SUCH PARENT, GUARDIAN OR PERSON MAINTAINS PHYSICAL CONTROL OVER THE MINOR HE OR SHE IS ACCOMPANYING AT ALL TIMES WHILE HUNTING. FOR THE PURPOSES OF THIS PARAGRAPH "PHYSICAL CONTROL" SHALL MEAN THAT THE PHYSICAL PROXIMITY OF THE MINOR TO THE PARENT, GUARDIAN OR PERSON IS SUCH THAT THE PARENT, GUARDIAN OR PERSON IS REASONABLY ABLE TO ISSUE VERBAL DIRECTIONS AND INSTRUCTIONS, MAINTAIN CONSTANT VISUAL CONTACT, AND OTHERWISE PROVIDE GUIDANCE AND SUPERVISION TO THE MINOR.

2. A licensee who is fourteen or fifteen years of age shall not:

a. hunt wildlife with a gun or longbow, other than wild deer or bear as provided in paragraph b OR C of this subdivision, unless he or she is accompanied by his or her parent or legal guardian holding a license which authorizes the holder to hunt wildlife, or by a person eighteen years of age or older, designated in writing by his or her parent or legal guardian, holding such license;

b. hunt wild deer or bear with a gun unless:

(1) he or she is accompanied by his or her parent or a legal guardian, or a youth mentor who is twenty-one years of age or older designated in writing by the parent or legal guardian of the licensee on a form prescribed by the department; and

(2) such parent, guardian or youth mentor has had at least three years of experience in hunting big game; and

(3) such parent, guardian or youth mentor holds a license which authorizes the holder to hunt big game; and

(4) such parent, guardian or youth mentor maintains physical control over the minor he or she is accompanying at all times while hunting; and

(5) such parent, guardian or youth mentor and the minor he or she is accompanying remain at ground level at all times while hunting; and

(6) such parent, guardian or youth mentor and the minor he or she is accompanying shall each display either a minimum total of two hundred fifty square inches of solid fluorescent orange or patterned fluorescent orange consisting of no less than fifty percent fluorescent orange material worn above the waist and visible from all directions, or a hat or cap with no less than fifty percent of the exterior consisting of solid fluorescent orange material and visible from all directions. For purposes of this paragraph, "physical control" shall mean that the physical proximity of the minor to the parent, guardian or youth mentor is such that the parent, guardian or youth mentor is reasonably able to issue verbal directions and instructions, maintain constant visual contact, and otherwise provide guidance and supervision to the minor.

C. HUNT DEER OR BEAR WITH A LONGBOW UNLESS HE OR SHE IS ACCOMPANIED BY HIS OR HER PARENT OR LEGAL GUARDIAN, OR BY A PERSON DESIGNATED IN WRITING BY HIS OR HER PARENT OR LEGAL GUARDIAN ON A FORM PRESCRIBED BY THE DEPARTMENT WHO IS EIGHTEEN YEARS OF AGE OR OLDER AND WHO HAS HAD AT LEAST ONE YEAR OF EXPERIENCE IN HUNTING DEER OR BEAR BY LONGBOW, AND SUCH ACCOMPANYING PARENT, GUARDIAN OR PERSON HOLDS A LICENSE WHICH

1 AUTHORIZES THE HOLDER TO HUNT BIG GAME DURING THE SPECIAL ARCHERY SEASON
2 AND THE REGULAR OPEN SEASON.

3 S 13. Subdivision 1 of section 13-0355 of the environmental conserva-
4 tion law, as amended by section 1 of part AA of chapter 60 of the laws
5 of 2011, is amended to read as follows:

6 1. Definitions of registrations; privileges. A recreational marine
7 fishing registration entitles the holder who is sixteen years of age or
8 older to take fish from the waters of the marine and coastal district
9 and to take migratory fish of the sea from all waters of the state,
10 except as provided in sections 13-0333 and 13-0335 of this title. A
11 recreational marine fishing registration is effective for [a registra-
12 tion year beginning January first and ending December thirty-first] ONE
13 YEAR FROM THE DATE IT WAS ISSUED.

14 S 14. Section 9 of part AA of chapter 60 of the laws of 2011, amending
15 the environmental conservation law relating to saltwater recreational
16 fishing registrations, is amended to read as follows:

17 S 9. This act shall take effect immediately [and shall expire and be
18 deemed repealed December 31, 2013].

19 S 15. Subdivisions 1 and 2 of section 11-0702 of the environmental
20 conservation law, subdivision 1 as amended by section 2 of part AA of
21 chapter 60 of the laws of 2011 and subdivision 2 as amended by section
22 18 of part F of chapter 82 of the laws of 2002, are amended to read as
23 follows:

24 1. There are hereby created the following lifetime hunting, fishing,
25 trapping, archery and muzzle-loading licenses and fees therefor subject
26 to the same privileges and obligations of a comparable short term
27 license:

Licenses	Fees
a. Lifetime [sportsman] HUNTING license, FISHING LICENSE and turkey permit. If purchased, for a child four years of age or younger	\$380.00
for a child age five through eleven years of age	\$535.00
for a person age twelve through sixty-nine years of age	\$765.00
for a person age seventy and over.	\$65.00
b. Lifetime [small and big game] HUNTING license.	\$535.00
c. Lifetime fishing license for a person age sixty-nine or younger.	\$460.00
d. Lifetime fishing license for a person age seventy and over.	\$ 65.00

1	e. Lifetime trapping	
2	license.	\$395.00
3	f. Lifetime archery	
4	[stamp] PRIVILEGE.	\$235.00
5	g. Lifetime muzzle-	
6	loading [stamp] PRIVILEGE.	\$235.00
7	j. For transfer to a person pursuant	
8	to section 11-0704 of this title	\$50.00

9 The holder of a lifetime [small and big game] HUNTING license [or],
10 LIFETIME fishing license, OR LIFETIME TRAPPING LICENSE may, at any time,
11 convert such license to a lifetime [sportsman] license [and turkey
12 permit] PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION for an additional
13 fee equal to the [existing differential] DIFFERENCE BETWEEN THE CURRENT
14 FEE FOR THE NEW LICENSE AND THE FEE ORIGINALLY PAID FOR THE LICENSE.

15 2. Legal residency within the state of New York shall be a prerequi-
16 site for persons to obtain, or have obtained for them, any lifetime
17 licenses included within this section. Lifetime licenses so obtained
18 shall continue to be valid for use within the state by the person to
19 whom the lifetime license was issued, regardless of a change in residen-
20 cy of that lifetime license holder. Holders of lifetime licenses which
21 include lifetime [big game] HUNTING privileges who become non-residents
22 of the state may continue to obtain resident bowhunting and muzzle-load-
23 ing [stamps] PRIVILEGES, including lifetime archery and muzzle-loading
24 [stamps] PRIVILEGES. Holders of lifetime [licenses which include]
25 bowhunting and muzzle-loading privileges who become non-residents of the
26 state may continue to obtain resident [big game] HUNTING privileges,
27 including A lifetime [sportsman or small and big game licenses] LICENSE
28 WITH HUNTING PRIVILEGES. [An annual turkey permit will be granted at no
29 additional fee as an additional privilege of all existing lifetime
30 sportsman licenses.] Possession of lifetime licenses is nontransferable.

31 S 16. The section heading of section 11-0707 of the environmental
32 conservation law is amended to read as follows:
33 Exemptions from requirement of hunting, [big game,] fishing and trapping
34 licenses.

35 S 17. Subdivision 5 of section 11-1911 of the environmental conserva-
36 tion law, as amended by chapter 57 of the laws of 1993, is amended to
37 read as follows:

38 5. The holder of a fishing, [three] ONE-day or [five] SEVEN-day fish-
39 ing, [combination] OR A free [hunting-big game hunting-]fishing [or
40 combined resident hunting, fishing and big game license or combined
41 non-resident hunting, fishing, big game, bowhunting and muzzle-loading]
42 license, or a person entitled to exercise the privileges of such a
43 license, may, with the permission of the licensee, take fish by angling
44 from the licensed pond provided the holder complies with the provisions
45 of title 13 of the Fish and Wildlife Law, with respect to open seasons,
46 minimum size limits and daily and seasonal possession limits.

47 S 18. Subdivision 8 of section 71-0921 of the environmental conserva-
48 tion law, as amended by chapter 595 of the laws of 1984, is amended to
49 read as follows:

50 8. Making a false statement in applying for a license, [stamp] PRIVI-
51 LEGE or permit under the Fish and Wildlife Law, or for a certificate in
52 lieu of a lost license or [stamp] PRIVILEGE or a duplicate [big game]

HUNTING license tag under title 7 of article 11 of this chapter. Each such misdemeanor shall be punishable by imprisonment for not more than three months, or by a fine of not more than two hundred dollars, or by both such imprisonment and fine. In addition, the department may immediately revoke the license, [stamp] PRIVILEGE, permit or certificate for which application was made for the remainder of its effective term.

S 19. This act shall take effect February 1, 2014; provided, however, that the amendments to paragraph c of subdivision 1 of section 11-0907 of the environmental conservation law made by section six of this act and the amendments to paragraph a of subdivision 3 of section 11-0907 of the environmental conservation law made by section eight of this act shall not affect the expiration of such paragraphs pursuant to section 13 of chapter 600 of the laws of 1993, as amended, when upon such date sections seven and nine of this act shall take effect, provided further, that the amendments to section 9 of part AA of chapter 60 of the laws of 2011 made by section fourteen of this act shall take effect immediately.

PART S

Section 1. Section 1854 of the public authorities law is amended by adding a new subdivision 20 to read as follows:

20. TO ADMINISTER A PROGRAM, USING FUNDS PROVIDED FOR SUCH PURPOSE, TO PROVIDE A GRANT FOR COSTS REQUIRED TO: (A) PREWIRE AN EXISTING RETAIL OUTLET THAT DISPENSES MOTOR FUEL FOR SALE TO THE GENERAL PUBLIC WITH AN APPROPRIATE TRANSFER SWITCH FOR USING AN ALTERNATE GENERATED POWER SOURCE CAPABLE OF PROVIDING ADEQUATE ELECTRICITY TO OPERATE ALL DISPENSERS, DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS, AND PAYMENT-ACCEPTANCE EQUIPMENT AT SUCH RETAIL OUTLET; AND/OR (B) PURCHASE SUCH POWER SOURCE. THIS GRANT PROGRAM SHALL BE CONTINGENT ON THE APPROVAL OF FEDERAL MITIGATION FUNDS FOR THE PROGRAM.

S 2. This act shall take effect immediately.

PART T

Section 1. Subdivision 3 of section 19-0323 of the environmental conservation law, as amended by section 1 of part EE of chapter 58 of the laws of 2012, is amended to read as follows:

3. Any diesel powered heavy duty vehicle that is owned by, operated by or on behalf of, or leased by a state agency and state and regional public authority with more than half of its governing body appointed by the governor shall utilize the best available retrofit technology for reducing the emission of pollutants. The commissioner shall promulgate regulations for the implementation of this subdivision specifying that all vehicles covered by this subdivision shall have best available retrofit technology on or before December 31, [2013] 2015.

This subdivision shall not apply to any vehicle subject to a lease or public works contract entered into or renewed prior to the effective date of this section.

S 2. This act shall take effect immediately.

PART U

Section 1. Section 509-d of the vehicle and traffic law is amended by adding a new subdivision 2-a to read as follows:

(2-A) INVESTIGATIONS AND INQUIRIES OF BUS DRIVERS OTHER THAN SCHOOL BUS DRIVERS. (A) A MOTOR CARRIER SHALL REQUEST THE DEPARTMENT TO INITI-

1 ATE A CRIMINAL HISTORY CHECK FOR PERSONS HIRED OR RE-HIRED BY SUCH MOTOR
2 CARRIER ON OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION AS DRIVERS OF
3 BUSES, AS DEFINED IN PARAGRAPH (B), (C), (D) OR (E) OF SUBDIVISION ONE
4 OF SECTION FIVE HUNDRED NINE-A OF THIS ARTICLE, IN ACCORDANCE WITH REGU-
5 LATIONS OF THE COMMISSIONER REQUIRING SUCH BUS DRIVERS TO SUBMIT TO THE
6 MANDATED FINGERPRINTING PROCEDURE. ADDITIONALLY, FOR DRIVERS OF BUSES,
7 AS DEFINED IN PARAGRAPH (B), (C), (D) OR (E) OF SUBDIVISION ONE OF
8 SECTION FIVE HUNDRED NINE-A OF THIS ARTICLE, IN THE EMPLOY OF A MOTOR
9 CARRIER ON THE EFFECTIVE DATE OF THIS SUBDIVISION, THE MOTOR CARRIER
10 SHALL REQUEST ON OR BEFORE THE TIME OF ANY SUCH DRIVER'S FIRST RENEWAL
11 OF LICENSE PURSUANT TO SUBDIVISION SIX OF SECTION FIVE HUNDRED TWO OF
12 THIS TITLE THAT THE DEPARTMENT INITIATE A CRIMINAL HISTORY CHECK IN
13 ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER. THE DEPARTMENT OF
14 MOTOR VEHICLES AT THE REQUEST OF THE MOTOR CARRIER SHALL INITIATE A
15 CRIMINAL HISTORY CHECK OF ALL BUS DRIVERS HIRED OR RE-HIRED ON OR AFTER
16 THE EFFECTIVE DATE OF THIS SUBDIVISION AND ALL CURRENT BUS DRIVERS ON OR
17 BEFORE THE TIME OF THEIR FIRST RENEWAL OF LICENSE BY REQUIRING SUCH
18 APPLICANTS TO SUBMIT TO THE MANDATED FINGERPRINTING PROCEDURE AS PART OF
19 THE BUS DRIVER QUALIFICATION PROCEDURE. SUCH FINGERPRINTING PROCEDURE
20 AND THE RELATED FEE AS WELL AS A PROCEDURE FOR THE RETURN OF SUCH FING-
21 ERPRINTS UPON APPLICATION OF A PERSON WHO HAS TERMINATED EMPLOYMENT AS A
22 BUS DRIVER SHALL BE ESTABLISHED IN ACCORDANCE WITH REGULATIONS OF THE
23 COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF THE DIVISION OF
24 CRIMINAL JUSTICE SERVICES. THE FEE TO BE PAID BY OR ON BEHALF OF THE
25 APPLICANT OR BUS DRIVER SHALL BE NO MORE THAN FIVE DOLLARS OVER THE COST
26 TO THE COMMISSIONER FOR THE CRIMINAL HISTORY CHECK. NO CAUSE OF ACTION
27 AGAINST THE DEPARTMENT, THE DIVISION OF CRIMINAL JUSTICE SERVICES, A
28 MOTOR CARRIER OR POLITICAL SUBDIVISION FOR DAMAGES RELATED TO THE
29 DISSEMINATION OF CRIMINAL HISTORY RECORDS PURSUANT TO THIS SECTION SHALL
30 EXIST WHEN SUCH DEPARTMENT, DIVISION, MOTOR CARRIER OR POLITICAL SUBDI-
31 VISION HAS REASONABLY AND IN GOOD FAITH RELIED UPON THE ACCURACY AND
32 COMPLETENESS OF CRIMINAL HISTORY INFORMATION FURNISHED TO IT BY QUALI-
33 FIED AGENCIES. FINGERPRINTS SUBMITTED TO THE DIVISION OF CRIMINAL
34 JUSTICE SERVICES PURSUANT TO THIS SUBDIVISION MAY ALSO BE SUBMITTED TO
35 THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY
36 RECORD CHECK. NOTWITHSTANDING THE FOREGOING, THE DEPARTMENT MAY BY
37 REGULATION ESTABLISH GUIDELINES AND PROCEDURES FOR EXEMPTING BUS DRIVERS
38 WHO HAVE ALREADY BEEN SUBJECTED TO A CRIMINAL HISTORY CHECK AT THE TIME
39 OF HIRE BY A MOTOR CARRIER.

40 (B) AFTER A MOTOR CARRIER HAS COMPLETED THE PROCEDURES SET FORTH IN
41 PARAGRAPH (A) THIS OF SUBDIVISION, IT SHALL DESIGNATE EACH NEW BUS DRIV-
42 ER AS A CONDITIONAL BUS DRIVER AS DEFINED IN SECTION FIVE HUNDRED NINE-H
43 OF THIS ARTICLE, UNTIL THE CARRIER IS IN RECEIPT OF INFORMATION OF THE
44 NEW BUS DRIVER'S QUALIFICATION FROM THE DEPARTMENT AND THE REQUIRED
45 DRIVING RECORDS FROM EACH APPROPRIATE STATE AGENCY. IF THE INFORMATION
46 RECEIVED INDICATES THAT THERE IS A PENDING CRIMINAL OFFENSE OR DRIVING
47 VIOLATION THAT WOULD REQUIRE DISQUALIFICATION OF A BUS DRIVER UNDER THIS
48 ARTICLE, THE MOTOR CARRIER SHALL REQUIRE THE APPLICANT TO PROVIDE
49 DOCUMENTATION EVIDENCING THE DISPOSITION OF SUCH OFFENSE OR VIOLATION IN
50 ACCORDANCE WITH REGULATIONS ESTABLISHED BY THE COMMISSIONER. THE DEPART-
51 MENT, UPON NOTICE OF DISQUALIFICATION TO AN APPLICANT, SHALL INCLUDE IN
52 SUCH NOTICE INFORMATION REGARDING THE APPLICANT'S RIGHT TO APPEAL AND
53 CONTEST ANY CLAIMED GROUND FOR DISQUALIFICATION. SUCH NOTICE SHALL ALSO
54 ADVISE THE APPLICANT OF HIS OR HER RIGHT TO OBTAIN, EXAMINE, INSPECT AND
55 COPY ANY INFORMATION USED BY THE DEPARTMENT IN SUPPORT OF ITS DETERMI-
56 NATION OF DISQUALIFICATION. IN THE EVENT THE APPLICANT CONTESTS THE

1 EXISTENCE OF A CRIMINAL CONVICTION IN HIS OR HER NAME, SUCH APPLICANT
2 MAY PROVIDE DOCUMENTATION EVIDENCING THE DISPOSITION OF SUCH OFFENSE OR
3 VIOLATION IN ACCORDANCE WITH REGULATIONS ESTABLISHED BY THE COMMISSION-
4 ER.

5 S 2. Section 509-h of the vehicle and traffic law, as amended by chap-
6 ter 675 of the laws of 1985, is amended to read as follows:

7 S 509-h. Operation by person not [licensed] QUALIFIED to drive a bus.
8 The motor carrier shall not knowingly permit any person to operate a bus
9 carrying passengers unless the driver meets all of the requirements of
10 this article; except that a motor carrier may permit a conditional BUS
11 DRIVER OR CONDITIONAL school bus driver who is not otherwise disquali-
12 fied under the provisions of this article to operate a bus for a period
13 not to exceed ninety days or a longer period if granted a written exten-
14 sion of such ninety day period by the department pursuant to regulations
15 established by the commissioner. Such regulation shall authorize exten-
16 sion for at least that period of time necessary to review information
17 regarding the prior criminal history of the applicant.

18 S 3. The vehicle and traffic law is amended by adding a new section
19 509-hh to read as follows:

20 S 509-HH. DUTY OF CERTAIN MOTOR CARRIERS TO SUPPLY IDENTIFYING INFOR-
21 MATION AND BUS REGISTRATION INFORMATION TO THE DEPARTMENT; REQUIREMENTS
22 REGARDING CERTAIN BUS REGISTRATIONS AND REGISTRATIONS. 1. EXCEPT AS
23 OTHERWISE PROVIDED IN THIS SUBDIVISION, EVERY MOTOR CARRIER MUST PROVIDE
24 TO THE DEPARTMENT IDENTIFYING INFORMATION AND BUS REGISTRATION INFORMA-
25 TION ON A FORM OR FORMS PREPARED AND FURNISHED BY THE DEPARTMENT FOR
26 THAT PURPOSE. IDENTIFYING INFORMATION SHALL INCLUDE, BUT SHALL NOT BE
27 LIMITED TO, INFORMATION REGARDING: THE BUSINESS NAME, OWNERSHIP, BUSI-
28 NESS ADDRESS, AND FEDERAL OR STATE IDENTIFICATION NUMBERS OF THE MOTOR
29 CARRIER. BUS REGISTRATION INFORMATION SHALL INCLUDE, BUT SHALL NOT BE
30 LIMITED TO, INFORMATION REASONABLY REQUIRED BY THE DEPARTMENT IN CARRY-
31 ING OUT ITS DUTIES UNDER THIS ARTICLE REGARDING THE REGISTRATION OF
32 BUSES OWNED, LEASED, RENTED, OR OTHERWISE CONTROLLED BY THE MOTOR CARRI-
33 ER. IDENTIFYING INFORMATION AND BUS REGISTRATION INFORMATION MUST
34 CONTAIN OR BE ACCOMPANIED BY SUCH SUPPORTING DOCUMENTATION AS MAY BE
35 REQUESTED OR REQUIRED BY THE DEPARTMENT. A MOTOR CARRIER MUST NOTIFY THE
36 DEPARTMENT IN WRITING OF ANY CHANGE IN ANY INFORMATION PROVIDED BY THE
37 MOTOR CARRIER TO THE DEPARTMENT PURSUANT TO THIS SECTION WITHIN TEN DAYS
38 OF THE CHANGE.

39 2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, ON AND AFTER
40 THE EFFECTIVE DATE OF THIS SECTION, ANY MOTOR CARRIER SUBJECT TO THIS
41 SECTION REGISTERING OR RE-REGISTERING A BUS UNDER THIS ARTICLE SHALL
42 REGISTER OR RE-REGISTER THE BUS ONLY IN THE SAME BUSINESS NAME THAT THE
43 CARRIER PROVIDES TO THE DEPARTMENT UNDER SUBDIVISION ONE OF THIS
44 SECTION.

45 3. FOR PURPOSES OF THIS SECTION, THE TERM "MOTOR CARRIER" SHALL NOT
46 INCLUDE (A) A STATE, LOCAL, INTERSTATE OR INTERNATIONAL AUTHORITY AS
47 DEFINED IN SECTION TWO OF THE PUBLIC AUTHORITIES LAW, OR (B) A SCHOOL
48 DISTRICT AS DEFINED IN SECTION NINETEEN HUNDRED EIGHTY OF THE EDUCATION
49 LAW.

50 S 4. Subdivision 5 of section 509-m of the vehicle and traffic law, as
51 added by chapter 675 of the laws of 1985, is amended to read as follows:

52 5. Upon receipt of the criminal history record report of [a school]
53 ANY bus driver, notify the motor carrier of disqualification of an
54 applicant or [school] bus driver which would or could disqualify such
55 driver under the provisions of section FIVE HUNDRED NINE-C OR five
56 hundred nine-cc of this article. Notification to the carrier shall be

1 without specification of the grounds for disqualification, those grounds
2 to be made available only to the [school] bus driver or his or her
3 representative.

4 S 5. This act shall take effect on the ninetieth day after it shall
5 have become a law.

6 PART V

7 Section 1. Subdivision 13 of section 401 of the vehicle and traffic
8 law, as amended by chapter 203 of the laws of 2002, is amended to read
9 as follows:

10 13. Registration of motor vehicles, trailers and semitrailers operated
11 upon public highways connecting portions of a farm or farms, municipal
12 sanitary landfills and licensed motor vehicle repair shops. Motor vehi-
13 cles, other than motor vehicles manufactured and equipped primarily for
14 the transportation of passengers, trailers and semitrailers, to be oper-
15 ated by any person, upon a public highway for the purpose of traveling
16 by the most direct route, but in no event further than twenty-five miles
17 one-way from a point on the farm as designated by the vehicle owner [and
18 set forth in an attachment to the vehicle registration], (a) between
19 fields, buildings, and facilities managed or operated as part of a
20 single farm enterprise in connection with the production, harvesting,
21 processing or marketing on that farm of crops, livestock, or livestock
22 products produced on that farm; or (b) for the purpose of transporting
23 materials from a farm to the nearest available municipal sanitary land-
24 fill; or (c) for the purpose of transporting the motor vehicle, trailer
25 or semitrailer to a motor vehicle repair shop licensed pursuant to this
26 chapter for the repair or adjustment of equipment provided that, in
27 addition to the route restrictions set forth in this subdivision, no
28 such transport shall be authorized (i) if such vehicle has an out-of-
29 service defect relating to load securement, brake systems, steering
30 components and/or coupling devices, or after it has been placed out-of-
31 service; (ii) on any limited access highway; and (iii) during the period
32 of one hour before sunset to one hour after sunrise, may be registered
33 as provided in this subdivision. Every owner of such vehicles may cause
34 to be filed by mail or otherwise, with the commissioner or with any
35 agent of the commissioner, an application for registration of such vehi-
36 cle, addressed to the commissioner, and on a blank to be furnished by
37 the commissioner for that purpose, containing the information required
38 by subdivision one of this section and such other information as the
39 commissioner shall require. The commissioner or agent shall make such
40 investigation, as he or she shall determine necessary, and if satisfied
41 that the vehicle is to be operated exclusively as provided in this
42 subdivision shall, upon the payment of a fee of one dollar, assign to
43 such vehicle a distinctive number and issue and deliver to the applicant
44 a set of number plates and a certificate of registration in such form as
45 the commissioner shall prescribe, indicating the extent to which the
46 vehicle registered may be operated on the public highways and such vehi-
47 cle may be operated only as so indicated. For the purposes of this
48 subdivision, the terms "farm" and "crops, livestock or livestock
49 products," shall have the same meaning as "land used in agricultural
50 production" and "crops, livestock and livestock products," respectively,
51 as defined in section three hundred one of the agriculture and markets
52 law, except that farmers with an average gross sales value of at least
53 one thousand dollars per year of crops, livestock, and livestock

products shall be eligible to register vehicles pursuant to this subdivision.

S 2. This act shall take effect immediately.

PART W

Section 1. Subdivision 5 of section 1630 of the vehicle and traffic law, as amended by chapter 563 of the laws of 2002, is amended to read as follows:

5. Establishment of maximum and minimum speed limits at which vehicles may proceed on or along such highways. No such maximum speed limit shall be established at less than twenty-five miles per hour, except that school speed limits may be established at not less than fifteen miles per hour, for a distance not to exceed one thousand three hundred twenty feet, on a highway passing a school building, entrance or exit of a school abutting on the highway, and except that, with respect to bridge and elevated structures that are a part of any such highway, a lower maximum speed limit may be established if it is determined that such lower maximum speed limit is the maximum speed limit which may be maintained without structural damage to such bridge or structure, and except that, with respect to any highway under the jurisdiction of the office of parks, recreation and historic preservation, other than a parkway as defined in subdivision seventeen of section 1.03 of the parks, recreation and historic preservation law, the department of agriculture and markets, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, or the industrial exhibit authority, a maximum speed limit of not less than ten miles per hour may be established on any portion thereof, if it is determined that such lower maximum speed limit is necessary to assure the safety of the public, and except that, with respect to any highway having toll plazas, a maximum speed limit of not less than five miles per hour may be established for passage through such toll plazas.

S 2. This act shall take effect immediately.

PART X

Section 1. The transportation law is amended by adding a new section 23 to read as follows:

S 23. SIGN PROPERTY LICENSING; CERTAIN CITIES. 1. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL MEAN:

(A) "CITY" MEANS A CITY HAVING A POPULATION OF ONE MILLION OR MORE.

(B) "MAINTAIN" MEANS THE UTILIZATION OF A SIGN PROPERTY WHICH SHALL INCLUDE BUT NOT BE LIMITED TO THE INSTALLATION, MAINTENANCE AND REMOVAL OF ANY ADVERTISING COPY ON A SIGN PROPERTY.

(C) "SIGN PROPERTY" MEANS AND INCLUDES BILLBOARDS, BULLETINS, WALLS-CAVES, OR ANY OTHER LARGE FORMAT STATIC OR DIGITAL SIGN.

2. NO PERSON OR ENTITY SHALL MAINTAIN A SIGN PROPERTY IN A CITY UNLESS THE DEPARTMENT HAS ISSUED A PERMIT TO THAT PERSON OR ENTITY FOR EACH SUCH PROPERTY MAINTAINED. FURTHERMORE, THE MAINTENANCE OF A SIGN PROPERTY IN A CITY SHALL ONLY BE AUTHORIZED DURING THE TERM OF THE PERMIT ISSUED THEREFOR. NO CITY SHALL IMPOSE ANY ADDITIONAL LICENSING REQUIREMENT FOR OR RESTRICTIONS UPON SIGN PROPERTIES OTHER THAN THOSE CONTAINED IN THIS SECTION, AND THE PROVISIONS OF THIS SECTION SHALL PREEMPT AND SUPERSEDE ANY LOCAL LAW, CODE OR ORDINANCE.

3. A PERMIT MAY BE ISSUED FOR A SIGN PROPERTY UPON THE APPLICATION OF A PERSON OR ENTITY SUBMITTED TO THE DEPARTMENT. THE APPLICATION SHALL BE IN SUCH FORM AND INCLUDE SUCH INFORMATION AS THE DEPARTMENT SHALL DETER-

MINE. IN ADDITION, EACH SUCH APPLICATION SHALL BE SUBMITTED WITH THE APPROPRIATE ANNUAL LICENSING FEE AS FOLLOWS:

(A) FOR STATIC SIGN FACES:

(I) WITH A SURFACE AREA OF LESS THAN TWO HUNDRED TWENTY SQUARE FEET: THREE DOLLARS AND FIFTY CENTS PER SQUARE FOOT OF SURFACE AREA;

(II) WITH A SURFACE AREA OF TWO HUNDRED TWENTY OR MORE SQUARE FEET, BUT LESS THAN SIX HUNDRED SEVENTY-TWO SQUARE FEET: THREE DOLLARS AND SEVENTY-FIVE CENTS PER SQUARE FOOT OF SURFACE AREA;

(III) WITH A SURFACE AREA OF SIX HUNDRED SEVENTY-TWO OR MORE SQUARE FEET, BUT NOT MORE THAN ONE THOUSAND ONE HUNDRED SQUARE FEET: FOUR DOLLARS PER SQUARE FOOT OF SURFACE AREA;

(IV) WITH A SURFACE AREA OF MORE THAN ONE THOUSAND ONE HUNDRED SQUARE FEET: FOUR DOLLARS AND TWENTY-FIVE CENTS PER SQUARE FOOT OF SURFACE AREA; OR

(B) FOR DIGITAL SIGN FACES: EIGHT DOLLARS AND FIFTY CENTS PER SQUARE FOOT OF SURFACE AREA; AND

(C) AN ADDITIONAL FEE OF ONE HUNDRED DOLLARS FOR EACH LATE APPLICATION FOR A PERMIT OR RENEWAL THEREOF, IF ACCEPTED BY THE DEPARTMENT.

4. UPON RECEIPT OF AN APPLICATION AND THE APPROPRIATE FEE PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL MARK SUCH APPLICATION WITH THE DATE AND TIME THE APPLICATION WAS RECEIVED. THE DEPARTMENT SHALL MAKE A DETERMINATION OF WHETHER TO APPROVE OR DENY EACH APPLICATION WITHIN ONE HUNDRED EIGHTY DAYS OF THE RECEIPT THEREOF. ANY DETERMINATION WHICH EXCEEDS SUCH PERIOD OF TIME SHALL BE DEEMED AN APPROVAL.

5. IN THE EVENT OF THE LOSS, MUTILATION OR DESTRUCTION OF A PERMIT, UPON THE FILING OF A STATEMENT OF THE HOLDER OF SUCH LICENSE, PROOF OF SUCH FACTS AS THE DEPARTMENT MAY REQUIRE AND A FEE OF FIFTY DOLLARS, THE DEPARTMENT SHALL ISSUE A DUPLICATE OR SUBSTITUTE LICENSE.

6. ANY PERSON OR ENTITY THAT MAINTAINS A SIGN PROPERTY WHICH WAS ERECTED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION PURSUANT TO ANY ACCESSORY USE SIGN PERMIT, BUSINESS USE SIGN PERMIT, ADVERTISING SIGN PERMIT OR ANY OTHER SIGN PERMIT ISSUED BY THE DEPARTMENT OF BUILDINGS OF A CITY, SHALL BE ENTITLED TO THE ISSUANCE OF A PERMIT FOR THE MAINTENANCE OF A SIGN (WITH THE SAME SQUARE FOOTAGE AS THAT OF THE ORIGINAL PERMIT) PURSUANT TO THIS SECTION FOR SUCH SIGN PROPERTY AS A MATTER OF RIGHT AND RENEWALS THEREOF IN ACCORDANCE WITH THIS SECTION. SUCH PERMIT SHALL ENTITLE THE PERMIT HOLDER TO MAINTAIN THE SIGN PROPERTY AND SHALL NOT RESTRICT THE TYPE OF ADVERTISING COPY THAT CAN BE PLACED UPON SUCH SIGN PROPERTY. FURTHERMORE, DURING THE PENDENCY OF THE DETERMINATION BY THE DEPARTMENT UPON AN APPLICATION FOR A PERMIT RELATING TO A SIGN PROPERTY IN EXISTENCE PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, THE SIGN PERSON OR ENTITY MAINTAINING SUCH SIGN PROPERTY SHALL CONTINUE TO MAINTAIN THE SIGN PROPERTY.

S 2. This act shall be deemed repealed if any federal agency definitively concludes that this act would render New York State or any public authority ineligible for the receipt of federal funds.

S 3. This act shall take effect immediately; provided that the department of transportation shall notify the legislative bill drafting commission of the date a determination is made as described in section two of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

1 Section 1. Paragraphs (b) and (c) of subdivision 1 of section 1193 of
2 the vehicle and traffic law, as amended by chapter 496 of the laws of
3 2009, are amended to read as follows:

4 (b) Driving while intoxicated or while ability impaired by drugs or
5 while ability impaired by the combined influence of drugs or of alcohol
6 and any drug or drugs; aggravated driving while intoxicated; misdemeanor
7 offenses. (i) A violation of subdivision two, three, four or four-a of
8 section eleven hundred ninety-two of this article shall be a misdemeanor
9 and shall be punishable by a fine of not less than five hundred dollars
10 nor more than one thousand dollars, or by imprisonment in a penitentiary
11 or county jail for not more than one year, or by both such fine and
12 imprisonment. A violation of paragraph (a) of subdivision two-a of
13 section eleven hundred ninety-two of this article shall be a misdemeanor
14 and shall be punishable by a fine of not less than one thousand dollars
15 nor more than two thousand five hundred dollars or by imprisonment in a
16 penitentiary or county jail for not more than one year, or by both such
17 fine and imprisonment.

18 (ii) In addition to the imposition of any fine or period of imprison-
19 ment set forth in this paragraph, the court shall also sentence such
20 person convicted [of] OR ADJUDICATED A YOUTHFUL OFFENDER FOR a violation
21 of subdivision two, two-a [or], three OR PARAGRAPH (B) OF SUBDIVISION
22 FOUR-A of section eleven hundred ninety-two of this article to a period
23 of probation or conditional discharge, as a condition of which it shall
24 order such person NOT TO OPERATE A MOTOR VEHICLE WITHOUT AN IGNITION
25 INTERLOCK DEVICE, NOT TO OPERATE A MOTOR VEHICLE WITH A BLOOD ALCOHOL
26 CONCENTRATION ABOVE THE SETPOINT OF THE IGNITION INTERLOCK DEVICE AND to
27 install and maintain, in accordance with the provisions of section elev-
28 en hundred ninety-eight of this article, an ignition interlock device in
29 any motor vehicle TITLED, REGISTERED OR OTHERWISE owned or operated by
30 such person OR, IF SUCH PERSON DOES NOT OWN A MOTOR VEHICLE, IN THE
31 VEHICLE OPERATED BY SUCH PERSON AT THE TIME OF THE VIOLATION OF SECTION
32 ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR IN AT LEAST ONE VEHICLE
33 REGISTERED TO SUCH PERSON'S HOUSEHOLD during the term of such probation
34 or conditional discharge imposed for such violation of section eleven
35 hundred ninety-two of this article and in no event for less than six
36 months. THE PERIOD OF INTERLOCK RESTRICTION SHALL COMMENCE FROM THE DATE
37 OF SENTENCING OR, IN THE CASE OF A PLEA DISPOSITION, MAY COMMENCE FROM
38 THE DATE OF INSTALLATION OF AN IGNITION INTERLOCK DEVICE AT A DATE IN
39 ADVANCE OF SENTENCING. THE IGNITION INTERLOCK DEVICE SHALL BE INSTALLED
40 FOR NO LESS THAN SIX MONTHS, REGARDLESS OF THE COMMENCEMENT DATE. IN THE
41 EVENT THAT THE COURT MAKES A DETERMINATION OF GOOD CAUSE FOR NOT
42 INSTALLING AN IGNITION INTERLOCK DEVICE PURSUANT TO SUBDIVISION FOUR OF
43 SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE ON THE BASIS THAT
44 SUCH PERSON DOES NOT OWN AND WILL NOT OPERATE A MOTOR VEHICLE, THE
45 IGNITION INTERLOCK RESTRICTION SHALL REMAIN IN EFFECT FOR THE FULL PERI-
46 OD OF SUCH PERSON'S CONDITIONAL DISCHARGE OR PROBATION PURSUANT TO ARTI-
47 CLE SIXTY-FIVE OF THE PENAL LAW AND THE COURT SHALL SENTENCE SUCH PERSON
48 TO WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE FOR A PERIOD OF NOT LESS
49 THAN SIX MONTHS. UNDER NO CIRCUMSTANCES SHALL A CONDITIONAL LICENSE BE
50 ISSUED, OR A LICENSE OR PRIVILEGE TO OPERATE A MOTOR VEHICLE BE GRANTED
51 OR RESTORED UNTIL SUCH PERSON CAN DEMONSTRATE COMPLIANCE WITH EITHER THE
52 IGNITION INTERLOCK OR TRANSDERMAL ALCOHOL MONITORING PROVISIONS OF THIS
53 SECTION PURSUANT TO SUBDIVISION NINE OF SECTION FIVE HUNDRED TEN OF THIS
54 CHAPTER. FOR THE PURPOSES OF OBTAINING A CONDITIONAL LICENSE WHILE UNDER
55 THE PERIOD OF RESTRICTION, SUCH COMPLIANCE CAN BE DEMONSTRATED BY
56 PROVIDING PROOF AT THE TIME OF APPLICATION FOR A CONDITIONAL LICENSE OF

1 THE INSTALLATION OF AN IGNITION INTERLOCK DEVICE TO BE MONITORED PURSU-
2 ANT TO SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE FOR A PERIOD
3 OF NO LESS THAN THE FIRST SIX MONTHS AFTER THE CONDITIONAL LICENSE IS
4 GRANTED. THE PROOF WILL BE PROVIDED TO THE DEPARTMENT IN A FORM
5 PRESCRIBED BY THE COMMISSIONER. [Provided, however, the] THE court may
6 not authorize the operation of a motor vehicle by any person whose
7 license or privilege to operate a motor vehicle has been revoked pursu-
8 ant to the provisions of this section.

9 (c) Felony offenses. (i) A person who operates a vehicle (A) in
10 violation of subdivision two, two-a, three, four or four-a of section
11 eleven hundred ninety-two of this article after having been convicted of
12 a violation of subdivision two, two-a, three, four or four-a of such
13 section or of vehicular assault in the second or first degree, as
14 defined, respectively, in sections 120.03 and 120.04 and aggravated
15 vehicular assault as defined in section 120.04-a of the penal law or of
16 vehicular manslaughter in the second or first degree, as defined,
17 respectively, in sections 125.12 and 125.13 and aggravated vehicular
18 homicide as defined in section 125.14 of such law, within the preceding
19 ten years, or (B) in violation of paragraph (b) of subdivision two-a of
20 section eleven hundred ninety-two of this article shall be guilty of a
21 class E felony, and shall be punished by a fine of not less than one
22 thousand dollars nor more than five thousand dollars or by a period of
23 imprisonment as provided in the penal law, or by both such fine and
24 imprisonment.

25 (ii) A person who operates a vehicle in violation of subdivision two,
26 two-a, three, four or four-a of section eleven hundred ninety-two of
27 this article after having been convicted of a violation of subdivision
28 two, two-a, three, four or four-a of such section or of vehicular
29 assault in the second or first degree, as defined, respectively, in
30 sections 120.03 and 120.04 and aggravated vehicular assault as defined
31 in section 120.04-a of the penal law or of vehicular manslaughter in the
32 second or first degree, as defined, respectively, in sections 125.12 and
33 125.13 and aggravated vehicular homicide as defined in section 125.14 of
34 such law, twice within the preceding ten years, shall be guilty of a
35 class D felony, and shall be punished by a fine of not less than two
36 thousand dollars nor more than ten thousand dollars or by a period of
37 imprisonment as provided in the penal law, or by both such fine and
38 imprisonment.

39 (iii) In addition to the imposition of any fine or period of imprison-
40 ment set forth in this paragraph, the court shall also sentence such
41 person convicted [of] OR ADJUDICATED A YOUTHFUL OFFENDER FOR a violation
42 of subdivision two, two-a [or], three OR PARAGRAPH (B) OF SUBDIVISION
43 FOUR-A of section eleven hundred ninety-two of this article to a period
44 of probation or conditional discharge, as a condition of which it shall
45 order such person NOT TO OPERATE A MOTOR VEHICLE WITHOUT AN IGNITION
46 INTERLOCK DEVICE, NOT TO OPERATE A MOTOR VEHICLE WITH A BLOOD ALCOHOL
47 CONCENTRATION ABOVE THE SETPOINT OF THE IGNITION INTERLOCK DEVICE, AND
48 to install and maintain, in accordance with the provisions of section
49 eleven hundred ninety-eight of this article, an ignition interlock
50 device in any motor vehicle TITLED, REGISTERED OR OTHERWISE owned or
51 operated by such person OR, IF SUCH PERSON DOES NOT OWN A MOTOR VEHICLE,
52 IN THE VEHICLE OPERATED BY SUCH PERSON AT THE TIME OF THE VIOLATION OF
53 SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR IN AT LEAST ONE
54 VEHICLE REGISTERED TO SUCH PERSON'S HOUSEHOLD during the term of such
55 probation or conditional discharge imposed for such violation of section
56 eleven hundred ninety-two of this article and in no event for a period

1 of less than six months. THE PERIOD OF INTERLOCK RESTRICTION SHALL
2 COMMENCE FROM THE DATE OF SENTENCING OR IN THE CASE OF A PLEA DISPOSI-
3 TION, MAY COMMENCE FROM THE DATE OF INSTALLATION OF AN IGNITION INTER-
4 LOCK DEVICE AT A DATE IN ADVANCE OF SENTENCING. THE IGNITION INTERLOCK
5 DEVICE SHALL BE INSTALLED FOR NO LESS THAN SIX MONTHS, REGARDLESS OF THE
6 COMMENCEMENT DATE. IN THE EVENT THAT THE COURT MAKES A DETERMINATION OF
7 GOOD CAUSE FOR NOT INSTALLING AN IGNITION INTERLOCK DEVICE PURSUANT TO
8 SUBDIVISION FOUR OF SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE
9 ON THE BASIS THAT SUCH PERSON DOES NOT OWN AND WILL NOT OPERATE A MOTOR
10 VEHICLE, THE IGNITION INTERLOCK RESTRICTION SHALL REMAIN IN EFFECT FOR
11 THE FULL PERIOD OF SUCH PERSON'S CONDITIONAL DISCHARGE OR PROBATION
12 PURSUANT TO ARTICLE SIXTY-FIVE OF THE PENAL LAW AND THE COURT SHALL
13 SENTENCE SUCH PERSON TO WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE FOR
14 A PERIOD OF NOT LESS THAN SIX MONTHS. UNDER NO CIRCUMSTANCES SHALL A
15 CONDITIONAL LICENSE BE ISSUED, OR A LICENSE OR PRIVILEGE TO OPERATE A
16 MOTOR VEHICLE BE GRANTED OR RESTORED UNTIL SUCH PERSON CAN DEMONSTRATE
17 COMPLIANCE WITH EITHER THE IGNITION INTERLOCK OR TRANSDERMAL ALCOHOL
18 MONITORING PROVISIONS OF THIS SECTION PURSUANT TO SUBDIVISION NINE OF
19 SECTION FIVE HUNDRED TEN OF THIS CHAPTER. FOR THE PURPOSES OF OBTAINING
20 A CONDITIONAL LICENSE WHILE UNDER THE PERIOD OF RESTRICTION, SUCH
21 COMPLIANCE CAN BE DEMONSTRATED BY PROVIDING PROOF AT THE TIME OF APPLI-
22 CATION FOR A CONDITIONAL LICENSE PROOF OF THE INSTALLATION OF AN
23 IGNITION INTERLOCK DEVICE TO BE MONITORED PURSUANT TO SECTION ELEVEN
24 HUNDRED NINETY-EIGHT OF THIS ARTICLE FOR A PERIOD OF NO LESS THAN THE
25 FIRST SIX MONTHS FROM THE DATE OF ISSUANCE OF THE CONDITIONAL LICENSE.
26 THE PROOF WILL BE PROVIDED TO THE DEPARTMENT IN A FORM PRESCRIBED BY THE
27 COMMISSIONER. [Provided, however, the] THE court may not authorize the
28 operation of a motor vehicle by any person whose license or privilege to
29 operate a motor vehicle has been revoked pursuant to the provisions of
30 this section.

31 S 2. Paragraph (g) of subdivision 1 of section 1193 of the vehicle and
32 traffic law, as amended by section 57 of part A of chapter 56 of the
33 laws of 2010, is amended to read as follows:

34 (g) The office of probation and correctional alternatives shall recom-
35 mend to the commissioner of the division of criminal justice services
36 regulations governing the monitoring of compliance by persons ordered
37 NOT TO OPERATE A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE, NOT
38 TO OPERATE A MOTOR VEHICLE WITH A BLOOD ALCOHOL CONCENTRATION ABOVE THE
39 SETPOINT OF THE IGNITION INTERLOCK DEVICE AND to install and maintain
40 ignition interlock devices IN ANY MOTOR VEHICLE TITLED, REGISTERED OR
41 OTHERWISE OWNED OR OPERATED BY SUCH PERSON, OR IF SUCH PERSON DOES NOT
42 OWN A MOTOR VEHICLE, IN THE VEHICLE OPERATED BY SUCH PERSON AT THE TIME
43 OF THE VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE,
44 OR IN AT LEAST ONE VEHICLE REGISTERED TO SUCH PERSON'S HOUSEHOLD, OR IN
45 THE ALTERNATIVE TO WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE, to
46 provide standards for monitoring by departments of probation, and
47 options for monitoring of compliance by such persons, that counties may
48 adopt as an alternative to monitoring by a department of probation.

49 S 3. Subdivisions 1, 2, 3, 4 and paragraph (a) of subdivision 5 of
50 section 1198 of the vehicle and traffic law, as amended by chapter 496
51 of the laws of 2009, are amended to read as follows:

52 1. Applicability. The provisions of this section shall apply through-
53 out the state to each person required or otherwise ordered by a court as
54 a condition of probation or conditional discharge NOT TO OPERATE A MOTOR
55 VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE, NOT TO OPERATE A MOTOR
56 VEHICLE WITH A BLOOD ALCOHOL CONCENTRATION ABOVE THE SETPOINT OF THE

1 IGNITION INTERLOCK DEVICE AND to install and [operate] MAINTAIN an
2 ignition interlock device in any vehicle FOR which he or she HAS TITLE,
3 REGISTRATION, OR OTHERWISE owns or operates, OR IF SUCH PERSON DOES NOT
4 OWN A MOTOR VEHICLE, IN THE VEHICLE OPERATED BY SUCH PERSON AT THE TIME
5 OF THE VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE,
6 OR IN AT LEAST ONE VEHICLE REGISTERED TO SUCH PERSON'S HOUSEHOLD, OR IN
7 THE ALTERNATIVE ORDERED TO WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE.

8 2. Requirements. (a) In addition to any other penalties prescribed by
9 law, the court shall require that any person who has been convicted [of]
10 OR ADJUDICATED A YOUTHFUL OFFENDER FOR a violation of subdivision two,
11 two-a [or], three OR PARAGRAPH (B) OF SUBDIVISION FOUR-A of section
12 eleven hundred ninety-two of this article, or any crime defined by this
13 chapter or the penal law of which an alcohol-related violation of any
14 provision of section eleven hundred ninety-two of this article is an
15 essential element, [to] SHALL NOT OPERATE A MOTOR VEHICLE WITHOUT AN
16 IGNITION INTERLOCK DEVICE, OR WITH A BLOOD ALCOHOL CONCENTRATION ABOVE
17 THE SETPOINT OF THE IGNITION INTERLOCK DEVICE AND SHALL install and
18 maintain, as a condition of probation or conditional discharge, a func-
19 tioning ignition interlock device OR SHALL IN THE ALTERNATIVE WEAR A
20 TRANSDERMAL ALCOHOL MONITORING DEVICE in accordance with the provisions
21 of this section and, as applicable, in accordance with the provisions of
22 subdivisions one and one-a of section eleven hundred ninety-three of
23 this article; provided, however, the court may not authorize the opera-
24 tion of a motor vehicle by any person whose license or privilege to
25 operate a motor vehicle has been revoked except as provided herein. For
26 any such individual subject to a sentence of probation, installation and
27 maintenance of such ignition interlock device shall be a condition of
28 probation.

29 (b) Nothing contained in this section shall prohibit a court, upon
30 application by a probation department, from modifying the conditions of
31 probation of any person convicted of any violation set forth in para-
32 graph (a) of this subdivision prior to the effective date of this
33 section, to require the installation and maintenance of a functioning
34 ignition interlock device, and such person shall thereafter be subject
35 to the provisions of this section.

36 [(c) Nothing contained in this section shall authorize a court to
37 sentence any person to a period of probation or conditional discharge
38 for the purpose of subjecting such person to the provisions of this
39 section, unless such person would have otherwise been so eligible for a
40 sentence of probation or conditional discharge.]

41 3. Conditions. (a) Notwithstanding any other provision of law, the
42 commissioner may grant a [post-revocation] conditional license[, as set
43 forth in paragraph (b) of this subdivision, to a person who has been
44 convicted of a violation of subdivision two, two-a or three of section
45 eleven hundred ninety-two of this article and who has been sentenced to
46 a period of probation or conditional discharge, provided the person has
47 satisfied the minimum period of license revocation established by law
48 and the commissioner has been notified that such person may operate only
49 a motor vehicle equipped with a functioning ignition interlock device]
50 IN ACCORDANCE WITH THE PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-SIX
51 OF THIS ARTICLE.

52 (B) No such request shall be made nor shall such a license be granted,
53 however, if such person has been found by a court to have [committed a]
54 BEEN CHARGED WITH A violation of section five hundred eleven of this
55 chapter during the license revocation period, OR A VIOLATION OF SECTION
56 ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR FOR OPERATION OF A MOTOR

1 VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE WHEN REQUIRED TO HAVE ONE
2 PURSUANT TO THIS SECTION, or deemed by a court to have violated any
3 condition of probation or conditional discharge set forth by the court
4 relating to the operation of a motor vehicle or the consumption of alco-
5 hol. [In exercising discretion relating to the issuance of a post-revo-
6 cation conditional license pursuant to this subdivision, the commission-
7 er shall not deny such issuance based solely upon the number of
8 convictions for violations of any subdivision of section eleven hundred
9 ninety-two of this article committed by such person within the ten years
10 prior to application for such license.] IN ORDER FOR THE REQUEST FOR A
11 CONDITIONAL LICENSE TO BE DENIED ON THE BASIS OF HAVING BEEN CHARGED
12 WITH THE ENUMERATED VIOLATIONS, THE COURT MUST FIND PRIOR TO THE CONCLU-
13 SION OF THE PROCEEDINGS FOR ARRAIGNMENT THAT THE ACCUSATORY INSTRUMENT
14 CONFORMS TO THE REQUIREMENTS OF SECTION 100.40 OF THE CRIMINAL PROCEDURE
15 LAW AND THERE EXISTS REASONABLE CAUSE TO BELIEVE THAT SUCH PERSON
16 VIOLATED THE PROVISIONS OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER
17 OR OPERATED A MOTOR VEHICLE IN VIOLATION OF SUBDIVISION ONE, TWO, TWO-A,
18 THREE, FOUR OR FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTI-
19 CLE OR OPERATED A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE
20 WHEN REQUIRED TO HAVE ONE PURSUANT TO THIS SECTION. THE COURT SHALL MAKE
21 A FINDING AND SET IT FORTH UPON THE RECORD, OR OTHERWISE SET IT FORTH IN
22 WRITING. THE FINDING SHALL BE FILED WITH THE DEPARTMENT IN A FORM
23 PRESCRIBED BY THE COMMISSIONER. AT SUCH TIME THE LICENSEE SHALL BE ENTI-
24 TLED TO AN OPPORTUNITY TO MAKE A STATEMENT REGARDING THE CHARGES AND
25 ISSUES AND TO PRESENT EVIDENCE TENDING TO REBUT THE COURT'S FINDINGS.
26 THE LICENSEE MAY PRESENT MATERIAL AND RELEVANT EVIDENCE, HOWEVER, HE OR
27 SHE MAY NOT CAUSE THE LAW ENFORCEMENT OFFICERS INVOLVED IN THE UNDERLY-
28 ING ARREST OR ARRESTS TO BE CALLED TO TESTIFY UNLESS THE LICENSEE FIRST
29 DEMONSTRATES TO THE SATISFACTION OF THE COURT A GOOD FAITH BASIS TO
30 BELIEVE SUCH OFFICERS WILL PROVIDE TESTIMONY INCONSISTENT WITH THE
31 FACTUAL PORTION OF THE ACCUSATORY INSTRUMENT WHICH FORMED THE BASIS OF
32 THE COURT'S FINDING OF COMPLIANCE WITH SECTION 100.40 OF THE CRIMINAL
33 PROCEDURE LAW AND THERE EXISTS REASONABLE CAUSE TO BELIEVE THAT THE
34 HOLDER VIOLATED THE SECTIONS CHARGED. IN NO EVENT SHALL THE ARRAIGNMENT
35 BE ADJOURNED OR OTHERWISE DELAYED MORE THAN THREE BUSINESS DAYS SOLELY
36 FOR THE PURPOSE OF ALLOWING THE LICENSEE TO REBUT THE COURT'S FINDING.
37 Upon the termination of the period of probation or conditional discharge
38 set by the court, the person may apply to the commissioner for restora-
39 tion of a license or privilege to operate a motor vehicle in accordance
40 with this chapter.

41 [(b) Notwithstanding any inconsistent provision of this chapter, a
42 post-revocation conditional license granted pursuant to paragraph (a) of
43 this subdivision shall be valid only for use by the holder thereof, (1)
44 enroute to and from the holder's place of employment, (2) if the hold-
45 er's employment requires the operation of a motor vehicle then during
46 the hours thereof, (3) enroute to and from a class or course at an
47 accredited school, college or university or at a state approved institu-
48 tion of vocational or technical training, (4) to and from court ordered
49 probation activities, (5) to and from a motor vehicle office for the
50 transaction of business relating to such license, (6) for a three hour
51 consecutive daytime period, chosen by the department, on a day during
52 which the participant is not engaged in usual employment or vocation,
53 (7) enroute to and from a medical examination or treatment as part of a
54 necessary medical treatment for such participant or member of the
55 participant's household, as evidenced by a written statement to that
56 effect from a licensed medical practitioner, (8) enroute to and from a

1 class or an activity which is an authorized part of the alcohol and drug
2 rehabilitation program and at which participant's attendance is
3 required, and (9) enroute to and from a place, including a school, at
4 which a child or children of the participant are cared for on a regular
5 basis and which is necessary for the participant to maintain such
6 participant's employment or enrollment at an accredited school, college
7 or university or at a state approved institution of vocational or tech-
8 nical training.]

9 (c) The [post-revocation] conditional license described in [this
10 subdivision] SECTION ELEVEN HUNDRED NINETY-SIX OF THIS ARTICLE, may be
11 revoked by the commissioner for sufficient cause including but not
12 limited to, failure to comply with the terms of the condition of
13 probation or conditional discharge set forth by the court, conviction of
14 any traffic offense other than one involving parking, stopping or stand-
15 ing [or conviction of] AND SHALL BE REVOKED BY THE COMMISSIONER WHERE
16 SUCH PERSON IS FOUND BY THE COURT TO HAVE BEEN CHARGED WITH any alcohol
17 or drug related offense, misdemeanor or felony, ANY VIOLATION OF SECTION
18 ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, ANY VIOLATION OF SECTION FIVE
19 HUNDRED ELEVEN OF THIS ARTICLE, OR WITH OPERATING A MOTOR VEHICLE WITH-
20 OUT AN IGNITION INTERLOCK DEVICE WHEN REQUIRED TO DO SO, or failure to
21 install or maintain a court ordered ignition interlock device.

22 (d) [Nothing contained herein shall prohibit the court from requiring,
23 as a condition of probation or conditional discharge, the installation
24 of a functioning ignition interlock device in any vehicle owned or oper-
25 ated by a person sentenced for a violation of subdivision two, two-a, or
26 three of section eleven hundred ninety-two of this chapter, or any crime
27 defined by this chapter or the penal law of which an alcohol-related
28 violation of any provision of section eleven hundred ninety-two of this
29 chapter is an essential element, if the court in its discretion, deter-
30 mines that such a condition is necessary to ensure the public safety.]
31 Imposition of an ignition interlock condition shall in no way limit the
32 effect of any period of license suspension or revocation set forth by
33 the commissioner or the court.

34 (e) Nothing contained herein shall prevent the court from applying any
35 other conditions of probation or conditional discharge allowed by law,
36 including treatment for alcohol or drug abuse, restitution and community
37 service.

38 (f) The commissioner shall note on the operator's record of any person
39 restricted pursuant to this section UPON SENTENCING OR DATE OF PLEA
40 DISPOSITION IN ADVANCE OF SENTENCING that, in addition to any other
41 restrictions, conditions or limitations, such person may operate only a
42 motor vehicle equipped with an ignition interlock device.

43 4. Proof of compliance and recording of condition. (a) Following impo-
44 sition by the court of the use of an ignition interlock device as a
45 condition of probation or conditional discharge it shall require the
46 person to provide proof of compliance with this section to the court and
47 the probation department OR OTHER MONITOR where such person is under
48 probation, SUPERVISION, or conditional discharge [supervision] MONITOR-
49 ING. A CLAIM BY SUCH PERSON THAT HE OR SHE HAS GOOD CAUSE FOR NOT
50 INSTALLING AN IGNITION INTERLOCK DEVICE SHALL BE MADE TO THE COURT AT OR
51 BEFORE SENTENCING, IN WRITING IN THE FORM OF A SWORN AFFIDAVIT SIGNED BY
52 SUCH PERSON ASSERTING UNDER OATH THAT SUCH PERSON IS NOT THE REGISTERED
53 OR TITLED OWNER OF ANY MOTOR VEHICLE AND WILL NOT OPERATE ANY MOTOR
54 VEHICLE DURING THE PERIOD OF RESTRICTION, OR THAT SUCH PERSON DOES NOT
55 HAVE ACCESS TO THE VEHICLE OPERATED BY SUCH PERSON AT THE TIME OF THE
56 VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR THAT

1 THE REGISTERED OWNER OF THAT VEHICLE OR ANY VEHICLE REGISTERED TO SUCH
2 PERSON'S HOUSEHOLD WILL NOT GIVE CONSENT FOR THE INSTALLATION OF AN
3 IGNITION INTERLOCK DEVICE ON HIS OR HER VEHICLE. IN ADDITION, THE AFFI-
4 DAVIT MUST ALSO INCLUDE A STATEMENT REGARDING WHETHER SUCH PERSON OWNED
5 ANY MOTOR VEHICLE ON THE DATE OF THE UNDERLYING VIOLATION OF SECTION
6 ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE AND WHETHER OWNERSHIP OF ANY
7 OF THOSE VEHICLES HAS BEEN TRANSFERRED TO ANOTHER PARTY BY SALE, GIFT OR
8 ANY OTHER MEANS SINCE THE DATE OF SAID VIOLATION. THE AFFIDAVIT MUST
9 INCLUDE A STATEMENT FROM SUCH PERSON THAT HE OR SHE HAS NOT AND WILL NOT
10 TRANSFER OWNERSHIP OF ANY VEHICLE TO EVADE INSTALLATION OF AN IGNITION
11 INTERLOCK DEVICE. THE AFFIDAVIT MUST ALSO INCLUDE THE ADDRESS OF SUCH
12 PERSON'S EMPLOYMENT (IF ANY) AND HOW SUCH PERSON INTENDS TO TRAVEL TO
13 THAT LOCATION DURING THE PERIOD OF RESTRICTION. THE PERSON MAY ALSO
14 INCLUDE ANY OTHER FACTS AND CIRCUMSTANCES SUCH PERSON BELIEVES TO BE
15 RELEVANT TO THE CLAIM OF GOOD CAUSE. THE COURT MUST MAKE A FINDING
16 WHETHER GOOD CAUSE EXISTS ON THE RECORD AND, IF GOOD CAUSE IS FOUND,
17 ISSUE SUCH FINDING IN WRITING TO BE FILED BY SUCH PERSON WITH PROBATION
18 OR THE IGNITION INTERLOCK MONITOR, AS APPROPRIATE. IN THE EVENT THE
19 COURT DENIES SUCH PERSON'S CLAIM OF GOOD CAUSE ON THE BASIS OF THE AFFI-
20 DAVIT FILED WITH THE COURT, SUCH PERSON MUST BE GIVEN AN OPPORTUNITY TO
21 BE HEARD. SUCH PERSON MAY ALSO WAIVE THE OPPORTUNITY TO BE HEARD. WHERE
22 THE COURT FINDS GOOD CAUSE FOR SUCH PERSON NOT TO INSTALL AN IGNITION
23 INTERLOCK DEVICE, THE PERIOD OF INTERLOCK RESTRICTION ON SUCH PERSON'S
24 OPERATING RECORD SHALL REMAIN IN EFFECT FOR THE FULL PERIOD OF SUCH
25 PERSON'S CONDITIONAL DISCHARGE OR PROBATION PURSUANT TO ARTICLE
26 SIXTY-FIVE OF THE PENAL LAW AND THE COURT SHALL SENTENCE SUCH PERSON TO
27 WEAR A TRANSDERMAL ALCOHOL MONITORING DEVICE FOR A PERIOD OF NOT LESS
28 THAN SIX MONTHS. IN THE EVENT THE COURT ALSO SENTENCES SUCH PERSON TO
29 ABSTAIN OR RESTRICT HIS OR HER CONSUMPTION OF ALCOHOL DURING THE TRANS-
30 DERMAL ALCOHOL MONITORING PERIOD, THE DETECTION OF ALCOHOL BY THE TRANS-
31 DERMAL DEVICE SHALL BE REPORTED BY PROBATION OR THE MONITOR TO THE
32 COURT. WHERE NO SUCH RESTRICTION IS IMPOSED BY THE COURT, THE TRANSDER-
33 MAL DATA WILL BE REPORTED TO THE DEPARTMENT IN A FORM PRESCRIBED BY THE
34 COMMISSIONER FOR CONSIDERATION DURING RELICENSING. If [the] A person IS
35 ORDERED TO INSTALL AND MAINTAIN AN IGNITION INTERLOCK DEVICE AND SUCH
36 PERSON fails to provide [for such] proof of installation TO PROBATION OR
37 THE MONITOR, AS APPROPRIATE, absent a finding by the court of good cause
38 for that failure which is entered in the record, the court may revoke,
39 modify, or terminate the person's sentence of probation or conditional
40 discharge as provided under law.

41 (b) When a court imposes the condition specified in subdivision one of
42 this section, the court shall notify the commissioner in such manner as
43 the commissioner may prescribe, and the commissioner shall note such
44 condition on the operating record of the person subject to such condi-
45 tions.

46 (a) The cost of installing and maintaining the ignition interlock
47 device OR TRANSDERMAL ALCOHOL MONITORING DEVICE shall be borne by the
48 person subject to such condition unless the court determines such person
49 is financially unable to afford such cost whereupon such cost [may]
50 SHALL be imposed pursuant to a payment plan or, IF NO PAYMENT PLAN CAN
51 BE ESTABLISHED, THE COURT MUST STATE THE REASONS WHY A PAYMENT PLAN IS
52 NOT FEASIBLE ON THE RECORD AND MAY ORDER THE COST TO BE waived. In the
53 event of such waiver, the cost of the device shall be borne in accord-
54 ance with regulations issued under paragraph (g) of subdivision one of
55 section eleven hundred ninety-three of this article or pursuant to such
56 other agreement as may be entered into for provision of the device. Such

1 cost shall be considered a fine for the purposes of subdivision five of
2 section 420.10 of the criminal procedure law. Such cost shall not
3 replace, but shall instead be in addition to, any fines, surcharges, or
4 other costs imposed pursuant to this chapter or other applicable laws.

5 S 4. Subdivision 8 of section 1198 of the vehicle and traffic law, as
6 amended by chapter 496 of the laws of 2009, is amended to read as
7 follows:

8 8. Employer vehicle. Notwithstanding the provisions of subdivision one
9 and paragraph (d) of subdivision nine of this section, if a person is
10 required to operate a motor vehicle owned by said person's employer in
11 the course and scope of his or her employment, the person may operate
12 that vehicle without installation of an approved ignition interlock
13 device only in the course and scope of such employment and only if the
14 employer has been notified that the person's driving privilege has been
15 restricted under the provisions of this article or the penal law and the
16 person whose privilege has been so restricted has provided the court and
17 probation department with written documentation indicating the employer
18 has knowledge of the restriction imposed and has granted permission for
19 the person to operate the employer's vehicle without the device only for
20 business purposes. The person shall notify the court and the probation
21 department, OR THE INTERLOCK MONITOR, AS APPROPRIATE, of his or her
22 intention to so operate the employer's vehicle. THE COURT MAY GRANT OR
23 DENY SUCH PERSON'S REQUEST TO OPERATE A MOTOR VEHICLE, OWNED BY SAID
24 PERSON'S EMPLOYER, IN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT
25 WITHOUT INSTALLATION OF AN APPROVED IGNITION INTERLOCK DEVICE. WHERE THE
26 COURT GRANTS THE REQUEST, IT MUST BE GRANTED IN WRITING IN A FORM
27 PRESCRIBED BY THE COMMISSIONER TO BE FILED WITH PROBATION OR THE MONI-
28 TOR, AS APPROPRIATE, AND TO BE CARRIED BY SUCH PERSON WHENEVER SAID
29 PERSON IS OPERATING THE EMPLOYER'S VEHICLE IN ACCORDANCE WITH THIS
30 SECTION AND SUCH PERSON MUST PRODUCE SAID DOCUMENT TO A LAW ENFORCEMENT
31 OFFICER UPON REQUEST. ADDITIONALLY, THE COMMISSIONER SHALL NOTE ON THE
32 OPERATOR'S RECORD OF ANY PERSON AUTHORIZED TO OPERATE AN EMPLOYER VEHI-
33 CLE PURSUANT TO THIS SUBDIVISION THAT SUCH PERSON IS ONLY AUTHORIZED TO
34 OPERATE WITHOUT AN IGNITION INTERLOCK DEVICE WHILE DRIVING AN EMPLOYER
35 VEHICLE WITHIN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT. A motor
36 vehicle owned by a business entity which business entity is all or part-
37 ly owned or controlled by a person otherwise subject to the provisions
38 of this article or the penal law is not a motor vehicle owned by the
39 employer for purposes of the exemption provided in this subdivision. The
40 provisions of this subdivision shall apply only to the operation of such
41 vehicle in the scope of such employment.

42 S 5. Subdivision 15-a of section 259-c of the executive law, as
43 amended by section 38-b of subpart A of part C of chapter 62 of the laws
44 of 2011, is amended to read as follows:

45 15-a. Notwithstanding any other provision of law, where a person is
46 serving a sentence for a violation of section 120.03, 120.04, 120.04-a,
47 125.12, 125.13 or 125.14 of the penal law, or a felony as defined in
48 paragraph (c) of subdivision one of section eleven hundred ninety-three
49 of the vehicle and traffic law, if such person is released on parole or
50 conditional release the board shall require as a mandatory condition of
51 such release, that such person install and maintain, in accordance with
52 the provisions of section eleven hundred ninety-eight of the vehicle and
53 traffic law, an ignition interlock device in any motor vehicle TITLED,
54 REGISTERED OR OTHERWISE owned or operated by such person during the term
55 of such parole or conditional release for such crime. THIS MANDATORY
56 INSTALLATION OF AN IGNITION INTERLOCK DEVICE AS A CONDITION OF RELEASE

1 SHALL RUN CONCURRENTLY WITH ANY REQUIRED INSTALLATION OF AN IGNITION
2 INTERLOCK DEVICE ORDERED BY THE COURT AS A CONDITION OF A CONSECUTIVE
3 PERIOD OF CONDITIONAL DISCHARGE OR PROBATION PURSUANT TO SECTION 60.21
4 OF THE PENAL LAW. MONITORING DURING THE PERIOD OF PAROLE SHALL BE
5 PROVIDED BY THE DIVISION OF PAROLE. IF THERE IS AN ADDITIONAL PERIOD OF
6 PROBATION EXTENDING BEYOND THE PERIOD OF PAROLE, MONITORING OF ANY
7 REMAINING PERIOD OF IGNITION INTERLOCK RESTRICTION SHALL BE TRANSFERRED
8 FROM THE DIVISION OF PAROLE TO PROBATION AT THE CONCLUSION OF PAROLE.
9 Provided further, however, the board may not otherwise authorize the
10 operation of a motor vehicle by any person whose license or privilege to
11 operate a motor vehicle has been revoked pursuant to the provisions of
12 the vehicle and traffic law.

13 S 6. Section 60.36 of the penal law, as added by chapter 496 of the
14 laws of 2009, is amended to read as follows:

15 S 60.36 Authorized dispositions; driving while intoxicated offenses.

16 Where a court is imposing a sentence for a violation of subdivision
17 two, two-a, [or] three, OR PARAGRAPH (B) OF SUBDIVISION FOUR-A of
18 section eleven hundred ninety-two of the vehicle and traffic law OR FOR
19 A VIOLATION OF SECTION 120.03, 120.04, 120.04-A, 125.12, 125.13 OR
20 125.14 OF THIS CHAPTER, OR A FELONY AS DEFINED IN PARAGRAPH (C) OF
21 SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-THREE OF THE VEHICLE
22 AND TRAFFIC LAW, pursuant to sections 65.00 or 65.05 of this title and,
23 as a condition of such sentence, orders the installation and maintenance
24 of an ignition interlock device, the court may impose any other penalty
25 authorized pursuant to section eleven hundred ninety-three of the vehi-
26 cle and traffic law.

27 S 7. Section 60.21 of the penal law, as added by chapter 496 of the
28 laws of 2009, is amended to read as follows:

29 S 60.21 Authorized dispositions; driving while intoxicated or aggravated
30 driving while intoxicated.

31 Notwithstanding paragraph (d) of subdivision two of section 60.01 of
32 this article, when a person is to be sentenced upon a conviction for a
33 violation of subdivision two, two-a [or], three OR PARAGRAPH (B) OF
34 SUBDIVISION FOUR-A of section eleven hundred ninety-two of the vehicle
35 and traffic law, OR FOR A VIOLATION OF SECTION 120.03, 120.04, 120.04-A,
36 125.12, 125.13 OR 125.14 OF THIS CHAPTER, OR A FELONY AS DEFINED IN
37 PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-THREE
38 OF THE VEHICLE AND TRAFFIC LAW, OR ANY FELONY FOR WHICH A VIOLATION OF
39 SUBDIVISION TWO, TWO-A, THREE, PARAGRAPH (B) OF SUBDIVISION FOUR-A OF
40 SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW IS AN
41 ESSENTIAL ELEMENT the court may sentence such person to a period of
42 imprisonment authorized by article seventy of this title and shall
43 sentence such person to a period of probation or conditional discharge
44 in accordance with the provisions of section 65.00 of this title and
45 shall order the installation and maintenance of a functioning ignition
46 interlock device. Such period of probation or conditional discharge
47 shall run consecutively to any period of imprisonment and shall commence
48 immediately upon such person's release from imprisonment NOTWITHSTAND-
49 ING, SUCH PERSON ALSO HAVING BEEN CONVICTED OF FELONY CHARGES THAT DO
50 NOT CONTAIN A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE
51 VEHICLE AND TRAFFIC LAW AS AN ESSENTIAL ELEMENT. WHERE A PERSON IS
52 SENTENCED TO THE MAXIMUM TERM OF INCARCERATION WITH A CONSECUTIVE PERIOD
53 OF CONDITIONAL DISCHARGE OR PROBATION, AND THE COURT FINDS SUCH PERSON
54 TO HAVE VIOLATED THE CONDITIONS OF DISCHARGE OR PROBATION, THE COURT IN
55 ITS DISCRETION MAY SENTENCE THE DEFENDANT TO AN ADDITIONAL PERIOD OF
56 INCARCERATION NOT TO EXCEED NINETY DAYS FOR EACH VIOLATION. NOTHING

1 CONTAINED IN THIS SECTION SHALL PROHIBIT A COURT FROM IMPOSING ANY OTHER
2 SENTENCE OR MODIFICATION PERMITTED BY LAW.

3 S 8. Subparagraph 10 of paragraph b of subdivision 2 of section 1193
4 of the vehicle and traffic law, as added by chapter 173 of the laws of
5 1990, is amended to read as follows:

6 (10) Action required by commissioner. Where a court fails to impose,
7 or incorrectly imposes, a suspension or revocation required by this
8 subdivision, OR AN INTERLOCK RESTRICTION REQUIRED BY SECTION ELEVEN
9 HUNDRED NINETY-EIGHT OF THIS ARTICLE, the commissioner shall, upon
10 receipt of a certificate of conviction filed pursuant to section five
11 hundred fourteen of this chapter OR UPON NOTICE OF AN IGNITION INTERLOCK
12 REQUIREMENT BEFORE THE SENTENCE DATE AS PART OF A PLEA DISPOSITION,
13 impose such mandated suspension [or], revocation[,] OR RESTRICTION which
14 shall supersede any such order which the court may have imposed.

15 S 9. Section 510 of the vehicle and traffic law is amended by adding a
16 new subdivision 8-a to read as follows:

17 8-A. PROOF OF COMPLIANCE. A LICENSE OR REGISTRATION MAY BE RESTORED
18 BY DIRECTION OF THE COMMISSIONER BUT NOT OTHERWISE. WHERE THE SUSPEN-
19 SION, REVOCATION OR RESTRICTION IS THE RESULT OF A CRIMINAL CONVICTION,
20 NO LICENSE SHALL BE RESTORED AND NO RESTRICTION SHALL BE REMOVED UNTIL
21 PROOF OF COMPLIANCE WITH EACH OF THE CONDITIONS OF THE OPERATOR'S
22 SENTENCE HAS BEEN PROVIDED TO THE DEPARTMENT IN A FORM PRESCRIBED BY THE
23 COMMISSIONER.

24 S 10. Paragraph (h) of subdivision 2 of section 503 of the vehicle and
25 traffic law, as amended by section 1 of part PP of chapter 59 of the
26 laws of 2009, is amended to read as follows:

27 (h) An applicant whose driver's license has been RESTRICTED PURSUANT
28 TO (I) PARAGRAPHS (B) AND (C) OF SUBDIVISION ONE OF SECTION ELEVEN
29 HUNDRED NINETY-THREE OF THIS CHAPTER AND (II) SECTION ELEVEN HUNDRED
30 NINETY-EIGHT OF THIS CHAPTER OR revoked pursuant to (i) section five
31 hundred ten of this title, (ii) section eleven hundred ninety-three of
32 this chapter, [and] (iii) section eleven hundred ninety-four of this
33 chapter OR, (IV) A FINDING OF DRIVING AFTER HAVING CONSUMED ALCOHOL
34 PURSUANT TO THE PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-TWO-A OF
35 THIS CHAPTER, shall, upon application for issuance of a driver's license
36 OR REMOVAL OF THE RESTRICTION, pay to the commissioner a fee of one
37 hundred dollars. [When the basis for the revocation is a finding of
38 driving after having consumed alcohol pursuant to the provisions of
39 section eleven hundred ninety-two-a of this chapter, the fee to be paid
40 to the commissioner shall be one hundred dollars.] Such fee is not
41 refundable and shall not be returned to the applicant regardless of the
42 action the commissioner may take on such person's application for rein-
43 statement of such driving license. Such fee shall be in addition to any
44 other fees presently levied [but shall not apply to an applicant whose
45 driver's license was revoked for failure to pass a reexamination or to
46 an applicant who has been issued a conditional or restricted use license
47 under the provisions of article twenty-one-A or thirty-one of this chap-
48 ter].

49 S 11. Subdivision 4-a of section 1192 of the vehicle and traffic law,
50 as added by chapter 732 of the laws of 2006, is amended to read as
51 follows:

52 4-a. Driving while ability impaired by the combined influence of drugs
53 or of alcohol and any drug or drugs. (A) No person shall operate a motor
54 vehicle while the person's ability to operate such motor vehicle is
55 impaired by the combined influence of drugs [or].

(B) NO PERSON SHALL OPERATE A MOTOR VEHICLE WHILE THE PERSON'S ABILITY TO OPERATE SUCH MOTOR VEHICLE IS IMPAIRED BY THE COMBINED INFLUENCE of alcohol and any drug or drugs.

S 12. Paragraph (k-1) of subdivision 2 of section 65.10 of the penal law, as amended by chapter 669 of the laws of 2007, is amended to read as follows:

(k-1) Install and maintain a functioning ignition interlock device, as that term is defined in section one hundred nineteen-a of the vehicle and traffic law, in any vehicle owned or operated by the defendant [if the court in its discretion determines that such a condition is necessary to ensure the public safety. The court may require such condition only where a person has been convicted of a violation of subdivision two, two-a or three of section eleven hundred ninety-two of the vehicle and traffic law, or any crime defined by the vehicle and traffic law or this chapter of which an alcohol-related violation of any provision of section eleven hundred ninety-two of the vehicle and traffic law is an essential element]. The offender shall be required to install and operate the ignition interlock device [only] in accordance with section eleven hundred ninety-eight of the vehicle and traffic law.

S 13. Paragraph (d) of subdivision 2 of section 1193 of the vehicle and traffic law, as added by chapter 47 of the laws of 1988 and subparagraph 1 as amended by section 34 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(d) Suspension or revocation; sentencing. [(1)] Notwithstanding anything to the contrary contained in a certificate of relief from disabilities or a certificate of good conduct issued pursuant to article twenty-three of the correction law, where a suspension or revocation, other than a revocation required to be issued by the commissioner, is mandatory pursuant to paragraph (a) or (b) of this subdivision, the magistrate, justice or judge shall issue an order suspending or revoking such license upon sentencing, and the license holder shall surrender such license to the court. [Except as hereinafter provided, such suspension or revocation shall take effect immediately.

(2) Except where the license holder has been charged with a violation of article one hundred twenty or one hundred twenty-five of the penal law arising out of the same incident or convicted of such violation or a violation of any subdivision of section eleven hundred ninety-two of this article within the preceding five years, the judge, justice or magistrate may issue an order making said license suspension or revocation take effect twenty days after the date of sentencing. The license holder shall be given a copy of said order permitting the continuation of driving privileges for twenty days after sentencing, if granted by the court. The court shall forward to the commissioner the certificates required in sections five hundred thirteen and five hundred fourteen of this chapter, along with a copy of any order issued pursuant to this paragraph and the license, within ninety-six hours of sentencing.]

S 14. Paragraphs (b) and (d) of subdivision 1 of section 160.10 of the criminal procedure law, paragraph (b) as amended by chapter 762 of the laws of 1971, paragraph (d) as amended by chapter 232 of the laws of 2010, are amended and a new paragraph (e) is added to read as follows:

(b) A misdemeanor defined in the penal law OR THE VEHICLE AND TRAFFIC LAW; or

(d) Loitering for the purpose of engaging in a prostitution offense as defined in subdivision two of section 240.37 of the penal law[.]; OR

(E) AN OFFENSE WHICH WOULD CONSTITUTE A MISDEMEANOR IF SUCH PERSON HAD A PREVIOUS JUDGMENT OR CONVICTION FOR THE SAME OFFENSE.

1 S 15. Paragraphs (e) and (f) of subdivision 7 of section 1196 of the
2 vehicle and traffic law, paragraph (e) as added by chapter 47 of the
3 laws of 1988 and paragraph (f) as added by chapter 420 of the laws of
4 1989, are amended and a new paragraph (i) is added to read as follows:

5 (e) The conditional license or privileges described in this subdivi-
6 sion may be revoked by the commissioner, for sufficient cause including,
7 but not limited to, failure to register in the program, failure to
8 attend or satisfactorily participate in the sessions, conviction of any
9 traffic infraction other than one involving parking, stopping or stand-
10 ing or conviction of any alcohol or drug-related traffic offense, misde-
11 meanor or felony. THE CONDITIONAL LICENSE OR PRIVILEGES DESCRIBED IN
12 THIS SUBDIVISION SHALL BE REVOKED BY THE COMMISSIONER WHEN THERE HAS
13 BEEN A FINDING BY A COURT, FILED WITH THE DEPARTMENT IN A FORM
14 PRESCRIBED BY THE COMMISSIONER, THAT THE ACCUSATORY INSTRUMENT CONFORMS
15 TO THE REQUIREMENTS OF SECTION 100.40 OF THE CRIMINAL PROCEDURE LAW AND
16 THERE EXISTS REASONABLE CAUSE TO BELIEVE THAT THE OPERATOR HAS COMMITTED
17 A VIOLATION OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER DURING A
18 LICENSE SUSPENSION OR REVOCATION PERIOD, HAS COMMITTED A VIOLATION OF
19 SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, HAS OPERATED A MOTOR
20 VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE WHEN ONE WAS REQUIRED
21 PURSUANT TO SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE, OR HAS
22 VIOLATED ANY CONDITION OF PROBATION OR CONDITIONAL DISCHARGE SET FORTH
23 BY THE COURT RELATING TO THE OPERATION OF A MOTOR VEHICLE OR THE
24 CONSUMPTION OF ALCOHOL. THE COURT'S FINDING MUST CONFORM TO THE PROCE-
25 DURES SET FORTH IN PARAGRAPH (C) OF SUBDIVISION THREE OF SECTION ELEVEN
26 HUNDRED NINETY-EIGHT OF THIS ARTICLE DENYING A REQUEST FOR A CONDITIONAL
27 LICENSE. A REVOCATION OF THE CONDITIONAL LICENSE PURSUANT TO THIS
28 SECTION SHALL REINSTATE THE UNDERLYING ALCOHOL-RELATED SUSPENSION OR
29 REVOCATION FROM WHICH THE CONDITIONAL LICENSE WAS DERIVED. In addition,
30 the commissioner shall have the right, after a hearing, to revoke the
31 conditional license or privilege upon receiving notification or evidence
32 that the offender is not attempting in good faith to accept rehabili-
33 tation. In the event of such revocation, the fee described in subdivi-
34 sion six of this section shall not be refunded.

35 (f) It shall be a traffic infraction for the holder of a conditional
36 license or privilege to operate a motor vehicle upon a public highway
37 for any use other than those authorized pursuant to paragraph (a) of
38 this subdivision, UNLESS THE OPERATION RESULTS IN A CHARGE FOR A
39 VIOLATION OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER DURING A
40 LICENSE SUSPENSION OR REVOCATION PERIOD, FOR A VIOLATION OF SECTION
41 ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR FOR OPERATION OF A MOTOR
42 VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE WHEN ONE IS REQUIRED PURSU-
43 ANT TO SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE AND A COURT,
44 PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION HAS ISSUED A FINDING,
45 FILED WITH THE DEPARTMENT IN A FORM PRESCRIBED BY THE COMMISSIONER, THAT
46 THE ACCUSATORY INSTRUMENT CONFORMS TO THE REQUIREMENTS OF SECTION 100.40
47 OF THE CRIMINAL PROCEDURE LAW AND THERE EXISTS REASONABLE CAUSE TO
48 BELIEVE THAT THE OPERATOR HAS COMMITTED THE VIOLATION OR VIOLATIONS
49 CHARGED. WHEN SUCH CHARGES ARE FILED AND SUCH A FINDING BY THE COURT IS
50 MADE, THE CONDITIONAL LICENSE SHALL BE IMMEDIATELY REVOKED. When a
51 [person] HOLDER OF A CONDITIONAL LICENSE OR PRIVILEGE is convicted of
52 [this] THE offense OF OPERATING A MOTOR VEHICLE UPON A PUBLIC HIGHWAY
53 FOR ANY USE OTHER THAN THOSE AUTHORIZED PURSUANT TO PARAGRAPH (A) OF
54 THIS SUBDIVISION, the sentence of the court must be a fine of not less
55 than two hundred dollars nor more than five hundred dollars or a term of
56 imprisonment of not more than fifteen days or both such fine and impri-

sonment. Additionally, the conditional license or privileges described in this subdivision shall be revoked by the commissioner upon receiving notification from the court that the holder thereof has been convicted of this offense.

(I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER MAY GRANT A POST-REVOCATION CONDITIONAL LICENSE TO A PERSON WHO IS OTHERWISE INELIGIBLE TO RECEIVE A CONDITIONAL LICENSE WHEN THAT PERSON HAS BEEN CONVICTED OF A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE OR PARAGRAPH (B) OF SUBDIVISION FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE AND WHO HAS BEEN SENTENCED TO A PERIOD OF PROBATION, PROVIDED THAT PROBATION CONSENTS TO THE ISSUANCE OF A POST-REVOCATION CONDITIONAL LICENSE AND THE PERSON HAS SATISFIED THE MINIMUM PERIOD OF LICENSE REVOCATION ESTABLISHED BY LAW AND THE COMMISSIONER HAS BEEN NOTIFIED THAT SUCH PERSON MAY OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH A FUNCTIONING IGNITION INTERLOCK DEVICE. NO SUCH REQUEST SHALL BE MADE NOR SHALL SUCH A LICENSE BE GRANTED, HOWEVER, IF SUCH PERSON HAS BEEN DEEMED BY A COURT TO HAVE VIOLATED ANY CONDITION OF PROBATION OR CONDITIONAL DISCHARGE SET FORTH BY THE COURT RELATING TO THE OPERATION OF A MOTOR VEHICLE OR THE CONSUMPTION OF ALCOHOL OR IF SUCH PERSON HAS BEEN CHARGED WITH A VIOLATION OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER DURING A LICENSE SUSPENSION OR REVOCATION PERIOD, FOR A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, HAS OPERATED A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE WHEN ONE WAS REQUIRED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE AND A COURT, PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION HAS ISSUED A FINDING, FILED WITH THE DEPARTMENT IN A FORM PRESCRIBED BY THE COMMISSIONER, THAT THE ACCUSATORY INSTRUMENT CONFORMS TO THE REQUIREMENTS OF SECTION 100.40 OF THE CRIMINAL PROCEDURE LAW AND THERE EXISTS REASONABLE CAUSE TO BELIEVE THAT THE OPERATOR HAS COMMITTED THE VIOLATION OR VIOLATIONS CHARGED.

S 16. Subdivision 7 and paragraph (e) of subdivision 9 of section 1198 of the vehicle and traffic law, subdivision 7 as amended by chapter 669 of the laws of 2007 and paragraph (e) of subdivision 9 as amended by chapter 496 of the laws of 2009, are amended to read as follows:

7. [Use of other vehicles. (a) Any requirement of this article or the penal law that a person operate a vehicle only if it is equipped with an ignition interlock device shall apply to every motor vehicle operated by that person including, but not limited to, vehicles that are leased, rented or loaned.

(b) No person shall knowingly rent, lease, or lend a motor vehicle to a person known to have had his or her driving privilege restricted to vehicles equipped with an ignition interlock device unless the vehicle is so equipped. Any person whose driving privilege is so restricted shall notify any other person who rents, leases, or loans a motor vehicle to him or her of such driving restriction.

(c) A violation of paragraph (a) or (b) of this subdivision shall be a misdemeanor.]

VIOLATIONS. (A) ANY FAILED TASK INCLUDING FAILING TO INSTALL A DEVICE, FAILURE TO APPEAR FOR A SERVICE VISIT OR FAILURE TO COMPLY WITH SERVICE INSTRUCTIONS, CIRCUMVENTIONS OR TAMPERINGS, IN ACCORDANCE WITH THE OFFICE OF PROBATION AND CORRECTIONAL ALTERNATIVES (OPCA) REGULATIONS UNDER 9 NYCRR 358 SHALL CONSTITUTE A VIOLATION OF THE CONDITIONS OF A PERSON'S SENTENCE AND MAY ALSO CONSTITUTE A SEPARATE OFFENSE. SUCH VIOLATIONS WILL BE ADJUDICATED BY THE SENTENCING COURT IN ITS DISCRETION.

(B) A FAILED TEST INCLUDING A FAILED START-UP RE-TEST, A MISSED START-UP RE-TEST, A FAILED ROLLING RE-TEST, A MISSED ROLLING RE-TEST,

1 THE DEVICE ENTERING LOCKOUT MODE, AND ANY TEST OR RE-TEST WHERE THE
2 OPERATOR REGISTERS .05 OF ONE PER CENTUM OR MORE BY WEIGHT OF ALCOHOL IN
3 SUCH PERSON'S BLOOD SHALL CONSTITUTE A VIOLATION OF THE CONDITIONS OF A
4 PERSON'S SENTENCE IN ACCORDANCE WITH THE OPCA REGULATIONS UNDER 9 NYCRR
5 358 AND ALSO MAY CONSTITUTE A SEPARATE OFFENSE. SUCH VIOLATIONS WILL BE
6 ADJUDICATED BY THE SENTENCING COURT IN ITS DISCRETION.

7 (C) A FAILED TRANSDERMAL ALCOHOL MONITORING REPORT SHALL CONSTITUTE A
8 VIOLATION OF THE OFFENDER'S SENTENCE WHERE THE COURT HAS ORDERED THE
9 OFFENDER TO ABSTAIN FROM THE CONSUMPTION OF ALCOHOL OR RESTRICT THE
10 CONSUMPTION OF ALCOHOL TO LEVELS BELOW A CERTAIN BLOOD ALCOHOL LEVEL
11 DESIGNATED BY THE COURT. ABSTINENCE REQUIRED BY A TREATMENT PROVIDER AS
12 A RESULT OF COURT-ORDERED TREATMENT SHALL BE CONSTRUED FOR THE PURPOSES
13 OF THIS SECTION AS COURT-ORDERED ABSTINENCE. AT THE CONCLUSION OF THE
14 COURT-ORDERED TRANSDERMAL ALCOHOL MONITORING PERIOD, THE TRANSDERMAL
15 ALCOHOL REPORT OR A SUMMARY OF ITS CONTENTS SHALL BE FORWARDED TO THE
16 DEPARTMENT BY THE MONITOR IN A FORM PRESCRIBED BY THE COMMISSIONER.

17 (e) NO PERSON SHALL KNOWINGLY RENT, LEASE, OR LEND A MOTOR VEHICLE TO
18 A PERSON KNOWN TO HAVE HAD HIS OR HER DRIVING PRIVILEGE RESTRICTED TO
19 VEHICLES EQUIPPED WITH AN IGNITION INTERLOCK DEVICE UNLESS THE VEHICLE
20 IS SO EQUIPPED. ANY PERSON WHOSE DRIVING PRIVILEGE IS SO RESTRICTED
21 SHALL NOTIFY ANY OTHER PERSON WHO RENTS, LEASES, OR LOANS A MOTOR VEHI-
22 CLE TO HIM OR HER OF SUCH DRIVING RESTRICTION.

23 (F) In addition to any other provisions of law, any person convicted
24 of a violation of paragraph (a), (b), (c), [or] (d), OR (E) of this
25 subdivision shall be guilty of a Class A misdemeanor.

26 S 17. Subparagraph (i) of paragraph (a) of subdivision 3 of section
27 511 of the vehicle and traffic law, as amended by chapter 732 of the
28 laws of 2006, is amended to read as follows:

29 (i) commits the offense of aggravated unlicensed operation of a motor
30 vehicle in the second degree as provided in subparagraph (ii), (iii) or
31 (iv) of paragraph (a) of subdivision two of this section OR HAS A CONDI-
32 TIONAL LICENSE PURSUANT TO PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION
33 ELEVEN HUNDRED NINETY-SIX OF THIS CHAPTER and is operating a motor vehi-
34 cle while under the influence of alcohol or a drug in violation of
35 subdivision one, two, two-a, three, four, four-a or five of section
36 eleven hundred ninety-two of this chapter; or

37 S 18. This act shall take effect on the ninetieth day after it shall
38 have become a law; provided, however, that the amendments to subdivi-
39 sions 1, 2, 3 and 4 and paragraph (a) of subdivision 5 of section 1198
40 of the vehicle and traffic law made by section three of this act, the
41 amendments to subdivision 8 of section 1198 of the vehicle and traffic
42 law made by section four of this act and the amendments to subdivision 7
43 and paragraph (e) of subdivision 9 of section 1198 of the vehicle and
44 traffic law made by section sixteen of this act shall not affect the
45 repeal of such section and shall be deemed repealed therewith.

46 PART Z

47 Section 1. Subdivision 2 of section 179-v of the state finance law, as
48 added by chapter 166 of the laws of 1991, is amended to read as follows:

49 2. Such organizations shall receive such interest payments WITHIN
50 THIRTY DAYS OF THE DATE THE PAYMENT OR PAYMENTS REQUIRED UNDER THE
51 CONTRACT ARE MADE TO ANY SUCH ORGANIZATION; PROVIDED, HOWEVER, IF MONIES
52 FROM ANY APPROPRIATION OR APPROPRIATIONS AS DESCRIBED IN SUBDIVISION
53 THREE OF THIS SECTION ARE NOT AVAILABLE FOR THE PAYMENT OF SUCH INTER-
54 EST, SUCH PAYMENT SHALL BE MADE IMMEDIATELY AFTER SUCH MONIES BECOME

1 AVAILABLE. SUCH INTEREST PAYMENTS SHALL BE MADE at a rate equal to the
2 rate set by the commissioner of taxation and finance for corporate taxes
3 pursuant to paragraph one of subsection (e) of section one thousand
4 ninety-six of the tax law. In order for a state agency to approve
5 reimbursement of a not-for-profit organization at a rate other than the
6 interest rate stated in this section the not-for-profit organization
7 shall submit documentation indicating the rate at which such funds were
8 borrowed, the lender of such funds and any other information requested
9 by the state agency, attorney general or the comptroller. The comp-
10 troller may disallow such portions of the interest that the comptroller
11 deems unreasonable.

12 S 2. This act shall take effect immediately.

13

PART AA

14 Section 1. Subparagraph 1 of paragraph (b) and paragraph (c) of subdi-
15 vision 20 of section 375 of the vehicle and traffic law, subparagraph 1
16 of paragraph (b) as amended by chapter 242 of the laws of 1992 and para-
17 graph (c) as amended by chapter 96 of the laws of 1973, are amended and
18 a new subparagraph (1-a) is added to paragraph (b) to read as follows:

19 (1) In addition to such signal lamps, two signs shall be conspicuously
20 displayed on the exterior of every such omnibus designating it as a
21 school omnibus by the use of the words "SCHOOL BUS" which shall be
22 painted or otherwise inscribed thereon in black letters. Such letters
23 shall be of uniform size, at least eight inches in height, and each
24 stroke of each letter shall be not less than one inch in width. The
25 background of each such sign shall be painted OR OTHERWISE APPLIED IN
26 the color known as "national school bus chrome." For each such omnibus
27 having a seating capacity in excess of fifteen children, such signs
28 shall be securely mounted on top of such vehicle, one of which shall be
29 affixed on the front and one on the rear thereof. For each such omnibus
30 having a seating capacity of not more than fifteen children, such signs
31 shall be securely mounted on top of such vehicle, one of which shall
32 face the front and one of which shall face the rear thereof. Each such
33 sign shall be visible and readable from a point at least two hundred
34 feet distant.

35 (1-A) ANY SIGN REQUIRED PURSUANT TO SUBPARAGRAPH ONE OF THIS PARAGRAPH
36 MAY BE CONSTRUCTED WITH REFLECTORIZED TYPE III MATERIAL CONSISTENT WITH
37 49 CFR 571.131 S6.1 TABLE 1.

38 (c) In the event such vehicle is operated on a public highway during
39 the period between one-half hour after sunset and one-half hour before
40 sunrise, the signs required by paragraph (b) of this subdivision shall
41 be illuminated as to be visible from a point at least five hundred feet
42 distant, PROVIDED HOWEVER THAT IF A MATERIAL IS USED PURSUANT TO SUBPAR-
43 AGRAPH ONE-A OF PARAGRAPH (B) OF THIS SUBDIVISION, NO SUCH ILLUMINATION
44 SHALL BE REQUIRED.

45 S 2. This act shall take effect on the one hundred twentieth day after
46 it shall have become a law. Effective immediately, the commissioner of
47 motor vehicles is authorized to promulgate any necessary rules and regu-
48 lations for the implementation of this act.

49

PART BB

50 Section 1. Section 290 of the agriculture and markets law is amended
51 to read as follows:

1 S 290. Association of farmers; powers of. Any association of farmers,
2 residing in any neighborhood, town or county in this state, now, or
3 hereafter to be organized, and acting under a constitution and by-laws
4 adopted by themselves for their guidance, which shall be filed in the
5 clerk's office of such town or county and which are not inconsistent
6 with the laws of this state, is hereby authorized to lease and maintain
7 grounds and structures for the exhibition and sale of the products of
8 their farms or their skill, and for the instruction and recreation of
9 its members and visitors. Any such association shall have authority to
10 let, for rent, locations on their leased grounds to EXHIBITIONS, ENTER-
11 TAINMENTS, shopmen and persons wishing to furnish suitable refreshments
12 for victualing members and visitors OR FOR STORAGE OF PERSONAL PROPERTY
13 WHEN PROPERTY IS AVAILABLE FOR SUCH ACTIVITY; to license peddlers to
14 sell on their grounds articles of merchandise, not forbidden to be sold
15 by any law of this state without license from the state; and in the name
16 of such association and upon the action and direction of its officers,
17 to sue for and collect the stipulated sums of such rentals and licenses,
18 and to enforce the observance of its rules and regulations by the
19 several members of its association. And such association is hereby
20 empowered to issue certificates of indebtedness in amounts of five
21 dollars each, providing that the whole amount shall not exceed the sum
22 of one thousand dollars, which they may sell at a price not below the
23 par value thereof, for the purpose of raising money for the erection of
24 buildings, or for such other improvements as may be deemed necessary by
25 a majority of the members of such association.

26 S 2. Paragraph (k) of section 1409 of the not-for-profit corporation
27 law is amended to read as follows:

28 (k) Exhibitions and entertainments on fair grounds to be exempt from
29 license.

30 The provisions of any special or local law or municipal ordinance,
31 requiring the payment of a license fee for exhibitions or
32 entertainments, OR REQUIRING THAT AN APPROVAL BE OBTAINED FROM ANY LOCAL
33 GOVERNMENT EXCEPT AN APPROVAL REQUIRED TO PROTECT THE SAFETY, HEALTH AND
34 WELL-BEING OF PERSONS, shall not apply to any exhibition or enter-
35 tainment held on the grounds of a town or county corporation whether or
36 not the corporation derives a pecuniary profit from such exhibition or
37 entertainment by the lease of its grounds for such purpose AND THE
38 PROVISIONS OF ANY SPECIAL OR LOCAL LAW OR MUNICIPAL ORDINANCE SHALL NOT
39 BE CONSTRUED OR APPLIED TO UNREASONABLY PROHIBIT OR RESTRICT ANY AGRI-
40 CULTURAL OR HORTICULTURAL CORPORATION RECEIVING REIMBURSEMENT PURSUANT
41 TO ARTICLE TWENTY-FOUR OF THE AGRICULTURE AND MARKETS LAW FROM THE
42 CONSTRUCTION, IMPROVEMENT, RENOVATION, RELOCATION OR DEMOLITION OF ALL
43 OR ANY OF SUCH AGRICULTURAL OR HORTICULTURAL CORPORATION GROUNDS, BUILD-
44 INGS AND FACILITIES.

45 S 3. This act shall take effect immediately.

46 PART CC

47 Section 1. Paragraph g of subdivision 4 of section 304-a of the agri-
48 culture and markets law, as added by chapter 68 of the laws of 2007, is
49 amended to read as follows:

50 g. Notwithstanding any other provision of this section to the contra-
51 ry, in no event shall the change in the base agricultural assessment
52 value for any given year exceed [ten] TWO percent of the base agricul-
53 tural assessment value of the preceding year.

54 S 2. This act shall take effect immediately.

1

PART DD

2 Section 1. Subdivision 21 of section 2 of the canal law is REPEALED
3 and a new subdivision 21 is added to read as follows:

4 21. "DEPARTMENT" SHALL MEAN THE DEPARTMENT OF TRANSPORTATION.

5 S 2. Subdivision 23 of section 2 of the canal law, as added by chapter
6 167 of the laws of 2002, is amended and a new subdivision 24 is added to
7 read as follows:

8 23. "Canalway trail" shall mean any multi-use recreational trail
9 located on lands under the jurisdiction of the [corporation] COMMISSION-
10 ER. The exact boundaries and location of such trail and any portions or
11 sections thereof shall be determined by the [corporation] COMMISSIONER
12 except that the boundaries and location of such trail shall be deter-
13 mined in such a manner that no portion thereof shall be within the
14 Adirondack Park.

15 24. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF TRANSPORTATION.

16 S 3. The article heading of article 1-a of the canal law, as added by
17 chapter 766 of the laws of 1992, is amended to read as follows:

18 TRANSFER TO [NEW YORK STATE THRUWAY AUTHORITY] THE
19 DEPARTMENT OF TRANSPORTATION

20 S 4. Section 5 of the canal law, as amended by chapter 335 of the laws
21 of 2001, is amended to read as follows:

22 S 5. Transfer of powers and duties relating to canals and canal lands
23 to the [New York state thruway authority] DEPARTMENT OF TRANSPORTATION.
24 The powers and duties of the [commissioner of transportation] AUTHORITY
25 AND CORPORATION relating to the New York state canal system as set forth
26 in articles one through and including fourteen[, except article seven,]
27 of this chapter[, and except properties in use on the effective date of
28 this article in support of highway maintenance, equipment management and
29 traffic signal operations of the department of transportation,] are
30 hereby transferred to and merged with the [authority] DEPARTMENT, to be
31 exercised by the [authority] COMMISSIONER on behalf of the people of the
32 state of New York. [In addition, the commissioner of transportation and
33 the chairman of the authority may, in their discretion, enter into an
34 agreement or agreements transferring the powers and duties of the
35 commissioner of transportation relating to any or all of the bridges and
36 highways as set forth in article seven of this chapter, to be exercised
37 by the authority on behalf of the people of the state of New York, and
38 shall enter into an agreement or agreements for the financing,
39 construction, reconstruction or improvement of lift and movable bridges
40 on the canal system. Such powers shall be in addition to other powers
41 enumerated in title nine of article two of the public authorities law.
42 All of the provisions of title nine of article two of such law which are
43 not inconsistent with this chapter shall apply to the actions and duties
44 of the authority pursuant to this chapter. The authority shall be deemed
45 to be the state in exercising the powers and duties transferred pursuant
46 to this section but for no other purposes.]

47 S 5. Section 6 of the canal law, as added by chapter 766 of the laws
48 of 1992, subdivisions 1, 3, and 4 and paragraph (b) of subdivision 6 as
49 amended by chapter 335 of the laws of 2001, is amended to read as
50 follows:

51 S 6. Transfer of canal lands and other assets. 1. The jurisdiction of
52 the [commissioner of transportation] AUTHORITY AND CORPORATION over the
53 New York state canal system and over all state assets, equipment and
54 property, both tangible and intangible, owned or used in connection with
55 the planning, development, construction, reconstruction, maintenance and

1 operation of the New York state canal system, as set forth in articles
2 one through and including fourteen[, except article seven,] of this
3 chapter[, and except properties in use on the effective date of this
4 article in support of highway maintenance, equipment management and
5 traffic signal operations of the department of transportation] are here-
6 by transferred without consideration to the [authority] DEPARTMENT, to
7 be held by the [authority] DEPARTMENT in the name of the people of the
8 state of New York. [In addition the commissioner of transportation and
9 the chairman of the authority may, in their discretion, enter into an
10 agreement or agreements transferring jurisdiction over any or all of the
11 bridges and highways set forth in article seven of this chapter, and any
12 or all state assets, equipment and property, both tangible and intangi-
13 ble, owned or used in connection with the planning, development,
14 construction, reconstruction, maintenance and operation of such bridges
15 and highways, which shall be transferred without consideration to the
16 authority, to be held by the authority through the corporation in the
17 name of the people of the state of New York. Any other rights and obli-
18 gations resulting from or arising out of the planning, development,
19 construction, reconstruction, operation or maintenance of the New York
20 state canal system shall be deemed assigned to and shall be exercised by
21 the authority through the corporation, except that the authority may
22 designate the commissioner of transportation to be its agent for the
23 operation and maintenance of the New York state canal system, provided
24 that such designation shall have no force or effect after March thirty-
25 first, nineteen hundred ninety-three. Such canal system shall remain the
26 property of the state and under its management and control as exercised
27 by and through the authority, through the corporation which shall be
28 deemed to be the state for the purposes of such management and control
29 of the canals but for no other purposes.]

30 2. The [department of transportation] AUTHORITY AND CORPORATION shall
31 deliver to the [authority] DEPARTMENT all books, policies, procedures,
32 papers, plans, maps, records, equipment and property of such [depart-
33 ment] AUTHORITY OR CORPORATION pertaining to the functions transferred
34 pursuant to this article.

35 3. All rules, regulations, acts, determinations, orders and decisions
36 of the [commissioner of transportation and of the department of trans-
37 portation] AUTHORITY AND CORPORATION pertaining to the functions trans-
38 ferred pursuant to this article in force at the time of such transfer
39 shall continue in force and effect as rules, regulations, acts, determi-
40 nations, orders and decisions of the [authority and corporation] COMMIS-
41 SIONER until duly modified or abrogated by [such authority and corpo-
42 ration] THE COMMISSIONER.

43 4. Any business or other matters undertaken or commenced by the
44 [commissioner of transportation] AUTHORITY, CORPORATION, COMMISSIONER,
45 or the department [of transportation], including executed contracts,
46 permits and other agreements, pertaining to or connected with the func-
47 tions, powers, obligations and duties transferred pursuant to this arti-
48 cle, and in effect on the effective date hereof, shall be conducted and
49 completed by the [authority through the corporation] COMMISSIONER OR THE
50 DEPARTMENT in the same manner and under the same terms and conditions
51 and with the same effect as if conducted and completed by the [commis-
52 sioner of transportation] AUTHORITY or the [department of transporta-
53 tion] CORPORATION.

54 5. No existing rights or remedies of the state, including the authori-
55 ty, shall be lost, impaired or affected by reason of this article.

1 6. [(a)] No action or proceeding pending on the effective date of this
2 article, brought by or against the [commissioner of transportation]
3 AUTHORITY or the [department of transportation] CORPORATION shall be
4 affected by this article. Any liability arising out of any act or omis-
5 sion occurring prior to the effective date of the transfer of powers and
6 duties authorized herein of the officers, employees or agents of the
7 [department of transportation] AUTHORITY OR CORPORATION, or any other
8 agency of the state, other than the [authority] COMMISSIONER OR THE
9 DEPARTMENT, in the performance of their obligations or duties under the
10 canal law, any other law of the state or any federal law, or pursuant to
11 a contract entered into prior to the effective date of such transfer
12 shall remain a liability of the [department of transportation] AUTHORITY
13 AND CORPORATION or such other agency of the state and not of the
14 [authority] COMMISSIONER OR DEPARTMENT.

15 [(b)] Notwithstanding any provision to the contrary contained in para-
16 graph (a) of this subdivision, the state shall indemnify and hold harm-
17 less the authority and corporation for any and all claims, damages, or
18 liabilities, whether or not caused by negligence, including civil and
19 criminal fines, arising out of or relating to any generation, process-
20 ing, handling, transportation, storage, treatment, or disposal of solid
21 or hazardous wastes in the canal system by any person or entity other
22 than the authority occurring prior to the effective date of the transfer
23 of powers and duties authorized herein. Such indemnification shall
24 extend to, without limitation, any releases into land, water or air,
25 including but not limited to releases as defined under the federal
26 comprehensive environmental response compensation and liability act of
27 nineteen hundred eighty, occurring or existing prior to the effective
28 date of this section; provided that the authority shall cooperate in the
29 investigation and remediation of hazardous waste and other environmental
30 problems.]

31 S 6. The article heading of article 2 of the canal law, as amended by
32 chapter 335 of the laws of 2001, is amended to read as follows:

33 POWERS OF THE [CANAL CORPORATION] DEPARTMENT

34 S 7. The section heading, the opening paragraph and subdivisions 8, 10
35 and 13 of section 10 of the canal law, as amended by chapter 335 of the
36 laws of 2001, are amended to read as follows:

37 General powers and duties of the [corporation] COMMISSIONER relating
38 to canals. The [corporation] COMMISSIONER shall:

39 8. Keep and maintain in good condition the canals, canal terminals and
40 [corporation] equipment used in the maintenance and repair of the canal
41 system.

42 10. Enforce compliance with laws, rules and regulations relating to
43 posting of limited loads and clearances on all bridges over the canal
44 system under the jurisdiction of the department [of transportation
45 pursuant to section six and article seven of this chapter].

46 13. Cause a record to be made and filed ANNUALLY on January first[, in
47 the corporation] of all expenditures during the previous fiscal year
48 from moneys appropriated for the canal system.

49 S 8. The opening paragraph of subdivision 1 and subdivision 2 of
50 section 11 of the canal law, as added by chapter 167 of the laws of
51 2002, are amended to read as follows:

52 The [corporation] DEPARTMENT may develop and implement an adopt-a-
53 trail program, the purposes of which may be to reduce and remove litter
54 and debris and to enhance the appearance and maintenance of the canalway
55 trail and related facilities, as needed. Such program may include, but
56 not be limited to:

1 2. Notwithstanding any inconsistent provision of law, the [corpo-
2 ration, authority, and commission, including any members, officers or
3 employees thereof,] DEPARTMENT shall not be liable for damages suffered
4 by any persons and/or organizations resulting from any actions or activ-
5 ities of such volunteers and/or volunteer organizations.

6 S 9. Section 21 of the canal law, as amended by chapter 335 of the
7 laws of 2001, is amended to read as follows:

8 S 21. Preparation contract, plans and estimates. The [corporation]
9 DEPARTMENT shall make surveys and prepare plans and specifications for
10 work in connection with the improvement, maintenance or repair of the
11 canal system to be performed under contract. It shall ascertain with all
12 practical accuracy the quantity and quality of all materials to be used
13 and all other items of work to be included in the contract and shall
14 make a detailed estimate of the cost of the same. The quantities
15 contained in such estimate shall be used in determining the cost of the
16 work according to the different proposals received.

17 S 10. Section 22 of the canal law, as amended by chapter 335 of the
18 laws of 2001, is amended to read as follows:

19 S 22. Supervision of contracts. The [corporation] DEPARTMENT shall
20 provide for field supervision over improvement, maintenance or repair
21 work on the canal system that is done under contract. The [corporation]
22 DEPARTMENT shall assign such engineers, inspectors and other engineering
23 employees as may be necessary for control over the execution of the work
24 embraced in the contract. [Such corporation] THE DEPARTMENT shall cause
25 the preparation and approval of the estimates of the work accomplished,
26 materials delivered, or other items embodied in the contract and the
27 certificate of the amount of payment which may be due under the terms of
28 the contract or legal modifications of the same. Upon the completion of
29 any contract the [corporation] DEPARTMENT shall cause the preparation
30 and approval of a certificate of acceptance, stating that the work has
31 been well and faithfully performed in accordance with the terms and
32 conditions of the contract and all legal modifications thereof.

33 S 11. Section 23 of the canal law, as amended by chapter 335 of the
34 laws of 2001, is amended to read as follows:

35 S 23. Record of measurements. The [corporation] DEPARTMENT shall
36 require every engineer employed on canal engineering to enter in perma-
37 nent field books a complete record of all surveys, field measurements
38 and construction notes. These books shall be filed in the [corporation]
39 DEPARTMENT and shall be available for public inspection under such
40 conditions as the [corporation] DEPARTMENT may establish.

41 S 12. Section 24 of the canal law, as amended by chapter 335 of the
42 laws of 2001, is amended to read as follows:

43 S 24. Making and recording maps. There shall be kept on file in the
44 office of the [corporation] DEPARTMENT complete maps of every canal now
45 or hereafter to be built on which the boundaries of every parcel of land
46 to which the state shall have a separate title shall be designated and
47 the names of the former owner and date of each title entered. All such
48 maps [heretofore] approved by the commissioner [of transportation or the
49 corporation], or certified by such commissioner[, corporation] or by the
50 state engineer or hereafter approved by the [corporation] COMMISSIONER
51 to be correct, shall be presumptive evidence of the truth of the facts
52 therein stated and of the ownership by the state of the lands therein
53 described. Every such map when completed shall be approved and certified
54 to as correct by the [corporation] COMMISSIONER. The original of said
55 map shall be filed in the office of the [corporation] COMMISSIONER and
56 copies thereof duly signed and certified as aforesaid shall be filed in

1 the office of the department of state. Any such maps filed in the office
2 of the clerk of a county in which such lands are located or in the
3 office in such county where conveyances are required by law to be
4 recorded shall constitute evidence to all persons of the state's title
5 to and ownership in said lands. A transcript of such maps certified as
6 correct by the officer with whom such map or maps shall be filed, shall
7 be received as presumptive evidence of the state's title to the canal
8 lands as of the date designated on such maps in all judicial or legal
9 proceedings.

10 S 13. Section 25 of the canal law, as amended by chapter 335 of the
11 laws of 2001, is amended to read as follows:

12 S 25. Making and recording of "Blue Line" maps. The commissioner [of
13 transportation] shall cause the preparation of maps of the Erie, Oswego,
14 Champlain and the Cayuga and Seneca canals as they existed prior to and
15 independent of lands appropriated for barge canal purposes and of all
16 lands belonging to the state adjacent thereto or connected therewith,
17 and there shall be designated on such maps the boundaries of the lands
18 to which the state holds title, and so far as possible the names of the
19 owners of the adjoining lands. Every map when completed shall be
20 approved and certified to as correct by the commissioner [of transporta-
21 tion] and be certified to as correct by the chief engineer. The original
22 of said map shall be filed in the office of the [corporation] COMMIS-
23 SIONER and copies thereof, duly signed and certified as aforesaid, shall
24 be filed in the office of the department of state. Each of said maps so
25 filed shall be regarded as an original copy. A blue or white print copy
26 of such map or portion of such map or maps as related or applies to any
27 particular county of the state shall be transmitted to and filed in the
28 office of the clerk of such county, or in the office in such county
29 wherein conveyances are required by law to be recorded and such filing
30 shall constitute a notice to all persons of the state's title to and
31 ownership of said lands. A transcript of such maps certified as correct
32 by the officer with whom such map or maps shall be filed shall be
33 received as presumptive evidence of the state's title to the canal lands
34 as of the date designated on such maps in all judicial or legal
35 proceedings.

36 S 14. Section 30 of the canal law, as amended by chapter 335 of the
37 laws of 2001, is amended to read as follows:

38 S 30. Contracts for improvement, maintenance or repair of the canal
39 system. Upon the completion and final approval of the plans and specifi-
40 cations for the improvement, maintenance or repair to the canal system,
41 contracts therefor shall be executed IN ACCORDANCE WITH THE PROVISIONS
42 OF ARTICLE NINE OF THE STATE FINANCE LAW, PROVIDED, HOWEVER, THAT IF
43 ARTICLE NINE OF THE STATE FINANCE LAW SHALL NOT BE APPLICABLE, CONTRACTS
44 SHALL BE EXECUTED as provided herein.

45 1. Advertising for proposals. The [corporation] COMMISSIONER shall
46 advertise for proposals in accordance with plans and specifications
47 prepared by [it] THE DEPARTMENT for such improvement, maintenance or
48 repair of the canal system as the [corporation] COMMISSIONER deems it
49 expedient to have performed by contract. The advertisement shall be
50 limited to a brief description of the work proposed to be done, with an
51 announcement stating where the maps, plans and specifications may be
52 seen, the terms and conditions under which the proposals will be
53 received, the time and place where the same will be opened, the amount
54 of the draft or certified check to accompany the proposal, and such
55 other matters as the [corporation] COMMISSIONER may deem advisable to
56 include therein. Such advertisement shall be published at least once in

1 each week for two successive weeks in a newspaper published at the coun-
2 ty seat of the county in which such canal work is to be performed and in
3 such other newspapers as the [corporation] COMMISSIONER may designate.
4 If no newspaper is published at such county seat, then the publication
5 of the advertisement shall be in such newspaper or newspapers within the
6 county as the [corporation] COMMISSIONER may select. If no newspaper is
7 published in the county, the publication of the advertisement shall be
8 in such newspaper or newspapers in an adjoining county as may be
9 selected by the [corporation] COMMISSIONER. Failure of such newspaper,
10 published in such county or adjoining county, to publish such advertise-
11 ment as provided in this subdivision or as directed by the [corporation]
12 COMMISSIONER shall not invalidate the publication of advertisement for
13 proposals provided such advertisement is published in another newspaper
14 or trade publication, which will be most likely to give adequate notice
15 to contractors of the work contemplated and of the invitation to submit
16 proposals therefor, at least once in each week for any two successive
17 weeks preceding the date on which proposals described in such advertise-
18 ment are to be received and opened.

19 2. Proposals. Each proposal shall specify the correct gross sum for
20 which the work will be performed and shall also include the amount to be
21 charged for each item specified on the proposal estimate sheet. The
22 [corporation] COMMISSIONER may prescribe and furnish forms for the
23 submission of such proposals and may prescribe the manner of submitting
24 the same which shall not be inconsistent herewith. Accompanying each
25 proposal there shall be a certified check or bank cashier's check for
26 the amount of the bid deposit, to be fixed by the [corporation] COMMIS-
27 SIONER and specified in the advertisement for proposals. The checks of
28 the two low bidders shall be deposited by the [corporation] COMMISSIONER
29 in a special account. Provided, however, that if prior to or upon
30 receipt of said checks by the [corporation] COMMISSIONER a bidder who is
31 one of the two low bidders shall have duly filed a bond as hereinafter
32 provided, the [corporation] COMMISSIONER shall forthwith return to said
33 bidder his OR HER aforesaid check without depositing the same. If alter-
34 nate proposals are taken, the checks of the two low bidders of all
35 alternate proposals shall be deposited. All checks other than those of
36 the two low bidders shall be returned promptly by the [corporation]
37 COMMISSIONER. Notwithstanding the provisions of any general or special
38 law, the money represented by the checks of the two low bidders shall be
39 paid from the special account when the contractor has duly executed and
40 delivered to the [corporation] COMMISSIONER the contract and the bond or
41 bonds required by law for the performance of the work of a public
42 improvement for the state of New York, or upon the rejection of all
43 bids. The low bidder, in the discretion of the [corporation] COMMISSION-
44 ER, and the second low bidder, as a matter of right, may at any time
45 after the opening of the respective proposals, file with the [corpo-
46 ration] COMMISSIONER a bond, the principal amount of which shall at
47 least equal the amount of the respective bidder's check, theretofore
48 deposited with his OR HER proposal, in the form prescribed by the
49 [corporation] COMMISSIONER, with sufficient sureties, to be approved by
50 the [corporation] COMMISSIONER, conditioned that the said bidder will
51 execute a contract and furnish such performance or other bonds as may be
52 required by law in accordance with the terms of the bidder's said
53 proposal. If a bidder complies with [the aforesaid] SUCH provisions, the
54 [corporation] COMMISSIONER shall forthwith return the money represented
55 by the check of such bidder.

1 In case the bidder to whom the contract shall be awarded shall fail to
2 execute such contract and bond, the moneys represented by such check
3 shall be regarded as liquidated damages and shall be forfeited to the
4 state and shall be deposited by the [corporation] COMMISSIONER with the
5 commissioner of taxation and finance to the credit of the general fund.
6 The gross sums indicated on the proposals when opened shall be publicly
7 read. The [corporation] COMMISSIONER shall keep the bids for the several
8 items of the proposals confidential until an award of the contract is
9 made, after which the proposals shall be subject at all reasonable times
10 to public inspection.

11 3. Award of contract. The contract for the improvement, maintenance or
12 repair of any part of the canal system shall be awarded to the lowest
13 responsible bidder, as will best promote the public interest. No
14 contract shall be awarded to a bidder other than the lowest responsible
15 bidder without the written approval of the comptroller. The lowest bid
16 shall be deemed to be that which specifically states the lowest gross
17 sum for which the entire work will be performed, including all the items
18 specified in the estimate therefor. The lowest bid shall be determined
19 by the [corporation] COMMISSIONER on the basis of the gross sum for
20 which the entire work will be performed, arrived at by a correct compu-
21 tation of all the items specified in the estimate therefor at the unit
22 prices contained in the bid.

23 4. Rejection of proposals. The [corporation] COMMISSIONER may reject
24 any or all proposals and may advertise for new proposals as provided in
25 this section, if, in [its] HIS OR HER opinion, the best interest of the
26 state [and the corporation] will thereby be promoted.

27 5. Form of contract. The [corporation] COMMISSIONER shall prescribe
28 the form of contract and may include [therein] such matters the [corpo-
29 ration] COMMISSIONER may deem advantageous to the state [and the corpo-
30 ration].

31 6. Bond of contractor. Each contractor before entering into a contract
32 for such improvement, maintenance or repair of the canal system shall
33 execute a bond in the form prescribed by the [corporation] COMMISSIONER,
34 with sufficient sureties, to be approved by the [corporation] COMMIS-
35 SIONER, on condition that it will perform the work in accordance with
36 the terms of the contract and the plans and specifications, and that it
37 will commence and complete the work within the time prescribed in the
38 contract. The bond shall also provide against any direct or indirect
39 damages that shall be suffered or claimed on account of such
40 construction or improvement during the time thereof, and until the work
41 is finally accepted.

42 7. Payments on contracts, state taxes. The contract shall provide for
43 partial payments as the work progresses as hereinafter provided:

44 (a) Ten per centum shall be retained from each progress payment or
45 estimate until the contract work is fifty per centum completed, after
46 which no further moneys shall be retained from any progress payments or
47 estimates paid thereafter, and when the entire contract work has been
48 completed and accepted, the [corporation] COMMISSIONER shall, pending
49 the payment of the final estimate, pay not to exceed fifty per centum of
50 the amount of the retained percentage.

51 (b) Whenever in the judgment of the [corporation] COMMISSIONER the
52 withholding of the retained percentage on account of the closing of the
53 working season would be an injustice to the contractor, the [corpo-
54 ration] COMMISSIONER may, provided the district engineer certifies that
55 the essential items in the contract have been completed in accordance
56 with the terms of the contract and the provisions of this chapter,

1 direct the district engineer to include in the final account such uncom-
2 pleted items and pay therefor at the item prices in the contract upon
3 the contractor depositing with the [corporation] COMMISSIONER securities
4 equal to double the value of such uncompleted work. The deposit may be
5 used by the [corporation] COMMISSIONER to complete the uncompleted
6 portion of the contract and shall be returned to the contractor if it
7 completes the uncompleted portion within a specified number of working
8 days after it has been notified to proceed with the work.

9 (c) No certificates approving or authorizing a partial or final
10 payment shall be made by the [corporation] COMMISSIONER until [it] HE OR
11 SHE is satisfied that all laborers employed on the work have been paid
12 for their services for the last payroll period preceding the said
13 partial or final payment. The [corporation] COMMISSIONER may, if [it] HE
14 OR SHE deems necessary, require an affidavit to such effect from the
15 contractor or [it] HE OR SHE may depend on any other source which [it]
16 HE OR SHE deems proper for such information.

17 (d) Contracts in force at the date of the enactment of this subdivi-
18 sion may, in the discretion of the [corporation] COMMISSIONER, be
19 amended to provide for the withholding and the payments contemplated by
20 the provisions of paragraph (a) of this subdivision, if the surety or
21 sureties upon the performance and labor and material bonds given by a
22 contractor upon any such contract shall consent in writing thereto.

23 (e) No such certificate authorizing or approving the first partial
24 payment or any final payment to a foreign contractor shall be made
25 unless such contractor shall furnish satisfactory proof that all taxes
26 due the commissioner of taxation and finance by such contractor under
27 the provisions of or pursuant to a law enacted pursuant to the authority
28 of article nine, nine-A, twelve-A, twenty-one, twenty-two, twenty-eight,
29 twenty-nine or thirty of the tax law have been paid. The certificate of
30 the commissioner of taxation and finance to the effect that all such
31 taxes have been paid shall be, for purpose of this paragraph, conclusive
32 proof of the payment of such taxes. The term "foreign contractor" as
33 used in this subdivision means, in the case of an individual, a person
34 who is not a resident of this state, in the case of a partnership, one
35 having one or more partners not a resident of this state, and in the
36 case of a corporation, one not organized under the laws of this state.

37 8. Contingencies and extra work. Whenever the [corporation] COMMIS-
38 SIONER determines that from any unforeseen cause the terms of any
39 contract should be altered to provide for contingencies or extra work,
40 [it] HE OR SHE may, if funds are available for payment of the cost ther-
41 eof, issue an order on contract therefor to the contractor, a copy of
42 which shall be filed with the director of the budget and the state comp-
43 troller. The estimated expenditure pursuant to the order on contract
44 shall not increase the total amount of the primary contract until the
45 estimated expenditure shall have been approved by the [corporation]
46 COMMISSIONER and a duplicate of such approval shall have been filed with
47 the comptroller. No such extra work shall be commenced or undertaken
48 until the [corporation] COMMISSIONER has issued an order on contract as
49 herein provided.

50 When such order on contract provides for similar items of work or
51 materials which increase or decrease the itemized quantity provided for
52 in the primary contract, the price to be paid therefor shall not exceed
53 the unit bid price in the primary contract for such items. Agreed prices
54 for new items of work or materials may be incorporated in the order on
55 contract as the [corporation] COMMISSIONER may deem them to be just and
56 fair and beneficial to the state[, including the corporation].

1 Whenever the [corporation] COMMISSIONER also determines that in the
2 cases herein provided it is impracticable for [it] HE OR SHE to ascer-
3 tain in advance the just and fair prices to be paid by the state for new
4 items of work or materials, the order on contract therefor may provide
5 for performance of the work and the furnishing of the materials and
6 equipment, in which event the contractor shall keep and shall make
7 available at all times to the [corporation] COMMISSIONER such accounting
8 records, data and procedure as may be required by the [corporation]
9 COMMISSIONER.

10 S 15. Section 31 of the canal law, as amended by chapter 335 of the
11 laws of 2001, is amended to read as follows:

12 S 31. Patented materials or articles. In the improvement, maintenance,
13 or repair of the canal system, no patented material or article or any
14 other material or article shall be specified, contracted for, or
15 purchased, except under such circumstances that there can be fair and
16 reasonable opportunity for competition, the conditions to secure which,
17 shall be prescribed by the [corporation] COMMISSIONER.

18 S 16. Section 32 of the canal law, as amended by chapter 335 of the
19 laws of 2001, is amended to read as follows:

20 S 32. Performance of contracts. The performance of every contract for
21 the improvement, maintenance or repair of the canal system shall be
22 under the supervision and control of the [corporation] COMMISSIONER, and
23 it shall be [its] HIS OR HER duty to see that every such contract is
24 performed in accordance with the provisions of the contract and with the
25 plans and specifications forming a part thereof. If the [corporation]
26 COMMISSIONER shall determine that the work upon any contract for the
27 improvement, maintenance or repair of the canal system is not being
28 performed according to the contract or for the best interest of the
29 state[, including the corporation], the execution of the work by the
30 contractor may be temporarily suspended by the [corporation] COMMISSION-
31 ER, who may then proceed with the work under [its] HIS OR HER own direc-
32 tion in such manner as will accord with the contract specifications and
33 be for the best interest of the state [including the corporation,]; or
34 [it] HE OR SHE may terminate the contractor's employment under the
35 contract while it is in progress, and thereupon, proceed with the work,
36 in affirmance of the contract, by contract negotiated or publicly let,
37 by the use of [its] HIS OR HER own forces, by calling upon the surety to
38 complete the work in accordance with the plans and specifications or by
39 a combination of any such methods; or [it] HE OR SHE may cancel the
40 contract and readvertise and relet the work as provided in section thir-
41 ty of this article. Any excess in the cost of completing the contract
42 beyond the price for which it was originally awarded shall be charged to
43 and paid by the contractor failing to perform the work or by such
44 contractor's surety. Where the estimate for the completion of a
45 cancelled contract is in excess of the balance of the amount originally
46 set aside by the state [including the corporation,] to provide for the
47 improvement, maintenance or repair of the canal system, or a part there-
48 of, together with any amount otherwise provided, the [corporation]
49 COMMISSIONER is authorized to set aside from any funds available for the
50 improvement, maintenance or repair of the canal system, or a part there-
51 of, an additional sum equal to such excess and to pay such excess in the
52 first instance, pending recovery of excess cost from the defaulting
53 contractor and surety, as provided in this section. Every contract for
54 the improvement, maintenance or repair of the canal system, or a part
55 thereof, shall reserve to the [corporation] COMMISSIONER the right to
56 suspend or cancel the contract as above provided, and to complete the

1 work thereunder by contract negotiated or publicly let or by the use of
2 [its] HIS OR HER own forces, or affirm the contract and thereupon to
3 complete the work thereunder according to any of the methods above
4 provided as the [corporation] COMMISSIONER may determine.

5 S 17. Section 33 of the canal law, as amended by chapter 335 of the
6 laws of 2001, is amended to read as follows:

7 S 33. Acceptance of work. Upon the completion of the improvement,
8 maintenance or repair of any part of the canal system under a contract
9 let, as provided in this article, the [corporation] COMMISSIONER shall
10 cause the same to be inspected, and upon the filing [in the office of
11 the corporation] WITH THE DEPARTMENT of a certificate stating that the
12 work has been well and faithfully performed, in accordance with the
13 terms of the contract, and all legal modifications thereof, the work
14 shall be deemed accepted and certificates for final payment on the
15 contract executed.

16 S 18. Section 34 of the canal law, as amended by chapter 335 of the
17 laws of 2001, is amended to read as follows:

18 S 34. Exemption of materials or equipment from execution. All materi-
19 als or equipment furnished or partly procured on a defaulted contract
20 with the [corporation] COMMISSIONER, shall be exempt from execution, but
21 the [corporation] COMMISSIONER shall pay the moneys due for such materi-
22 al or equipment to any judgment creditor of the contractor under whose
23 execution such materials or equipment might otherwise have been sold, on
24 production to [it] HIM OR HER of due proof that such execution would
25 have so attached, and such payments shall be valid payments on the
26 contract.

27 S 19. Section 40 of the canal law, as amended by chapter 335 of the
28 laws of 2001, is amended to read as follows:

29 S 40. Acquisition of property. 1. The acquisition of property neces-
30 sary for purposes of the improvement, use, maintenance, control, manage-
31 ment or repair of the canal system, shall be pursuant to the provisions
32 of the eminent domain procedure law by the [corporation or by the]
33 commissioner [of transportation at the request of the corporation].

34 2. The commissioner [of transportation or the corporation as the case
35 may be,] shall cause to be prepared an accurate acquisition map of any
36 property which he or [it] SHE may deem necessary for purposes connected
37 with the canal system or of any property in and to which he or [it] SHE
38 may deem the acquisition or exercise of an easement, interest or right
39 to be necessary for such purposes, indicating and describing in each
40 case the particular easement, interest or right. On the approval of such
41 map by the commissioner [of transportation or the corporation as the
42 case may be,] he or [it] SHE shall acquire such property, easements,
43 interests or rights pursuant to the provisions of the eminent domain
44 procedure law.

45 3. If the [corporation] COMMISSIONER shall determine, prior to the
46 filing of such copy of the map in the office of the county clerk or
47 register as aforesaid, that changes, alterations or modifications of
48 such map as filed in the [main office of the corporation] DEPARTMENT
49 should be made, the [corporation] COMMISSIONER shall, subject to the
50 provisions of article two of the eminent domain procedure law, if appli-
51 cable, direct the preparation of an amended map, either by preparing a
52 new map or by making changes on the original tracing of such map, with a
53 notation indicating such changes. On the approval of such amended map by
54 the [corporation] COMMISSIONER, it shall be filed in the [main office of
55 the corporation] DEPARTMENT in the same manner as the original map was

1 filed, and the amended map shall thereupon in all respects and for all
2 purposes supersede the map previously filed.

3 4. If the [corporation] COMMISSIONER shall determine, prior to the
4 filing of such copy of the map in the office of the county clerk or
5 register as aforesaid, that such map should be withdrawn, the [corpo-
6 ration] COMMISSIONER shall file a certificate of withdrawal in the
7 offices of the [corporation] DEPARTMENT and department of law. Upon the
8 filing of such certificate of withdrawal, the map to which it refers
9 shall be canceled and all rights thereunder shall cease and terminate.

10 5. The commissioner [of transportation or the corporation as the case
11 may be,] shall deliver to the attorney general a copy of such acquisi-
12 tion map whereupon it shall be the duty of the attorney general to
13 advise and certify to the commissioner [of transportation or the corpo-
14 ration] the names of the owners of the property, easements, interests or
15 rights described in the said acquisition map, including the owners of
16 any right, title or interest therein pursuant to the requirements of
17 section four hundred three of the eminent domain procedure law.

18 6. If, at or after the vesting of title to such property in the people
19 of the state of New York as provided for in the eminent domain procedure
20 law, the commissioner [of transportation or the corporation as the case
21 may be] shall deem it necessary to cause the removal of an owner or
22 other occupant from such property [it] HE OR SHE may cause such owner or
23 other occupant to be removed therefrom by proceeding in accordance with
24 section four hundred five of the eminent domain procedure law. The
25 proceedings shall be brought in the name of the commissioner [of trans-
26 portation or the corporation as agent of the state]. If any person
27 proceeded against shall contest the petition by an answer, the attorney
28 general shall be notified, and he OR SHE thereafter shall represent the
29 petitioner in the proceedings. No execution shall issue for costs, if
30 any awarded against the state[,] OR the commissioner [of transportation
31 or the corporation], but they shall be part of the costs of the acquisi-
32 tion and be paid in like manner. Proceedings may be brought separately
33 against one or more of the owners or other occupants of a property, or
34 one proceeding may be brought against all or several of the owners or
35 other occupants of any or all property within the territorial jurisdic-
36 tion of the same justice or judge; and judgment shall be given for imme-
37 diate removal of persons defaulting in appearance or in answering, or
38 withdrawing their answers, if any, without awaiting the trial or deci-
39 sion of issues raised by contestants, if any.

40 7. Upon making any agreement provided for in section three hundred
41 four of the eminent domain procedure law, the commissioner [of transpor-
42 tation or the corporation as the case may be] shall deliver to the comp-
43 troller such agreement and a certificate stating the amount due such
44 owner or owners thereunder on account of such appropriation of his, HER
45 or their property and the amounts so fixed shall be paid pursuant to all
46 relevant provisions of the public authorities law, the eminent domain
47 procedure law and the state finance law.

48 8. Application for reimbursement of incidental expenses as provided in
49 section seven hundred two of the eminent domain procedure law shall be
50 made to the [corporation] DEPARTMENT upon forms prescribed by the
51 [corporation] COMMISSIONER and shall be accompanied by such information
52 and evidence as the [corporation] COMMISSIONER may require. Upon
53 approval of such application, the [corporation] COMMISSIONER shall
54 deliver a copy thereof, to the comptroller together with a certificate
55 stating the amount due thereof, and the amount so fixed shall be paid

1 out of funds available for the acquisition of property under this
2 section.

3 9. The [corporation] COMMISSIONER shall establish and may from time to
4 time amend rules and regulations authorizing the payment of actual
5 reasonable and necessary moving expenses of occupants of property
6 acquired pursuant to this section; of actual direct losses of tangible
7 personal property as a result of moving or discontinuing a business or
8 farm operation, but not exceeding an amount equal to the reasonable
9 expenses that would have been required to relocate such property, as
10 determined by the [corporation] COMMISSIONER; and actual reasonable
11 expenses in searching for a replacement business or farm; or in hardship
12 cases for the advance payment of such expenses and losses. For the
13 purposes of making payment of such expenses and losses only the term
14 "business" means any lawful activity conducted primarily for assisting
15 in the purchase, sale, resale, manufacture, processing or marketing of
16 products, commodities, personal property or services by the erection and
17 maintenance of an outdoor advertising display or displays, whether or
18 not such display or displays are located on the premises on which any of
19 the above activities are conducted. Such rules and regulations may
20 further define the terms used in this subdivision. In lieu of such actu-
21 al reasonable and necessary moving expenses, any such displaced owner or
22 tenant of residential property may elect to accept a moving expense
23 allowance, plus a dislocation allowance, determined in accordance with a
24 schedule prepared by the [corporation] COMMISSIONER and made a part of
25 such rules and regulations. In lieu of such actual reasonable and neces-
26 sary moving expenses, any such displaced owner or tenant of commercial
27 property who relocates or discontinues his OR HER business or farm oper-
28 ation may elect to accept a fixed relocation payment in an amount equal
29 to the average annual net earnings of the business or farm operation,
30 except that such payment shall be not less than two thousand five
31 hundred dollars nor more than ten thousand dollars. In the case of a
32 business, no such fixed relocation payment shall be made unless the
33 [corporation] COMMISSIONER finds and determines that the business cannot
34 be relocated without a substantial loss of its existing patronage, and
35 that the business is not part of a commercial enterprise having at least
36 one other establishment, which is not being acquired by the state or the
37 United States, which is engaged in the same or similar business. In the
38 case of a business which is to be discontinued but for which the find-
39 ings and determinations set forth above cannot be made, the [corpo-
40 ration] COMMISSIONER may prepare an estimate of what the actual reason-
41 able and necessary moving expenses, exclusive of any storage charges,
42 would be if the business were to be relocated and enter into an agreed
43 settlement with the owner of such business for an amount not to exceed
44 such estimate in lieu of such actual reasonable and necessary moving
45 expenses. Application for payment under this subdivision shall be made
46 to the [corporation] DEPARTMENT upon forms prescribed by [it] THE
47 COMMISSIONER and shall be accompanied by such information and evidence
48 as the [corporation] COMMISSIONER may require. Upon approval of such
49 application, the [corporation] COMMISSIONER shall deliver a copy thereof
50 to the comptroller together with a certificate stating the amount due
51 thereunder, and the amount so fixed shall be paid out of the state trea-
52 sury after audit by the comptroller from moneys appropriated for the
53 acquisition of property under this section. As used in this subdivision,
54 the term "commercial property" shall include property owned by an indi-
55 vidual, family, partnership, corporation, association or a nonprofit
56 organization and includes a farm operation. As used in this subdivision,

1 the term "business" means any lawful activity, except a farm operation,
2 conducted primarily for the purchase, sale, lease and rental of personal
3 and real property, and for the manufacture, processing or marketing of
4 products, commodities, or any other personal property; for the sale of
5 services to the public; or by a nonprofit organization.

6 10. Authorization is hereby given for the reimbursement to the person
7 or other entity entitled thereto, as determined by the [corporation]
8 COMMISSIONER, of an amount, separately computed and stated, representing
9 the following incidental expenses to the owner of property acquired
10 pursuant to this section:

11 (a) Any recording fees, transfer taxes and other similar expenses in
12 connection with the acquisition of the property by the state[, including
13 the corporation,] or in connection with the transfer of the property to
14 the state[, including the corporation]; and

15 (b) Any penalty costs, incurred by the owner of property acquired by
16 the state[, including the corporation,] for prepayment of any pre-exist-
17 ing recorded mortgage entered into in good faith encumbering such prop-
18 erty.

19 In the event that there shall be a final judgment by a court of compe-
20 tent jurisdiction that the commissioner [of transportation or the corpo-
21 ration as the case may be,] was not legally authorized to acquire prop-
22 erty, or a portion of such property, pursuant to this section; or the
23 commissioner [or the corporation] denies that there was any taking of
24 property, makes no offer to settle the value of the claim for such prop-
25 erty and there shall be a final judgment by a court of competent juris-
26 diction that the commissioner [or the corporation] did in fact take such
27 property; or the procedure to acquire such property is abandoned by the
28 commissioner [or the corporation]; authorization is hereby given for the
29 reimbursement to the person or other entity entitled thereto, as deter-
30 mined by the commissioner [or the corporation], of an amount, separately
31 computed and stated, for reasonable costs, disbursements and expenses,
32 including reasonable attorney, appraisal and engineering fees, actually
33 incurred by such person or other entity because of the acquisition
34 procedure.

35 Application for either of such reimbursements shall be made to the
36 [corporation] DEPARTMENT upon forms prescribed by [it] THE COMMISSIONER
37 and shall be accompanied by such information and evidence as the [corpo-
38 ration] COMMISSIONER may require. Upon approval of such application, the
39 [corporation] COMMISSIONER shall deliver a copy thereof to the comp-
40 troller together with a certificate stating the amount due thereunder,
41 and the amount so fixed shall be paid out of funds available for this
42 purpose.

43 11. Authorization is hereby given to the [corporation] COMMISSIONER to
44 make supplemental relocation payments, separately computed and stated,
45 to displaced owners and tenants of residential property acquired pursu-
46 ant to this section who are entitled thereto, as determined by such
47 [corporation] COMMISSIONER. The [corporation] COMMISSIONER may establish
48 and from time to time amend rules and regulations providing for such
49 supplemental relocation payments. Such rules and regulations may further
50 define the terms used in this subdivision. In the case of property
51 acquired pursuant to this section which is improved by a dwelling actu-
52 ally owned and occupied by the displaced owner for not less than one
53 hundred eighty days immediately prior to initiation of negotiations for
54 the acquisition of such property, such payment to such owner shall not
55 exceed fifteen thousand dollars. Such payment shall be the amount, if
56 any, which, when added to the acquisition payment equals the average

1 price, established by the [corporation] COMMISSIONER on a class, group
2 or individual basis, required to obtain a comparable replacement dwell-
3 ing that is decent, safe and sanitary to accommodate the displaced
4 owner, reasonably accessible to public services and places of employment
5 and available on the private market, but in no event shall such payment
6 exceed the difference between acquisition payment and the actual
7 purchase price of the replacement dwelling. Such payment shall include
8 an amount which will compensate such displaced owner for any increased
9 interest costs which such person is required to pay for financing the
10 acquisition of any such comparable replacement dwelling. Such amount
11 shall be paid only if the dwelling acquired pursuant to this section was
12 encumbered by a bona fide mortgage which was a valid lien on such dwell-
13 ing for not less than one hundred eighty days prior to the initiation of
14 negotiations for the acquisition of such dwelling. Such amount shall be
15 equal to the excess in the aggregate interest and other debt service
16 costs of that amount of the principal of the mortgage on the replacement
17 dwelling which is equal to the unpaid balance of the mortgage on the
18 acquired dwelling, over the remaining term of the mortgage on the
19 acquired dwelling, reduced to discounted present value. The discount
20 rate shall be the prevailing interest rate paid on savings deposits by
21 commercial banks in the general area in which the replacement dwelling
22 is located. Any such mortgage interest differential payment shall,
23 notwithstanding the provisions of section twenty-six-b of the general
24 construction law, be in lieu of and in full satisfaction of the require-
25 ments of such section. Such payment shall include reasonable expenses
26 incurred by such displaced owner for evidence of title, recording fees
27 and other closing costs incident to the purchase of the replacement
28 dwelling, but not including prepaid expenses. Such payment shall be made
29 only to a displaced owner who purchases and occupies a replacement
30 dwelling which is decent, safe and sanitary within one year subsequent
31 to the date on which he OR SHE is required to move from the dwelling
32 acquired pursuant to this section or the date on which he OR SHE
33 receives from the state final payment of all costs of the acquired
34 dwelling, whichever occurs later, except advance payment of such amount
35 may be made in hardship cases. In the case of property acquired pursuant
36 to this section from which an individual or family, not otherwise eligi-
37 ble to receive a payment pursuant to the above provisions of this subdi-
38 vision, is displaced from any dwelling thereon which has been actually
39 and lawfully occupied by such individual or family for not less than
40 ninety days immediately prior to the initiation of negotiations for the
41 acquisition of such property, such payment to such individual or family
42 shall not exceed four thousand dollars. Such payment shall be the amount
43 which is necessary to enable such individual or family to lease or rent
44 for a period not to exceed four years, a decent, safe and sanitary
45 dwelling of standards adequate to accommodate such individual or family
46 in areas not generally less desirable in regard to public utilities and
47 public and commercial facilities and reasonably accessible to his OR HER
48 place of employment, but shall not exceed four thousand dollars, or to
49 make the down payment, including reasonable expenses incurred by such
50 individual or family for evidence of title, recording fees, and other
51 closing costs incident to the purchase of the replacement dwelling, but
52 not including prepaid expenses, on the purchase of a decent, safe and
53 sanitary dwelling of standards adequate to accommodate such individual
54 or family in areas not generally less desirable in regard to public
55 utilities and public and commercial facilities, but shall not exceed
56 four thousand dollars, except if such amount exceeds two thousand

1 dollars, such person must equally match any such amount in excess of two
2 thousand dollars, in making the down payment. Such payments may be made
3 in installments as determined by the [corporation] COMMISSIONER. Appli-
4 cation for payment under this subdivision shall be made to the [corpo-
5 ration] DEPARTMENT upon forms prescribed by [such corporation] THE
6 COMMISSIONER and shall be accompanied by such information and evidence
7 as the [corporation] COMMISSIONER may require. Upon approval of such
8 application, the [corporation] COMMISSIONER shall deliver a copy thereof
9 to the comptroller, together with a certificate stating the amount due
10 thereunder, and the amount so fixed shall be paid out of funds available
11 for such purpose.

12 12. The owner of any property, easements, interests or rights appro-
13 priated, may present to the court of claims a claim for the value of
14 such property appropriated and for legal damages as provided by law for
15 the filing of claims with the court of claims. Payment of such awards
16 and judgments of the court of claims shall be made in the manner now
17 prescribed by law.

18 13. If the work of improvement, maintenance, control, management or
19 repair of the canal system causes damage to property not acquired as
20 above provided, the state shall be liable therefor, but this provision
21 shall not be deemed to create any liability not already existing by
22 statute. Claims for such damage may be adjusted by the [corporation]
23 COMMISSIONER, if the amounts thereof can be agreed upon with the persons
24 making such claims, and any amount so agreed upon shall be paid as a
25 part of the cost of such improvement, maintenance, control, management
26 or repair as prescribed by this section. If the amount of any such claim
27 is not agreed upon, such claim may be presented pursuant to the eminent
28 domain procedure law to the court of claims which is hereby authorized
29 to hear such claim and determine if the amount of such claim or any part
30 thereof is a legal claim against the state, and, if it so determines, to
31 make an award and enter judgment thereon against the state, provided,
32 however, that such claim is filed with the court of claims within three
33 years after the accrual of such claim.

34 14. Notwithstanding any other provision of this section, the [corpo-
35 ration or the] commissioner [of transportation at the request of the
36 corporation] shall have the power to acquire by grant or purchase, in
37 the name of the people of the state of New York, any property which he
38 or [the corporation] SHE deems necessary for any of the purposes
39 provided for in this section, and payment therefor, if any, shall be
40 made in the manner prescribed in this section for the payment of
41 adjusted appropriation claims, provided, however, that no real property
42 shall be so acquired unless the title thereto shall be approved by the
43 attorney general.

44 15. The expense of the acquisition of property, including the cost of
45 making surveys, preparing descriptions and maps of property to be
46 acquired, and of administrative duties in connection therewith, serving
47 notices of appropriation, publication, making appraisals and agreements
48 and of searches ordered and examinations and readings and approval of
49 titles made by the attorney general, and expenses incurred by the
50 [corporation or the] commissioner [of transportation at the request of
51 the corporation] and attorney general in proceedings for the removal of
52 owners or occupants, shall be deemed a part of the cost of operation of
53 the respective offices where such employees are engaged or of the
54 department having charge of such matters and shall be paid from moneys
55 appropriated for the operation of such offices. If a special fund has

1 been set up to provide for the acquisition of property, then such
2 expense involved may be made payable from such fund.

3 16. Notwithstanding the provisions of any general, special or local
4 law, the [corporation or the] commissioner [of transportation at the
5 request of the corporation], his or [its] HER officers, agents or
6 contractors when engaged on work connected with the canal system, as
7 described in subdivision one of this section, may, pursuant to the
8 provisions of the eminent domain procedure law, enter upon any property
9 for the purpose of making surveys, test pits, test borings, or other
10 investigations and also for temporary occupancy during construction.
11 Claims for any damage caused by such entry, work or occupation not
12 exceeding two thousand five hundred dollars may be adjusted by agreement
13 by the [corporation or the] commissioner [of transportation at the
14 request of the corporation] with the owner of the property affected as
15 determined by him or [such corporation] HER by reasonable investigation
16 without appropriating such property. Upon making any such adjustment and
17 agreement, the [corporation or the] commissioner [of transportation]
18 shall deliver to the comptroller such agreement and a certificate stat-
19 ing the amount due such owner and the amount so fixed shall be paid out
20 of the funds available for such purpose.

21 17. If the [corporation] COMMISSIONER shall determine subsequent to
22 the acquisition of a temporary easement right in property and subsequent
23 to the filing of a description and map of such property in the office of
24 the county clerk or register, as aforesaid, that the purposes for which
25 such easement right was acquired have been accomplished and that the use
26 and occupancy of said property for canal purposes are no longer neces-
27 sary, and that, therefore, the term of such easement should be further
28 limited, or if the appropriation of such easement was for an indefinite
29 period, that such period should be fixed and determined, or that the
30 period of such easement has by its terms expired, the [corporation]
31 COMMISSIONER shall make [its] HIS OR HER certificate that the use and
32 occupancy of such property for canal purposes are no longer necessary,
33 that the property in which such easement right was acquired is surren-
34 dered back to the affected owner of said property and that such easement
35 right is thereupon terminated, released and extinguished. The [corpo-
36 ration] COMMISSIONER shall cause a copy of such certificate to be filed
37 in the office of the department of state. Upon the filing of such
38 certificate in the office of the department of state all rights acquired
39 by the state in such property shall cease and determine. The [corpo-
40 ration] COMMISSIONER shall cause a copy of such certificate together
41 with notice of the filing thereof in the office of the department of
42 state to be mailed to the owner or owners of the property affected, as
43 certified by the attorney general, if the place of residence of such
44 owner or owners is known or can be ascertained by a reasonable effort. A
45 further copy of such certificate and notice of filing shall be filed in
46 the office of the recording officer of each county wherein the property
47 affected is situated. On the filing of such certificate and notice with
48 such officer it shall be the duty of such officer to record same in the
49 books used for recording deeds in the office of such officer.

50 18. Notwithstanding any other provision of this section, the [corpo-
51 ration] COMMISSIONER shall have the power to acquire by grant or
52 purchase, in the name of the people of the state of New York, any prop-
53 erty which [it] HE OR SHE deems necessary for any of the purposes
54 provided for in this section and may also acquire for such purposes from
55 the Palisades interstate park commission, in the name of the people of
56 the state of New York, such lands and such easements, licenses, permits

1 and other rights over lands as the said commission is authorized to
2 grant, sell, exchange or convey. When the acquisition by appropriation,
3 grant or purchase of property deemed necessary for canal purposes would
4 result in substantial consequential damages to the owner's remaining
5 property, due to loss of access, severance or control of access, the
6 [corporation] COMMISSIONER, for and on behalf of the people of the state
7 of New York, may acquire by purchase or grant all or any portion of such
8 remaining property. Payment therefor, if any, shall be made in the
9 manner prescribed in this section for the payment of adjusted appropri-
10 ation claims, provided, however, that no real property shall be so
11 acquired unless the title thereto shall be approved by the attorney
12 general.

13 S 20. Section 41 of the canal law, as amended by chapter 335 of the
14 laws of 2001, is amended to read as follows:

15 S 41. Acquisition of cemeteries. Whenever in the judgment of the
16 [corporation] COMMISSIONER, it is necessary for the purposes of improv-
17 ing, maintaining or repairing the canal system, to appropriate any prop-
18 erty occupied by graves, burial places, cemeteries or other places of
19 interment of human remains, the [corporation] COMMISSIONER may acquire
20 such property in the manner and by the method prescribed by this arti-
21 cle. [It] HE OR SHE shall cause the removal of all such remains to any
22 other cemetery or burial place, whether private or public, as the board
23 of trustees or governing body of such burial place or burial ground
24 shall designate. All removals and transportation of such human remains
25 shall be done in accordance with the provisions of the public health
26 law. Whenever any person or persons legally entitled to direct as to the
27 disposition of any human remains exhumed or to be exhumed from any ceme-
28 tery, burial place or graves as herein provided, desires to remove the
29 same for reinterment to any burial plot or cemetery not within the same
30 county from which such remains were exhumed, such person or persons so
31 entitled to designate such other burial place or plot shall be permitted
32 to remove such exhumed remains from such county subject to the written
33 consent of the [corporation] COMMISSIONER and provisions of the public
34 health law, but no portion of the expense of such transportation or
35 burial in another county shall be borne by the state [or the corpo-
36 ration].

37 S 21. Section 42 of the canal law, as amended by chapter 335 of the
38 laws of 2001, is amended to read as follows:

39 S 42. Removal of encroachments. The [corporation] COMMISSIONER is
40 authorized to cause to be removed from canal property any building, part
41 of a building or structure erected, placed, maintained or otherwise
42 occupying such canal property, if, in [its] HIS OR HER opinion, the
43 removal is necessary for the improvement, use, maintenance, control,
44 management, repair or operation of the canal system. It shall be the
45 duty of any person owning or maintaining such a building, part of a
46 building or structure to remove the same within thirty days from the
47 service by the [corporation] COMMISSIONER upon said person of a notice
48 ordering its removal. Upon the failure of the person so ordered to
49 remove the building, part of a building or structure, the [corporation]
50 COMMISSIONER may, without liability on the part of the state [or the
51 corporation], take whatever action [it] HE OR SHE may deem necessary to
52 cause the removal. Service of the order of removal must be personal if
53 the person to be served can be found within the state. If the [corpo-
54 ration] COMMISSIONER shall not be able to serve such notice or cause the
55 same to be served on the [said] SUCH person within the state after
56 making a reasonable effort so to do, service may be made by attaching

1 such notice to the [said] SUCH building, part of a building or struc-
2 ture.

3 S 22. Section 43 of the canal law, as amended by chapter 335 of the
4 laws of 2001, is amended to read as follows:

5 S 43. Exchange of property. In order to facilitate the acquisition of
6 property as defined in this article, and which, in the judgment of the
7 [corporation] COMMISSIONER, will be in the public interest and necessary
8 for canal purposes, payment for such property may be made by means of an
9 exchange therefor of property found to be no longer necessary or useful
10 as a part of the barge canal system, or as an aid to navigation thereon,
11 or for barge canal terminal purposes. The property to be so acquired
12 shall be of at least equal value to that of such property to be
13 exchanged. The [corporation] COMMISSIONER is authorized and empowered to
14 enter into an agreement with the owner or owners of such property to be
15 so acquired, upon such terms and conditions as to such [corporation]
16 COMMISSIONER shall seem appropriate and proper to accomplish such
17 purpose.

18 In all such cases, the property so to be exchanged shall first be
19 declared abandoned by official order of the [corporation] COMMISSIONER
20 which order shall set forth the benefits to be obtained by such
21 exchange. In such abandonment it shall be unnecessary to conform to the
22 provisions for abandonment made in section fifty-one of this chapter.
23 The agreement and the title to the property to be acquired shall be
24 subject to the approval of the attorney-general. Upon the approval of
25 title by the attorney-general, the [corporation] COMMISSIONER is author-
26 ized and empowered to execute in the name of the people of the state of
27 New York, a quit-claim deed to effectuate such exchange, which shall be
28 subject to the approval of the attorney-general. The deed so executed,
29 before becoming effective, shall be recorded in the office of the secre-
30 tary of state. Compensation on account of excess value if any, of the
31 lands so acquired shall be adjusted and paid in the manner provided by
32 section forty of this article, as in the case of property taken by
33 appropriation.

34 S 23. Section 50 of the canal law, as amended by chapter 335 of the
35 laws of 2001, is amended to read as follows:

36 S 50. Authority to abandon canal lands. 1. Authority is hereby
37 conferred upon the [corporation] COMMISSIONER to abandon any portion of
38 barge canal lands, barge canal terminal lands, or old canal lands and
39 appertaining structures constituting the canal system prior to the barge
40 canal improvement, which have or may become no longer necessary or
41 useful as a part of the barge canal system, as an aid to navigation
42 thereon, or for barge canal terminal purposes. This authority, however,
43 shall not include the abandonment of a barge canal terminal unless such
44 terminal has been by a special act of the legislature previously deter-
45 mined to have become no longer necessary or useful as a part of the
46 barge canal system, as an aid to navigation thereon, or for barge canal
47 terminal purposes.

48 2. Abandonments authorized pursuant to this section shall be subject
49 to the provisions of subdivision seventeen of section ten of this chap-
50 ter.

51 S 24. Section 51 of the canal law, as amended by chapter 44 of the
52 laws of 2009, is amended to read as follows:

53 S 51. Method of abandonment. Prior to the exercising of such authority
54 of abandonment, however, the [corporation] COMMISSIONER shall cause a
55 notice of any proposed abandonment to be transmitted to the commission
56 and to be published once each week for three successive weeks in a news-

1 paper published in the county wherein such lands are located, except
2 that such publication shall appear in a newspaper published in the muni-
3 cipality or locality wherein such lands are located when there is a
4 newspaper published in such municipality or locality. Such notice shall
5 describe the lands proposed to be abandoned with sufficient certainty to
6 identify them and invite interested parties to file written statements
7 either supporting or opposing the proposed abandonment. Upon the expira-
8 tion of the period of publishing said notice, when it is the case that
9 the assessment for such lands proposed for abandonment is equal to or
10 greater than fifty thousand dollars, the [corporation] COMMISSIONER
11 shall hold a hearing at which evidence or further information may be
12 submitted. A record shall be made of all evidence submitted at such
13 hearing. If no hearing shall appear to the [corporation] COMMISSIONER to
14 be warranted or subsequent to such hearing, should one be held, the
15 [corporation] COMMISSIONER may in [its] HIS OR HER discretion declare
16 such lands abandoned for the purposes of the canal system. The [corpo-
17 ration] COMMISSIONER shall thereupon issue an official order abandoning
18 the lands for canal purposes together with a map and description of the
19 lands abandoned and dispose of any portion of canal lands so abandoned.
20 Any money realized from the sale of such land shall be deposited into
21 the canal fund.

22 S 25. Section 53 of the canal law, as amended by chapter 335 of the
23 laws of 2001, is amended to read as follows:

24 S 53. Sale of abandoned lands for railroad bridges. Whenever any canal
25 lands, as defined in article one of this chapter, are required in
26 connection with any railroad bridge which has been or which is to be
27 constructed, reconstructed or raised by or for a railroad corporation
28 over that portion of the barge canal, which has been or which will be
29 improved by the use of moneys allotted or to be allotted to the state by
30 the federal government in accordance with chapter six hundred eighty-
31 eight of the laws of nineteen hundred thirty-four, the [corporation]
32 COMMISSIONER may issue an official order abandoning the lands for canal
33 purposes. Upon a written request by the railroad corporation, and
34 notwithstanding the provisions of any general or special law, the
35 [corporation] COMMISSIONER is authorized to grant and convey such land
36 to said railroad corporation for and on behalf of the people of the
37 state of New York for the purposes mentioned and for a nominal or other
38 consideration and upon such terms and conditions which he OR SHE shall
39 deem to be beneficial to the state. Such instrument of grant and convey-
40 ance shall become effective when it is recorded in the office of the
41 secretary of state. Any moneys realized from the sale of such land shall
42 be deposited into the canal fund.

43 S 26. Section 54 of the canal law, as amended by chapter 335 of the
44 laws of 2001, is amended to read as follows:

45 S 54. Abandonment and sale of hydropower easements; agreements with
46 hydropower developers. 1. Notwithstanding subdivision two of section
47 three or section fifty of the public lands law or section fifty, fifty-
48 one or fifty-two of this article, upon request of a person licensed
49 under Part I of the Federal Power Act (16 USC S 791a-823a) to develop
50 and operate a hydropower project at a site on the barge canal system,
51 the [corporation] COMMISSIONER may adopt an order abandoning a hydropow-
52 er easement in barge canal system lands and waters which are within the
53 boundaries of such federally licensed project, upon finding the property
54 rights under such easement to be no longer necessary or useful as a part
55 of the barge canal system, as an aid to navigation thereon, or for barge
56 canal terminal purposes. Upon adoption of such order, and with the

1 approval of the governor, the [corporation] COMMISSIONER may sell and
2 convey such easement at private sale to such licensed developer. Such
3 hydropower easements shall be sold for a price to be determined by the
4 [corporation] COMMISSIONER taking into consideration the value of obli-
5 gations to be assumed by such licensed developer, the value of the
6 rights granted to such developer to use canal system lands, waters and
7 facilities for hydropower project purposes and any other appropriate
8 factors.

9 2. Any hydropower easement abandoned, sold and conveyed pursuant to
10 subdivision one of this section shall be limited as follows:

11 (a) The easement shall convey only those rights necessary and conven-
12 ient for the development and generation of hydropower pursuant to the
13 provisions of the applicable federal hydropower license and only within
14 the boundaries of the hydropower project as licensed.

15 (b) The easement shall be subservient to the fee retained by the
16 state.

17 (c) The easement shall not give the owner the right to interfere with,
18 either by act or omission, the management and control by the state[,
19 through the corporation,] of the barge canal system.

20 (d) The easement shall provide that it shall revert to the state under
21 terms and conditions to be determined by the [corporation] COMMISSIONER
22 in the event that the site ceases to be used for purposes of hydropower
23 development and generation.

24 3. The [corporation] COMMISSIONER may also enter into agreements with
25 such a licensed developer regarding the division of maintenance respon-
26 sibility for structures, facilities or other property which serve both
27 hydropower generation and barge canal system purposes and regarding
28 other matters concerning joint operation at the site. Such agreements
29 may provide for the payment to the [corporation] DEPARTMENT of reason-
30 able compensation for services rendered by the [corporation] DEPARTMENT
31 which assist or otherwise further the development of hydropower on the
32 barge canal system. In addition, the [corporation] COMMISSIONER, subject
33 to the approval of the director of the budget, may enter into a written
34 agreement with a licensed developer or operator at any site concerning
35 the sharing of costs for a major capital improvement or improvements at
36 such site. Should the contract for such improvement or improvements be
37 let and awarded by the [corporation] COMMISSIONER, the state comptroller
38 is authorized to receive and accept from the developer or operator, the
39 sum or sums specified in such agreement and to disburse the same along
40 with state funds appropriated for the purpose of such capital improve-
41 ment or improvements.

42 4. Any revenue realized from the sale or lease of hydropower easements
43 shall be deposited into the canal fund.

44 S 27. Section 55 of the canal law, as amended by chapter 335 of the
45 laws of 2001, is amended to read as follows:

46 S 55. Authority to lease land. 1. The [corporation] COMMISSIONER is
47 hereby authorized, after review and comment by the commission as to
48 consistency with the canal recreationway plan approved pursuant to
49 section one hundred thirty-eight-c of this chapter and section three
50 hundred eighty-two of the public authorities law, to enter into leases
51 of canal lands, canal terminals, and canal terminal lands which are
52 consistent with the canal recreationway plan. Such review and comment
53 shall be provided within the time period set forth in the procedures of
54 the commission established pursuant to section one hundred
55 thirty-eight-b of this chapter which shall be no more than sixty days.

1 2. Lands to be leased shall be determined by the [corporation] COMMIS-
2 SIONER to have no essential purpose for navigation.

3 3. Leases of canal lands, canal terminals and canal terminal lands
4 shall be for purposes which are consistent with the New York state canal
5 recreationway plan approved pursuant to section one hundred thirty-
6 eight-c of this chapter and section three hundred eighty-two of the
7 public authorities law.

8 4. The [corporation] COMMISSIONER shall consider fully completed
9 applications for leases of canal lands, canal terminals and canal termi-
10 nal lands in such form and manner as the [corporation] COMMISSIONER
11 shall prescribe.

12 5. Canal lands, canal terminals and canal terminal lands within the
13 Adirondack park shall not be leased.

14 6. The [corporation] COMMISSIONER shall provide assistance, including
15 reasonable access to lands, as may be necessary to assist potential
16 applicants in preparing an application.

17 7. The [corporation] COMMISSIONER may require an applicant for a lease
18 to provide necessary property surveys, environmental studies, maps and
19 photographs, site plans and such other documents and studies as the
20 [corporation] COMMISSIONER may determine to be necessary to ascertain
21 the compatibility of proposed development with the New York state canal
22 recreationway plan and for the [corporation] COMMISSIONER to select a
23 qualified lessee.

24 8. Revenues realized from the lease of canal lands, canal terminals
25 and canal terminal lands shall be deposited into the canal fund.

26 S 28. Section 56 of the canal law, as amended by chapter 335 of the
27 laws of 2001, is amended to read as follows:

28 S 56. Conditions and terms of leases. Leases for canal lands, canal
29 terminals and canal terminal lands shall include:

30 1. the period of time for such leases, provided that the initial term
31 of such leases may not exceed forty years, and renewals of such leases
32 may not exceed an additional forty years beyond such initial terms;

33 2. requirements that the lessee take no actions or construct no
34 improvements that will interfere with navigation, except that if the
35 [corporation] COMMISSIONER determines that any potential adverse inter-
36 ference with navigation can be reasonably mitigated, the [corporation]
37 COMMISSIONER shall include in the lease such requirements as may be
38 necessary to effectuate mitigation of impediments to navigation;

39 3. proper covenants to assure the payment of adequate consideration
40 for the interests leased, and to further protect the state [and the
41 corporation] as is deemed necessary by the [corporation] COMMISSIONER;

42 4. provisions requiring that payments on the lease shall be paid to
43 the [corporation] DEPARTMENT;

44 5. provisions relating to public access, where feasible, to lands and
45 waters of the canal system; provided however that the [corporation]
46 COMMISSIONER may require that public access be restricted in those cases
47 where the [corporation] COMMISSIONER determines that public safety will
48 be served by such restriction;

49 6. provisions providing a right of entry for commission and [corpo-
50 ration] DEPARTMENT members and personnel and equipment for canal
51 purposes; and

52 7. such other terms as the [corporation] COMMISSIONER shall determine
53 are necessary and appropriate for the implementation of this article and
54 the preservation of the state's interest in the canal system.

55 S 29. Section 57 of the canal law, as amended by chapter 335 of the
56 laws of 2001, is amended to read as follows:

1 S 57. Special conditions for leases entered prior to approval of canal
2 recreationway plan. 1. In the period between the effective date of this
3 section and the completion of the canal recreationway plan, the commis-
4 sion shall review and comment on proposed leases with respect to the
5 consistency of such leases with the provisions of this article. Where
6 local zoning laws and zoning ordinances are in effect on lands proposed
7 to be leased or on lands adjacent to those lands proposed to be leased,
8 during such period the commission shall also review and comment on
9 proposed leases with respect to the compatibility of such leases, to the
10 extent practicable, with the requirements of such local zoning laws and
11 zoning ordinances.

12 2. In addition to the other applicable provisions of this article, the
13 [corporation] COMMISSIONER shall ensure that: (a) the lease will benefit
14 the canal system by effectuating the development of the canal as a
15 recreationway; (b) the lease will foster a canal system characterized by
16 clusters of development and stretches of undeveloped open space which is
17 conducive to the preservation of waterfowl, fish and wildlife habitats;
18 and (c) may encourage the use of historic buildings, sites and districts
19 listed on or eligible for the state or national registers of historic
20 places.

21 S 30. Section 60 of the canal law, as amended by chapter 420 of the
22 laws of 1968, is amended to read as follows:

23 S 60. Alteration of county roads or town highways. Whenever the
24 commissioner [of transportation] shall deem it necessary to discontinue
25 or alter any part of a county road or town highway because of its inter-
26 ference with the proper location or construction of any work on the
27 canal system either of [improvement, maintenance,] IMPROVEMENT, MAINTENANCE
28 or repair he OR SHE shall direct such discontinuance or alteration to be
29 made and file in the office of the clerk of the county or town in which
30 such road or highway is situate, an accurate description of the part of
31 such road or highway so discontinued and of the one laid out anew. From
32 the time of filing such description such road or highway shall be
33 considered so altered. The use of such old road or highway shall not be
34 discontinued until the new road or highway is declared open for public
35 use by the commissioner [of transportation], and a certificate to such
36 effect filed in the office of the clerk of the county or town in which
37 said road or highway is located. Every alteration made on any public
38 road located upon the canal system before the first day of January,
39 nineteen hundred and thirty-nine shall be deemed valid in law from the
40 time of such alteration.

41 S 31. Section 61 of the canal law, as amended by chapter 420 of the
42 laws of 1968, is amended to read as follows:

43 S 61. Farm and road bridges. The commissioner [of transportation] is
44 authorized and required to maintain until April first, nineteen hundred
45 fifty-four, at public expense farm, road and street bridges over the
46 canal system, in all places where such bridges were constructed prior to
47 the twentieth day of April, eighteen hundred thirty-nine, if, in his OR
48 HER opinion, the public convenience requires that they should be contin-
49 ued, whether heretofore maintained at the expense of the state or of the
50 counties, towns, villages and cities where they are situate, provided,
51 however, that commencing on the first day of April, nineteen hundred
52 fifty-four, and continuing thereafter, the maintenance, repair, improve-
53 ment, replacement or closing of any such bridge over any section of the
54 canal heretofore abandoned or which may hereafter be abandoned shall be
55 governed by the provisions of the highway law, except that any such
56 bridges situate in a city shall be maintained, repaired, improved,

1 replaced or closed in the same manner and subject to the same provisions
2 of law as apply to other streets and bridges in such city.

3 S 32. Section 62 of the canal law, as amended by chapter 335 of the
4 laws of 2001, is amended to read as follows:

5 S 62. Maintenance by state of certain bridges over the canal system.
6 All highway or pedestrian, lift or movable bridges over the canal system
7 other than highway bridges connecting parts of a state highway hereto-
8 fore constructed as a part of the barge canal improvement shall be
9 reconstructed, improved, maintained and repaired at the expense of the
10 state, if in the opinion of the commissioner [of transportation], the
11 public convenience requires such bridges to be maintained where no
12 alternate crossing has been provided. In the event the commissioner [of
13 transportation] determines that any such bridge is no longer required
14 for the convenience of the public, he OR SHE shall have power to close,
15 remove or relocate such bridge. The commissioner [of transportation]
16 shall have the supervision and direction of such reconstruction,
17 improvement, maintenance, repair, closing, removing or relocation. All
18 bridges over the canal system other than lift, movable, pedestrian or
19 state highway bridges heretofore constructed as part of the barge canal
20 improvement shall be reconstructed, improved, maintained and repaired at
21 the expense of the state under the supervision and direction of the
22 commissioner [of transportation], if, in his OR HER opinion, the public
23 convenience requires that each such bridge shall be continued as a
24 bridge for highway traffic. In the event the commissioner [of transpor-
25 tation] is requested by any municipality to reconstruct or improve any
26 such bridge, he OR SHE is hereby empowered to do so, provided, however,
27 that prior to such reconstruction or improvement the municipality enters
28 into a written agreement that such bridge thereafter shall become a part
29 of the highway system or systems which it may connect and the mainte-
30 nance, repair, improvement, replacement or closing of any such bridge
31 shall be governed by the provisions of the highway law, except that any
32 such bridges situate in a city shall be maintained, repaired, improved,
33 replaced or closed in the same manner and subject to the provisions of
34 any special law which may apply or to the same provisions of law as
35 apply to other streets and bridges in such city or in the case of such
36 bridges situate in a village, such bridges shall be maintained,
37 repaired, improved, replaced or closed in the same manner and subject to
38 the same provisions of law as apply to other streets and bridges in such
39 village. Any bridge over the New York state canal system or abandoned
40 part thereof which joins parts of a state highway shall be under the
41 jurisdiction of the commissioner [of transportation] and deemed to be
42 part of the state highway system and such bridges shall be constructed,
43 reconstructed, improved, maintained, repaired, closed or relocated
44 pursuant to the provisions of the highway law and the cost of such work
45 shall be paid from moneys available for construction, reconstruction,
46 improvement, maintenance or repair of state highways.

47 S 33. Section 63 of the canal law, as amended by chapter 420 of the
48 laws of 1968, is amended to read as follows:

49 S 63. Maintenance by state of alteration to certain highway bridges
50 not state owned. When in the canalization of a natural waterway to form
51 a part of the canal system it has been or may be necessary to alter an
52 existing highway bridge spanning the canalized portion of the waterway,
53 the maintenance and repair of the additional or new part or parts of
54 such bridge structure which may have been or may be necessary in alter-
55 ing the bridge to meet the requirements of navigation, shall be an obli-
56 gation of the state. The commissioner [of transportation] shall have

1 supervision and direction over such maintenance or repairs, the cost of
2 which shall be defrayed from moneys appropriated for the improvement,
3 maintenance and repair of the canal system.

4 S 34. Section 64 of the canal law, as amended by chapter 420 of the
5 laws of 1968, is amended to read as follows:

6 S 64. Commutation for bridges. The commissioner [of transportation]
7 may commute with owners and claimants of bridges over any canal, by
8 paying such owner or claimant such sum in lieu of a bridge as may be
9 agreed on between the claimant and the commissioner [of transportation].
10 If, in the opinion of the commissioner [of transportation], a bridge
11 should not be rebuilt, and the amount to be paid be not agreed upon, the
12 bridge shall not be built, but the damages sustained by such owner by
13 being deprived of such bridge and which the state under all the circum-
14 stances ought of right to pay, shall be ascertained in the same manner
15 as damages for the appropriation of real property, for the use of the
16 canal and paid by the commissioner [of transportation], on the approval
17 of the attorney-general. If the damages claimed are for the deprivation
18 of a bridge which the claimant had before constructed or maintained, the
19 circumstance of his OR HER being equitably bound to contribute propor-
20 tionately toward the construction and maintenance of an enlarged bridge
21 shall be taken into consideration and a proper amount of that account
22 shall be set off against any damage to which the claimant might other-
23 wise be entitled.

24 S 35. Section 65 of the canal law, as amended by chapter 420 of the
25 laws of 1968, is amended to read as follows:

26 S 65. Private road in lieu of farm bridges. If the commissioner [of
27 transportation] cannot agree with the owner of a farm bridge spanning a
28 canal as to the amount of commutation in any case where he OR SHE is of
29 the opinion that the state should erect such bridge, and the commission-
30 er [of transportation] determines that a private road through adjoining
31 lands will sufficiently accommodate such owner, and that the same can be
32 laid out with economy to the state, he OR SHE may take the necessary
33 action to lay out a private road for the accommodation of the owner, in
34 the manner prescribed by law for laying out private roads and pay to the
35 owner of the lands through which the same is laid out, the damages
36 assessed.

37 S 36. Section 66 of the canal law, as amended by chapter 420 of the
38 laws of 1968, is amended to read as follows:

39 S 66. Restrictions on the construction of farm and road bridges. A
40 person shall not be entitled to demand a farm bridge across a canal or
41 feeder where the necessity of convenience of such bridge shall have
42 arisen from the division or acquisition of property subsequent to the
43 location of such canal or feeder. A street or road bridge shall not be
44 constructed by the commissioner [of transportation] over a canal or
45 feeder, except upon such streets or roads as were laid out, worked or
46 used, previously to the construction of the canal or feeder, by which
47 such street or road is obstructed; and when bridges are constructed or
48 reconstructed upon any such streets or roads, the cost to the state
49 shall in no case be more than is required to preserve in a safe and
50 substantial manner the continuity of such streets or roads so as not to
51 unnecessarily impair their usefulness. When a bridge of a more costly
52 nature is desired by the local authorities of a city, town or village
53 within whose corporate limits a bridge is to be built or rebuilt, the
54 commissioner [of transportation], on presentation to him OR HER by such
55 local authorities of plans and specifications for such bridge and
56 approval thereof by him OR HER shall estimate and determine the propor-

tion of the cost, which, in order to preserve the continuity of such streets and roads, the state ought equitably to pay, and file such estimate and determination in his OR HER office and a duplicate thereof in the office of the clerk of such city, town or village. If a private road or public highway is laid out by legal authority in such direction as to require the erection of a new bridge over a canal for the accommodation of the road, such bridge shall be so constructed and forever maintained at the expense of the town, village or city in which it shall be situated.

S 37. Section 67 of the canal law, as amended by chapter 420 of the laws of 1968, is amended to read as follows:

S 67. Construction of bridges by municipal corporations. The common council of any city may provide by ordinance for the erection of a lift, hoist or swing bridge over a canal at any street in such city, on plans and specifications approved by the commissioner [of transportation]. If the commissioner [of transportation] shall consent to such erection he OR SHE shall file such consent with the clerk of such common council. Such bridge shall be built, operated and maintained under the supervision and control of the commissioner [of transportation], but at the expense of such city or of the property adjudged by the common council to be so benefited.

S 38. Subdivision 1 of section 68 of the canal law, as amended by chapter 420 of the laws of 1968 and as designated by chapter 422 of the laws of 1994, is amended to read as follows:

1. When a bridge spanning the Oswego canal or that portion of the Erie canal between the Hudson river and its junction with the Oswego canal, is to be reconstructed, or a new bridge is to be built over such sections of the canal system, such reconstructed or new bridge shall be so built as to provide a clear passageway between the bottom clearance line of the bridge, if of the fixed type, or the bottom clearance line when raised, if of the movable type, and the surface of the water at its highest navigable stage of not less than twenty feet. When a bridge spanning the Champlain canal, the Cayuga and Seneca canals, or that portion of the Erie canal westerly of Three Rivers is to be reconstructed or a new bridge is to be built over such sections of the canal system, such reconstructed or new bridge shall be so built as to provide a clear passageway between the bottom clearance line of the bridge, if of the fixed type, or the bottom clearance line when raised, if of the movable type, and the surface of the water at its highest navigable stage, of not less than fifteen and one-half feet. The commissioner [of transportation] may, however, if in his OR HER judgment the additional cost is not unreasonable, require that such bridges be reconstructed or constructed to provide a clearance of not less than twenty feet or that the substructure of such bridge be so constructed that the superstructure may be raised to provide a clearance of twenty feet without rebuilding the foundation of said substructure.

S 39. Section 69 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 69. Damages caused by excessive loads. The commissioner [of transportation] shall cause, where required, the posting of all bridges under his OR HER jurisdiction located on the canal system in conformity with the provisions of the vehicle and traffic law. Upon all such bridges incapable of safely carrying legal loads as prescribed in such law or where the overhead clearance is less than the legal height of fourteen feet, the commissioner [of transportation] shall have displayed on both ends of such bridge signs stating the safe carrying capacity and legal

1 clearance of such structure, all in accordance with the provisions of
2 section three hundred eighty-five of the vehicle and traffic law. No
3 person shall cause to be transported over such a bridge a vehicle whose
4 load is in excess of that shown upon the posted sign or whose height is
5 in excess of the legal clearance as shown on such posted sign. Any
6 person violating the above provisions shall be subject to the penalties
7 imposed under section three hundred eighty-five of the vehicle and traf-
8 fic law and in addition thereto shall be liable for all damages to such
9 structure resulting from violation of such law. The commissioner [of
10 transportation] is hereby authorized and directed to proceed, on behalf
11 of the people of the state, to cause to be recovered, by the attorney-
12 general in an appropriate action in any court of competent jurisdiction,
13 the amount of damages sustained and expenses incurred by the state in
14 consequence of such violation.

15 S 40. Section 69-a of the canal law is REPEALED.

16 S 41. Section 70 of the canal law, as amended by chapter 335 of the
17 laws of 2001, is amended to read as follows:

18 S 70. Cargo statement. The master of any float shall furnish the
19 [corporation] COMMISSIONER or [its] HIS OR HER representative a true
20 statement of the quantity and description of the lading of such float,
21 specifying the place from which it departed and to which it is destined.
22 Any master who refuses to comply with any provision of this section
23 shall forfeit to the people of the state a penalty not to exceed one
24 hundred dollars, which shall be paid into the canal fund.

25 S 42. Section 71 of the canal law, as amended by chapter 335 of the
26 laws of 2001, is amended to read as follows:

27 S 71. Registry of canal floats. The owner of every commercial float to
28 be navigated on the canal system shall make application to the [corpo-
29 ration] COMMISSIONER for a New York state certificate of registry. The
30 application shall be in THE form prescribed by the [corporation] COMMIS-
31 SIONER and shall contain such information as the [corporation] COMMIS-
32 SIONER may deem essential for full and complete identification of the
33 float and the owner thereof. It shall be signed by the owner if an indi-
34 vidual, or by an officer of a company, partnership or corporation if so
35 owned. Upon receipt of an application in proper form, the [corporation]
36 COMMISSIONER shall assign a state registry number and issue to the owner
37 a certificate of New York state registry, a copy of which shall be
38 entered in the records of its office.

39 S 43. Section 72 of the canal law, as amended by chapter 335 of the
40 laws of 2001, is amended to read as follows:

41 S 72. Change of ownership, name or hailing place. Should the owner-
42 ship, name or hailing place of a float change after state registry, the
43 owner of the float shall make new application in form similar to that
44 required for original registry and upon receipt of such application the
45 [corporation] COMMISSIONER shall issue a new state certificate of regis-
46 try and record the same in its office. The owner or owners of a commer-
47 cial float found navigating the canal system, the ownership, name or
48 hailing place of which shall have been changed without proper applica-
49 tion for re-registry to the [corporation] COMMISSIONER, shall, upon due
50 proof thereof be subject to a penalty to the people of the state of New
51 York not to exceed one hundred dollars recoverable by the attorney
52 general in an action in any court of competent jurisdiction.

53 S 44. Section 73 of the canal law, as amended by chapter 335 of the
54 laws of 2001, is amended to read as follows:

55 S 73. Registered owner to be advised of assessments and penalties. The
56 [corporation] COMMISSIONER shall advise the person whose name appears on

1 the latest application for registry on file in [its office] THE DEPART-
2 MENT of any assessments, penalties or other charges levied against a
3 float or its crew for acts or omissions occurring while the float is on
4 the canal system. Should the registered owner fail to make prompt
5 payment of such assessments, penalties or charges, the [corporation]
6 COMMISSIONER may refuse clearance to the float and action shall be
7 instigated as provided under section eighty-three of this article.

8 S 45. Section 74 of the canal law, as amended by chapter 335 of the
9 laws of 2001, is amended to read as follows:

10 S 74. List of registered floats to be prepared. The [corporation]
11 COMMISSIONER shall make a list of all floats to which New York state
12 certificates of registry have been issued. This list shall be corrected
13 at least once in each calendar year and a copy of such corrected list
14 shall be filed in the office of each of the district engineers having
15 supervision over portions of the canal system. The list shall be filed
16 in the [office of the corporation] DEPARTMENT and shall be available to
17 public inspection within regular office hours.

18 S 46. Section 75 of the canal law, as amended by chapter 335 of the
19 laws of 2001, is amended to read as follows:

20 S 75. Clearance and ownership. Every commercial float shall have a
21 clearance. Clearances may be obtained at such places along the canal
22 system and at such other points as the [corporation] COMMISSIONER may
23 direct. No clearance shall be granted to any commercial float unless the
24 person authorized to issue such clearance has evidence that such float
25 is duly registered in the [office of the corporation] DEPARTMENT. Each
26 float shall have a separate clearance and no part of the cargo shall be
27 cleared to a place beyond which the float is cleared. The [corporation]
28 COMMISSIONER may, in [its] HIS OR HER discretion, refuse to issue a
29 clearance for a vessel against whose registered owner there is an unpaid
30 penalty involving such vessel for the violation of rules and regulations
31 adopted pursuant to this chapter.

32 S 47. Section 76 of the canal law, as amended by chapter 335 of the
33 laws of 2001, is amended to read as follows:

34 S 76. Regulations with respect to clearance. No commercial float shall
35 proceed beyond the place to which it is cleared, nor unload any of its
36 cargo, before or after its arrival, at the place from which such arti-
37 cles are cleared, nor proceed beyond such place until the master thereof
38 delivers the clearance of such float or articles to the person desig-
39 nated by the [corporation] COMMISSIONER to receive the same, at the
40 place for which they are cleared. If there is no canal official at such
41 place, then to the canal official whose office shall be passed by the
42 float in the order of its voyage, and receive permission from such canal
43 official to proceed to the place to which it is cleared.

44 S 48. Section 77 of the canal law, as amended by chapter 335 of the
45 laws of 2001, is amended to read as follows:

46 S 77. Copy of clearance. The [corporation] COMMISSIONER, or [its] HIS
47 OR HER representative issuing a clearance or with whom a clearance is
48 filed, shall, when requested, furnish a copy thereof, with any addi-
49 tional cargo entered thereupon and the several indorsements, if any,
50 which copy shall have the same validity and effect as the original
51 clearance of which it is a copy.

52 S 49. Section 78 of the canal law, as amended by chapter 335 of the
53 laws of 2001, is amended to read as follows:

54 S 78. Assignment of berths for loading or unloading. The [corporation]
55 COMMISSIONER or [its] HIS OR HER representative may assign berths to all
56 floats while loading or unloading at any landing place upon a canal and

1 determine disputes concerning same. The [corporation] COMMISSIONER,
2 shall, as to any of the locks, terminals or mooring places of the canal
3 system used by floats, regulate and station such floats for the best
4 interest of navigation. The [corporation] COMMISSIONER may determine how
5 far and in what instances masters and other persons having charge of any
6 float shall accommodate each other in their respective anchorages. If
7 any master or other person having control of any float within the limits
8 of such waters shall neglect or refuse to obey the directions of the
9 [corporation] COMMISSIONER, or [its] HIS OR HER representative, in any
10 such matters within [its] HIS OR HER authority, or shall resist or
11 oppose the [corporation] COMMISSIONER in the execution of the said
12 duties, such person shall be liable to a penalty not to exceed one
13 hundred dollars, recoverable by the [corporation] COMMISSIONER in any
14 court of competent jurisdiction, and payable into the canal fund.

15 S 50. Section 79 of the canal law, as amended by chapter 335 of the
16 laws of 2001, is amended to read as follows:

17 S 79. Floating elevators. Any person owning or leasing, in whole or in
18 part, any floating elevator used for loading grain, coal, sand, or other
19 material, shall, upon application to and in the discretion of the
20 [corporation] COMMISSIONER, be assigned a place for and permitted to
21 keep said floating elevator in the waters of the canal system of this
22 state, at such point as may be most convenient for and for such period
23 of time as may be necessary for the transaction of the business of load-
24 ing or unloading grain, coal, sand, or other material, shipped or to be
25 shipped on the canals; provided, however, that such floating elevator
26 shall cause no obstruction to the free and uninterrupted use of the
27 canal system by floats navigating thereon. While such elevators are in
28 operation, they shall be equipped with such device or devices as the
29 [corporation] COMMISSIONER may determine to prevent the material being
30 loaded or unloaded from such float, from falling into such waters.

31 S 51. Section 80 of the canal law, as amended by chapter 335 of the
32 laws of 2001, is amended to read as follows:

33 S 80. Supplying deficiencies of water. Whenever the navigation of any
34 part of the canal system is endangered by reason of a deficiency of
35 water, the [corporation] COMMISSIONER shall, without delay, supply such
36 deficiency. For that purpose [it] THE COMMISSIONER shall resume the
37 temporary use of all the surplus water leased, licensed or withdrawn
38 under revocable permit from the part of the canal system where such
39 deficiency exists. If there still be a deficiency of water, [it] THE
40 COMMISSIONER may enter upon and use all lands, streams and waters which,
41 in [its] HIS OR HER judgment, may be necessary or proper to be used to
42 procure a temporary supply of water for such part of the canal system.
43 The [corporation] COMMISSIONER may enter into an agreement with the
44 owner or owners of any property used for such temporary purpose under
45 this section covering the amount of damage sustained. Such agreement
46 when approved by the attorney-general shall become an obligation of the
47 [corporation] COMMISSIONER and paid from moneys available therefor. In
48 case no agreement is consummated the amount of damages sustained may be
49 determined as provided in section one hundred twenty of this chapter. No
50 damages shall be allowed in any case for resuming the use of any surplus
51 water which has been withdrawn under lease, license or revocable permit.

52 S 52. Section 81 of the canal law, as amended by chapter 335 of the
53 laws of 2001, is amended to read as follows:

54 S 81. Deposit of refuse in navigable waters. It shall be unlawful to
55 throw from or otherwise deposit, either from or out of any float or from
56 the shore, wharf, manufacturing establishment or mill of any kind,

1 refuse or other matter of any description, into any of the waters of the
2 canal system or into any waters dredged at public expense and used for
3 canal purposes. Every person that shall violate the provisions of this
4 section shall be subject to damages to the amount as will compensate the
5 [corporation] COMMISSIONER for the expenses involved in restoring such
6 waters to its useful condition to meet the needs of canal navigation. It
7 shall also be unlawful for any person to obstruct the navigation of a
8 canal by the improper mooring, management or conduct of a float, or by
9 placing any obstruction on the banks thereof.

10 S 53. Section 82 of the canal law, as amended by chapter 335 of the
11 laws of 2001, is amended to read as follows:

12 S 82. Seizure of obstruction. The [corporation] COMMISSIONER may cause
13 to be seized and removed any object, article, float or sunken thing
14 found within the limits of the canal system not under the care or charge
15 of any person. [It] THE COMMISSIONER shall sell or offer for sale all
16 seized objects, articles, floats or sunken things either before or after
17 their removal, as [it] HE OR SHE deems essential for maintenance of the
18 canal system. The sale shall be at public auction after giving ten days'
19 written notice of such proposed sale conspicuously posted at two public
20 places in the city or town where such object, article, float or sunken
21 thing is found unless before the time of such sale the owner thereof
22 appears and claims same and pays to the [corporation] DEPARTMENT the
23 cost and expense which has been incurred by it in connection with the
24 seizure, removal and proposed sale. The owner thereof shall be liable
25 for the cost and expense of such seizure, removal and sale of the said
26 object, article, float or sunken thing which cost and expense may be
27 recovered by the attorney-general in an appropriate action or proceeding
28 brought in the name of the people of the state in any court of competent
29 jurisdiction. The avails of such sale shall be accounted for by the
30 [corporation] COMMISSIONER to the department of taxation and finance
31 which may on the application of the owner and upon due proof of owner-
32 ship pay over such proceeds to him OR HER after deducting all costs,
33 expenses and reasonable charges of the seizure, removal and sale there-
34 of. Whenever in the opinion of the [corporation] COMMISSIONER the navi-
35 gation or operation of any part of the canal system is interrupted or
36 endangered, the [corporation] COMMISSIONER may cause to be cut up,
37 destroyed or otherwise removed any object, article, float or sunken
38 thing in or partly in the waters of the canal system which may, in its
39 judgment, be causing such interruption or damage. The [corporation]
40 COMMISSIONER may enter into an agreement with the owner or owners of any
41 property so cut up, destroyed, or otherwise removed, covering the amount
42 of damage sustained. Such agreement when approved by the attorney-gener-
43 al shall become an obligation of the [corporation] DEPARTMENT and paid
44 from moneys available therefor. In case no agreement is consummated, the
45 amount of damages sustained may be determined as provided in section one
46 hundred twenty of this chapter.

47 S 54. Section 84 of the canal law, as amended by chapter 335 of the
48 laws of 2001, is amended to read as follows:

49 S 84. Damage caused by termination of canal navigation. No part of the
50 canal system of the state which was improved pursuant to chapter seven
51 hundred ten of the laws of nineteen hundred seven and the acts supple-
52 mental thereto and amendatory thereof, shall be abandoned or navigation
53 thereof permanently closed, nor shall the state cede or transfer owner-
54 ship, jurisdiction or control thereof to the United States pursuant to
55 authority conferred by constitutional amendment, until the expiration of
56 one year after the [corporation] COMMISSIONER shall have been authorized

1 and empowered by law to cause a notice of intention to take such action
2 to be published once in each month during such year in at least one
3 newspaper published in each county adjacent to the part of such canal
4 system affected by such notice. Each person, who, at the time of the
5 first publication of such notice, is the owner of a commercial float
6 registered pursuant to the provisions of this chapter, which, at the
7 close of navigation in such year, shall have been actually engaged in
8 the navigation of the part of such canal system so abandoned, closed,
9 ceded or transferred, or so relinquished to the jurisdiction or control
10 of the United States, may present a claim for damages against the state
11 [including the corporation] to a court of competent jurisdiction, which
12 court shall hear and determine the liability [of the corporation] there-
13 for; and, if the court shall find that such person has suffered or
14 sustained damages by reason of such abandonment, closing, ceding, trans-
15 fer, or relinquishment which the [corporation] DEPARTMENT, in right and
16 justice, or in law or equity, is obligated to pay, such damages shall
17 constitute a valid and legal claim against the [corporation] DEPARTMENT,
18 and the [corporation] DEPARTMENT shall be deemed liable therefor, and
19 the court may make an award to such person and render a judgment in his
20 OR HER favor against the [corporation] DEPARTMENT in such sums as it
21 shall find to be just and equitable. It is declared to be the purpose of
22 this section to encourage and induce the construction of boats for use
23 upon such canal system and their operation thereon and to protect from
24 loss, financial investments made in such construction and operation
25 caused by an abrupt, permanent termination of navigation, or the
26 creation of conditions, which would result in the impairment, limitation
27 or destruction of navigation of such canal system by such floats.

28 S 55. Section 85 of the canal law, as amended by chapter 335 of the
29 laws of 2001, is amended to read as follows:

30 S 85. Rules and regulations. The [corporation] COMMISSIONER shall
31 prescribe and enforce rules and regulations, not inconsistent with law,
32 governing navigation on the canals and for the use of the terminals
33 connected with the canals and for the use of all other property of the
34 [corporation] DEPARTMENT under the [corporation's] COMMISSIONER OR
35 DEPARTMENT'S control and maintained as a part of the canal system. The
36 [corporation] COMMISSIONER shall provide rules and regulations for the
37 government of all employees under [its] HIS OR HER control, engaged in
38 the improvement, repair and maintenance of the canals. [It] THE COMMIS-
39 SIONER shall cause such rules and regulations to be printed and a copy
40 filed in the office of the department of state and a sufficient number
41 distributed to the various district engineers and other field officers
42 to be kept in their respective offices for public inspection.

43 S 56. Section 90 of the canal law, as amended by chapter 335 of the
44 laws of 2001, is amended to read as follows:

45 S 90. Record of operating expenses. The [corporation] COMMISSIONER
46 shall keep an accurate account of all moneys appropriated by the legis-
47 lature for the improvement, maintenance, repair and operation of the
48 canal system and shall cause to be prepared and filed in the [office of
49 the corporation] DEPARTMENT on or about January first of each year, a
50 statement showing all such moneys appropriated and how expended during
51 the preceding fiscal year. The [corporation] COMMISSIONER shall keep an
52 accurate account of the recoveries made in all actions brought by [it]
53 HIM or HER OR at [its] HIS OR HER direction, for the recovery of penal-
54 ties or damages under authority of this chapter and of the cost and
55 expenses thereof and pay into the canal fund the amount of all such

1 recoveries and account for the same with the department of audit and
2 control.

3 S 57. Section 91 of the canal law, as amended by chapter 335 of the
4 laws of 2001, is amended to read as follows:

5 S 91. Tonnage statistics. The [corporation] COMMISSIONER shall collect
6 and compile accurate records of the tonnage transported on the canals
7 during each season of navigation. Such data, together with all other
8 necessary information relative to canal transportation shall be arranged
9 in convenient form and furnished to those interested. The [corporation]
10 COMMISSIONER shall publish from time to time such data and information
11 as, in [its] HIS OR HER opinion, will promote and encourage commerce on
12 the canals.

13 S 58. Section 92 of the canal law, as amended by chapter 335 of the
14 laws of 2001, is amended to read as follows:

15 S 92. Annual report. The [corporation] COMMISSIONER shall during the
16 month of January make a report to the legislature covering the activ-
17 ities of the [corporation] DEPARTMENT with respect to the canal system
18 for the preceding calendar year ending December thirty-first, including
19 therein details as to the tonnage transported upon the canals of the
20 state, the condition of the canals, and the work and improvements
21 connected therewith; the several amounts of moneys appropriated and
22 expended during the preceding fiscal year and submit recommendations of
23 such measures in relation to the canals as, in [its] HIS OR HER judg-
24 ment, the public interest requires.

25 S 59. Section 100 of the canal law, as amended by chapter 335 of the
26 laws of 2001, is amended to read as follows:

27 S 100. Granting revocable permits. The [corporation] COMMISSIONER is
28 hereby authorized, in [its] HIS OR HER discretion, to issue revocable
29 permits granting certain limited privileges therein, whenever the same
30 can be done without detriment to canal navigation or damage to the banks
31 or other structures thereof. [It] THE COMMISSIONER shall prescribe the
32 terms and conditions by which such revocable permits may be issued for
33 the temporary use of canal lands or structures and for the diversion of
34 canal waters for sanitary, farm purposes, or industrial use. [It] THE
35 COMMISSIONER may also issue permits, as [it] HE OR SHE shall deem to be
36 advantageous to the [corporation] STATE, to any person, firm or corpo-
37 ration, to cut, gather and haul away ice from the canals. Whenever any
38 space and facilities are available at any canal terminal and when no
39 detriment or injury to canal traffic or delay in handling same would
40 result, the [corporation] COMMISSIONER may issue a revocable permit for
41 the temporary and restricted use or occupancy, of such canal terminal
42 and the facilities thereof, pursuant to the rules and regulations which
43 [it] HE OR SHE may prescribe. All permits heretofore granted by the
44 corporation and not canceled, are hereby legalized and confirmed and
45 made effectual and valid in accordance with the terms and conditions in
46 said permit as fully as if this chapter had been in force on the date of
47 issuance of such permit. No liability of any kind shall attach to or
48 rest upon the state[, including the corporation,] for any damage on
49 account of the granting or revocation of any permit. Existing permit
50 holders within the Adirondack park in compliance with the terms of
51 permits which have been properly issued pursuant to law shall continue
52 to be afforded permits at least until the first day of June, nineteen
53 hundred ninety-four, unless such permit holders fail to apply for permit
54 renewal within six months of the expiration of such existing or former
55 permit or permits, or by the first day of August, nineteen hundred nine-
56 ty-three, whichever is later; provided, however, that no additional

development right or rights may be included in any permit renewed prior to the first day of June, nineteen hundred ninety-five. Any revenue realized from the issuance of such permits shall be deposited into the canal fund.

S 60. Section 101 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 101. Railroads operating over canals. The [corporation] COMMISSIONER shall have a general supervisory power over so much of any railroad as passes over any canal or feeder belonging to the state or approaches within ten rods thereof, so far as may be necessary to preserve the free and perfect use of such canals or feeders, or for making any repairs, improvements or alterations thereupon. No railroad corporation shall construct its railroad over or at any place within ten rods of any canal or feeder belonging to the state, unless it submits to the [corporation] COMMISSIONER a map, plan and profile of such canal or feeder and of the route designated for its railroad, exhibiting distinctly and accurately the relation of each to the other at all the places within the limits of ten rods thereof, and obtains the written permission of the [corporation] COMMISSIONER for the construction of such railroad, with such conditions, directions and instructions as in its judgment the free and perfect use of any such canal or feeder may require.

Whenever any street railroad shall cross over any bridge spanning a canal, or canal feeder, the company owning, maintaining and operating the same, shall be deemed liable for and shall pay all damages that may occur or arise, either to the state or to persons, by reason of its laying and maintaining its tracks or rail over, upon and across any such bridge, or by reason of the operation of its cars over the same; and any such company shall, upon demand of the [corporation] COMMISSIONER, make any repairs to such structure to insure the continued safety thereof, as shall have been rendered necessary by reason of such use of said structure by said company. Any company maintaining or operating a street railroad over, upon and across any such bridge shall indemnify the state [including the corporation] against any and all loss, damages or claims for damages for injuries to persons or property of passengers which shall be incurred by or made against such state by reason of the operation of such railroad over any such bridge, and the [or corporation] COMMISSIONER may, in [its] HIS OR HER discretion, require any company so maintaining or operating a street railroad to furnish a bond, with sureties to be approved by [it] HIM OR HER to indemnify the state [including the corporation] from all such loss, damage or claim. All such permits heretofore or hereafter granted shall be revocable whenever the free and perfect use of any such canal or feeder may so require, or if such railroad company shall fail to make any such repairs when required by the [corporation] COMMISSIONER. The railroad company using or occupying any bridge over the same shall, within a reasonable time after the service upon it, by the [corporation] COMMISSIONER of a written notice of such revocation, or to make such repairs, remove at its own cost and expense, its railroad from such bridge and from the limits of ten rods of said canal or feeder.

S 61. Section 102 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 102. Pipe lines crossing canals. No pipe line shall be constructed upon or across any of the canals of this state, except by the consent of and in a manner and upon the terms prescribed by the [corporation] COMMISSIONER, unless constructed upon a fixed bridge across such canal and with the consent of the person, firm or corporation for whose bene-

1 fit such bridge is constructed and maintained, or upon such a bridge
2 over the canal, at the crossing of a public highway, or street, with the
3 consent of the public officers having the supervision thereof, or of the
4 municipal authorities of any village or city within whose limits such
5 bridge may be, nor shall the pipes of any such corporation be laid
6 through, on or along the banks of any of the canals of this state,
7 unless such pipes shall be encased so as to prevent leakage, in such
8 manner as shall be approved by the [corporation] COMMISSIONER.

9 S 62. Subdivision 1 of section 103 of the canal law, as amended by
10 chapter 335 of the laws of 2001, is amended to read as follows:

11 1. The [corporation] COMMISSIONER shall have the power to impose tolls
12 for the passage through locks and lift bridges by vessels which are
13 propelled in whole or in part by mechanical power, and to collect such
14 tolls by the sale of lock and lift bridge passes issued for such periods
15 of time as the [corporation] COMMISSIONER shall determine. Tolls for
16 such lock and lift bridge passes shall be established by regulation of
17 the [corporation] COMMISSIONER with the advice of the canal recreation-
18 way commission and following no fewer than two public hearings at
19 geographically dispersed locations on the canal system. In addition, the
20 [corporation] COMMISSIONER may provide by regulation for the sale of
21 lock and lift bridge passes by any other entity, and may allow a charge
22 for handling by such other entities not to exceed one dollar for each
23 pass. No tolls shall be imposed or collected prior to the first day of
24 April, nineteen hundred ninety-three. Vessels owned by the United
25 States, a state, or subdivision thereof shall be exempted from the tolls
26 authorized by this section.

27 S 63. Section 104 of the canal law, as amended by chapter 335 of the
28 laws of 2001, is amended to read as follows:

29 S 104. Use of dry docks for repairs. The [corporation] COMMISSIONER
30 may grant permission to owners of vessels operating upon the canals to
31 use the state dry docks to the extent space is not required for the
32 needs of canal maintenance vessels, and the [corporation] COMMISSIONER
33 shall collect from such owners equitable charges for the use thereof.
34 All sums collected for such use shall be paid into the canal fund.

35 S 64. Section 112 of the canal law, as amended by chapter 335 of the
36 laws of 2001, is amended to read as follows:

37 S 112. Exemption of canal officers from arrest in civil actions.
38 Neither the [corporation] COMMISSIONER, THE DEPARTMENT, nor any officer
39 or responsible employee in the [corporation] DEPARTMENT in charge of
40 canal structures or forces thereof, or other public officer employed
41 upon or in charge of the canal system or part thereof shall be liable to
42 arrest or to be held to bail in any civil action for any act done or
43 omitted to be done by it in the exercise of its official duties, nor be
44 subject to military duty while actually engaged in their respective
45 employments upon the canal system while the same is navigable.

46 S 65. Section 113 of the canal law, as amended by chapter 335 of the
47 laws of 2001, is amended to read as follows:

48 S 113. Delivery of property on discharge of employees. Every person
49 employed upon the canal system and occupying any house, office, build-
50 ing, or land belonging thereto, who is discharged from his OR HER
51 employment or otherwise separated from the service, and the spouse and
52 family of every such person, shall deliver to the [corporation or a
53 person designated by it] COMMISSIONER OR HIS OR HER DESIGNEE, the
54 possession of the premises so occupied and of all books, papers, matters
55 or other articles and things belonging to the canal system acquired by
56 virtue of such employment, within seven days after notice is served for

1 that purpose by the [corporation] COMMISSIONER. In case of a refusal or
2 neglect to make such delivery, any court of competent jurisdiction in
3 the county where such premises are situate, may, on application, issue a
4 warrant ordering any peace officer, when acting pursuant to his OR HER
5 special duties, or police officer, with such assistance as may be neces-
6 sary, to enter, in the daytime, upon the premises so occupied and remove
7 therefrom all persons found in possession thereof, and to take into his
8 OR HER custody all books, papers, articles and things there found
9 belonging to the canal system, and deliver the same to the [corporation
10 or to some person designated by it] COMMISSIONER OR HIS OR HER DESIGNEE,
11 and such officer shall execute such warrant accordingly.

12 S 66. Section 114 of the canal law, as amended by chapter 335 of the
13 laws of 2001, is amended to read as follows:

14 S 114. Functions, powers or duties imposed upon officers or employees
15 by statutory name. Whenever a function, power or duty is imposed upon
16 the [corporation] COMMISSIONER OR DEPARTMENT, and an officer or employ-
17 ee, or a group or class thereof is designated in this chapter by a stat-
18 utory or specific title or name to exercise such function or power or
19 perform such duty, the exercise or performance thereof shall be deemed
20 to be imposed upon the officer or employee in such [corporation] DEPART-
21 MENT who shall be assigned thereto by such [corporation] DEPARTMENT,
22 with the same force and effect, and such [corporation] DEPARTMENT may
23 make such assignment as though no statutory or specific title or name
24 had been used in this chapter to designate the particular officer or
25 employee or group or class thereof charged with the exercise of such
26 function or power, or the performance of such duty.

27 S 67. Section 120 of the canal law, as amended by chapter 335 of the
28 laws of 2001, is amended to read as follows:

29 S 120. Claims for damage generally. There shall be allowed and paid to
30 every person sustaining damages from the canals or from their use or
31 management, or resulting or arising from the neglect or conduct of any
32 officer of the state [or the corporation] having charge thereof, or
33 resulting or arising from any accident, or other matter or thing
34 connected with the canals, the amount of such damages to be ascertained
35 and determined by the proper action or proceedings before the court of
36 claims, but no judgment shall be awarded by such court for such damages
37 in any case unless the facts provided therein make out a case which
38 would create a legal liability against the state [or the corporation,]
39 were the same established in evidence in a court of justice against an
40 individual or corporation; but the [corporation] COMMISSIONER may make
41 settlement of any such claim in any case where the amount thereof does
42 not exceed the sum of five hundred dollars but no settlement shall be
43 effective against the state [including the corporation] until the same
44 has been approved by the attorney-general; provided that the provisions
45 of this section shall not extend to claims arising from damages result-
46 ing from the navigation of canals, and further provided that the
47 provisions herein relating to damages resulting from navigation of the
48 canals shall control notwithstanding any contrary or inconsistent
49 provisions of any other law, general or special. The [corporation]
50 COMMISSIONER shall not pay any damages awarded, or the amount of any
51 commutations agreed on for the appropriation of land or water, or for
52 the erection of a farm bridge, until a satisfactory abstract of title
53 and certificate of search as to encumbrances is furnished, showing the
54 person demanding such damages or commutations to be legally entitled
55 thereto, which abstract and search shall be filed in the [office of the
56 corporation] DEPARTMENT.

1 S 68. Section 121 of the canal law, as amended by chapter 335 of the
2 laws of 2001, is amended to read as follows:

3 S 121. Adjustment of claims of owners of private dams. Whenever the
4 state [including the corporation] in the course of the construction of
5 the improved canals in the rivers or waterways of the state, for the
6 purpose of obtaining a sufficient depth or supply of water for canal
7 purposes, has utilized private dams theretofore lawfully constructed or
8 maintained, in such a manner as to constitute the same an essential part
9 or portion of the improved canals, the [corporation] COMMISSIONER may
10 compromise, settle and adjust the claims and demands of the owners of
11 any such dams on such terms and conditions, including the payment to the
12 owners of any such dams of such sums of money as to [it] HIM OR HER may
13 seem just and proper, and, by contract or otherwise, make proper
14 provision with respect to the ownership of and for the maintenance and
15 upkeep of any such dams, provided, however, that [it] HE OR SHE shall
16 not sell, transfer or convey to any such owner any right, title or
17 interest in or to the use of any part or portion of the water impounded
18 by such dams.

19 S 69. Section 130 of the canal law, as amended by chapter 335 of the
20 laws of 2001, is amended to read as follows:

21 S 130. Operation of hydro-electric plants at Crescent and Vischer
22 Ferry. The [corporation] COMMISSIONER shall have charge of the hydro-e-
23 lectric plants constructed pursuant to chapter five hundred thirty-two
24 of the laws of nineteen hundred twenty-two for the development and
25 generation into electric energy of water power available at the struc-
26 tures known as the Crescent and Vischer Ferry dams located on the canal-
27 ized Mohawk river between the city of Schenectady and the village of
28 Waterford, and shall exercise the same powers over such structures as
29 [it] HE OR SHE has over other structures on the canal system. The said
30 structures shall be maintained and operated as a part of the canal
31 system.

32 Notwithstanding any general or special law to the contrary, the
33 [corporation] COMMISSIONER, upon the approval of the state comptroller,
34 and the division of the budget, is authorized to enter into a negotiated
35 contract for the sale of surplus electricity produced at the Crescent
36 and Vischer Ferry dams, upon such terms and conditions as are beneficial
37 to the state [including the corporation]. Any revenue realized from the
38 sale of such surplus electricity shall be deposited into the canal fund.

39 S 70. Section 131 of the canal law, as amended by chapter 335 of the
40 laws of 2001, is amended to read as follows:

41 S 131. Emergency repairs. When, in the opinion of the [corporation]
42 COMMISSIONER, an emergency exists endangering the canal system the
43 [corporation] COMMISSIONER may seize any lands, equipment, materials or
44 supplies necessary to avert such damage or to restore the banks or other
45 property which may be threatened or have been damaged. [It] THE COMMIS-
46 SIONER may subsequently return or otherwise dispose of such lands,
47 equipment, materials or supplies so seized which may be no longer
48 required in such manner and upon such terms as in [its] HIS OR HER judg-
49 ment will be for the best interest of the state [including the corpo-
50 ration]. [It] THE COMMISSIONER may enter into an agreement with the
51 owner or owners of any property seized for such emergency repairs under
52 this section covering the amount of damages sustained. Such agreement,
53 when approved by the attorney-general, shall become an obligation of the
54 [corporation] DEPARTMENT and paid from moneys available therefor. In
55 case no agreement is consummated, the amount of damages sustained may be
56 determined as provided in section one hundred twenty of this chapter.

1 S 71. Section 132 of the canal law, as amended by chapter 335 of the
2 laws of 2001, is amended to read as follows:

3 S 132. Investigate matters relating to the canal system; immunity of
4 witnesses. 1. The [corporation] COMMISSIONER may, whenever [the corpo-
5 ration] HE OR SHE shall deem it necessary, to effectively accomplish the
6 purposes of this chapter, investigate any or all matters and trans-
7 actions connected with or relating to the canal system. The [corpo-
8 ration] COMMISSIONER shall hear and take proofs in regard to any matter
9 pending before [it] HIM OR HER or which [it] HE OR SHE is authorized to
10 examine or investigate. [It] THE COMMISSIONER shall have power to inves-
11 tigate into the official conduct of any subordinate officer or employee
12 and shall have the power to issue subpoenas for and require the attend-
13 ance of witnesses and the production of all books and papers relating to
14 any matter under inquiry. All such subpoenas shall be issued under the
15 hand and seal of the [corporation] COMMISSIONER. A subpoena issued under
16 this section shall be regulated by the civil practice law and rules. The
17 testimony of witnesses in any such proceedings shall be under oath and
18 the state officer instituting the proceedings shall have power to admin-
19 ister oaths. A witness may have counsel and his OR HER examination by
20 such counsel shall be reduced in writing as part of his OR HER deposi-
21 tion.

22 2. In any investigation under this article, the [corporation] COMMIS-
23 SIONER may confer immunity in accordance with the provisions of section
24 50.20 of the criminal procedure law.

25 3. All evidence taken under this section shall be filed with the
26 attorney-general. The expenses incurred in such investigation shall be
27 paid from the canal fund.

28 S 72. Section 133 of the canal law, as amended by chapter 335 of the
29 laws of 2001, is amended to read as follows:

30 S 133. Impose penalties and power to remit. The [corporation] COMMIS-
31 SIONER may, in [its] HIS OR HER discretion, remit either absolutely, or
32 on such conditions as [it] HE OR SHE shall prescribe, any forfeiture
33 incurred by a violation of any provision of this chapter, or any of the
34 rules and regulations established by [it] HIM OR HER, on the written
35 petition of the person liable for the forfeiture, with due proof of the
36 facts on which the application for the remission is founded, which peti-
37 tion and proof and the order thereon shall be filed and preserved in the
38 office of the department of audit and control.

39 S 73. Section 134 of the canal law, as amended by chapter 335 of the
40 laws of 2001, is amended to read as follows:

41 S 134. Actions for penalties. All actions for penalties and forfei-
42 tures imposed in this chapter, or for damages, on behalf of the state
43 [including the corporation,] shall be prosecuted in the name of the
44 [corporation] COMMISSIONER OR DEPARTMENT, by the [corporation] DEPART-
45 MENT, unless otherwise specifically provided. All money recovered in
46 such actions shall be accounted for and paid into the canal fund. The
47 imposition or recovery of any such penalty or forfeiture shall not be a
48 bar to recovery of any damages resulting to the [corporation] COMMIS-
49 SIONER OR DEPARTMENT or any person, because of such violation.

50 S 74. Paragraph a of subdivision 1 and subdivision 2 of section 138-a
51 of the canal law, paragraph a of subdivision 1 as amended by chapter 243
52 of the laws of 1993, and subdivision 2 as added by chapter 766 of the
53 laws of 1992, are amended to read as follows:

54 a. the [chairman of the authority, the] commissioner [of transporta-
55 tion], the commissioner of the office of parks, recreation and historic

1 preservation and the commissioner of environmental conservation, or
2 their representatives;

3 2. The chairperson of the commission shall be the [chairman of the
4 authority] COMMISSIONER. The members of the commission may elect a
5 secretary and other necessary officers to serve for such a period as the
6 members shall decide.

7 S 75. Section 138-b of the canal law, as amended by chapter 335 of the
8 laws of 2001, is amended to read as follows:

9 S 138-b. Functions, powers and duties. The commission shall:

10 1. Develop, maintain and periodically revise a statewide canal recrea-
11 tionway plan (hereinafter referred to as the "plan") for the canal
12 system. Such plan shall be developed in accordance with the provisions
13 of section one hundred thirty-eight-c of this article and shall be
14 submitted to the [authority] DEPARTMENT for its consideration no later
15 than the first day of June, nineteen hundred ninety-four.

16 2. Solicit input from counties intersecting or bordering the canal
17 system and incorporate it to the greatest degree practicable in the
18 development of the plan. In order to facilitate such incorporation
19 commission members representing each of the regional planning boards
20 shall request from and provide assistance to each county it represents
21 in the preparation of a county canal plan. Multi-county canal plans may
22 be requested by the regional planning board representative, as deemed
23 appropriate, in lieu of individual county canal plans. In a region where
24 a regional planning board does not exist, the commission shall solicit
25 county canal plans from each of the chief executive officers of those
26 counties outside the jurisdiction of a regional planning board. The
27 commission shall prescribe uniform guidelines concerning the format of
28 plans to be used by the regional planning board representatives to
29 assist counties in the preparation of county canal plans. The regional
30 planning board representative shall encourage the development of county
31 canal plans that reflect participation by diverse local interests by
32 seeking advice, to the extent possible, from individuals and organiza-
33 tions from such counties with an interest in recreation, hunting and
34 fishing, the environment, canal related tourism businesses, historic
35 preservation and commercial development along the canal. In order to be
36 considered in the formulation of the plan, county canal plans must be
37 submitted to the commission not later than the first day of June, nine-
38 teen hundred ninety-three.

39 3. Ensure public comment on the plan, including at least three public
40 hearings on the plan prior to submission of the plan to the [authority]
41 DEPARTMENT. The commission may also hold hearings on other matters it
42 deems appropriate.

43 4. If deemed appropriate, request that studies, surveys or analyses be
44 performed by the [corporation, the] departments of transportation,
45 economic development and environmental conservation and/or the office of
46 parks, recreation and historic preservation to assist in the develop-
47 ment, promotion, marketing and/or preservation of the canal system or
48 the preparation of the plan. At the request of the commission, state
49 agencies and public authorities shall cooperate fully and shall provide
50 requested information in a timely manner.

51 5. Advise and assist the [corporation] DEPARTMENT in carrying out its
52 duties and obligations related to the canal in the following manner:

53 a. evaluate and make recommendations for new operational, maintenance
54 and capital initiatives or projects to enhance the canal;

55 b. establish criteria and procedures for the review by the commission
56 for consistency with the canal recreationway plan of abandonments of

1 canal lands, canal terminals and canal terminal lands, and leases of
2 canal lands, canal terminals, and canal terminal lands proposed by the
3 [corporation] COMMISSIONER pursuant to article six-A of this chapter;
4 provided, however, that where local zoning laws and zoning ordinances
5 are in effect on lands proposed to be leased or on lands adjacent to
6 those lands proposed to be leased such review shall include, to the
7 extent practicable, the consideration of the compatibility of such leas-
8 es with the requirements of such local zoning laws and zoning ordi-
9 nances; and provided further that the commission may determine that
10 certain categories of leases do not require review;

11 c. submit to the [corporation] COMMISSIONER, the director of the budg-
12 et and the chairpersons of the senate finance committee and the assembly
13 ways and means committee, on the first day of October, nineteen hundred
14 ninety-two, and on or before the first day of August in each year there-
15 after, a budget request for the operations of the commission. Such
16 request shall include provisions for staff services and other adminis-
17 trative assistance as deemed necessary by the commission to perform its
18 functions and meet its responsibilities during the next calendar year.
19 The [corporation] DEPARTMENT shall provide staff services to the commis-
20 sion and such other administrative assistance as may be necessary for
21 the commission to carry out its functions, powers and duties;

22 d. submit to the [corporation] COMMISSIONER, the director of the budg-
23 et and the chairpersons of the senate finance committee and the assembly
24 ways and means committee, on the first day of October, nineteen hundred
25 ninety-two, and on or before the first day of August in each year there-
26 after, a budget request for the expenditure of funds available from the
27 canal fund, for the purposes established by section ninety-two-u of the
28 state finance law. Submissions made during the initial years shall give
29 funding priority for expenditures related to the development and/or
30 promotion of the canal system;

31 e. undertake a comprehensive study of alternative waterway and canal
32 toll and fee structures, including but not limited to, a comparative
33 analysis of other existing waterway and canal systems, the impact of
34 various toll and fee structures on recreational use, tourism, and
35 commercial activity; and the revenue implications for each of these
36 alternatives. The commission shall make recommendations to the [authori-
37 ty] COMMISSIONER by the first day of April, nineteen hundred ninety-
38 three, on appropriate tolls and fees to be charged for the use of the
39 canal system and shall provide an update on the implementation of such
40 recommendations by the first day of April, nineteen hundred ninety-five;
41 and

42 f. utilize information provided by the [authority] DEPARTMENT and
43 other state agencies and departments, pursuant to section ten of this
44 chapter, surveying canal lands within the Adirondack park and studying
45 current land uses, to make recommendations to the authority, no later
46 than the first day of June, nineteen hundred ninety-four, concerning the
47 future use of canal lands within the Adirondack park, including but not
48 limited to the utilization of existing properties under revocable
49 permits; and the identification of any property not needed for canal
50 purposes that may be transferred to the department of environmental
51 conservation.

52 6. Establish committees as it deems appropriate on matters relating to
53 the commission's functions, powers and duties; such committees shall be
54 chaired by a commission member but may include persons not members of
55 the commission who provide expertise of interest specific to the charge
56 of such committee.

1 a. the commission shall create a temporary committee which shall
2 include the commissioner of the department of economic development and
3 the commissioner of the office of parks, recreation and historic preser-
4 vation or their representatives and others with appropriate expertise to
5 identify opportunities for achieving the economic development potential
6 of the recreationway and to make recommendations for specific implemen-
7 tation of these opportunities, including recommendations for marketing
8 and promotion designed to attract tourists.

9 b. the commission shall create a temporary committee, which may
10 include appropriately accredited professionals, to assess and report to
11 the [authority] COMMISSIONER on issues associated with managing the
12 waters of the canal system, including issues relating to recreational
13 use, habitats and flood prone areas.

14 7. Report on or before March thirty-first of each year commencing
15 nineteen hundred ninety-four to the [corporation] COMMISSIONER, the
16 governor, the temporary president of the senate and the speaker of the
17 assembly on the activities of the commission with respect to the func-
18 tions, powers and duties established in this section.

19 S 76. Section 138-c of the canal law, as amended by chapter 335 of the
20 laws of 2001, is amended to read as follows:

21 S 138-c. Canal recreationway plan. 1. The commission shall, in accord-
22 ance with the provisions of section one hundred thirty-eight-b of this
23 article, formulate a statewide canal recreationway plan for the canal
24 system that is based upon the inventory prepared pursuant to subdivision
25 twenty-three of section ten of this chapter and that is consistent with
26 the land use concepts contained in the state land acquisition plan
27 prepared pursuant to section 49-0207 of the environmental conservation
28 law and in the statewide comprehensive outdoor recreation plan prepared
29 pursuant to section 3.15 of the parks, recreation and historic preserva-
30 tion law. The plan shall include, but not be limited to:

31 a. criteria for uses of the canal system which will effectuate the
32 goal and objective of developing the canal into a recreationway system;

33 b. provisions for fostering a canal system characterized by clusters
34 of development connected by stretches of undeveloped open space in areas
35 between cities, villages and hamlets which will be conducive to the
36 preservation of waterfowl, fish and wildlife habitats;

37 c. provisions for the consideration of environmental resources,
38 including lands which possess significance for wildlife management,
39 recreation or natural resource protection purposes and significant
40 freshwater wetlands;

41 d. provisions which protect the public interest in such lands and
42 waters for purposes of commerce, navigation, fishing, hunting, bathing,
43 recreation and access to the lands and waters of the state, and other-
44 wise encourage increased public access to the canal through the estab-
45 lishment of parks, scenic by ways and recreational trails on the canal
46 system. Such provisions shall ensure the public safety;

47 e. provisions to protect agricultural uses of canal land and waters;

48 f. provisions for appropriate development of businesses in appropriate
49 locations which will support outdoor recreation activities;

50 g. provisions which give guidance to the [authority] DEPARTMENT with
51 respect to managing water levels in reservoirs to provide water to the
52 canal system and retain water for recreational purposes;

53 h. provisions to protect commercial shipping interests on the canal
54 system; and

55 i. provisions for the consideration of historic buildings, sites and
56 districts.

1 2. The plan shall establish goals and objectives with respect to
2 implementation, with provision for amendment of the plan to reflect
3 changing conditions.

4 3. a. The [corporation] COMMISSIONER shall act upon the plan submitted
5 by the commission within four months after its submission and shall
6 approve such plan unless [it] HE OR SHE finds that the plan, or any part
7 thereof: (i) is not financially or operationally feasible; (ii) would
8 violate any federal or state law, rule or regulation; (iii) violates
9 agreements with noteholders or bondholders [of the authority]; (iv)
10 interferes with existing contracts; or (v) is inconsistent with the
11 findings of the generic environmental impact statement undertaken pursu-
12 ant to section three hundred eighty-two of the public authorities law.

13 b. In the event that the [corporation] COMMISSIONER finds that the
14 plan cannot be approved in its entirety, [it] HE OR SHE may approve such
15 portions of the plan as [it] HE OR SHE deems appropriate, and shall
16 recommend changes to the remaining portions of the plan to the commis-
17 sion. The commission shall then have three months in which to consider
18 the recommendations of the [corporation] COMMISSIONER and submit a
19 revised plan or portions thereof to the [corporation] COMMISSIONER.

20 c. Upon the approval of the plan or a portion of the plan as provided
21 in this section, the [corporation] COMMISSIONER shall deliver within ten
22 days a copy of the plan or portion of the plan to the governor, the
23 temporary president of the senate and the speaker of the assembly, with
24 a dated notice of such approval.

25 S 77. Paragraph (i) of subdivision 1 of section 19 of the public offi-
26 cers law, as added by chapter 115 of the laws of 2000, is amended to
27 read as follows:

28 (i) For purposes of this section, the term "employee" shall include
29 directors, officers and employees of the thruway authority [and its
30 subsidiary, the canal corporation]. In those cases where the definition
31 of the term "employee" provided in this paragraph is applicable, the
32 term "state", as utilized in subdivisions two, three, and four of this
33 section, shall mean the thruway authority when the employee is a direc-
34 tor, officer, or employee of the thruway authority[, or its subsidiary,
35 the canal corporation, when the employee is a director, officer, or
36 employee of the canal corporation].

37 S 78. The opening paragraph of subdivision 1 and subdivision 2 of
38 section 209-a of the state finance law, as amended by chapter 138 of the
39 laws of 1997, are amended to read as follows:

40 Notwithstanding any other law, rule or regulation to the contrary,
41 where, and to the extent that, an agreement between the state [or the
42 New York state canal corporation] and an employee organization entered
43 into pursuant to article fourteen of the civil service law on behalf of
44 employees in a collective negotiating unit established pursuant to arti-
45 cle fourteen of the civil service law provides for the payment of a
46 supplement to the workers' compensation award, such supplement shall be
47 paid in accordance with such agreement. Officers and employees serving
48 in positions in the executive branch which are designated managerial or
49 confidential pursuant to article fourteen of the civil service law,
50 civilian state employees of the division of military and naval affairs
51 of the executive department whose positions are not in, or are excluded
52 from representation rights in any recognized or certified negotiating
53 unit, those excluded from representation rights under article fourteen
54 of the civil service law pursuant to rules and regulations of the public
55 employment relations board and officers and employees of the legislature
56 shall receive a supplement to the workers' compensation award provided,

1 however, that officers and employees serving in positions in the execu-
2 tive branch which are designated managerial or confidential pursuant to
3 article fourteen of the civil service law, civilian state employees of
4 the division of military and naval affairs of the executive department
5 whose positions are not in, or are excluded from representation rights
6 in any recognized or certified negotiating unit and those excluded from
7 representation rights under article fourteen of the civil service law
8 pursuant to rules and regulations of the public employment relations
9 board shall receive such supplement only with respect to an absence
10 resulting from an occupational injury or disease occurring on or before
11 June thirtieth, nineteen hundred ninety-two. Such supplement shall be
12 paid in accordance with rules and regulations to be promulgated by the
13 president of the civil service commission.

14 2. Notwithstanding any other law, rule or regulation to the contrary,
15 where, and to the extent that, an agreement between the state [or the
16 New York state canal corporation] and an employee organization entered
17 into pursuant to article fourteen of the civil service law on behalf of
18 employees in a collective negotiating unit established pursuant to arti-
19 cle fourteen of the civil service law so provides, an employee placed on
20 an authorized leave without pay during the course of an absence result-
21 ing from an occupational injury or disease found to be compensable by
22 the workers' compensation board shall be deemed to be on the payroll at
23 such employee's prevailing rate of annual compensation for the purpose
24 of retirement credit and employer contributions to the retirement
25 system. Officers and employees serving in positions in the executive
26 branch which are designated managerial or confidential pursuant to arti-
27 cle fourteen of the civil service law, civilian state employees of the
28 division of military and naval affairs of the executive department whose
29 positions are not in, or are excluded from representation rights in any
30 recognized or certified negotiating unit and those excluded from repre-
31 sentation rights under article fourteen of the civil service law pursu-
32 ant to rules and regulations of the public employment relations board
33 who are placed on an authorized leave without pay during the course of
34 an absence resulting from an occupational injury or disease found to be
35 compensable by the workers' compensation board occurring on or after
36 July first, nineteen hundred ninety-two, shall be deemed to be on the
37 payroll at such officer's or employee's prevailing rate of compensation
38 for the purpose of retirement credit and employer contributions to the
39 retirement system. Any employee contribution relating to the retirement
40 credit provided by this subdivision shall be paid directly by such
41 employee to the retirement system pursuant to the rules and regulations
42 of the comptroller. The retirement credit provided by this subdivision
43 shall only apply to a period of authorized leave without pay occurring
44 during the first twelve months of absence related to such occupational
45 injury or disease.

46 S 79. Section 30 of the navigation law, as amended by chapter 486 of
47 the laws of 2003, is amended to read as follows:

48 S 30. Navigation, jurisdiction over. The commissioner shall have
49 jurisdiction over navigation on the navigable waters of the state and,
50 except as otherwise provided, shall enforce the provisions of this chap-
51 ter and the regulations established thereunder. As a guide to the inter-
52 pretation and application of this article, nothing authorized [here-
53 under] IN THIS SECTION shall be construed to convey any property rights,
54 either in real estate or material, or any exclusive privilege; nor
55 authorize any injury to private property or invasion of private rights
56 or any infringement of federal, state or local laws or regulations, but

1 shall express the assent of the state so far as it concerns the public
2 rights of navigation. Nothing contained in this section shall be
3 construed to limit, impair or affect the general powers and duties of
4 the [canal corporation] COMMISSIONER OF TRANSPORTATION OR DEPARTMENT OF
5 TRANSPORTATION relating to canals as set forth in section ten of the
6 canal law.

7 S 80. Subdivision 2 of section 45-cc of the navigation law, as added
8 by chapter 486 of the laws of 2003, is amended to read as follows:

9 2. Notwithstanding any other provisions of this chapter or any incon-
10 sistent local laws, no vessel shall be operated on such canal system
11 within one hundred feet of the shore, a dock, pier, raft, float or an
12 anchored or moored vessel at a speed exceeding five miles per hour,
13 unless such vessel is being operated near such shore, dock, float, pier,
14 raft, or anchored vessel for the purpose of enabling a person engaged in
15 water skiing to take off or land, and except in those areas where the
16 [canal corporation] COMMISSIONER OF TRANSPORTATION has established a
17 different speed by rule and regulation pursuant to the canal law. A
18 violation of this subdivision or any applicable rules and regulations
19 shall be a violation punishable as set forth in section seventy-three-c
20 of this article.

21 S 81. Article 21 of the transportation law is REPEALED.

22 S 82. Paragraph 2 of subdivision (a) of section 168 of the economic
23 development law, as amended by chapter 33 of the laws of 2006, is
24 amended to read as follows:

25 (2) the chairman or his or her designated representative of the New
26 York state thruway authority, the New York power authority, and the
27 tourism advisory council, the New York state council on the arts, [the
28 canal corporation,] the canal recreationway commission, the Olympic
29 regional development authority, and the Hudson River park trust;

30 S 83. Subdivision 1 of section 9-1705 of the environmental conserva-
31 tion law, as added by chapter 674 of the laws of 2007, is amended to
32 read as follows:

33 1. There is hereby established the New York invasive species council.
34 Such council shall consist of a total of [nine] EIGHT members and shall
35 include the commissioner, the commissioners of agriculture and markets,
36 transportation, parks, recreation and historic preservation, education,
37 the secretary of state, the chairperson of the New York state thruway
38 authority, [the director of the New York state canal corporation,] and
39 the chairperson of the Adirondack Park agency, or a designee of such
40 department, agency or public authority.

41 S 84. Subdivision 1 of section 73-0105 of the environmental conserva-
42 tion law, as amended by chapter 336 of the laws of 2008, is amended to
43 read as follows:

44 1. The task force shall consist of [fourteen] THIRTEEN members; [nine]
45 EIGHT of whom shall be the [director of the canal corporation,] commis-
46 sioner of the department of environmental conservation, the secretary of
47 state, the commissioner of transportation, the director of the state
48 emergency management office, the commissioner of parks, recreation and
49 historic preservation, the commissioner of agriculture and markets, the
50 chairman of the power authority of the state of New York and the commis-
51 sioner of economic development or designee; and five additional members
52 who shall be from outside the public offices listed in this section and
53 who shall have professional experience in the fields of hydrology, civil
54 engineering, climatology, emergency management and soil and water
55 conservation. The governor shall appoint three of the five additional

members and the temporary president of the senate and speaker of the assembly shall each appoint one of each of the five additional members.

S 85. Subdivision 3 of section 73-0107 of the environmental conservation law, as added by chapter 456 of the laws of 2007, is amended to read as follows:

3. The department and the [canal corporation] DEPARTMENT OF TRANSPORTATION shall provide the task force with such facilities, assistance and data as will enable the task force to carry out its powers and duties. Additionally, all other agencies of the state or subdivisions thereof shall, at the request of the chair provide the task force with such facilities, assistance, and data as will enable the task force to carry out its powers and duties.

S 86. Subdivision 1 of section 37.05 of the parks, recreation and historic preservation law, as amended by chapter 64 of the laws of 2000, is amended to read as follows:

1. The Mohawk Valley heritage corridor commission is hereby established to be a body corporate and politic constituting a public benefit corporation and to consist of up to seventeen voting members who shall reside within the heritage corridor. One member each shall be appointed by the chief elected official from each of the counties of Albany, Schenectady, Montgomery, Schoharie, Herkimer, Fulton, Saratoga and Oneida. The legislative body of each city, town and village in such counties may recommend prospective appointees to its respective county. The Capital District Regional Planning Commission and the Oneida/Herkimer Counties Comprehensive Planning Program each may designate a representative to participate as non-voting members of the commission. The remaining nine members shall be appointed as follows: two members shall be appointed by the temporary president of the senate; two members shall be appointed by the speaker of the assembly; one member shall be appointed by the minority leader of the senate; one member shall be appointed by the minority leader of the assembly; three members shall be appointed by the governor, at least one of whom shall be the chief elected official of a city, town or village located in whole or in part within the Mohawk Valley area. The commission may increase the number of its members by one, to reach a total of eighteen members, to provide for representation of a Native American Indian nation with federal and/or state legal recognition who resides in the Mohawk Valley. All persons responsible for appointing members of the commission shall be mindful of the importance of assuring adequate representation on the commission of the interests of various municipal entities, conservationists, business owners and operators, tourism promotion agencies, persons engaged in agricultural pursuits, minorities and educators, and persons having an interest and experience with at least one of the four heritage area goals of preservation, recreation, education, and economic development. The commissioner, the commissioner of economic development, the commissioner of agriculture and markets, the commissioner of environmental conservation, THE COMMISSIONER OF TRANSPORTATION, the chairman of the New York state thruway authority [and canal corporation] and other members of the New York state heritage areas advisory council, or their representatives, and the mayors, supervisors or other chief elected officer of any city, town, or village located in whole or part in the Mohawk Valley area may participate in commission meetings as non-voting members and shall receive notice of all commission meetings. Appointment to the commission shall be filed with the commissioner who shall convene the first meeting of the commission following the commissioner's approval of the management plan and the filing of a majority of the appointments.

1 S 87. Paragraph 1 of subdivision j of section 41 of the retirement and
2 social security law, as amended by chapter 18 of the laws of 2012, is
3 amended to read as follows:

4 1. In addition to any other service credit to which he or she is enti-
5 tled, a member who meets the requirements set forth in paragraphs two
6 and three of this subdivision shall be granted one day of additional
7 service credit for each day of accumulated unused sick leave which he or
8 she has at time of retirement for service, but such credit shall not (a)
9 exceed one hundred sixty-five days, (b) be considered in meeting any
10 service or age requirements prescribed in this chapter, and (c) be
11 considered in computing final average salary. However, for an executive
12 branch member designated managerial or confidential pursuant to article
13 fourteen of the civil service law or in the collective negotiating units
14 established by article fourteen of the civil service law designated the
15 professional, scientific and technical services unit, the rent regu-
16 lation services negotiating unit, the security services negotiating
17 unit, the security supervisors negotiating unit, the state university
18 professional services negotiating unit, the administrative services
19 negotiating unit, the institutional services negotiating unit, the oper-
20 ational services negotiating unit and the division of military and naval
21 affairs negotiating unit such service credit limitation provided in
22 subparagraph (a) of this paragraph shall not exceed two hundred days.
23 For a nonjudicial officer or employee of the unified court system not in
24 a collective negotiating unit or in a collective negotiating unit speci-
25 fied in section one of chapter two hundred three of the laws of two
26 thousand four, for employees of the New York state dormitory authority,
27 for employees of the New York state thruway authority, [the New York
28 state canal corporation] and the state university construction fund and
29 for employees of the New York liquidation bureau such service credit
30 limitation provided in subparagraph (a) of this paragraph shall not
31 exceed two hundred days. For members who first become members of a
32 public retirement system of the state on or after April first, two thou-
33 sand twelve, such credit shall not exceed one hundred days.

34 S 88. Subdivisions 10 and 12 of section 351 of the public authorities
35 law, subdivision 10 as added by chapter 766 of the laws of 1992 and
36 subdivision 12 as amended by chapter 583 of the laws of 1993, are
37 amended to read as follows:

38 10. The term "New York state canal system" shall mean all of the
39 canals, canal lands, feeder canals, reservoirs, canal terminals, canal
40 terminal lands and other property under the jurisdiction of the [author-
41 ity] DEPARTMENT OF TRANSPORTATION pursuant to article one-A of the canal
42 law.

43 12. The term "thruway system" shall mean: (a) the thruway; AND (b) the
44 [New York state canal system; and (c) the] Tappan Zee ferry service.

45 S 89. Subdivision 13 of section 351 of the public authorities law is
46 REPEALED.

47 S 90. Subdivision 10 of section 354 of the public authorities law, as
48 amended by chapter 766 of the laws of 1992, is amended to read as
49 follows:

50 10. To construct, reconstruct or improve on or along the thruway
51 system in the manner herein provided, suitable facilities for gas
52 stations, restaurants, and other facilities for the public, or to lease
53 the right to construct, reconstruct or improve and operate such facili-
54 ties; such facilities shall be publicly offered for leasing for opera-
55 tion, or the right to construct, reconstruct or improve and operate such
56 facilities shall be publicly offered under rules and regulations to be

1 established by the authority, provided, however, that lessees operating
2 such facilities at the time this act becomes effective, may reconstruct
3 or improve them or may construct additional like facilities, in the
4 manner and upon such terms and conditions as the board shall determine;
5 and provided further, however, that such facilities constructed, recon-
6 structed or improved on or along the canal system shall be consistent
7 with the canal recreationway plan approved pursuant to section one
8 hundred thirty-eight-c of the canal law [and section three hundred
9 eighty-two of this title];

10 S 91. Section 355 of the public authorities law, as amended by chapter
11 138 of the laws of 1997, is amended to read as follows:

12 S 355. Officers and employees; transfer, promotion and seniority. 1.
13 Officers and employees of state departments[, OR agencies[, or the
14 canal corporation] may be transferred to the authority and officers,
15 agents and employees of the authority may be transferred to state
16 departments[, OR agencies[, or the canal corporation,] without examina-
17 tion and without loss of any civil service status or rights. No such
18 transfer from the authority [or canal corporation] to any state depart-
19 ment, agency, or division may, however, be made except with the approval
20 of the head of the state department, agency, or division involved and
21 the director of the budget and in compliance with the rules and regu-
22 lations of the state civil service commission.

23 2. Promotions from positions in state departments and agencies to
24 positions in the authority [or canal corporation], and vice versa, may
25 be made from interdepartmental promotion lists resulting from promotion
26 examinations in which employees of the authority[, employees of the
27 canal corporation,] and employees of the state are eligible to partic-
28 ipate.

29 3. In computing seniority for purposes of promotion or for purposes of
30 suspension or demotion upon the abolition of positions in the service of
31 the authority or in the service of the state, in the case of an employee
32 of the authority a period of prior employment in the service of the
33 state shall be counted in the same manner as though such period of
34 employment had been in the service of the authority, and in the case of
35 an employee of the state a period of prior employment in the service of
36 the authority shall be counted in the same manner as though such period
37 of employment had been in the service of the state. For the purposes of
38 the establishment and certification of preferred lists, employees
39 suspended from the authority shall be eligible for reinstatement in the
40 service of the state, and employees suspended from the service of the
41 state shall be eligible for reinstatement in the service of the authori-
42 ty, in the same manner as though the authority were a department of the
43 state. [All provisions contained within this subdivision shall apply to
44 the canal corporation in the same manner that they apply to the authori-
45 ty.]

46 S 92. Section 357 of the public authorities law, as amended by chapter
47 766 of the laws of 1992, is amended to read as follows:

48 S 357. Right of authority to use state property; payment for improve-
49 ments. On assuming jurisdiction of a thruway highway section or
50 connection or any part thereof, or of a highway connection, [or of the
51 New York state canal system,] the authority shall have the right to
52 possess and use for its corporate purposes so long as its corporate
53 existence shall continue, any real property and rights in real property
54 theretofore acquired by the state, including all improvements thereon
55 [and state canal lands and properties; provided that the use by the

1 authority of canal lands and properties for highway purposes shall not
2 interfere with the use thereof for canal purposes].

3 S 93. Subdivision 1 of section 359 of the public authorities law, as
4 amended by chapter 766 of the laws of 1992, is amended to read as
5 follows:

6 1. On assuming jurisdiction of a thruway section or connection or any
7 part thereof, or of a highway connection, [or of the New York state
8 canal system,] the authority shall proceed with the construction, recon-
9 struction or improvement thereof. All such work shall be done pursuant
10 to a contract or contracts which shall be let to the lowest responsible
11 bidder, by sealed proposals publicly opened, after public advertisement
12 and upon such terms and conditions as the authority shall require;
13 provided, however, that the authority may reject any and all proposals
14 and may advertise for new proposals, as herein provided, if in its opin-
15 ion, the best interests of the authority will thereby be promoted;
16 provided further, however, that at the request of the authority, all or
17 any portion of such work, together with any engineering required by the
18 authority in connection therewith, shall be performed by the commission-
19 er and his OR HER subordinates in the department of transportation as
20 agents for, and at the expense of, the authority.

21 S 94. Section 359-a of the public authorities law, as added by chapter
22 140 of the laws of 2002, is amended to read as follows:

23 S 359-a. Procurement contracts. For the purposes of section twenty-
24 eight hundred seventy-nine of this chapter as applied to the authority
25 [or the canal corporation], the term "procurement contract" shall mean
26 any written agreement for the acquisition of goods or services of any
27 kind by the authority [or the canal corporation] in the actual or esti-
28 mated amount of fifteen thousand dollars or more.

29 S 95. Section 360 of the public authorities law, as amended by chapter
30 766 of the laws of 1992, is amended to read as follows:

31 S 360. Operation and maintenance. Operation and maintenance by the
32 authority of any thruway section or connection or any part thereof or of
33 a highway connection[, the New York state canal system] of which it has
34 assumed jurisdiction shall be performed (a) by the use of authority
35 forces and equipment at the expense of the authority or by agreement at
36 the expense of the state or other parties; (b) by contract with munici-
37 palities or independent contractors; (c) at the request of the authori-
38 ty, by the commissioner and his OR HER subordinates in the department of
39 transportation as agents for, and at the expense of the authority, or
40 (d) by a combination of such methods.

41 S 96. Section 362 of the public authorities law, as amended by chapter
42 766 of the laws of 1992, is amended to read as follows:

43 S 362. Assistance by state officers, departments, boards, divisions
44 and commissions. At the request of the authority, engineering and legal
45 services for such authority shall be performed by forces or officers of
46 the department of transportation and the department of law respectively,
47 and all other state officers, departments, boards, divisions and commis-
48 sions shall render services within their respective functions. At the
49 request of the authority, services in connection with the collection of
50 any charges or fees for the use of the thruway[, the New York state
51 canal system] or any part thereof may be performed by the department of
52 motor vehicles.

53 S 97. Paragraph (a) of subdivision 1 of section 365 of the public
54 authorities law, as amended by chapter 766 of the laws of 1992, is
55 amended to read as follows:

1 (a) Subject to the provisions of section three hundred sixty-six of
2 this title, the authority shall have the power and is hereby authorized
3 from time to time to issue its negotiable notes and bonds in conformity
4 with applicable provisions of the uniform commercial code in such prin-
5 cipal amount as, in the opinion of the authority, shall be necessary to
6 provide sufficient moneys for achieving the corporate purposes thereof,
7 including construction, reconstruction and improvement of the thruway
8 sections and connections, and highway connections herein described, [the
9 New York state canal system subject to the provisions of section three
10 hundred eighty-three of this title,] together with suitable facilities
11 and appurtenances, the payment of all indebtedness to the state, the
12 cost of acquisition of all real property, the expense of maintenance and
13 operation, interest on notes and bonds during construction and for a
14 reasonable period thereafter, establishment of reserves to secure notes
15 or bonds, and all other expenditures of the authority incident to and
16 necessary or convenient to carry out its corporate purposes and powers.

17 S 98. Paragraph (i) of subdivision 3 of section 365 of the public
18 authorities law, as amended by chapter 766 of the laws of 1992, is
19 amended to read as follows:

20 (i) the acquisition of jurisdiction over, and of property for, thru-
21 ways[, the New York state canal system,] and the construction, recon-
22 struction, improvement, maintenance or operation thereof;

23 S 99. Sections 382 and 383 of the public authorities law are REPEALED.

24 S 100. Paragraph e of subdivision 6 of section 2897 of the public
25 authorities law is REPEALED.

26 S 101. Subdivisions 2 and 5 of section 92-u of the state finance law,
27 subdivision 2 as added by chapter 766 of the laws of 1992 and subdivi-
28 sion 5 as amended by chapter 483 of the laws of 1996, are amended to
29 read as follows:

30 2. Such fund shall consist of all revenues received from the operation
31 of the New York state canal system as defined in section [three hundred
32 fifty-one of the public authorities law and section] two of the canal
33 law, including payments on leases for use of canal lands, terminals and
34 terminal lands, tolls received for lock and lift bridge passage,
35 payments for hydroelectric easements and sales, for purchase of other
36 abandoned canal lands, payments for any permits and leases for use of
37 the water and lands of the system and payments for use of dry docks and
38 other moneys made available to the fund from any other source [other
39 than a grant, loan or other inter-corporate transfer of funds of the New
40 York state thruway authority], and any income earned by, or incremental
41 to, the fund due to investment thereof, or any repayment of any moneys
42 advanced by the fund.

43 5. Moneys of the fund, following appropriation by the legislature,
44 shall be available to the [New York state thruway authority] DEPARTMENT
45 OF TRANSPORTATION and shall be expended by such [authority or subsidiary
46 corporation thereof] DEPARTMENT only for the maintenance, construction,
47 reconstruction, development or promotion of the canal system; provided,
48 however, that in the initial years, expenditures of moneys of the fund
49 for the development and/or promotion of the canal system shall be
50 accorded a priority by the [authority or subsidiary corporation thereof]
51 DEPARTMENT. In addition, moneys of the fund may be used for the
52 purposes of interpretive signage and promotion for appropriate histor-
53 ically significant Erie canal lands and related sites. Moneys shall be
54 paid out of the fund by the state comptroller on certificates issued by
55 the director of the budget.

1 S 102. Subdivision 1 of section 373 of the public authorities law, as
2 amended by chapter 776 of the laws of 1951, is amended to read as
3 follows:

4 1. The state does pledge to and agree with the holders of notes,
5 bonds, or other obligations of the authority not guaranteed by the state
6 that the state will not limit or alter the rights hereby vested in the
7 authority to establish and collect such fees, rentals and charges as may
8 be convenient or necessary to produce sufficient revenue to meet the
9 expense of maintenance and operation and to fulfill the terms of any
10 agreements made with the holders thereof, or in any way impair the
11 rights and remedies of such holders until such notes, bonds, and other
12 obligations, together with the interest thereon, with interest on any
13 unpaid installments of interest, and all costs and expenses in
14 connection with any action or proceedings by or on behalf of such hold-
15 ers, are fully met and discharged; PROVIDED, HOWEVER, THAT IF ANY TOLL,
16 FEE, CHARGE OR ANY COMBINATION THEREOF IMPOSED ON A VEHICLE FOR THE USE
17 OF THE THRUWAY, EXCLUDING ANY TOLLS, FEES, OR CHARGES FOR THE USE OF A
18 BRIDGE OR SET OF BRIDGES, EXCEEDS THE TOLL, FEE, CHARGE OR COMBINATION
19 THEREOF THAT SUCH VEHICLE WOULD HAVE BEEN SUBJECT TO ON THE FIRST DAY OF
20 JANUARY, TWO THOUSAND TWELVE DIVIDED BY THE NATIONAL CONSUMER PRICE
21 INDEX DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR JANUARY,
22 TWO THOUSAND TWELVE AND MULTIPLIED BY THE NATIONAL CONSUMER PRICE INDEX
23 DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE MOST RECENT
24 MONTH PUBLISHED, THEN THE ENTIRE AMOUNT THAT THE TOLL, FEE, CHARGE OR
25 COMBINATION THEREOF EXCEEDS THE AMOUNT THAT THE VEHICLE WOULD HAVE BEEN
26 SUBJECT TO ON THE FIRST DAY OF JANUARY, TWO THOUSAND THIRTEEN MUST BE
27 PLACED IN A SEPARATE FUND IN ACCORDANCE WITH SUCH REQUIREMENTS AS THE
28 STATE COMPTROLLER MAY PRESCRIBE. THE AUTHORITY SHALL USE SUCH FUNDS AND
29 ANY INTEREST EARNED THEREON TO PAY INSTALLMENTS ON NOTES, BONDS OR OTHER
30 OBLIGATIONS DUE BEFORE THE END OF THE CURRENT CALENDAR YEAR OR TO
31 PURCHASE NOTES, BONDS OR OTHER OBLIGATIONS OF THE AUTHORITY ISSUED AT
32 LEAST TWO YEARS PRIOR AND NOT GUARANTEED BY THE STATE, WHICH SHALL THERE-
33 UPON BE CANCELLED, AT A PRICE NOT EXCEEDING (A) IF THE NOTES OR BONDS
34 ARE THEN REDEEMABLE, THE REDEMPTION PRICE THEN APPLICABLE PLUS ACCRUED
35 INTEREST TO THE NEXT INTEREST PAYMENT DATE THEREON, OR (B) IF THE NOTES
36 OR BONDS ARE NOT THEN REDEEMABLE, THE REDEMPTION PRICE APPLICABLE ON THE
37 FIRST DATE AFTER SUCH PURCHASE UPON WHICH THE NOTES OR BONDS BECOME
38 SUBJECT TO REDEMPTION PLUS ACCRUED INTEREST TO SAID DATE. THE AUTHORITY
39 SHALL MAKE A GOOD FAITH EFFORT TO EXHAUST SUCH FUND BY THE LAST DAY OF
40 DECEMBER EACH YEAR.

41 S 103. (a) Notwithstanding any other provision of law to the contrary,
42 all employees of the New York state canal corporation, as constituted
43 pursuant to chapter 766 of the laws of 1992, as a subsidiary of the New
44 York state thruway authority, and such other employees of the thruway
45 authority as may be mutually agreed to by the chairman of the authority
46 and the commissioner of transportation shall be transferred to the
47 department of transportation. Employees so transferred shall be trans-
48 ferred without further examination or qualification and shall retain
49 their respective civil service classification status. In addition, the
50 New York state canal corporation as constituted pursuant to chapter 766
51 of the laws of 1992 as a subsidiary of the New York state thruway
52 authority shall, for a period of two years following the effective date
53 of this act, be considered the former agency of such employees trans-
54 ferred pursuant to this section for the purposes of subdivision 8 of
55 section 73 of the public officers law.

1 (b) Any such employee who at the time of such transfer shall have been
2 in a negotiating unit represented by an employee organization which was
3 certified or recognized pursuant to article 14 of the civil service law,
4 and whose job function or duties have remained essentially the same,
5 shall continue to be represented by said employee organization, in a
6 bargaining unit within the department of transportation. Successor
7 employees to the positions held by such transferred employees in the
8 department of transportation shall, consistent with the provisions of
9 article 14 of the civil service law, be included in the same unit as
10 their predecessors. Nothing in this section shall be construed to
11 affect (i) the rights of employees pursuant to an existing or most
12 recently expired collective bargaining agreement, or (ii) existing law
13 with respect to an application by the public employment relations board
14 seeking designation by the board that certain persons are managerial or
15 confidential. Nothing in this section shall preclude changes in negoti-
16 ating units of such employees consistent with the provisions of article
17 14 of the civil service law.

18 S 104. Severability. If any clause, sentence, paragraph, section or
19 part of this act shall be adjudged by any court of competent jurisdic-
20 tion to be invalid, such judgment shall not affect, impair or invalidate
21 the remainder thereof, but shall be confined in its operation to the
22 clause, sentence, paragraph, section or part thereof directly involved
23 in the controversy in which such judgment shall have been rendered. In
24 addition, this act, being necessary for the welfare of the state and its
25 inhabitants, shall be liberally construed so as to effectuate its
26 purposes.

27 S 105. This act shall take effect two years after it shall have become
28 a law; provided, however, that effective immediately, the department of
29 transportation and the thruway authority are authorized to promulgate
30 any necessary rules, regulations and guidelines necessary for the imple-
31 mentation of this act; provided further that the amendments made to
32 sections 73-0105 and 73-0107 of the environmental conservation law by
33 sections eighty-four and eighty-five of this act shall not affect the
34 repeal of such sections as provided in section 3 of chapter 456 of the
35 laws of 2007, as amended, and shall be deemed repealed therewith;
36 provided, further, that the amendments to subdivision 1 of section 37.05
37 of the parks, recreation and historic preservation law made by section
38 eighty-six of this act shall not affect the repeal of such section and
39 shall be deemed to be repealed therewith.

40

PART EE

41 Section 1. The public service law is amended by adding a new section
42 92-g to read as follows:

43 S 92-G. DE-TARIFFING OF RETAIL SERVICES. 1. NOTWITHSTANDING ANY OTHER
44 PROVISION OF THIS CHAPTER, OR ANY REGULATION OR ORDER ISSUED BY THE
45 COMMISSION PURSUANT TO THIS CHAPTER, ON AND AFTER THE EFFECTIVE DATE OF
46 THIS SECTION, A TELEPHONE CORPORATION FURNISHING ANY SERVICES THAT WOULD
47 OTHERWISE BE SUBJECT TO THE RATE SCHEDULE REQUIREMENTS IN SECTION NINE-
48 TY-TWO OF THIS ARTICLE MAY POST ON ITS WEBSITE THE RATES, TERMS AND
49 CONDITIONS OF ANY RETAIL SERVICE IT OFFERS, RENDERS OR FURNISHES WITHIN
50 THE STATE. SECTION NINETY-TWO OF THIS ARTICLE SHALL NOT APPLY TO ANY
51 SERVICE SO POSTED, AND SUCH TELEPHONE CORPORATION SHALL NOT BE REQUIRED
52 TO FILE WITH THE COMMISSION OR OBTAIN APPROVAL OF ANY TARIFF OR SCHEDULE
53 FOR SUCH SERVICE.

2. ANY TARIFF OR SCHEDULE FOR RETAIL SERVICES FILED BY A TELEPHONE CORPORATION PRIOR TO THE EFFECTIVE DATE OF THIS SECTION MAY BE WITHDRAWN AT ANY TIME AFTER SUCH DATE UPON THIRTY DAYS NOTICE TO THE COMMISSION, BUT SHALL REMAIN IN EFFECT UNTIL SUCH WITHDRAWAL.

3. NOTHING IN THIS SECTION SHALL AFFECT THE AUTHORITY OF THE COMMISSION OVER SWITCHED ACCESS OR WHOLESALE SERVICES.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.

PART FF

Section 1. Section 33-0101 of the environmental conservation law is amended by adding a new subdivision 27-a to read as follows:

27-A. "INTEGRATED PEST MANAGEMENT" MEANS A SYSTEMATIC APPROACH TO MANAGING PESTS THAT UTILIZES A DIVERSITY OF MANAGEMENT OPTIONS TO MINIMIZE HEALTH, ENVIRONMENTAL AND ECONOMIC RISKS AND IMPACTS. THESE OPTIONS MAY INCLUDE BIOLOGICAL, CULTURAL, PHYSICAL AND CHEMICAL TOOLS TO PREVENT PEST INFESTATIONS OR REDUCE THEM TO ACCEPTABLE LEVELS.

S 2. This act shall take effect immediately.

PART GG

Section 1. Short title. This act shall be known and may be cited as the "northern New York power proceeds allocation act".

S 2. The economic development law is amended by adding a new article 6-B to read as follows:

ARTICLE 6-B

NORTHERN NEW YORK POWER PROCEEDS ALLOCATION ACT

SECTION 189-E. DEFINITIONS.

189-F. THE NORTHERN NEW YORK POWER PROCEEDS ALLOCATION BOARD.

189-G. GENERAL POWERS AND DUTIES OF THE BOARD.

189-H. RULES AND REGULATIONS.

S 189-E. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "AUTHORITY" IS THE POWER AUTHORITY OF THE STATE OF NEW YORK.

2. "BOARD" IS THE NORTHERN NEW YORK POWER PROCEEDS ALLOCATION BOARD CREATED BY THIS ARTICLE.

3. "BENEFITS" OR "FUND BENEFITS" ARE PAYMENTS TO ELIGIBLE APPLICANTS SELECTED BY THE AUTHORITY FOR THE PURPOSE OF FUNDING ELIGIBLE PROJECTS WITH MONIES DERIVED FROM NET EARNINGS THAT HAVE BEEN DEPOSITED INTO THE NORTHERN NEW YORK ECONOMIC DEVELOPMENT FUND.

4. "ELIGIBLE APPLICANT" MEANS A PRIVATE BUSINESS, INCLUDING A NOT-FOR-PROFIT CORPORATION.

5. "ELIGIBLE PROJECTS" ARE ECONOMIC DEVELOPMENT PROJECTS BY ELIGIBLE APPLICANTS THAT ARE PHYSICALLY LOCATED WITHIN THE STATE OF NEW YORK WITHIN A FORTY MILE RADIUS OF THE SAINT LAWRENCE FDR POWER PROJECT LOCATED IN MASSENA, NEW YORK THAT WILL SUPPORT THE GROWTH OF BUSINESS IN THE STATE AND THEREBY LEAD TO THE CREATION OR MAINTENANCE OF JOBS AND TAX REVENUES FOR THE STATE AND LOCAL GOVERNMENTS. ELIGIBLE PROJECTS MAY INCLUDE CAPITAL INVESTMENTS IN BUILDINGS, EQUIPMENT, AND ASSOCIATED INFRASTRUCTURE (COLLECTIVELY, "INFRASTRUCTURE") OWNED BY AN ELIGIBLE APPLICANT FOR FUND BENEFITS; TRANSPORTATION PROJECTS UNDER STATE OR FEDERALLY APPROVED PLANS; THE ACQUISITION OF LAND NEEDED FOR INFRASTRUCTURE; RESEARCH AND DEVELOPMENT WHERE THE RESULTS OF SUCH RESEARCH AND DEVELOPMENT WILL DIRECTLY BENEFIT NEW YORK STATE; SUPPORT FOR TOURISM AND MARKETING AND ADVERTISING EFFORTS FOR NORTHERN NEW YORK STATE TOUR-

ISM AND BUSINESS; AND ENERGY-RELATED PROJECTS. ELIGIBLE PROJECTS DO NOT INCLUDE, AND FUND BENEFITS MAY NOT BE USED FOR, PUBLIC INTEREST ADVERTISING OR ADVOCACY; LOBBYING; THE SUPPORT OR OPPOSITION OF ANY CANDIDATE FOR PUBLIC OFFICE; THE SUPPORT OR OPPOSITION TO ANY PUBLIC ISSUE; LEGAL FEES RELATED TO LITIGATION OF ANY KIND; EXPENSES RELATED TO ADMINISTRATIVE PROCEEDINGS BEFORE STATE OR LOCAL AGENCIES; OR RETAIL BUSINESSES AS DEFINED BY THE BOARD, INCLUDING WITHOUT LIMITATION, SPORTS VENUES, GAMING AND GAMBLING OR ENTERTAINMENT-RELATED ESTABLISHMENTS, RESIDENTIAL PROPERTIES, OR PLACES OF OVERNIGHT ACCOMMODATION.

6. "ENERGY-RELATED PROJECTS, PROGRAMS AND SERVICES" SHALL HAVE THE SAME MEANING AS SUCH TERM IS DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH (B) OF SUBDIVISION SEVENTEEN OF SECTION ONE THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW.

7. "PRESERVATION POWER" IS THE FOUR HUNDRED NINETY MEGAWATTS OF FIRM SAINT LAWRENCE FDR PROJECT HYDROELECTRIC POWER AS SUCH TERM IS DEFINED IN SUBDIVISION THIRTEEN OF SECTION ONE THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW. FOR PURPOSES OF THIS ARTICLE, "PRESERVATION POWER" MEANS THE ENERGY ASSOCIATED WITH SUCH POWER.

8. "NET EARNINGS" IS THE AGGREGATE EXCESS OF REVENUES RECEIVED BY THE POWER AUTHORITY OF THE STATE OF NEW YORK FROM THE SALE OF PRESERVATION POWER AND ENERGY PRODUCED AT THE SAINT LAWRENCE FDR PROJECT THAT WAS SOLD IN THE WHOLESALE ENERGY MARKET OVER WHAT REVENUES WOULD HAVE BEEN RECEIVED HAD SUCH ENERGY BEEN SOLD ON A FIRM BASIS TO AN ELIGIBLE PRESERVATION POWER CUSTOMER UNDER THE APPLICABLE TARIFF OR CONTRACT.

9. "NORTHERN NEW YORK ECONOMIC DEVELOPMENT FUND" OR "FUND" IS A FUND OF THE AUTHORITY INTO WHICH ALL NET EARNINGS ARE DEPOSITED BY THE AUTHORITY IN ACCORDANCE WITH SUBDIVISION TWENTY-FIVE OF SECTION ONE THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW AND FROM WHICH ALLOCATIONS OF FUND BENEFITS TO ELIGIBLE PROJECTS MAY BE MADE.

S 189-F. THE NORTHERN NEW YORK POWER PROCEEDS ALLOCATION BOARD. 1. THERE IS HEREBY CREATED THE NORTHERN NEW YORK POWER PROCEEDS ALLOCATION BOARD, WHICH SHALL POSSESS THE POWERS AND DUTIES HEREIN SPECIFIED. THE BOARD SHALL CONSIST OF FIVE MEMBERS WHO SHALL BE APPOINTED BY THE GOVERNOR AS FOLLOWS: ONE OF WHOM SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE AND SHALL RESIDE WITHIN THE FORTY MILE RADIUS OF THE SAINT LAWRENCE FDR POWER PROJECT, ONE OF WHOM SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY AND SHALL RESIDE WITHIN THE FORTY MILE RADIUS OF THE SAINT LAWRENCE FDR POWER PROJECT, AND AT LEAST ONE ADDITIONAL MEMBER WHO SHALL ALSO RESIDE WITHIN THE FORTY MILE RADIUS OF THE SAINT LAWRENCE FDR POWER PROJECT. THE GOVERNOR SHALL DESIGNATE A CHAIR FROM AMONGST THE BOARD'S MEMBERS.

2. EACH MEMBER SHALL SERVE A TERM OF FIVE YEARS OR UNTIL A SUCCESSOR SHALL HAVE BEEN NAMED AND QUALIFIED. MEMBERS MAY BE REAPPOINTED TO SUCCESSIVE TERMS.

3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THREE MEMBERS SHALL CONSTITUTE A QUORUM FOR THE PURPOSES OF ORGANIZING THE BOARD AND CONDUCTING THE BUSINESS THEREOF. NO ACTION OF THE BOARD MAY BE TAKEN EXCEPT UPON AN AFFIRMATIVE VOTE OF AT LEAST THREE-FIFTHS OF THE FULL BOARD MEMBERSHIP AT ANY MEETING AT WHICH AT LEAST THREE MEMBERS ARE PRESENT OR PARTICIPATING BY VIDEOCONFERENCING. VIDEOCONFERENCING MAY BE USED FOR ATTENDANCE AND PARTICIPATION BY MEMBERS OF THE BOARD. IF VIDEOCONFERENCING IS USED, THE BOARD SHALL PROVIDE AN OPPORTUNITY FOR THE PUBLIC TO ATTEND, LISTEN AND OBSERVE AT ANY SITE AT WHICH A MEMBER PARTICIPATES. THE PUBLIC NOTICE FOR THE MEETING SHALL IDENTIFY, IF PRACTICABLE, ALL LOCATIONS WHERE A MEMBER WILL PARTICIPATE IN THE MEETING BY

1 VIDEOCONFERENCE AND SHALL STATE THAT THE PUBLIC HAS THE RIGHT TO ATTEND
2 THE MEETING AT ANY SUCH LOCATION.

3 4. MEMBERS OF THE BOARD, EXCEPT THOSE THAT ARE EMPLOYEES OR OFFICERS
4 OF THE STATE, ITS AUTHORITIES OR AGENCIES, SHALL NOT RECEIVE A SALARY OR
5 OTHER COMPENSATION, BUT SHALL BE ALLOWED THE NECESSARY AND ACTUAL
6 EXPENSES INCURRED IN THE PERFORMANCE OF DUTIES UNDER THIS ARTICLE.

7 S 189-G. GENERAL POWERS AND DUTIES OF THE BOARD. 1. THE BOARD SHALL
8 ESTABLISH PROCEDURES AND GUIDELINES RELATING TO THE ACTIVITIES OF THE
9 BOARD.

10 2. THE BOARD SHALL ESTABLISH PROCEDURES THROUGH WRITTEN POLICIES OR
11 STANDARDS FOR REVIEWING APPLICATIONS FOR AN ALLOCATION OF FUND BENEFITS
12 THAT SHALL INCLUDE A REVIEW OF APPLICATIONS NO LESS FREQUENTLY THAN
13 TWICE EACH YEAR. THE BOARD, OR A MEMBER DESIGNATED BY THE BOARD, SHALL
14 RECEIVE ALL APPLICATIONS FROM, OR ON BEHALF OF, ELIGIBLE APPLICANTS FOR
15 FUND BENEFITS. APPLICATIONS SHALL BE IN A FORM AND CONTAIN SUCH INFORMA-
16 TION, DATA AND EXHIBITS AS THE BOARD, IN CONSULTATION WITH THE AUTHORI-
17 TY, MAY PRESCRIBE.

18 3. THE BOARD MAY REQUEST FROM THE AUTHORITY AN ANALYSIS OF ANY APPLI-
19 CATION ALONG WITH ANY RECOMMENDATIONS. IN ADDITION, THE AUTHORITY SHALL
20 SUPPLY ANY SUCH ADDITIONAL INFORMATION AS IS REASONABLY NECESSARY FOR
21 THE BOARD TO PERFORM ITS DUTIES.

22 4. IN REVIEWING APPLICATIONS FOR FUND BENEFITS, THE BOARD SHALL USE
23 THE CRITERIA FOR ELIGIBILITY FOR EXPANSION, REPLACEMENT AND PRESERVATION
24 POWER AND FOR REVITALIZATION OF INDUSTRY AS PROVIDED IN SECTION ONE
25 THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW. THE BOARD SHALL ISSUE A
26 WRITTEN STATEMENT OF ITS FINDINGS AND RECOMMENDATIONS FOR EACH APPLICA-
27 TION REVIEWED.

28 5. THE BOARD SHALL RECOMMEND TO THE AUTHORITY THE ALLOCATION OF FUND
29 BENEFITS TO ELIGIBLE PROJECTS THAT THE BOARD FINDS ARE CONSISTENT WITH
30 THE APPLICABLE CRITERIA IN SUBDIVISION FOUR OF THIS SECTION. THE BOARD
31 MAY INCLUDE WITHIN ITS RECOMMENDATIONS SUCH RECOMMENDED TERMS AND CONDI-
32 TIONS AS IT DEEMS APPROPRIATE, INCLUDING, BUT NOT LIMITED TO, REASONABLE
33 PROVISION FOR THE ALLOCATION OF FUND BENEFITS OVER TIME AS THE ELIGIBLE
34 APPLICANT ACHIEVES MILESTONES TOWARDS PROJECT COMPLETION, THE PARTIAL OR
35 COMPLETE WITHDRAWAL OR RETURN OF FUND BENEFITS WHERE THE RECIPIENT HAS
36 FAILED TO ACHIEVE OR MAINTAIN MUTUALLY AGREED UPON COMMITMENTS, OR SUCH
37 OTHER TERMS AND CONDITIONS AS THE BOARD DEEMS ADVISABLE. THE BOARD SHALL
38 NOT RECOMMEND AN ALLOCATION OF FUND BENEFITS PRIOR TO ESTABLISHING
39 PROCEDURES FOR REVIEWING APPLICATIONS PURSUANT TO SUBDIVISION TWO OF
40 THIS SECTION.

41 6. A RECOMMENDATION BY THE BOARD THAT AN ELIGIBLE APPLICANT RECEIVE AN
42 ALLOCATION OF FUND BENEFITS SHALL BE A PREREQUISITE TO AN AWARD OF FUND
43 BENEFITS BY THE AUTHORITY. THE AUTHORITY SHALL AWARD FUND BENEFITS TO AN
44 APPLICANT UPON A RECOMMENDATION OF THE BOARD; PROVIDED, HOWEVER, THAT
45 UPON A SHOWING OF GOOD CAUSE, THE AUTHORITY SHALL HAVE DISCRETION AS TO
46 WHETHER TO ADOPT THE BOARD'S RECOMMENDATION, OR TO AWARD BENEFITS IN A
47 DIFFERENT AMOUNT OR ON DIFFERENT TERMS AND CONDITIONS THAN THOSE
48 CONTAINED IN THE RECOMMENDATION OF THE BOARD. ALLOCATIONS OF FUND BENE-
49 FITS SHALL ONLY BE MADE ON THE BASIS OF NET EARNINGS THAT HAVE BEEN
50 DEPOSITED IN THE NORTHERN NEW YORK ECONOMIC DEVELOPMENT FUND. NO AWARD
51 OF FUND BENEFITS SHALL ENCUMBER FUTURE NET EARNINGS OR NET EARNINGS THAT
52 HAVE BEEN RECEIVED BUT NOT DEPOSITED IN THE NORTHERN NEW YORK ECONOMIC
53 DEVELOPMENT FUND.

54 7. UPON MAKING AN ALLOCATION OF FUND BENEFITS, THE AUTHORITY SHALL
55 INCLUDE WITHIN THE AGREEMENT PROVIDING FOR THE TERMS AND CONDITIONS
56 APPLICABLE TO SUCH ALLOCATION ALL TERMS AND CONDITIONS THE AUTHORITY

DEEMS APPROPRIATE, TAKING INTO ACCOUNT THE RECOMMENDATIONS MADE BY THE BOARD.

S 189-H. RULES AND REGULATIONS. THE AUTHORITY IS HEREBY AUTHORIZED TO PROMULGATE SUCH RULES AND REGULATIONS AS IT DEEMS NECESSARY TO FULFILL THE PURPOSES OF THIS ARTICLE.

S 3. Section 1005 of the public authorities law is amended by adding five new subdivisions 24, 25, 26, 27 and 28 to read as follows:

24. TO COOPERATE WITH THE NORTHERN NEW YORK POWER PROCEEDS ALLOCATION BOARD AND PROVIDE THE BOARD WITH SUCH INFORMATION AND ASSISTANCE AS THE BOARD REASONABLY REQUESTS, INCLUDING REASONABLE STAFF SERVICES, ACCOUNTING, CLERICAL AND SECRETARIAL ASSISTANCE, OFFICE SPACE, AND EQUIPMENT REASONABLY REQUESTED BY THE NORTHERN NEW YORK POWER PROCEEDS ALLOCATION BOARD TO FULFILL ITS DUTIES.

25. TO ESTABLISH AN ACCOUNT TO BE KNOWN AS THE NORTHERN NEW YORK ECONOMIC DEVELOPMENT FUND, WHICH SHALL CONSIST OF "NET EARNINGS" AS DEFINED IN ARTICLE SIX-B OF THE ECONOMIC DEVELOPMENT LAW, DEPOSITED IN SUCH AMOUNTS AS DETERMINED TO BE FEASIBLE AND ADVISABLE BY THE TRUSTEES. SUCH EARNINGS SHALL BE DEPOSITED NO LESS FREQUENTLY THAN QUARTERLY. THE FIRST DEPOSIT INTO THE FUND SHALL BE MADE NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, AND SHALL INCLUDE ALL SUCH NET EARNINGS ACCRUED SINCE THE EFFECTIVE DATE OF CHAPTER FOUR HUNDRED THIRTY-SIX OF THE LAWS OF TWO THOUSAND TEN. AT LEAST FIFTEEN PERCENT OF SUCH FUNDS SHALL BE DEDICATED TOWARDS ELIGIBLE PROJECTS WHICH ARE ENERGY-RELATED PROJECTS, PROGRAMS AND SERVICES AS SUCH TERM IS DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH (B) OF SUBDIVISION SEVENTEEN OF THIS SECTION. IN ADDITION TO FUNDING ELIGIBLE PROJECTS, AS DEFINED IN ARTICLE SIX-B OF THE ECONOMIC DEVELOPMENT LAW, THE AUTHORITY MAY USE NORTHERN NEW YORK ECONOMIC DEVELOPMENT FUND MONIES TO COVER REASONABLE COSTS AND EXPENSES OF THE AUTHORITY RELATED TO THE MANAGEMENT AND ADMINISTRATION OF THE NORTHERN NEW YORK POWER PROCEEDS ALLOCATION PROGRAM CREATED BY ARTICLE SIX-B OF THE ECONOMIC DEVELOPMENT LAW.

26. THE AUTHORITY MAY, IN ITS DISCRETION, CONSULT WITH THE NORTHERN NEW YORK POWER PROCEEDS ALLOCATION BOARD IN THE APPLICATION PROCESS RELATING TO THE ALLOCATION OF PRESERVATION POWER.

27. THE AUTHORITY SHALL ESTABLISH PROCESSES FOR APPLICATION REVIEW AND ALLOCATION OF FUND BENEFITS PROVIDED FOR IN ARTICLE SIX-B OF THE ECONOMIC DEVELOPMENT LAW.

28. THE AUTHORITY SHALL INCLUDE IN THE ANNUAL REPORT PREPARED PURSUANT TO SUBDIVISION EIGHTEEN OF THIS SECTION, AN ACCOUNTING FOR THE SUBJECT YEAR THAT PROVIDES (A) THE AMOUNT OF PRESERVATION POWER SOLD INTO THE WHOLESALE MARKET BY THE AUTHORITY, AND (B) THE NET EARNINGS, AS SUCH TERM IS DEFINED IN SECTION ONE HUNDRED EIGHTY-NINE-E OF THE ECONOMIC DEVELOPMENT LAW, PAID INTO THE NORTHERN NEW YORK ECONOMIC DEVELOPMENT FUND.

S 4. This act shall take effect immediately.

PART HH

Section 1. Subdivision 2 of section 89-c of the state finance law, as amended by chapter 329 of the laws of 1991, is amended to read as follows:

2. (A) The dedicated mass transportation trust fund shall consist of all moneys collected therefor or credited or transferred thereto from any other fund, account or source. Any interest received by the comptroller on moneys on deposit in the dedicated mass transportation trust fund shall be retained in and become a part of such fund.

(B) AMOUNTS APPROPRIATED TO THE DEPARTMENT OF TRANSPORTATION IN THE NEW YORK STATE BUDGET FISCAL YEAR TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN FROM THE DEDICATED MASS TRANSPORTATION TRUST FUND FOR PAYMENT TO TRANSIT AUTHORITIES SHALL BE RELEASED BY THE DIRECTOR OF BUDGET, IN ACCORDANCE WITH THE TRADITIONAL SERVICE AND USAGE FORMULA ESTABLISHED BY THE COMMISSIONER OF TRANSPORTATION WITH THE APPROVAL OF THE DIRECTOR OF THE BUDGET, NO LATER THAN MAY FIRST, TWO THOUSAND THIRTEEN.

S 2. This act shall take effect immediately.

PART II

Section 1. Legislative intent. The legislature finds that it is fundamental to the overall state general interest and its economy to guarantee sources of power generated near existing or future high-load manufacturers in every region of the state to allow competitive power markets to best meet the needs of rate payers, support local and state tax revenue stability, promote economic opportunity, and enhance the state's overall environmental future.

The legislature further finds that changing power generation markets, reacting to both competitive and public policy pressures, have threatened the viability of existing crucial base-load facilities.

The legislature further finds that the elimination of any base-load electric generating capability in a region of the state jeopardizes the affected region's ability to provide adequate municipal services and quality education opportunities for its residents.

The legislature intends that it is in the overriding interest of the citizens of the state that the most advanced, cleanest and most efficient power technologies be encouraged to be constructed and operated in the state.

The legislature further intends that it is in the interest of the state that these technologies be placed on existing power facility sites to foster the goal of sustainability and reduce the chance of former power facilities creating major abandoned or underutilized blemishes with resulting environmental threats, abandonment and major impediments to economic development.

The legislature further intends that it is in the interest of the state to enhance the ability of capital markets to encourage the foregoing findings and intentions to maintain private sector, competitively procured base-load capability through the utilization of best available technologies.

S 2. Section 1010 of the public authorities law is amended by adding a new subdivision 12 to read as follows:

12. (A) THE POWER AUTHORITY OF THE STATE OF NEW YORK SHALL BE AUTHORIZED TO CONDUCT AN ANALYSIS OF CURRENT AND FUTURE REGIONAL POWER NEEDS, WITH SPECIAL CONSIDERATION OF FUTURE ECONOMIC DEVELOPMENT PROSPECTS OF SUCH REGIONS, AND A FURTHER ANALYSIS OF THE ECONOMIC VIABILITY OF THE CURRENT OR FUTURE OWNERS AND OPERATORS OF LOAD PRODUCING ELECTRIC GENERATING FACILITIES WHO HAVE SUBMITTED AN APPLICATION TO THE PUBLIC SERVICE COMMISSION PURSUANT TO PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION ONE HUNDRED SIXTY-FIVE OF THE PUBLIC SERVICE LAW. IN LIEU OF THE REQUIREMENTS FOR A THREE YEAR AVERAGE COMPARISON IN SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION ONE HUNDRED SIXTY-FIVE OF THE PUBLIC SERVICE LAW, SUCH PROPOSED FACILITY CONNECTED TO AN APPLICATION OTHERWISE PURSUANT TO SECTIONS ONE HUNDRED SIXTY-FOUR AND ONE HUNDRED SIXTY-FIVE OF THE PUBLIC SERVICE LAW PROPOSING A REPOWERING PROJECT AT THE SITE OF AN EXISTING MAJOR ELECTRIC GENERATING FACILITY THAT HAS RUN

1 PRIMARILY IN THE MARKET AS A CAPACITY PAYMENT GENERATOR FOR THE PREVIOUS
2 TWO OR MORE YEARS SHALL BE DEEMED AS MEETING THE REQUIREMENTS OF PARA-
3 GRAPH (B) OF SUBDIVISION FOUR OF SECTION ONE HUNDRED SIXTY-FIVE OF THE
4 PUBLIC SERVICE LAW IF THE PROPOSED FACILITY'S FUTURE POTENTIAL TO EMIT
5 FOR EACH CONTAMINANT WILL OPERATE UNDER TWENTY PERCENT OF THE EXISTING
6 GENERATOR OR GENERATORS ASSUMING SUCH PROPOSED AND EXISTING GENERATOR OR
7 GENERATORS WERE RUNNING AT AN ANNUAL RATE OF AT LEAST 7,000 HOURS PER
8 YEAR AND AT A NAMEPLATE CAPACITY OF AT LEAST 450 MEGAWATTS. UPON THE
9 TIMELY COMPLETION OF SUCH ANALYSES, AND AS DEEMED FEASIBLE AND ADVISABLE
10 BY THE BOARD OF TRUSTEES OF THE AUTHORITY, TAKING FULL CONSIDERATION OF
11 THE REQUIREMENTS AND VIABILITY OF THE ENTIRE POWER GENERATING SYSTEM
12 NEEDS OF THE VARIOUS REGIONS OF THE STATE OF NEW YORK, AND THE STATE OF
13 NEW YORK IN ENTIRETY, WITH SPECIAL CONSIDERATION GIVEN TO THE RATEPAYERS
14 AND TAXPAYERS OF THE STATE, THE AUTHORITY SHALL BE AUTHORIZED TO ISSUE
15 NEGOTIABLE BONDS, AND TO THE FULLEST EXTENT PERMITTED BY LAW, PRIVATE
16 ACTIVITY BONDS, OR OTHER INSTRUMENTS EXEMPT FROM FEDERAL, STATE AND
17 LOCAL TAXATION, FOR QUALIFYING PROJECTS AND AS ENUMERATED BY THIS SUBDI-
18 VISION, BACKED BY THE PURCHASE OF POWER GENERATED FROM SUCH FACILITIES
19 PER PARAGRAPH (E) OF THIS SUBDIVISION ONLY TO THE EXTENT NECESSARY TO
20 REPAY ALL INTEREST AND PRINCIPAL DUE THE HOLDERS OF SUCH BONDS, AND ALL
21 ASSOCIATED ADMINISTRATIVE COSTS AND FEES ATTACHING TO SUCH BONDS, IF
22 SUCH OWNERS AND OPERATORS OF A PROPOSED FACILITY MEET AND AGREE UPON ALL
23 THE APPLICABLE CONDITIONS OF THIS SUBDIVISION AND SECTIONS ONE THOUSAND
24 FIVE AND ONE THOUSAND SEVEN OF THE PUBLIC AUTHORITIES LAW.

25 (B) THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL ONLY
26 APPLY TO PROPOSED POWER GENERATING UNITS THAT WILL MEET OR EXCEED THE
27 MINIMUM STANDARDS ESTABLISHED IN THE FINAL RULE OF THE PROPOSED NATIONAL
28 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS. IN ADDITION, SUCH OWNER
29 OR OPERATOR OF A GENERATING UNIT OTHERWISE ELIGIBLE FOR BENEFITS UNDER
30 THIS SECTION MUST AGREE TO TAKE ALL STEPS NECESSARY TO REPOWER SUCH
31 FACILITY AND CONSTRUCT NEW GENERATORS TO ENSURE THAT SUCH FACILITY,
32 GENERATORS AND APPERTAINING SITES:

33 1. ARE DESIGNED AND INTENDED TO OPERATE AT AN ELECTRICITY PRODUCTION
34 EFFICIENCY LEVEL OF AT LEAST FIFTY-TWO PERCENT;

35 2. WILL HAVE A NAMEPLATE CAPACITY OF AT LEAST 450 MEGAWATTS OF ELEC-
36 TRIC GENERATING CAPACITY RUNNING AT LEAST 7,000 HOURS PER YEAR;

37 3. WILL BE ABLE TO ACHIEVE A 2 PARTS PER MILLION LIMITS FOR NITROUS
38 OXIDE EMISSIONS USING LOWEST ACHIEVABLE EMISSION RATE TECHNOLOGIES;

39 4. WILL UTILIZE LOWEST ACHIEVABLE EMISSION RATE TECHNOLOGIES IF FEASI-
40 BLE, OR, AT A MINIMUM, BEST AVAILABLE CONTROL TECHNOLOGIES FOR CARBON
41 MONOXIDE AND SULFUR DIOXIDE EMISSION LEVELS;

42 5. HAVE EXISTING GENERATORS AT THE SITE SAFELY DECOMMISSIONED AND
43 DEMOLISHED;

44 6. UNDERGO ENVIRONMENTAL REMEDIATION UNDER THE GUIDELINES ESTABLISHED
45 UNDER PART 375 OF TITLE 6 OF THE NEW YORK STATE CODES, RULES AND REGU-
46 LATIONS, AND;

47 7. WILL BE ABLE TO HAVE THE NEW ELECTRIC GENERATING FACILITIES PLACED
48 IN SERVICE NO LATER THAN MARCH 31, 2018.

49 (C) UPON THE AWARDING OF THE CERTIFICATE OFFERED BY THE NEW YORK STATE
50 BOARD ON ELECTRIC GENERATION SITING AND THE ENVIRONMENT AS STIPULATED IN
51 SECTIONS ONE HUNDRED SIXTY, ONE HUNDRED SIXTY-EIGHT AND ONE HUNDRED
52 SEVENTY OF THE PUBLIC SERVICE LAW, FUNDS RECEIVED FROM THE ISSUANCE OF
53 BONDS PURSUANT TO THIS SECTION MAY BE OFFERED TO THE OWNER OR OWNERS OF
54 A QUALIFYING PROJECT CERTIFIED UNDER THE CONDITIONS OF SUBDIVISION FOUR
55 OF SECTION ONE HUNDRED SIXTY-FIVE OF THE PUBLIC SERVICE LAW IN AN AMOUNT
56 NOT TO EXCEED EIGHTY PERCENT OF THE TOTAL PROJECT COSTS AS ESTIMATED

1 THROUGH THE MOST CURRENT AND BEST AVAILABLE PROJECTIONS FOR THE SOURCES
2 AND USES OF FUNDS FOR THE FACILITY. UPON THE REVOCATION OF SUCH CERTIFI-
3 CATE AND EXHAUSTION OF ALL JUDICIAL REVIEWS RELATED TO SUCH REVOCATION,
4 THE AUTHORITY SHALL IMMEDIATELY MOVE TO RECAPTURE ANY FUNDS OFFERED TO
5 THE OWNER OR OPERATORS, OR THEIR SUCCESSORS, OF A PREVIOUSLY QUALIFYING
6 PROJECT, ALONG WITH ALL RELATED ADMINISTRATIVE FEES OR OTHER COSTS
7 RELATED TO SUCH FUNDING AND RECAPTURE PROCEEDINGS.

8 (D) AS DEEMED FEASIBLE AND ADVISABLE BY THE BOARD OF THE TRUSTEES OF
9 THE AUTHORITY, THE AUTHORITY SHALL HAVE THE ABILITY, AS A CONDITION FOR
10 THE GRANTING OF BOND PROCEEDS, AND AS A SOURCE OF ADDITIONAL SURETY FOR
11 A QUALIFYING PROJECT, TO REQUIRE THE OWNER OF SUCH PROJECT TO CEDE THE
12 TITLE TO THE PLOT OF LAND, AND LAND ONLY, ON WHICH A QUALIFYING PROJECT
13 IS TO BE LOCATED AS DETERMINED BY THE TAX PLAT OF THE LOCALITY IN WHICH
14 THE PROJECT WILL BE LOCATED, TO THE AUTHORITY FOR A PERIOD NOT TO EXTEND
15 BEYOND THE ORIGINAL TERM OF THE BONDS ASSOCIATED WITH SUCH PROCEEDS. THE
16 AUTHORITY WILL GRANT THE OWNER OR OPERATOR OF THE PROJECT A BENEFICIAL
17 OWNERSHIP LEASE, TRANSFERABLE TO ANY SUCCESSIVE OWNER OR OPERATOR, AT NO
18 COST BEYOND THE AD VALOREM TAXES, OR ASSOCIATED PAYMENT IN LIEU OF
19 TAXES, LEVIED ON SUCH LAND THE AUTHORITY MAY REMIT TO THE RELEVANT MUNI-
20 CIPALITY FOR THE LIFE OF THE DEBT INSTRUMENT TIED TO THE BOND PROCEEDS.
21 ANY SUCH TAX OR PAYMENT IN LIEU OF TAX REMITTED BY THE AUTHORITY SHALL
22 BE REPAID BY THE OWNER OR OPERATOR OF THE FACILITY TO THE AUTHORITY AT
23 THE EARLIEST POSSIBLE CONVENIENCE. FAILURE TO REPAY THE AUTHORITY IN
24 FULL FOR ANY PAYMENT OF TAX OR PAYMENT IN LIEU OF TAX SHALL AUTHORIZE
25 THE AUTHORITY TO IMMEDIATELY MOVE TO RECAPTURE ANY FUNDS FROM BOND
26 PROCEEDS TRANSFERRED TO THE CURRENT OWNER OR OPERATOR OF THE FACILITY.
27 ANY AD VALOREM ASSESSMENTS OR PAYMENT IN LIEU OF TAX SHALL BE DETERMINED
28 THROUGH AGREEMENT WITH RELEVANT LOCAL OFFICIALS IN A MANNER REGARDLESS
29 OF WHICH ENTITY IS RESPONSIBLE FOR THE REMITTANCE OF SUCH ASSESSMENT OR
30 PAYMENT; AND, IF SUCH FACILITY IS BOUND BY AN AGREEMENT FOR A PAYMENT IN
31 LIEU OF TAX, SUCH AGREEMENT SHALL LAST FOR THE DURATION OF THE LIFE OF
32 THE BONDS REFERENCED IN PARAGRAPH (A) OF THIS SUBDIVISION. UPON THE END
33 OF THE ORIGINAL TERM OF SUCH BONDS, OR UPON EXPIRATION OF THE BONDS IF
34 SUCH INSTRUMENT IS RETIRED BEFORE THE END OF THE ORIGINAL TERM, TITLE TO
35 THE LAND WILL IMMEDIATELY REMIT TO THE OWNER OR SUCCESSOR OF THE
36 PROJECT, IF ALL OUTSTANDING OBLIGATIONS OF SUCH OWNER, OPERATOR AND
37 SUCCESSOR, ADHERING TO THE PROJECT DUE TO THE AUTHORITY HAVE BEEN SATIS-
38 FIED.

39 (E) THE AUTHORITY IS AUTHORIZED, AS DEEMED FEASIBLE AND ADVISABLE BY
40 THE BOARD OF TRUSTEES OF THE AUTHORITY, TO RECOMMEND ENTERING INTO A
41 PARTIAL POWER PURCHASE AGREEMENT WITH THE OWNER OR OPERATOR, TRANSFERA-
42 BLE TO THEIR SUCCESSORS, OF A QUALIFYING PROJECT UPON THE OWNER OR OPER-
43 ATOR RECEIVING THE CERTIFICATE REFERENCED IN PARAGRAPH (C) OF THIS
44 SUBDIVISION. THE AUTHORITY WILL PURCHASE POWER FROM SUCH PROJECT FOR THE
45 LIFE OF THE ORIGINAL TERMS OF THE NEGOTIABLE BONDS ISSUED FOR THIS
46 PURPOSE TO THE EXTENT NECESSARY SO THAT THE OWNER OR OPERATOR RECEIVING
47 THE PROCEEDS OF SUCH AGREEMENT SHALL REMIT FUNDS TO THE AUTHORITY SUFFI-
48 CIENT TO COVER THE DEBT SERVICE AND ADMINISTRATIVE FEES OF THE RELEVANT
49 DEBT INSTRUMENT. FAILURE OF THE OWNER OR OPERATOR OF A PROJECT RECEIVING
50 BOND PROCEEDS AUTHORIZED BY THIS SUBDIVISION TO REMIT FUNDS RECEIVED
51 FROM SUCH POWER PURCHASES SHALL AUTHORIZE THE AUTHORITY TO IMMEDIATELY
52 MOVE TO RECAPTURE ANY FUNDS FROM BOND PROCEEDS TRANSFERRED TO THE
53 CURRENT OWNER OR OPERATOR OF THE FACILITY FOLLOWING ALL ALLOWABLE JUDI-
54 CIAL REMEDIES. THE AUTHORITY'S PURCHASE OF SUCH POWER SHALL OCCUR BEFORE
55 THE SALE OR RESALE OF ANY POWER GENERATED FROM THE PROJECT TO ANY OTHER
56 POTENTIAL CUSTOMER. THE PROJECT OWNER OR OPERATOR CANNOT USE THE

1 PROCEEDS FROM SUCH POWER PURCHASE AGREEMENT, WITHOUT THE EXPRESSED
2 CONSENT OF THE AUTHORITY, FOR ANY OTHER PURPOSE THAN THE REMITTANCE TO
3 THE AUTHORITY TO COVER THE OBLIGATIONS OF THE BONDS OR OTHER INSTRUMENTS
4 ISSUED ON BEHALF OF THE PROJECT.

5 (F) FAILURE OF AN OWNER OR OPERATOR OF A QUALIFYING PROJECT TO MEET
6 ANY OR ALL FINANCIAL OBLIGATIONS CONNECTED TO SUCH ELECTRIC GENERATING
7 FACILITY SHALL AUTHORIZE THE AUTHORITY, AFTER ALL PERTINENT JUDICIAL
8 REVIEWS, AND AS DEEMED FEASIBLE AND ADVISABLE BY THE BOARD OF TRUSTEES
9 OF THE AUTHORITY, TO TAKE FEE SIMPLE TITLE OF THE REAL PROPERTY ATTACHED
10 TO THE ENTIRE FACILITY AND GROUNDS IN PERPETUITY.

11 (G) ANY POWER PURCHASED BY THE AUTHORITY PURSUANT TO THIS SUBDIVISION
12 SHALL BE CONSIDERED RECHARGE NEW YORK POWER, AND SHALL BE UTILIZED, TO
13 THE MAXIMUM EXTENT ADVISABLE AND FEASIBLE IN ORDER OF PRIORITY, FIRST,
14 TO PROVIDE ENHANCED ECONOMIC DEVELOPMENT POWER BENEFITS, AS DETERMINED
15 BY THE AUTHORITY, FOR PRESENT OR FUTURE HIGH-LOAD MANUFACTURERS LOCATED
16 WITHIN THE GEOGRAPHIC AREA OF A QUALIFIED PROJECT REGARDLESS OF WHETHER
17 SUCH HIGH-LOAD MANUFACTURERS ARE CURRENTLY BENEFICIARIES OF A RECHARGE
18 NEW YORK POWER ALLOCATION; SECOND, NOTWITHSTANDING ANY LIMITATIONS OR
19 CONDITIONS CONTAINED IN PARAGRAPH EIGHT OF SUBDIVISION (A) AND PARAGRAPH
20 SEVEN OF SUBDIVISION (C) OF SECTION ONE HUNDRED EIGHTY-EIGHT-A OF THE
21 ECONOMIC DEVELOPMENT LAW, TO AUGMENT RECHARGE NEW YORK POWER ALLOCATIONS
22 FOR ELIGIBLE BUSINESSES AS DEFINED IN PARAGRAPH FIVE OR PARAGRAPH SEVEN
23 OF SUBDIVISION (A) OF SECTION ONE HUNDRED EIGHTY-EIGHT-A OF THE ECONOMIC
24 DEVELOPMENT LAW THAT ARE RECOMMENDED FOR A RECHARGE NEW YORK POWER ALLO-
25 CATION PURSUANT TO PART CC OF CHAPTER 60 OF THE LAWS OF 2011; AND THIRD,
26 ANY ALLOWABLE PURPOSE OF THE AUTHORITY AUTHORIZED BY LAW.

27 (H) EACH CONTRACT ENTERED INTO BY THE OWNER, OPERATOR OR SUCCESSOR OF
28 A FACILITY QUALIFYING UNDER THIS SUBDIVISION SHALL INDEMNIFY AND HOLD
29 THE STATE OF NEW YORK, AND THE POWER AUTHORITY OF THE STATE OF NEW YORK,
30 HARMLESS FROM ANY AND ALL CLAIMS FOR LOSS OR LIABILITY ALLEGED TO HAVE
31 BEEN CAUSED OR RESULTING FROM ANY WORK INVOLVING SUCH PROJECT OR ACTIONS
32 TAKEN PURSUANT TO THIS SUBDIVISION. IN ADDITION, THE PROVISIONS OF
33 SECTION SEVENTEEN OF THE PUBLIC OFFICERS LAW SHALL APPLY TO MEMBERS OF
34 THE BOARD AND AGENTS OR OTHER PERSONS ACTING ON ITS BEHALF, IN
35 CONNECTION WITH ANY AND ALL CLAIMS, DEMANDS, SUITS, ACTIONS OR
36 PROCEEDINGS WHICH MAY BE MADE OR BROUGHT AGAINST ANY OF THEM ARISING OUT
37 OF ANY DETERMINATION MADE OR ACTIONS TAKEN OR OMITTED TO BE TAKEN IN
38 COMPLIANCE WITH ANY OBLIGATIONS UNDER OR PURSUANT TO THE TERMS OF THIS
39 SUBDIVISION OR OTHERWISE IN THIS TITLE.

40 (I) IF ANY CLAUSE, SENTENCE, OR PARAGRAPH OF THIS SUBDIVISION SHALL BE
41 ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH
42 JUDGMENT SHALL NOT AFFECT, IMPAIR, OR INVALIDATE THE REMAINDER THEREOF,
43 BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, OR PARA-
44 GRAPH THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDG-
45 MENT SHALL HAVE BEEN RENDERED. IT IS HEREBY DECLARED TO BE THE INTENT OF
46 THE LEGISLATURE THAT THIS SUBDIVISION WOULD HAVE BEEN ENACTED EVEN IF
47 SUCH INVALID PROVISIONS HAD NOT BEEN INCLUDED HEREIN.

48 S 3. This act shall take effect immediately and shall apply to eligi-
49 ble electric generating facilities placed in service on or before March
50 31, 2018.

51 PART JJ

52 Section 1. The state finance law is amended by adding a new section
53 92-gg to read as follows:

1 S 92-GG. REPOWERING AND LOCAL MITIGATION FUND. 1. THERE IS HEREBY
2 ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE
3 COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE
4 "REPOWERING AND LOCAL MITIGATION FUND".

5 2. SUCH FUND SHALL CONSIST OF MONEYS CREDITED OR TRANSFERRED WITHOUT
6 APPROPRIATION THERETO OVER AND ABOVE A BASE LEVEL PURSUANT TO THE STAND-
7 ARDS CONTROLLING CHAPTER ELEVEN OF TITLE TWENTY-ONE OF THE NEW YORK
8 STATE CODES, RULES AND REGULATIONS RELATED TO ANY MONEYS GARNERED FROM
9 ASSESSMENTS OR AUCTIONS RAISED PURSUANT TO SUBDIVISION SIX OF SECTION
10 19-0301 OF THE ENVIRONMENTAL CONSERVATION LAW.

11 3. (A) MONEYS OF THE REPOWERING AND LOCAL MITIGATION FUND SHALL BE
12 AVAILABLE, BEFORE ANY OTHER USE OF SUCH FUNDS, FOR THE PARTIAL
13 REIMBURSEMENT FOR A PERIOD OF NO MORE THAN FOUR CONSECUTIVE TAXING
14 YEARS, FOR A MUNICIPAL GOVERNMENT FISCALLY DISTRESSED FROM THE LOSS OF
15 PROPERTY TAX RECEIPTS, INCLUDING, FOR THE PURPOSES OF THIS PARAGRAPH,
16 PAYMENTS IN LIEU OF TAXES, RESULTING IN WHOLE OR IN PART FROM THE CONSE-
17 QUENCES OF A FACILITY PRIMARILY FUNCTIONING AS A POWER GENERATING FACIL-
18 ITY LOSING SUBSTANTIAL RELATIVE MARKET COMPETITIVE VIABILITY, AND CONSE-
19 QUENTLY, LOSS IN THE PROPERLY ASCERTAINED ASSESSED VALUE DETERMINED FOR
20 SUCH FACILITY, THROUGH MEETING THE REQUIREMENTS OF A REDUCTION OF
21 COMPLIANCE ACCOUNTS EMISSIONS PURSUANT TO GUIDELINES IN PART TWO HUNDRED
22 FORTY-TWO OF CHAPTER THREE OF TITLE SIX OF THE NEW YORK STATE CODES,
23 RULES AND REGULATIONS. THESE MONEYS SHALL ONLY BE AVAILABLE FOR THE
24 MITIGATION OF THE LOSS OF AD VALOREM REVENUES OF A MUNICIPALITY IF THE
25 ENTITY GENERATING COMPLIANCE ACCOUNT EMISSIONS OF SUCH TAXPAYER'S ELEC-
26 TRIC GENERATING PROPERTY, WAS, AT ANY TIME IN THE LAST FOUR TAXABLE
27 YEARS, ASSESSED AT A LEVEL AT LEAST TEN PERCENT OF THE TOTAL ASSESSED
28 VALUE OF TAXABLE PROPERTY FOR SUCH MUNICIPAL GOVERNMENT FOR THAT GIVEN
29 YEAR; PROVIDED FURTHER, THAT NO REIMBURSEMENT SHALL BE MADE IF, IN A
30 MUNICIPAL TAX YEAR, THE AGGREGATE AMOUNT PAID TO A MUNICIPAL GOVERNMENT
31 BY THE OWNER OF AN ELECTRIC GENERATING FACILITY STATION INCLUDING, BUT
32 NOT LIMITED TO, PAYMENTS IN LIEU OF TAXES AND PROPERTY TAXES, EXCEED THE
33 AGGREGATE AMOUNT PAID TO THAT MUNICIPALITY BY THAT OWNER IN THE YEAR ON
34 OR BEFORE SUCH COMPLIANCE ACCOUNT EMISSIONS RESULTS IN A SUBSTANTIAL
35 ASSESSED VALUE. IF A MUNICIPALITY QUALIFIES FOR THE RECEIPT OF MITI-
36 GATION FUNDS UNDER THIS SECTION, THEN SUCH FUNDS CAN BE TRANSFERRED TO A
37 MUNICIPALITY NECESSARY TO REACH AN AMOUNT OF NO MORE THAN EIGHTY PERCENT
38 OF THE PREVIOUS YEAR'S AD VALOREM PAYMENT DUE TO SUCH MUNICIPALITY.

39 (B) IF MONEYS AVAILABLE IN THE REPOWERING AND LOCAL MITIGATION FUND
40 EXCEED THE PAYMENTS AUTHORIZED IN PARAGRAPH (A) OF THIS SUBDIVISION, ANY
41 REMAINING FUND RECEIPTS SHALL BE USED TO ENCOURAGE THE DEVELOPMENT OF
42 ENERGY GENERATING SYSTEMS MEETING THE DEFINITION OF "ALTERNATE ENERGY
43 PRODUCTION FACILITY" PURSUANT TO SUBDIVISION TWO-B OF SECTION TWO OF THE
44 PUBLIC SERVICE LAW, OR THAT ARE RELATED TO AN APPLICATION CONSISTENT
45 WITH THE REQUIREMENTS OF PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION
46 ONE HUNDRED SIXTY-FIVE OF THE PUBLIC SERVICE LAW. IN LIEU OF THE
47 REQUIREMENTS FOR A THREE YEAR AVERAGE COMPARISON IN SUBPARAGRAPH (II) OF
48 PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION ONE HUNDRED SIXTY-FIVE OF
49 THE PUBLIC SERVICE LAW, SUCH PROPOSED FACILITY CONNECTED TO AN APPLICA-
50 TION OTHERWISE PURSUANT TO SECTIONS ONE HUNDRED SIXTY-FOUR AND ONE
51 HUNDRED SIXTY-FIVE OF THE PUBLIC SERVICE LAW PROPOSING A REPOWERING
52 PROJECT AT THE SITE OF AN EXISTING MAJOR ELECTRIC GENERATING FACILITY
53 THAT HAS RUN PRIMARILY IN THE MARKET AS A CAPACITY PAYMENT GENERATOR FOR
54 THE PREVIOUS TWO OR MORE YEARS SHALL BE DEEMED AS MEETING THE REQUIRE-
55 MENTS OF PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION ONE HUNDRED
56 SIXTY-FIVE OF THE PUBLIC SERVICE LAW IF THE PROPOSED FACILITY'S FUTURE

POTENTIAL TO EMIT FOR EACH CONTAMINANT WILL OPERATE UNDER TWENTY PERCENT OF THE EXISTING GENERATOR OR GENERATORS ASSUMING SUCH PROPOSED AND EXISTING GENERATOR OR GENERATORS WERE RUNNING AT AN ANNUAL RATE OF AT LEAST SEVEN THOUSAND HOURS PER YEAR AND AT A NAMEPLATE CAPACITY OF AT LEAST FOUR HUNDRED FIFTY MEGAWATTS.

4. MONEYS IN THE FUND SHALL BE KEPT SEPARATELY FROM AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE CUSTODY OF THE STATE COMPTROLLER.

5. ALL PAYMENTS OF MONEYS FROM THE FUND SHALL BE MADE ON THE AUDIT AND THE WARRANT OF THE COMPTROLLER.

S 2. This act shall take effect immediately.

PART KK

Section 1. Subdivision 25 of section 11-0103 of the environmental conservation law, as amended by chapter 595 of the laws of 1984, is amended to read as follows:

25. "Hunting accident" means the injury to or death of a person caused by the discharge of a firearm, CROSSBOW, or longbow while the person causing such injury or death, or the person injured or killed, is taking or attempting to take game, wildlife or fish.

S 2. Section 11-0713 of the environmental conservation law is amended by adding a new subdivision 6 to read as follows:

6. THE DEPARTMENT SHALL ADOPT REGULATIONS FOR TRAINING IN THE SAFE USE OF HUNTING WITH A CROSSBOW AND RESPONSIBLE HUNTING PRACTICES. SUCH TRAINING SHALL BE INCLUDED IN THE BASIC HUNTER EDUCATION COURSE REQUIRED OF ALL NEW HUNTERS. UPON COMPLETION OF THE TRAINING BY AN INDIVIDUAL THE DEPARTMENT SHALL PROVIDE DOCUMENTATION OF THE SUCCESSFUL COMPLETION OF THE COURSE. ALL PERSONS WHO HAVE COMPLETED HUNTER EDUCATION PRIOR TO THE DATE WHICH CROSSBOW TRAINING HAS BEEN INCORPORATED INTO THE HUNTER EDUCATION PROGRAM SHALL COMPLETE AN ONLINE OR OTHER TRAINING PROGRAM APPROVED BY THE DEPARTMENT PRIOR TO USING A CROSSBOW TO HUNT BIG GAME. THE DEPARTMENT MAY ADOPT RULES AND REGULATIONS AS NECESSARY TO DOCUMENT COMPLETION OF THIS PROGRAM AND MAY REQUIRE A PERSON TO POSSESS SUCH PROOF WHILE HUNTING WITH A CROSSBOW.

S 3. Paragraph a of subdivision 1 of section 11-0719 of the environmental conservation law, as amended by chapter 176 of the laws of 1987, is amended to read as follows:

a. In the circumstances described in paragraph b the department may revoke any license or stamp, of any person, to hunt, fish or trap, defined in section 11-0701 or issued pursuant to any provision of [the Fish and Wildlife Law] THIS ARTICLE, or it may revoke all of such licenses or stamps. It may also deny such person, for a period not exceeding five years, the privilege of obtaining such license or licenses or stamp or stamps or of hunting, trapping or fishing, anywhere in the state with or without license or stamp, except as provided in subdivision 1 of section 11-0707 or in section 11-0523. It may also require that such person successfully complete a department-sponsored course and obtain a certificate of qualification in responsible hunting, [responsible] CROSSBOW HUNTING, bowhunting or [responsible] trapping practices before being issued another license.

S 4. Subparagraph 4 of paragraph b of subdivision 1 of section 11-0719 of the environmental conservation law, as amended by chapter 436 of the laws of 2000, is amended to read as follows:

(4) is convicted of an offense involving a violation of subdivisions one and two of section 11-0901 of this article relating to taking of

1 wildlife when the person taking is in or on a motor vehicle while such
2 motor vehicle is on a public highway or an offense involving a violation
3 of subdivision one of section 11-0901 of this article and subparagraph
4 one of paragraph a of subdivision four of section 11-0931 of this arti-
5 cle relating to taking wildlife when the person taking is in or on a
6 motor vehicle and discharging a firearm, CROSSBOW, or longbow in such a
7 way that the load or arrow passes over a public highway or a part there-
8 of or signs an acknowledgment of any such violation for the purpose of
9 affecting a settlement by civil compromise or by stipulation.

10 S 5. Subdivision 2 of section 11-0719 of the environmental conserva-
11 tion law, paragraph a as amended by chapter 119 of the laws of 1999, the
12 opening paragraph of paragraph a as amended by section 33 of part F of
13 chapter 82 of the laws of 2002, paragraph b as amended by chapter 269 of
14 the laws of 1975, paragraph c as amended by chapter 176 of the laws of
15 1987, and paragraph d as amended by chapter 595 of the laws of 1984, is
16 amended to read as follows:

17 2. a. The department may revoke the licenses, tags, and stamps which
18 authorize the holder to hunt and/or trap wildlife, and may deny the
19 privilege of obtaining such licenses, tags, and stamps and may deny the
20 privileges of hunting and/or trapping with or without a license.

21 (1) of any person who, while engaged in hunting or trapping,

22 (i) causes death or injury to another by discharging a firearm, CROSS-
23 BOW, or longbow, or

24 (ii) so negligently discharges a firearm, CROSSBOW, or longbow as to
25 endanger the life or safety of another, or

26 (iii) so negligently and wantonly discharges a firearm, CROSSBOW, or
27 longbow as to destroy or damage public or private property; or

28 (2) of any agent of the department authorized to issue certificates of
29 qualification in responsible hunting, bowhunting, CROSSBOW HUNTING, or
30 trapping practices who improperly issues any such certification to a
31 person whom he has not trained, or whom he knows has not satisfactorily
32 completed all of the requirements necessary for such certification.

33 b. Action by the department resulting in the revocation of such
34 license or denial of the privilege to hunt and trap as provided in this
35 subdivision shall be only after a hearing held by the department upon
36 notice to the offender, at which proof of facts indicating the violation
37 is established to the satisfaction of the commissioner or of the hearing
38 officer designated by him and concurred in by the commissioner. Provided
39 that where a person, while hunting, causes death or injury to any person
40 by discharge of a firearm, CROSSBOW, or longbow, the commissioner may,
41 in his discretion, suspend such person's license or licenses to hunt and
42 suspend such person's right to hunt without a license for a period of up
43 to sixty days pending a hearing as provided for in this subdivision.

44 c. In case such discharge of a firearm, CROSSBOW, or longbow causes
45 death or injury to another, the license or licenses shall be revoked and
46 the privilege of obtaining any such license and of hunting or of trap-
47 ping anywhere in the state with or without a license denied, for a peri-
48 od not exceeding ten years, except that no revocation shall be made in
49 cases in which facts established at the hearing indicate to the satis-
50 faction of the commissioner that there was no negligence on the part of
51 the shooter or bowman. In all other cases the license or licenses shall
52 be revoked and the privilege of obtaining such license and of hunting or
53 of trapping anywhere in the state with or without a license denied for a
54 period not exceeding five years. The department may also require that
55 the person causing such death or injury successfully complete a depart-
56 ment-sponsored course and obtain a certificate of qualification in

1 responsible hunting, CROSSBOW HUNTING, or bowhunting practices before
2 being issued another hunting license.

3 d. Every person injuring himself, herself or another person in a hunt-
4 ing accident, as such term is defined in subdivision 25 of section
5 11-0103 of this chapter, and the investigating law enforcement officer
6 summoned to or arriving at the scene of such accident shall within ten
7 days from the occurrence of such accident file a report of the accident
8 in writing with the department. Every such person or law enforcement
9 officer shall make such other and additional reports as the department
10 shall require. Failure to report such accident as herein provided by
11 the person causing injury or to furnish relevant information required by
12 the department shall be a violation and shall constitute grounds for
13 suspension or revocation of such person's hunting licenses and denial of
14 the privilege of obtaining any such license and of hunting with or with-
15 out a license following a hearing or opportunity to be heard. In addi-
16 tion, the department may temporarily suspend the license of the person
17 failing to report a hunting accident within the period prescribed herein
18 until such report has been filed. In the case of a non-resident, the
19 failure to report an accident as herein provided shall constitute
20 grounds for suspension or revocation of his or her privileges of hunting
21 within this state. The report required by this section shall be made in
22 such form and number as the department may prescribe.

23 S 6. Paragraphs b and c of subdivision 4 of section 11-0901 of the
24 environmental conservation law, as amended by chapter 600 of the laws of
25 1993, subparagraph 5 of paragraph b and subparagraph 5 of paragraph c as
26 amended by chapter 430 of the laws of 2000, are amended to read as
27 follows:

28 b. No person shall hunt deer:

29 (1) with the aid of a dog, or aircraft of any kind; or

30 (2) with the aid of a jacklight, spotlight, headlight or other type of
31 artificial light; or

32 (3) with a pistol, revolver or rifle using rim-fire ammunition; or

33 (4) with a shotgun of less than twenty gauge or loaded with shells
34 other than shells each carrying a single round ball or a single slug,
35 provided however, the use of a shotgun of twenty gauge or larger having
36 a rifled barrel or a smooth bore barrel fitted with a rifled choke,
37 loaded with shells each carrying a single round ball or a single slug,
38 shall not be prohibited so long as only shells having a non-metallic
39 case, except for the base, are used; or

40 (5) with [a bow other than] a long bow with a draw weight [in excess]
41 of LESS THAN thirty-five pounds; or

42 (6) with an arrow OR BOLT with an arrowhead that measures less than
43 seven-eighths of an inch at its widest point or that has fewer than two
44 sharp cutting edges; or

45 (7) with the aid of a pre-established bait pile other than those areas
46 established by standard agricultural production practices; or

47 (8) with an arrow OR BOLT with a barbed broadhead arrowhead.

48 c. No person shall hunt bear:

49 (1) with the aid of a dog, or aircraft of any kind; or

50 (2) with the aid of a jacklight, spotlight, headlight or other type of
51 artificial light; or

52 (3) with a pistol, revolver or rifle using rim-fire ammunition; or

53 (4) with a shotgun of less than twenty gauge or loaded with shells
54 other than shells each carrying a single round ball or a single slug,
55 provided however, the use of a shotgun of twenty gauge or larger having
56 a rifled barrel or a smooth bore barrel fitted with a rifled choke,

1 loaded with shells each carrying a single round ball or a single slug,
2 shall not be prohibited so long as only shells having a non-metallic
3 case, except for the base, are used; or

4 (5) with [a bow other than] a long bow with a draw weight [in excess]
5 of LESS THAN thirty-five pounds; or

6 (6) with an arrow OR BOLT with an arrowhead that measures less than
7 seven-eighths of an inch at its widest point or that has fewer than two
8 sharp cutting edges; or

9 (7) with the aid of a pre-established bait pile other than those areas
10 established by standard agricultural production practices; or

11 (8) with an arrow OR BOLT with a barbed broadhead arrowhead.

12 S 7. Paragraph d of subdivision 4 of section 11-0901 of the environ-
13 mental conservation law, as amended by chapter 600 of the laws of 1993,
14 is amended to read as follows:

15 d. The use upon land inhabited by deer or bear of a jacklight, spot-
16 light or other type of artificial light by any person who is or is
17 accompanied by a person who is in possession, at the time of such use,
18 of a long bow, a crossbow or firearm of any kind, shall be presumptive
19 evidence that such person is hunting deer or bear with the aid of such
20 light, in violation of this subdivision, unless:

21 (1) such long bow is unstrung, or such a firearm OR CROSSBOW is taken
22 down, or securely fastened in a case, or locked in the trunk of a vehi-
23 cle, or

24 (2) the firearm is a pistol or revolver, or

25 (3) the firearm is not in or on a motor vehicle and is a rifle
26 designed or adapted for use of rim-fire ammunition and neither the
27 person in possession of the gun, nor any member of his party, has in his
28 possession any twenty-two caliber ammunition other than twenty-two cali-
29 ber rim-fire ammunition, or

30 (4) the firearm is not in or on a motor vehicle and is a shotgun and
31 neither the person in possession of the gun, nor any member of his
32 party, has in his possession ammunition other than shells loaded with
33 scatter shot of size number four or smaller.

34 S 8. Section 11-0901 of the environmental conservation law is amended
35 by adding a new subdivision 17 to read as follows:

36 17. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ARTICLE, THE
37 DEPARTMENT MAY, BY REGULATION, AUTHORIZE THE TAKING OF WILDLIFE BY THE
38 USE OF A CROSSBOW BY ANY LICENSED PERSON IN ANY OPEN SEASON, EXCEPT THE
39 USE OF CROSSBOWS SHALL NOT BE PERMITTED IN CITIES OF ONE MILLION OR MORE
40 OR THE COUNTIES OF NASSAU AND SUFFOLK.

41 S 9. Subdivision 2 of section 11-0931 of the environmental conserva-
42 tion law, as amended by section 7 of part H of chapter 58 of the laws of
43 2012, is amended to read as follows:

44 2. No firearm OR CROSSBOW except a pistol or revolver shall be carried
45 or possessed in or on a motor vehicle unless it is unloaded, FOR A
46 FIREARM in both the chamber and the magazine, except that a loaded
47 firearm which may be legally used for taking migratory game birds may be
48 carried or possessed in a motorboat while being legally used in hunting
49 migratory game birds, and no person except a law enforcement officer in
50 the performance of his official duties shall, while in or on a motor
51 vehicle, use a jacklight, spotlight or other artificial light upon lands
52 inhabited by deer if he is in possession or is accompanied by a person
53 who is in possession, at the time of such use, of a longbow, crossbow or
54 a firearm of any kind except a pistol or revolver, unless such longbow
55 is unstrung or such firearm OR CROSSBOW is taken down or securely
56 fastened in a case or locked in the trunk of the vehicle. For purposes

1 of this subdivision, motor vehicle shall mean every vehicle or other
2 device operated by any power other than muscle power, and which shall
3 include but not be limited to automobiles, trucks, motorcycles, trac-
4 tors, trailers and motorboats, snowmobiles and snowtravelers, whether
5 operated on or off public highways. Notwithstanding the provisions of
6 this subdivision, the department may issue a permit to any person who is
7 non-ambulatory, except with the use of a mechanized aid, to possess a
8 loaded firearm in or on a motor vehicle as defined in this section,
9 subject to such restrictions as the department may deem necessary in the
10 interest of public safety. Nothing in this section permits the
11 possession of a pistol or a revolver contrary to the penal law.

12 S 10. Subdivision 4 of section 11-0931 of the environmental conserva-
13 tion law, subparagraph 3 of paragraph a as added by chapter 400 of the
14 laws of 1973 and subparagraph 4 of paragraph a as added by chapter 67 of
15 the laws of 1976, is amended to read as follows:

16 4. a. No person shall:

17 (1) discharge a firearm, CROSSBOW or long bow in such a way as will
18 result in the load, BOLT or arrow thereof passing over a public highway
19 or any part thereof;

20 (2) discharge a firearm, CROSSBOW or long bow within five hundred feet
21 from a dwelling house, farm building or farm structure actually occupied
22 or used, school building, school playground, or occupied factory or
23 church;

24 (3) use a firearm, CROSSBOW or a long bow for the hunting of migratory
25 game birds in Larchmont Harbor, specifically those portions bounded by
26 the following points of land:

27 BEGINNING AT A POINT KNOWN AS UMBRELLA POINT ON THE EAST SHORE OF
28 LARCHMONT HARBOR THEN PROCEEDING IN A NORTHERLY DIRECTION TO CEDAR
29 ISLAND; THENCE NORTHWESTERLY TO MONROE INLET; THENCE NORTHEASTERLY TO
30 DELANCY COVE BEING IN THE TOWN OF MAMARONECK; THENCE IN A SOUTHWESTERLY
31 DIRECTION FROM DELANCY COVE TO GREACEN POINT; THENCE RUNNING THE AREA
32 BETWEEN DELANCY COVE AND THE WEST SHORE OF SATANS TOE NORTHEAST; THENCE
33 SOUTHEAST THEN ALONG THE WEST SHORE OF SATANS TOE SOUTHWEST AND THEN
34 SOUTH TO THE SOUTHERLY POINT OF SATANS TOE TO EDGEWATER POINT.

35 (4) Use of a firearm, CROSSBOW or a long bow for the hunting of migra-
36 tory game birds in Udall's Cove, specifically those portions of Little
37 Neck Bay within Nassau and Queens counties lying east of a line running
38 north from the foot of Douglaston Parkway to the shore opposite.

39 b. The prohibitions contained in subparagraph 2 of paragraph a above
40 shall not apply to:

41 (1) The owner or lessee of the dwelling house, or members of his imme-
42 diate family actually residing therein, or a person in his employ, or
43 the guest of the owner or lessee of the dwelling house acting with the
44 consent of said owner or lessee, provided however, that nothing herein
45 shall be deemed to authorize such persons to discharge a firearm, CROSS-
46 BOW or longbow within five hundred feet of any other dwelling house, or
47 a farm building or farm structure actually occupied or used, or a school
48 building or playground or occupied factory or church;

49 (2) Programs conducted by public schools offering instruction and
50 training in the use of firearms, CROSSBOW or long bow;

51 (3) The authorized use of a pistol, rifle or target range regularly
52 operated and maintained by a police department or other law enforcement
53 agency or by any duly organized membership corporation;

54 (4) The discharge of a shotgun over water by a person hunting migrato-
55 ry game birds if no dwelling house or public structure, livestock or

1 person is situated in the line of discharge less than five hundred feet
2 from the point of discharge.

3 S 11. Paragraph c of subdivision 5 of section 11-0931 of the environ-
4 mental conservation law, as amended by chapter 309 of the laws of 2006,
5 is amended to read as follows:

6 c. In the Northern Zone no person, while engaged in hunting with the
7 aid of a dog or while afield accompanied by a dog, shall possess a rifle
8 larger than .22 caliber using rim-fire ammunition or possess a shotgun
9 loaded with a slug, ball or buckshot, OR POSSESS A CROSSBOW; but this
10 paragraph does not apply to persons, engaged in coyote hunts with dogs
11 during any open season on coyotes established pursuant to the provisions
12 of section 11-0903.

13 S 12. This act shall take effect immediately.

14 PART LL

15 Section 1. This act shall be known and may be cited as the "Rockland
16 Bergen Bi-state watershed flood prevention and protection act".

17 S 2. The legislature finds and declares that the states of New York
18 and New Jersey and their respective citizens share a common concern to
19 protect their personal safety and property through the identification
20 and remediation of potential flood hazards along the tributaries and
21 watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle
22 River, and Sparkill Brook/Creek that cross the interstate border region.
23 The identification and remediation of potential flood hazards requires a
24 bi-state comprehensive approach. A bi-state comprehensive flood
25 prevention approach will also help ensure the preservation and mainte-
26 nance of the environmentally beneficial impacts of the tributaries and
27 watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle
28 River, and Sparkill Brook/Creek. A bi-state approach will encourage
29 open space and recreational opportunities along the tributaries and
30 watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle
31 River, and Sparkill Brook/Creek. The legislature further finds that
32 there has been a long history of cooperation among state and local
33 governmental entities and various private organizations and individuals
34 in the vicinity of the tributaries and watersheds of the Hackensack
35 River, Mahwah River, Ramapo River, Saddle River, and Sparkill
36 Brook/Creek.

37 The legislature therefore determines that there is a need to endorse
38 and formalize that bi-state cooperative effort to identify and remediate
39 potential flood hazards and to protect the natural, scenic and recre-
40 ational opportunities of the tributaries and watersheds of the Hacken-
41 sack River, Mahwah River, Ramapo River, Saddle River, and Sparkill
42 Brook/Creek. The legislature further determines that the creation of a
43 bi-state commission is an appropriate means to accomplish these very
44 important goals.

45 S 3. As used in this act, "Bi-state region" shall mean the tributaries
46 and watersheds of the Hackensack River, Mahwah River, Ramapo River,
47 Saddle River, and Sparkill Brook/Creek, within the counties of Rockland
48 in New York and Bergen in New Jersey. "Resident voter" shall mean an
49 individual registered to vote and who actually votes in an election
50 district within the county of Rockland in New York or the county of
51 Bergen in New Jersey.

52 S 4. a. There is hereby created the Rockland Bergen Bi-state river
53 commission, which shall be comprised of twelve voting members. Six
54 members of New York shall be appointed as follows: one each, by the

1 governor, the temporary president of the senate, the speaker of the
2 assembly, the minority leader of the senate, and the minority leader of
3 the assembly, of New York, all of whom shall be resident voters of the
4 county of Rockland, New York; and the commissioner of the New York state
5 department of environmental conservation or a designee thereof, who
6 shall serve ex officio. Six members of New Jersey shall be appointed as
7 follows: one each, by the governor, the temporary president of the
8 senate, the speaker of the assembly, the minority leader of the senate,
9 and the minority leader of the assembly, of New Jersey, all of whom
10 shall be resident voters from either the county of Bergen, Essex, or
11 Hudson; and the commissioner of the New Jersey department of environ-
12 mental protection or a designee thereof, who shall serve ex officio.
13 Additionally, the commission shall include six non voting members, as
14 follows: the commissioner of the New York state department of transpor-
15 tation or a designee thereof, who shall serve ex officio; the commis-
16 sioner of the New Jersey department of transportation or a designee
17 thereof, who shall serve ex officio; the county executive of the county
18 of Rockland in New York or a designee thereof who shall serve ex offi-
19 cio; the county executive of the county of Bergen in New Jersey, or a
20 designee thereof, who shall serve ex officio; a representative of United
21 Water Inc. or its successor; and a representative of the United States
22 Army Corps of Engineers.

23 b. Vacancies in the appointed positions on the commission shall be
24 filled in the same manner as the original appointments were made.

25 c. Members of the commission shall serve without compensation, but the
26 commission may reimburse members for actual expenses necessarily
27 incurred in the discharge of their official duties.

28 d. Members of the commission shall serve at the pleasure of the rele-
29 vant appointing authority.

30 S 5. a. The commission shall organize as soon as may be practicable
31 after the appointment of its members, and shall select two co-chairper-
32 sons from its members, one from each state, and a secretary who need not
33 be a member.

34 b. The commission shall meet regularly as it may determine. Meetings
35 of the commission shall be at such times and places as the co-chairper-
36 sons of the commission deem appropriate, but to the maximum extent prac-
37 ticable and feasible, shall be rotated between the two states on an
38 alternating basis. Meetings held in New Jersey shall be subject to the
39 provisions and requirements of the "Senator Byron M. Baer Open Public
40 Meetings Act," P.L. 1975, c. 231 (C.10:4-6 et seq.). Meetings held in
41 New York shall be subject to the provisions and requirements of that
42 state's open meetings law, article 7 of the public officers law. The
43 commission shall also meet at the call of either co-chairperson.

44 c. A majority of the voting membership of the commission shall consti-
45 tute a quorum for the transaction of commission business. Action may be
46 taken and motions and resolutions adopted by the commission at any meet-
47 ing thereof by the affirmative vote of seven members of the commission.

48 d. The commission shall request assistance, and the services of, such
49 employees of the two states, or any political subdivisions, instrumen-
50 talities, entities, agencies, or authorities thereof, as it may require
51 and as may be made available to it for the purpose of carrying out its
52 duties under this act. If requested by the commission, the New Jersey
53 department of environmental protection and the New York state department
54 of environmental conservation shall provide primary staff support.

1 e. The commission may employ such professional, technical, and cler-
2 ical staff and incur such traveling and other miscellaneous expenses as
3 it may deem necessary in order to perform its duties.

4 S 6. The duties of the commission shall be to:

5 a. assess present and projected development, land use, and land
6 management practices and patterns, and identify actual and potential
7 environmental threats and problems, around the bi-state region, and
8 determine the effects of those practices and patterns, threats, and
9 problems upon the natural, scenic, and recreational resources of the
10 bi-state region;

11 b. develop recommended regulations, procedures, policies, planning
12 strategies, and model ordinances and resolutions pertaining to the
13 protection, preservation, maintenance, management, and enhancement of
14 the bi-state region which would be implemented as appropriate on a
15 voluntary basis by those municipalities within the bi-state region;

16 c. coordinate environmental cleanup, maintenance, and protection
17 efforts undertaken, for the benefit of the bi-state region by munici-
18 palities within the bi-state region;

19 d. coordinate with the New York state department of environmental
20 conservation and the New Jersey department of environmental protection,
21 including but not limited to, their watershed management programs, the
22 United States Army Corps of Engineers and all municipalities within the
23 bi-state region.

24 e. recommend appropriate state legislation and administrative action
25 pertaining to the protection, preservation, maintenance, management, and
26 enhancement of the bi-state region;

27 f. advocate, and where appropriate, act as a coordinating, distribut-
28 ing, or recipient agency for, federal, state, or private funding of
29 environmental cleanup, maintenance, protection projects, flood
30 prevention projects and flood hazard remediation for the bi-state
31 region, which projects may include the work of the commission;

32 g. identify existing and projected flood hazards in the bi-state
33 region;

34 h. recommend, propose and coordinate a bi-state comprehensive plan to
35 remediate existing and projected flood hazards in the bi-state region;
36 and

37 i. take such other action as may be appropriate or necessary to
38 further the purpose of this act.

39 S 7. The commission shall, within 18 months of the date it organizes,
40 and annually thereafter, prepare a progress report on its activities,
41 and submit it, together with any recommendations for legislation, admin-
42 istrative action, or action by local governments, to the governors and
43 legislatures of the states of New Jersey and New York.

44 S 8. The comptroller of the state of New Jersey and the comptroller of
45 the state of New York are hereby authorized and empowered from time to
46 time to examine the accounts and books of the commission, including its
47 receipts, disbursements, and such other items referring to its financial
48 standing as such comptrollers may deem proper and to report the results
49 of such examination to their respective governor and legislature.

50 S 9. This act shall take effect upon the enactment into law by the
51 state of New Jersey of legislation having substantially similar effect
52 with this act, but if the state of New Jersey shall have already enacted
53 such legislation, this act shall take effect immediately; provided that
54 the Rockland Bergen Bi-state river commission shall notify the legisla-
55 tive bill drafting commission upon the occurrence of the enactment of
56 the legislation provided for in this act in order that the legislative

bill drafting commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART MM

Section 1. Section 19-0301 of the environmental conservation law is amended by adding a new subdivision 6 to read as follows:

6. IN ADDITION TO ANY EXISTING AUTHORITY FOR THE REGULATION OF GREENHOUSE GAS EMISSIONS, THE DEPARTMENT SHALL, IN COOPERATION WITH THE DEPARTMENT OF PUBLIC SERVICE AND THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, AMEND PART 242 OF TITLE 6 OF THE NEW YORK CODES, RULES AND REGULATIONS, IN A MANNER THAT IS CONSISTENT WITH ALL APPLICABLE FEDERAL LAWS, TO REGULATE ELECTRICITY IMPORTED INTO THE STATE FROM ANY STATE OR PROVINCE NOT PARTICIPATING IN THE MULTI-STATE PROGRAM, IN WHICH NEW YORK STATE IS A MEMBER, THAT WAS ESTABLISHED TO PROVIDE FOR THE REDUCTION OF EMISSIONS FROM ELECTRIC GENERATING FACILITIES, AS PROVIDED IN SUCH PART 242. THESE REGULATIONS SHALL IMPOSE EQUIVALENT ASSESSMENTS AND CREDITS UPON ELECTRIC GENERATORS BASED ON MATCHING THE CARBON INTENSITY OF ELECTRICITY GENERATED IN NEW YORK STATE UPON THE IMPORTATION OF ELECTRIC POWER INTO NEW YORK STATE FOR USE WITHIN NEW YORK STATE. TREATMENT OF IMPORTED SOURCES OF ELECTRICITY WILL BE DESIGNED TO MAINTAIN THE ENVIRONMENTAL INTEGRITY AND ECONOMIC GOALS OF THE MULTI-STATE PROGRAM IN WHICH NEW YORK STATE PARTICIPATES THAT WAS ESTABLISHED AS A MEANS OF REDUCING EMISSIONS FROM ELECTRIC GENERATING FACILITIES AS PROVIDED IN SUCH PART 242. AMENDMENTS TO PART 242 OF TITLE 6 OF THE NEW YORK CODES, RULES AND REGULATIONS COVERING THE IMPORTATION OF ELECTRIC GENERATED POWER SHALL BE CONSISTENT WITH, BUT SHALL NOT EXCEED, THE OVERALL REDUCTION IN ALLOCATIONS ESTABLISHED ACCORDING TO THE MOST CURRENT MODEL RULE GUIDING THE MEMBERS OF THE MULTI-STATE PROGRAM IN WHICH NEW YORK STATE IS A PARTICIPANT.

S 2. This act shall take effect immediately.

PART NN

Section 1. Subdivision 2 of section 27-1405 of the environmental conservation law, as amended by section 2 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

2. (A) "Brownfield site" or "site" shall mean any real property, the redevelopment or reuse of which [may be] IS complicated by the GROUND SURFACE OR BELOW GROUND SURFACE LEVEL presence or [potential] SUSPECTED presence of a contaminant REGARDLESS OF THE SOURCE OF SUCH CONTAMINANT. A BROWNFIELD SITE IS CHARACTERIZED BY ANY OR ALL OF THE FOLLOWING:

(I) A CURRENT AND HISTORICAL LEGACY OF ABANDONMENT FROM PREVIOUS INDUSTRIAL OR COMMERCIAL ACTIVITY.

(II) A CURRENT AND HISTORICAL LEGACY OF SEVERE ECONOMIC OR FUNCTIONAL UNDERUTILIZATION INCLUDING USE OF SUCH SITE AS A HAZARDOUS WASTE OR SOLID WASTE FACILITY.

(III) IN THE CASE OF A SITE CHARACTERIZED PRIMARILY BY INDUSTRIAL ACTIVITY, FUNCTIONAL OBSOLESCENCE.

(B) Such term shall not include real property:

[(a)] (I) listed in the registry of inactive hazardous waste disposal sites under section 27-1305 of this article at the time of application to this program and given a classification as described in subparagraph one or two of paragraph b of subdivision two of section 27-1305 of this

1 article; provided, however except until July first, two thousand five,
2 real property listed in the registry of inactive hazardous waste
3 disposal sites under subparagraph two of paragraph b of subdivision two
4 of section 27-1305 of this article prior to the effective date of this
5 article, where such real property is owned by a volunteer shall not be
6 deemed ineligible to participate and further provided that the status of
7 any such site as listed in the registry shall not be altered prior to
8 the issuance of a certificate of completion pursuant to section 27-1419
9 of this title;

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

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

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

23 [(e)] (V) subject to any other on-going state or federal environmental
24 enforcement action related to the contamination which is at or emanating
25 from the site subject to the present application.

26 (VI) PROVIDED HOWEVER FOR OTHERWISE INELIGIBLE SITES GIVEN A CLASSI-
27 FICATION AS DESCRIBED IN SUBPARAGRAPH TWO OR THREE OF PARAGRAPH B OF
28 SUBDIVISION TWO OF SECTION 27-1305 OF THIS ARTICLE, AND INELIGIBLE SITES
29 DESCRIBED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, A VOLUNTEER SHALL NOT
30 BE DEEMED INELIGIBLE TO PARTICIPATE IN REGARDS TO ANY SUCH INELIGIBLE
31 SITE IF SUCH VOLUNTEER INTENDS TO ACQUIRE AND REDEVELOP SUCH REAL PROP-
32 erty AND ASSUME RESPONSIBILITY, NOT FOR PAST COSTS INCURRED PRIOR TO THE
33 APPLICATION, BUT FOR ALL FUTURE COSTS TO COMPLETE ANY REMAINING INVESTI-
34 GATION AND REMEDIATION UPON ACQUISITION OF SUCH REAL PROPERTY, OR MAIN-
35 TAIN LONG TERM INSTITUTIONAL AND ENGINEERING CONTROLS OF THE SITE, AND
36 IMPLEMENT A REDEVELOPMENT PROJECT ON THE SITE, THE SITE CONFORMS TO THE
37 DEFINITION OF A BROWNFIELD SITE IN PARAGRAPH (A) OF THIS SUBDIVISION,
38 AND ENTERS INTO A BROWNFIELD CLEANUP AGREEMENT IN ACCORDANCE WITH
39 SECTION 27-1409 OF THIS TITLE. ANY ON-GOING STATE ACTIONS AND/OR ORDERS
40 WILL NOT BE SUPERSEDED BY THE VOLUNTEER'S BROWNFIELD CLEANUP AGREEMENT,
41 BUT WILL REMAIN IN FULL FORCE AND EFFECT UNTIL SUCH TIME AS THE VOLUN-
42 TEER RECEIVES A CERTIFICATE OF COMPLETION PURSUANT TO SECTION 27-1419 OF
43 THIS TITLE AND THEREAFTER TO THE EXTENT THE VOLUNTEER OR SUBSEQUENT
44 OWNER OR OPERATOR FAIL TO COMPLY WITH THE TERMS OF AN ENVIRONMENTAL
45 EASEMENT IF ONE HAD BEEN CREATED PURSUANT TO TITLE THIRTY-SIX OF ARTICLE
46 SEVENTY-ONE, OR AN ENVIRONMENTAL COVENANT AS OF THIS CHAPTER PURSUANT TO
47 TITLE FORTY-FIVE OF ARTICLE SEVENTY-ONE OF THIS CHAPTER. IN THE EVENT
48 THE VOLUNTEER DOES NOT RECEIVE THE CERTIFICATE OF COMPLETION OR SUCH
49 CERTIFICATE OF COMPLETION IS REVOKED FOR ANY REASON, ANY AND ALL STATE
50 ENFORCEMENTS ACTION IMMEDIATELY WILL RESUME AFTER TIMELY NOTICE TO ALL
51 PARTIES.

52 S 2. The opening paragraph of subdivision 2 of section 27-1409 of the
53 environmental conservation law is designated paragraph (a) and a new
54 paragraph (b) is added to read as follows:

55 (B) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ALL APPLI-
56 CANTS ACCEPTING PARTICIPATION IN THE BROWNFIELD CLEANUP PROGRAM SHALL

1 PAY ALL REASONABLE STATE COSTS, HOWEVER, SUCH STATE COSTS SHALL NOT
2 EXCEED FIVE PERCENT OF THE TOTAL SITE PREPARATION COSTS, AS DEFINED BY
3 PARAGRAPH TWO OF SUBDIVISION (B) OF SECTION TWENTY-ONE OF THE TAX LAW,
4 PAID OR INCURRED BY THE APPLICANT, AND THE TOTAL STATE COSTS OWED SHALL
5 BE PAYABLE UPON NINETY DAYS OF, (I) THE ISSUANCE OF THE CERTIFICATE OF
6 COMPLETION FOR THE PROJECT, OR, (II) UPON TERMINATION OF A PARTICIPANT'S
7 BROWNFIELD CLEANUP AGREEMENT BY THE DEPARTMENT FOR FAILURE TO SUBSTAN-
8 Tially COMPLY WITH SUCH AGREEMENT'S TERMS AND CONDITIONS, OR (III), THE
9 VOLUNTARY WITHDRAWAL OF THE APPLICANT. FAILURE TO REMIT DUE PAYMENTS TO
10 THE STATE SHALL RESULT IN THE REVOCATION OF SUCH CERTIFICATE OF
11 COMPLETION, AND WILL PROHIBIT ANY FUTURE PARTICIPATION OF AN APPLICANT
12 IN THE PROGRAM. PAYMENT OF STATE COSTS SHALL BE MADE TO THE HAZARDOUS
13 WASTE REMEDIAL FUND ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-B OF
14 THE STATE FINANCE LAW.

15 S 3. Article 71 of the environmental conservation law is amended by
16 adding a new title 45 to read as follows:

17 TITLE 45

18 ENVIRONMENTAL COVENANTS

19 SECTION 71-4501. SHORT TITLE.
20 71-4503. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.
21 71-4505. DEFINITIONS.
22 71-4507. NATURE OF RIGHTS; SUBORDINATION OF INTERESTS.
23 71-4509. CONTENTS OF ENVIRONMENTAL COVENANT.
24 71-4511. VALIDITY; EFFECT ON OTHER INSTRUMENTS.
25 71-4513. RELATIONSHIP TO OTHER LAND USE LAW.
26 71-4515. NOTICE.
27 71-4517. RECORDING.
28 71-4519. COORDINATION WITH LOCAL GOVERNMENTS.
29 71-4521. DURATION.
30 71-4523. AMENDMENT OR TERMINATION BY CONSENT.
31 71-4525. ENFORCEMENT OF ENVIRONMENTAL COVENANT.
32 71-4527. UNIFORMITY OF APPLICATION AND CONSTRUCTION.
33 71-4529. REGULATIONS.
34 71-4531. SEVERABILITY.

35 S 71-4501. SHORT TITLE.

36 THIS TITLE SHALL BE KNOWN AND MAY BE CITED AS THE "UNIFORM ENVIRON-
37 MENTAL COVENANTS ACT".

38 S 71-4503. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

39 THE LEGISLATURE HEREBY FINDS AND DECLARES THAT CONTAMINATED SITE REME-
40 DIAL PROGRAMS ARE AN IMPORTANT AND NECESSARY COMPONENT OF THE STATE'S
41 POLICY OF RESTORING AND REVITALIZING REAL PROPERTY LOCATED THROUGHOUT
42 NEW YORK STATE. THE LEGISLATURE FURTHER FINDS THAT WHEN AN ENVIRONMENTAL
43 REMEDIATION PROJECT LEAVES RESIDUAL CONTAMINATION AT LEVELS THAT HAVE
44 BEEN DETERMINED TO BE SAFE FOR A SPECIFIC USE, BUT NOT ALL USES, OR
45 INCLUDES ENGINEERED STRUCTURES THAT MUST BE MAINTAINED OR PROTECTED
46 AGAINST DAMAGE TO BE EFFECTIVE, IT IS NECESSARY TO PROVIDE AN EFFECTIVE
47 AND ENFORCEABLE MEANS OF ENSURING THE PERFORMANCE OF MAINTENANCE, MONI-
48 Toring OR OPERATION REQUIREMENTS, AND OF ENSURING THE POTENTIAL
49 RESTRICTION OF FUTURE USES OF THE LAND, INCLUDING RESTRICTIONS ON DRILL-
50 ING FOR OR PUMPING GROUNDWATER, FOR AS LONG AS ANY RESIDUAL CONTAM-
51 INATION REMAINS HAZARDOUS. THE LEGISLATURE DECLARES, THEREFORE, THAT IT
52 IS IN THE PUBLIC INTEREST TO CREATE LAND USE CONTROLS IN THE FORM OF
53 ENVIRONMENTAL COVENANTS BECAUSE SUCH ENVIRONMENTAL COVENANTS ARE NECES-
54 SARY FOR THE PROTECTION OF HUMAN HEALTH AND THE ENVIRONMENT AND TO
55 ACHIEVE THE REQUIREMENTS FOR REMEDIATION ESTABLISHED AT CONTAMINATED
56 SITES. IT IS THE INTENT OF THE LEGISLATURE THAT THE PROVISIONS OF THIS

SECTION SHALL NOT BE CONSTRUED AS LIMITING OR OTHERWISE AFFECTING ANY AUTHORITY CONFERRED UPON THE DEPARTMENT BY ANY OTHER PROVISION OF LAW.

S 71-4505. DEFINITIONS.

WHEN USED IN THIS TITLE:

1. "ACTIVITY AND USE LIMITATIONS" MEANS RESTRICTIONS OR OBLIGATIONS CREATED UNDER THIS TITLE WITH RESPECT TO REAL PROPERTY.

2. "AFFECTED LOCAL GOVERNMENT" MEANS EVERY MUNICIPALITY IN WHICH LAND SUBJECT TO AN ENVIRONMENTAL COVENANT IS LOCATED.

3. "COMMON INTEREST COMMUNITY" MEANS A CONDOMINIUM, COOPERATIVE, OR OTHER REAL PROPERTY ASSOCIATION OR ORGANIZATION WITH RESPECT TO WHICH A PERSON, BY VIRTUE OF THE PERSON'S COMMON INTEREST, AS THAT TERM IS DEFINED IN SECTION THREE HUNDRED THIRTY-NINE-E OF THE REAL PROPERTY LAW, OR OWNERSHIP OF A UNIT, SHARE OR PARCEL OF REAL PROPERTY, IS OBLIGATED TO PAY PROPERTY TAXES OR INSURANCE PREMIUMS, OR FOR MAINTENANCE, OR IMPROVEMENT OF OTHER REAL PROPERTY DESCRIBED IN A RECORDED DECLARATION OR COVENANT THAT CREATES THE COMMON INTEREST COMMUNITY.

4. "ENVIRONMENTAL COVENANT" MEANS A SERVITUDE RUNNING WITH THE LAND ARISING UNDER AN ENVIRONMENTAL REMEDIAL PROGRAM THAT IMPOSES ACTIVITY AND USE LIMITATIONS AS WELL AS MAINTENANCE, MONITORING OR OPERATION REQUIREMENTS ASSOCIATED WITH THE ENVIRONMENTAL REMEDIAL PROGRAM.

5. "ENVIRONMENTAL REMEDIAL PROGRAM" MEANS A REMEDIAL PROGRAM CONDUCTED AT REAL PROPERTY:

(A) UNDER A FEDERAL OR STATE PROGRAM GOVERNING ENVIRONMENTAL REMEDIATION OF REAL PROPERTY, INCLUDING REMEDIAL PROGRAMS PURSUANT TO TITLES THIRTEEN AND FOURTEEN OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER, TITLE FIVE OF ARTICLE FIFTY-SIX OF THIS CHAPTER AND ARTICLE TWELVE OF THE NAVIGATION LAW;

(B) INCIDENT TO A DEPARTMENT-APPROVED CLOSURE OF A SOLID OR HAZARDOUS WASTE MANAGEMENT UNIT;

(C) UNDER A CORRECTIVE ACTION PLAN PURSUANT TO TITLE NINE OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER; OR

(D) UNDER OTHER DEPARTMENT REMEDIAL PROGRAMS.

6. "HOLDER" MEANS THE GRANTEE OF AN ENVIRONMENTAL COVENANT AS SPECIFIED IN SUBDIVISION ONE OF SECTION 71-4507 OF THIS TITLE.

7. "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, PUBLIC CORPORATION, GOVERNMENT, GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

8. "RECORD", USED AS A NOUN, MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

S 71-4507. NATURE OF RIGHTS; SUBORDINATION OF INTERESTS.

1. THE DEPARTMENT SHALL BE A HOLDER AND MAY IDENTIFY ONE OR MORE ADDITIONAL HOLDERS OR BENEFICIARIES. THE INTEREST OF A HOLDER IS AN INTEREST IN REAL PROPERTY.

2. A RIGHT OF THE DEPARTMENT OR OTHER INTENDED BENEFICIARY UNDER THIS TITLE OR UNDER AN ENVIRONMENTAL COVENANT, OTHER THAN A RIGHT AS A HOLDER, IS NOT AN INTEREST IN REAL PROPERTY.

3. THE DEPARTMENT IS BOUND BY ANY OBLIGATION IT ASSUMES IN AN ENVIRONMENTAL COVENANT, BUT THE DEPARTMENT DOES NOT ASSUME OBLIGATIONS MERELY BY SIGNING AN ENVIRONMENTAL COVENANT. ANY OTHER PERSON THAT SIGNS AN ENVIRONMENTAL COVENANT IS BOUND BY THE OBLIGATIONS THE PERSON ASSUMES IN THE COVENANT, BUT SIGNING THE COVENANT DOES NOT CHANGE OBLIGATIONS, RIGHTS, OR PROTECTIONS GRANTED OR IMPOSED UNDER LAW OTHER THAN THIS TITLE EXCEPT AS PROVIDED IN THE COVENANT.

1 4. THE FOLLOWING RULES APPLY TO INTERESTS IN REAL PROPERTY IN EXIST-
2 ENCE AT THE TIME AN ENVIRONMENTAL COVENANT IS CREATED OR AMENDED:

3 (A) AN INTEREST THAT HAS PRIORITY UNDER OTHER LAW IS NOT AFFECTED BY
4 AN ENVIRONMENTAL COVENANT UNLESS THE PERSON THAT OWNS THE INTEREST
5 SUBORDINATES THAT INTEREST TO THE COVENANT.

6 (B) THIS TITLE DOES NOT REQUIRE A PERSON THAT OWNS A PRIOR INTEREST TO
7 SUBORDINATE THAT INTEREST TO AN ENVIRONMENTAL COVENANT OR TO AGREE TO BE
8 BOUND BY THE COVENANT.

9 (C) A SUBORDINATION AGREEMENT MAY BE CONTAINED IN AN ENVIRONMENTAL
10 COVENANT COVERING REAL PROPERTY OR IN A SEPARATE RECORD. IF THE ENVIRON-
11 MENTAL COVENANT COVERS COMMONLY OWNED PROPERTY IN A COMMON INTEREST
12 COMMUNITY, THE SUBORDINATE AGREEMENT OR RECORD MAY BE SIGNED BY ANY
13 PERSON AUTHORIZED BY LAW, A RECORDED INSTRUMENT, OR THE GOVERNING BOARD
14 OF THE OWNERS' ASSOCIATION TO BIND THE COMMON INTEREST COMMUNITY.

15 (D) AN AGREEMENT BY A PERSON TO SUBORDINATE A PRIOR INTEREST TO AN
16 ENVIRONMENTAL COVENANT AFFECTS THE PRIORITY OF THAT PERSON'S INTEREST
17 BUT DOES NOT BY ITSELF IMPOSE ANY AFFIRMATIVE OBLIGATION ON THE PERSON
18 WITH RESPECT TO THE ENVIRONMENTAL COVENANT.

19 5. THE DEPARTMENT MAY REQUIRE THAT A SUBORDINATION AGREEMENT BE
20 OBTAINED AS A CONDITION OF ACCEPTING AN ENVIRONMENTAL COVENANT TO
21 PROTECT PUBLIC HEALTH AND THE ENVIRONMENT.

22 S 71-4509. CONTENTS OF ENVIRONMENTAL COVENANT.

23 1. AN ENVIRONMENTAL COVENANT MUST BE ON A FORM PRESCRIBED BY THE
24 DEPARTMENT AND:

25 (A) BE GRANTED BY THE TITLE OWNERS OF THE RELEVANT REAL ESTATE ONLY BY
26 AN INSTRUMENT THAT COMPLIES WITH THE REQUIREMENTS OF SECTION 5-703 OF
27 THE GENERAL OBLIGATIONS LAW AND IS SIGNED AND ACKNOWLEDGED IN THE MANNER
28 OF A DEED TO BE RECORDED;

29 (B) STATE THAT THE INSTRUMENT IS AN ENVIRONMENTAL COVENANT EXECUTED
30 PURSUANT TO THIS TITLE;

31 (C) DESCRIBE THE PROPERTY ENCUMBERED BY THE ENVIRONMENTAL COVENANT BY
32 ADEQUATE LEGAL DESCRIPTION OR BY REFERENCE TO A RECORDED MAP SHOWING ITS
33 BOUNDARIES AND BEARING THE SEAL AND SIGNATURE OF A LICENSED LAND
34 SURVEYOR OR, IF THE COVENANT ENCUMBERS THE ENTIRE PROPERTY DESCRIBED IN
35 A DEED OF RECORD, THE COVENANT MAY INCORPORATE BY REFERENCE THE
36 DESCRIPTION IN SUCH DEED, OTHERWISE IT SHALL REFER TO THE LIBER AND PAGE
37 OF THE DEED OR DEEDS OF THE RECORD OWNER OR OWNERS OF THE REAL PROPERTY
38 BURDENED BY THE ENVIRONMENTAL COVENANT;

39 (D) DESCRIBE THE ACTIVITY AND USE LIMITATIONS ON THE REAL PROPERTY;

40 (E) INCLUDE ANY ENGINEERING CONTROLS AND/OR MAINTENANCE REQUIRED FOR
41 THE ENVIRONMENTAL COVENANT OR PROVIDE A REFERENCE TO PUBLICLY AVAILABLE
42 DOCUMENTS CONTAINING SUCH INFORMATION;

43 (F) DESCRIBE THE REQUIREMENTS FOR NOTICE FOLLOWING TRANSFER OF A SPEC-
44 IFIED INTEREST IN, OR CONCERNING PROPOSED CHANGES IN USE OF, APPLICA-
45 TIONS FOR BUILDING PERMITS FOR, OR PROPOSALS FOR ANY SITE WORK AFFECTING
46 THE CONTAMINATION ON THE PROPERTY SUBJECT TO THE COVENANT;

47 (G) DESCRIBE THE REQUIREMENTS FOR PERIODIC REPORTING DESCRIBING
48 COMPLIANCE WITH THE COVENANT;

49 (H) DESCRIBE THE RIGHTS OF ACCESS TO THE PROPERTY GRANTED IN
50 CONNECTION WITH IMPLEMENTATION OR ENFORCEMENT OF THE COVENANT, INCLUDING
51 BUT NOT LIMITED TO THE RIGHT OF AGENTS, EMPLOYEES, OR OTHER REPRESENT-
52 ATIVES OF THE STATE TO ENTER AND INSPECT THE PROPERTY BURDENED BY AN
53 ENVIRONMENTAL COVENANT IN A REASONABLE MANNER AND AT REASONABLE TIMES TO
54 ASSURE COMPLIANCE WITH THE RESTRICTION;

55 (I) IDENTIFY THE DEPARTMENT AS THE HOLDER AND, IF APPROPRIATE, THE
56 FEDERAL GOVERNMENT OR OTHER APPROPRIATE PARTY AS AN ADDITIONAL HOLDER OR

1 INTENDED THIRD PARTY BENEFICIARY. IF THERE IS A HOLDER IN ADDITION TO
2 THE DEPARTMENT, THE DEPARTMENT MUST APPROVE THE HOLDER, AND THE HOLDER
3 MUST AGREE TO THE TERMS OF THE COVENANT;

4 (J) INCLUDE AN ACKNOWLEDGMENT BY THE DEPARTMENT OF ITS ACCEPTANCE OF
5 THE ENVIRONMENTAL COVENANT;

6 (K) BE SIGNED BY EVERY HOLDER AND, UNLESS WAIVED BY THE DEPARTMENT,
7 EVERY OWNER OF THE FEE SIMPLE OF THE REAL PROPERTY SUBJECT TO THE COVEN-
8 ANT;

9 (L) IDENTIFY THE NAME AND LOCATION OF ANY ADMINISTRATIVE RECORD FOR
10 THE ENVIRONMENTAL REMEDIAL PROGRAM REFLECTED IN THE ENVIRONMENTAL COVEN-
11 ANT;

12 (M) INCLUDE AN AGREEMENT TO INCORPORATE, EITHER IN FULL OR BY REFER-
13 ENCE, THE ENVIRONMENTAL COVENANT IN ANY LEASES, LICENSES, OR OTHER
14 INSTRUMENTS GRANTING A RIGHT TO USE THE PROPERTY THAT MAY BE AFFECTED BY
15 SUCH COVENANT; AND

16 (N) THE DEPARTMENT MAY REQUIRE THAT INFORMATION DELINEATED IN PARA-
17 GRAPHS (D), (E), (F), (G) AND (H) OF THIS SUBDIVISION BE ENUMERATED IN A
18 SITE MANAGEMENT PLAN IN LIEU OF BEING SET FORTH IN THE ENVIRONMENTAL
19 COVENANT.

20 2. IN ADDITION TO THE INFORMATION REQUIRED BY SUBDIVISION ONE OF THIS
21 SECTION, AN ENVIRONMENTAL COVENANT MAY CONTAIN OTHER INFORMATION,
22 RESTRICTIONS, AND REQUIREMENTS AGREED TO BY THE PERSONS WHO SIGNED IT,
23 INCLUDING ANY:

24 (A) LIMITATION ON AMENDMENT OR TERMINATION OF THE COVENANT IN ADDITION
25 TO THOSE CONTAINED IN SECTIONS 71-4521 AND 71-4523 OF THIS TITLE; AND

26 (B) RIGHTS OF THE HOLDER IN ADDITION TO ITS RIGHT TO ENFORCE THE
27 COVENANT PURSUANT TO SECTION 71-4525 OF THIS TITLE.

28 3. IN ADDITION TO OTHER CONDITIONS FOR ITS APPROVAL OF AN ENVIRON-
29 MENTAL COVENANT, THE DEPARTMENT MAY REQUIRE THOSE PERSONS SPECIFIED BY
30 THE DEPARTMENT WHO HAVE INTERESTS IN THE REAL PROPERTY TO SIGN THE
31 COVENANT.

32 4. THE TITLE OWNERS SHALL FURNISH TO THE DEPARTMENT ABSTRACTS OF TITLE
33 AND OTHER DOCUMENTS SUFFICIENT TO ENABLE THE DEPARTMENT TO DETERMINE
34 THAT THE ENVIRONMENTAL COVENANTS SHALL BE AN EFFECTIVE AND ENFORCEABLE
35 MEANS OF ENSURING:

36 (A) THE PERFORMANCE OF MAINTENANCE, MONITORING AND OPERATING REQUIRE-
37 MENTS; AND

38 (B) ACTIVITIES AND USE LIMITATIONS.

39 5. UNTIL SUCH TIME AS THE ENVIRONMENTAL COVENANT IS EXTINGUISHED, THE
40 PROPERTY DEED AND ALL SUBSEQUENT INSTRUMENTS OF CONVEYANCE RELATING TO
41 THE SUBJECT PROPERTY SHALL STATE IN AT LEAST FIFTEEN-POINT BOLD-FACED
42 TYPE: "THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT HELD BY

43 THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION PURSUANT TO
44 TITLE 45 OF ARTICLE 71 OF THE ENVIRONMENTAL CONSERVATION LAW." THE PROP-
45 erty deed and all subsequent instruments of conveyance relating to the
46 property encumbered by the covenant shall reference, by book and page
47 number, the environmental covenant. Such deed and instrument shall also
48 specify that the eligible property is subject to the restrictions
49 contained in such covenant. An instrument for the purpose of creating,
50 conveying, modifying, or terminating an environmental covenant shall not
51 be effective unless recorded.

52 S 71-4511. VALIDITY; EFFECT ON OTHER INSTRUMENTS.

53 1. AN ENVIRONMENTAL COVENANT THAT COMPLIES WITH THIS TITLE RUNS WITH
54 THE LAND.

55 2. AN ENVIRONMENTAL COVENANT THAT IS OTHERWISE EFFECTIVE IS VALID AND
56 ENFORCEABLE EVEN IF:

(A) IT IS NOT APPURTENANT TO AN INTEREST IN REAL PROPERTY;

(B) IT IS NOT OF A CHARACTER THAT HAS BEEN RECOGNIZED TRADITIONALLY AT COMMON LAW;

(C) IT IMPOSES A NEGATIVE BURDEN;

(D) IT IMPOSES AN AFFIRMATIVE OBLIGATION ON A PERSON HAVING AN INTEREST IN THE REAL PROPERTY OR ON THE HOLDER;

(E) THE BENEFIT OR BURDEN DOES NOT TOUCH OR CONCERN REAL PROPERTY; OR

(F) THERE IS NO PRIVACY OF ESTATE OR CONTRACT.

3. AN INSTRUMENT THAT CREATES RESTRICTIONS OR OBLIGATIONS WITH RESPECT TO REAL PROPERTY THAT WOULD QUALIFY AS ACTIVITY AND USE LIMITATIONS EXCEPT FOR THE FACT THAT THE INSTRUMENT WAS RECORDED BEFORE THE EFFECTIVE DATE OF THIS TITLE IS NOT INVALID OR UNENFORCEABLE BECAUSE OF ANY OF THE LIMITATIONS ON ENFORCEMENT OF INTERESTS DESCRIBED IN SUBDIVISION TWO OF THIS SECTION OR BECAUSE IT WAS IDENTIFIED AS AN EASEMENT, SERVITUDE, DEED RESTRICTION, OR OTHER INTEREST. THIS TITLE DOES NOT APPLY IN ANY OTHER RESPECT TO SUCH AN INSTRUMENT.

4. THIS TITLE DOES NOT INVALIDATE OR RENDER UNENFORCEABLE ANY INTEREST, WHETHER DESIGNATED AS AN ENVIRONMENTAL COVENANT OR OTHER INTEREST, THAT IS OTHERWISE ENFORCEABLE UNDER THE LAWS OF THIS STATE.

5. THIS TITLE SHALL NOT AFFECT ANY INTERESTS OR RIGHTS IN REAL PROPERTY WHICH ARE NOT ENVIRONMENTAL COVENANTS, AND SHALL NOT AFFECT THE RIGHTS OF OWNERS TO CONVEY ANY INTERESTS IN REAL PROPERTY WHICH THEY COULD NOW CREATE UNDER EXISTING LAW WITHOUT REFERENCE TO THE TERMS OF THIS TITLE. NOTHING IN THIS TITLE SHALL DIMINISH THE POWERS GRANTED BY ANY OTHER LAW TO ACQUIRE INTERESTS OR RIGHTS IN REAL PROPERTY BY PURCHASE, GIFT, EMINENT DOMAIN, OR OTHERWISE AND TO USE THE SAME FOR PUBLIC PURPOSES.

S 71-4513. RELATIONSHIP TO OTHER LAND USE LAW.

THIS TITLE DOES NOT AUTHORIZE A USE OF REAL PROPERTY THAT IS OTHERWISE PROHIBITED BY ZONING, BY LAW OTHER THAN THIS TITLE REGULATING USE OF REAL PROPERTY, OR BY A RECORDED INSTRUMENT THAT HAS PRIORITY OVER THE ENVIRONMENTAL COVENANT. AN ENVIRONMENTAL COVENANT MAY PROHIBIT OR RESTRICT USES OF REAL PROPERTY WHICH ARE AUTHORIZED BY ZONING OR BY LAW OTHER THAN THIS TITLE.

S 71-4515. NOTICE.

1. A COPY OF AN ENVIRONMENTAL COVENANT, AND ANY AMENDMENT OR TERMINATION THEREOF, SHALL BE PROVIDED IN THE MANNER REQUIRED BY THE DEPARTMENT TO:

(A) EACH PERSON THAT SIGNED THE COVENANT;

(B) EACH PERSON HOLDING A RECORDED INTEREST IN THE REAL PROPERTY SUBJECT TO THE COVENANT;

(C) EACH PERSON IN POSSESSION OF THE REAL PROPERTY SUBJECT TO THE COVENANT;

(D) EACH AFFECTED LOCAL GOVERNMENT; AND

(E) ANY OTHER PERSON THE DEPARTMENT REQUIRES.

2. THE VALIDITY OF A COVENANT IS NOT AFFECTED BY FAILURE TO PROVIDE A COPY OF THE COVENANT AS REQUIRED UNDER THIS SECTION.

3. THE DEPARTMENT SHALL INCLUDE A COPY OF EACH ENVIRONMENTAL COVENANT IN THE DATABASE CREATED PURSUANT TO SECTION 27-1415 OF THIS CHAPTER AND MAKE SUCH DATABASE READILY SEARCHABLE.

S 71-4517. RECORDING.

1. AN ENVIRONMENTAL COVENANT AND ANY AMENDMENT OR TERMINATION OF THE COVENANT MUST BE RECORDED IN THE OFFICE OF THE RECORDING OFFICER IN THE MANNER PRESCRIBED BY ARTICLE NINE OF THE REAL PROPERTY LAW IN EVERY COUNTY IN WHICH ANY PORTION OF THE REAL PROPERTY SUBJECT TO THE COVENANT

1 IS LOCATED. FOR PURPOSES OF INDEXING, A HOLDER SHALL BE TREATED AS A
2 GRANTEE.

3 2. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION TWO OF SECTION 71-4521
4 OF THIS TITLE, AN ENVIRONMENTAL COVENANT IS SUBJECT TO THE LAWS OF THIS
5 STATE GOVERNING RECORDING AND PRIORITY OF INTERESTS IN REAL PROPERTY.
6 S 71-4519. COORDINATION WITH LOCAL GOVERNMENTS.

7 WHENEVER AN AFFECTED LOCAL GOVERNMENT RECEIVES AN APPLICATION FOR A
8 BUILDING PERMIT OR ANY OTHER APPLICATION AFFECTING LAND USE OR DEVELOP-
9 MENT OF LAND THAT IS SUBJECT TO AN ENVIRONMENTAL COVENANT AND THAT MAY
10 RELATE TO OR IMPACT SUCH COVENANT, THE AFFECTED LOCAL GOVERNMENT SHALL
11 NOTIFY THE DEPARTMENT AND REFER SUCH APPLICATION TO THE DEPARTMENT. THE
12 DEPARTMENT SHALL EVALUATE WHETHER THE APPLICATION IS CONSISTENT WITH THE
13 ENVIRONMENTAL COVENANT AND SHALL NOTIFY THE AFFECTED LOCAL GOVERNMENT OF
14 ITS DETERMINATION IN A TIMELY FASHION, CONSIDERING THE TIME FRAME FOR
15 THE LOCAL GOVERNMENT'S REVIEW OF THE APPLICATION. THE AFFECTED LOCAL
16 GOVERNMENT SHALL NOT APPROVE THE APPLICATION UNTIL IT RECEIVES APPROVAL
17 FROM THE DEPARTMENT.

18 S 71-4521. DURATION.

19 1. AN ENVIRONMENTAL COVENANT IS PERPETUAL UNLESS IT IS:

20 (A) BY ITS TERMS LIMITED TO A SPECIFIC DURATION OR TERMINATED BY THE
21 OCCURRENCE OF A SPECIFIC EVENT; OR

22 (B) EXTINGUISHED OR AMENDED BY A RELEASE OR AMENDMENT OF THE ENVIRON-
23 MENTAL COVENANT EXECUTED BY THE DEPARTMENT AND FILED WITH THE OFFICE OF
24 THE RECORDING OFFICER FOR THE COUNTY OR COUNTIES WHERE THE LAND IS SITU-
25 ATED IN THE MANNER PRESCRIBED BY ARTICLE NINE OF THE REAL PROPERTY LAW.

26 2. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION ONE OF THIS SECTION, AN
27 ENVIRONMENTAL COVENANT MAY NOT BE EXTINGUISHED, LIMITED, OR IMPAIRED
28 THROUGH FORECLOSURE OF A LIEN, ISSUANCE OF A TAX DEED, FORECLOSURE OF A
29 TAX LIEN, OR APPLICATION OF THE DOCTRINE OF ADVERSE POSSESSION,
30 PRESCRIPTION, EMINENT DOMAIN, ABANDONMENT, WAIVER, LACK OF ENFORCEMENT,
31 OR ACQUIESCENCE, OR A SIMILAR DOCTRINE.

32 S 71-4523. AMENDMENT OR TERMINATION BY CONSENT.

33 1. AN ENVIRONMENTAL COVENANT MAY BE AMENDED OR TERMINATED BY CONSENT
34 ONLY IF THE AMENDMENT OR TERMINATION IS SIGNED IN THE MANNER PRESCRIBED
35 BY SECTION 71-4509 OF THIS TITLE BY:

36 (A) THE DEPARTMENT; AND

37 (B) UNLESS WAIVED BY THE DEPARTMENT, THE CURRENT OWNER OF THE FEE
38 SIMPLE OF THE REAL PROPERTY SUBJECT TO THE COVENANT.

39 2. IF AN INTEREST IN REAL PROPERTY IS SUBJECT TO AN ENVIRONMENTAL
40 COVENANT, THE INTEREST IS NOT AFFECTED BY AN AMENDMENT OF THE COVENANT
41 UNLESS THE CURRENT OWNER OF THE INTEREST CONSENTS TO THE AMENDMENT OR
42 HAS WAIVED IN A WRITING, SIGNED IN THE MANNER PRESCRIBED BY SECTION
43 71-4509 OF THIS TITLE, THE RIGHT TO CONSENT TO AMENDMENTS.

44 S 71-4525. ENFORCEMENT OF ENVIRONMENTAL COVENANT.

45 1. A CIVIL ACTION FOR INJUNCTIVE OR OTHER EQUITABLE RELIEF FOR
46 VIOLATION OF AN ENVIRONMENTAL COVENANT MAY BE MAINTAINED BY:

47 (A) A PARTY TO THE COVENANT;

48 (B) THE DEPARTMENT;

49 (C) ANY AFFECTED LOCAL GOVERNMENT;

50 (D) ANY PERSON TO WHOM THE COVENANT EXPRESSLY GRANTS POWER TO ENFORCE,
51 OR IS IDENTIFIED IN THE COVENANT AS AN INTENDED BENEFICIARY; OR

52 (E) A PERSON WHOSE INTEREST IN THE REAL PROPERTY OR WHOSE COLLATERAL
53 OR LIABILITY MAY BE AFFECTED BY THE ALLEGED VIOLATION OF THE COVENANT.

54 2. THE ENVIRONMENTAL COVENANT IS ENFORCEABLE AGAINST THE OWNER OF THE
55 BURDENED PROPERTY, ANY LESSEES, AND ANY PERSON USING THE LAND.

1 3. A PERSON IS NOT RESPONSIBLE FOR OR SUBJECT TO LIABILITY FOR ENVI-
2 RONMENTAL REMEDIATION SOLELY BECAUSE IT HAS THE RIGHT TO ENFORCE AN
3 ENVIRONMENTAL COVENANT.

4 4. ENFORCEMENT SHALL NOT BE DEFEATED BECAUSE OF ANY SUBSEQUENT ADVERSE
5 POSSESSION, LACHES, ESTOPPEL, OR WAIVER. NO GENERAL LAW OF THE STATE
6 WHICH OPERATES TO DEFEAT THE ENFORCEMENT OF ANY INTEREST IN REAL PROPER-
7 TY SHALL OPERATE TO DEFEAT THE ENFORCEMENT OF ANY ENVIRONMENTAL COVENANT
8 UNLESS SUCH GENERAL LAW EXPRESSLY STATES THE INTENT TO DEFEAT THE
9 ENFORCEMENT OF SUCH COVENANT OR PROVIDES FOR THE EXERCISE OF THE POWER
10 OF EMINENT DOMAIN.

11 5. FOR ANY PERSON WHO INTENTIONALLY VIOLATES AN ENVIRONMENTAL COVENANT
12 THE DEPARTMENT MAY REVOKE THE CERTIFICATE OF COMPLETION PROVIDED BY
13 SECTION 27-1419 OF THIS CHAPTER AS TO THE RELEVANT REAL ESTATE.

14 S 71-4527. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

15 IN APPLYING AND CONSTRUING THIS TITLE, CONSIDERATION MUST BE GIVEN TO
16 THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT
17 MATTER AMONG STATES THAT ENACT IT.

18 S 71-4529. REGULATIONS.

19 THE DEPARTMENT IS AUTHORIZED TO PROMULGATE RULES AND REGULATIONS
20 NECESSARY AND APPROPRIATE TO CARRY OUT THE PURPOSES OF THIS TITLE.

21 S 71-4531. SEVERABILITY.

22 THE PROVISIONS OF THIS TITLE SHALL BE SEVERABLE, AND IF ANY CLAUSE,
23 SENTENCE, PARAGRAPH, SUBDIVISION, OR PART OF THIS TITLE SHALL BE
24 ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH
25 JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER THEREOF,
26 BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARA-
27 GRAPH, SUBDIVISION, OR PART THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY
28 IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED; PROVIDED THAT IF AN
29 ENVIRONMENTAL COVENANT CREATED PURSUANT TO THIS TITLE IS DETERMINED BY
30 ANY COURT OF COMPETENT JURISDICTION TO BE LAND OR WATER OR AN INTEREST
31 IN LAND OR WATER SUBJECT TO THE PROVISIONS OF ARTICLE FOURTEEN OF THE
32 CONSTITUTION, THEN THE AUTHORITY OF THE STATE TO HOLD OR ACQUIRE SUCH
33 COVENANT AND THE CONVEYANCE TO THE STATE OF SUCH COVENANT SHALL BE VOID
34 AB INITIO.

35 S 4. Subdivision (b) of section 27-1318 of the environmental conserva-
36 tion law, as amended by section 2 of part E of chapter 577 of the laws
37 of 2004, is amended to read as follows:

38 (b) Within sixty days of commencement of the remedial design, the
39 owner of an inactive hazardous waste disposal site, and/or any person
40 responsible for implementing a remedial program at such site, where
41 institutional or engineering controls are employed pursuant to this
42 title, shall execute an environmental easement pursuant to title thir-
43 ty-six of article seventy-one of this chapter OR AN ENVIRONMENTAL COVEN-
44 ANT PURSUANT TO TITLE FORTY-FIVE OF ARTICLE SEVENTY-ONE OF THIS CHAPTER.

45 S 5. Paragraph (d) of subdivision 7 of section 27-1415 of the environ-
46 mental conservation law, as added by section 1 of part A of chapter 1 of
47 the laws of 2003, is amended to read as follows:

48 (d) The commissioner shall create, update, and maintain a database
49 system for public information purposes and to monitor and track all
50 brownfield sites subject to this title. Data incorporated into such
51 system for each site for which information has been collected pursuant
52 to this title shall include, but shall not be limited to, a site summa-
53 ry, name of site owner, location, status of site remedial activity,
54 [and, if one has been created pursuant to title thirty-six of article
55 seventy-one of this chapter, a copy of the environmental easement,]
56 WHETHER THE SITE IS LOCATED IN A BROWNFIELD OPPORTUNITY AREA AS DEFINED

1 IN SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW, and a
2 contact number to obtain additional information. THE DATABASE SHALL ALSO
3 INCLUDE FOR EACH SITE A COPY OF THE ENVIRONMENTAL EASEMENT, IF ONE HAS
4 BEEN CREATED PURSUANT TO TITLE THIRTY-SIX OF ARTICLE SEVENTY-ONE OF THIS
5 CHAPTER, OR A COPY OF THE ENVIRONMENTAL COVENANT, IF ONE HAS BEEN
6 CREATED PURSUANT TO TITLE FORTY-FIVE OF ARTICLE SEVENTY-ONE OF THIS
7 CHAPTER. Sites shall be added to such system upon the execution of a
8 brownfield site cleanup agreement [pursuant to section 27-1409 of this
9 title]. If and when an environmental easement OR COVENANT is modified or
10 extinguished, the copy of the environmental easement OR COVENANT
11 contained in the database shall be updated accordingly. Such database
12 shall be in such a format that it can be readily searched by affected
13 local governments and the public for purposes including but not limited
14 to determining whether an environmental easement OR COVENANT has been
15 recorded for a site pursuant to title thirty-six OR FORTY-FIVE of arti-
16 cle seventy-one of this chapter. The database shall be available elec-
17 tronically. Information from this database shall be incorporated into
18 the geographic information system created and maintained by the depart-
19 ment pursuant to section 3-0315 of this chapter.

20 S 6. Paragraph (e) of subdivision 2 of section 27-1419 of the environ-
21 mental conservation law, as added by section 1 of part A of chapter 1 of
22 the laws of 2003, is amended to read as follows:

23 (e) a certification that any use restrictions, institutional controls,
24 engineering controls and/or any operation and maintenance requirements
25 applicable to the site are contained in an environmental easement
26 created and recorded pursuant to title thirty-six of article seventy-one
27 of this chapter OR AN ENVIRONMENTAL COVENANT CREATED AND RECORDED PURSU-
28 ANT TO TITLE FORTY-FIVE OF SUCH ARTICLE and that any affected local
29 governments, as defined in title thirty-six of SUCH article [seventy-one
30 of this chapter] have been notified that such easement OR COVENANT has
31 been recorded;

32 S 7. Paragraph (g) of subdivision 2 of section 56-0503 of the environ-
33 mental conservation law, as amended by section 4 of part D of chapter 1
34 of the laws of 2003, is amended to read as follows:

35 (g) An agreement by the municipality that it shall put into place any
36 engineering and/or institutional controls (including environmental ease-
37 ments pursuant to title thirty-six of article seventy-one of this chap-
38 ter OR ENVIRONMENTAL COVENANTS PURSUANT TO TITLE FORTY-FIVE OF SUCH
39 ARTICLE) that the department may deem necessary to allow the contem-
40 plated use to proceed, that such engineering and/or institutional
41 controls shall be binding on such municipality, any successor in title,
42 and any lessees and that any successors in title and any lessees cannot
43 challenge state enforcement of such controls;

44 S 8. Paragraph 5 of subdivision (a) of section 21 of the tax law, as
45 amended by section 1 of part H of chapter 577 of the laws of 2004, is
46 amended to read as follows:

47 (5) Applicable percentage. For purposes of paragraphs two, three and
48 four of this subdivision, the applicable percentage shall be twelve
49 percent [in the case of credits claimed under article nine, nine-A,
50 thirty-two or thirty-three of this chapter, and ten percent in the case
51 of credits claimed under article twenty-two of this chapter,] except
52 that where at least fifty percent of the area of the qualified site
53 relating to the credit provided for in this section is located in an
54 environmental zone as defined in paragraph six of subdivision (b) of
55 this section, the applicable percentage shall be increased by an addi-
56 tional eight percent. Provided, however, as afforded in section 27-1419

1 of the environmental conservation law, if the certificate of completion
2 indicates that the qualified site has been remediated to Track 1 as that
3 term is described in subdivision four of section 27-1415 of the environ-
4 mental conservation law, the applicable percentage set forth in the
5 first sentence of this paragraph shall be increased by an additional two
6 percent.

7 S 9. Subparagraph (A) of paragraph 3-a of subdivision (a) of section
8 21 of the tax law, as added by chapter 390 of the laws of 2008, is
9 amended to read as follows:

10 (A) Notwithstanding any other provision of law to the contrary, the
11 tangible property credit component available for any qualified site
12 pursuant to paragraph three of this subdivision shall not exceed thir-
13 ty-five million dollars or three times THE SUM OF the costs included in
14 the calculation of the site preparation credit component and the on-site
15 groundwater remediation credit component under paragraphs two and four,
16 respectively, of this subdivision, AND THE COSTS THAT WOULD HAVE BEEN
17 INCLUDED IN THE CALCULATION OF SUCH COMPONENTS IF NOT TREATED AS AN
18 EXPENSE AND DEDUCTED PURSUANT TO SECTION 198 OF THE INTERNAL REVENUE
19 CODE, whichever is less; provided, however, that: (1) in the case of a
20 qualified site to be used primarily for manufacturing activities, the
21 tangible property credit component available for any qualified site
22 pursuant to paragraph three of this subdivision shall not exceed
23 [forty-five] ONE HUNDRED FIFTY million dollars or [six] TWENTY times THE
24 SUM OF the costs included in the calculation of the site preparation
25 credit component and the on-site groundwater remediation credit compo-
26 nent under paragraphs two and four, respectively, of this subdivision,
27 AND THE COSTS THAT WOULD HAVE BEEN INCLUDED IN THE CALCULATION OF SUCH
28 COMPONENTS IF NOT TREATED AS AN EXPENSE AND DEDUCTED PURSUANT TO SECTION
29 198 OF THE INTERNAL REVENUE CODE, whichever is less; and (2) the
30 provisions of this paragraph shall not apply to any qualified site for
31 which the department of environmental conservation has issued a notice
32 to the taxpayer before June twenty-third, two thousand eight that its
33 request for participation has been accepted under subdivision six of
34 section 27-1407 of the environmental conservation law.

35 S 10. Paragraph 6 of subdivision (b) of section 21 of the tax law, as
36 amended by section 1 of part H of chapter 577 of the laws of 2004,
37 subparagraph (B) and the closing paragraph as amended by section 1 of
38 part G of chapter 62 of the laws of 2006, is amended to read as follows:

39 (6) Environmental zones (EN-Zones). An "environmental zone" shall mean
40 an area designated as such by the commissioner of economic development.
41 Such areas so designated are areas which are census tracts and block
42 numbering areas which, as of the [two thousand] MOST RECENT census,
43 satisfy either of the following criteria:

44 (A) areas that have both:

45 (i) a poverty rate of at least twenty percent for the year to which
46 the data relate; and

47 (ii) an unemployment rate of at least one and one-quarter times the
48 statewide unemployment rate for the year to which the data relate, or;

49 (B) areas that have a poverty rate of at least two times the poverty
50 rate for the county in which the areas are located for the year to which
51 the data relate [provided, however, that a qualified site shall only be
52 deemed to be located in an environmental zone under this subparagraph
53 (B) if such site was the subject of a brownfield site cleanup agreement
54 pursuant to section 27-1409 of the environmental conservation law that
55 was entered into prior to September first, two thousand ten].

1 Such designation shall be made and a list of all such environmental
2 zones shall be established by the commissioner of economic development
3 no later than December thirty-first, two thousand [four provided, howev-
4 er, that a qualified site shall only be deemed to be located in an envi-
5 ronmental zone under subparagraph (B) of this paragraph if such site was
6 the subject of a brownfield site cleanup agreement pursuant to section
7 27-1409 of the environmental conservation law that was entered into
8 prior to September first, two thousand ten] TWELVE.

9 S 11. Paragraph 5 of subdivision (a) of section 22 of the tax law, as
10 amended by section 4 of part H of chapter 577 of the laws of 2004,
11 subparagraph (B) and the closing paragraph as amended by section 2 of
12 part G of chapter 62 of the laws of 2006, is amended to read as follows:

13 (5) Environmental zones (EN-Zones). An "environmental zone" shall mean
14 an area designated as such by the commissioner of economic development.
15 Such areas so designated are areas which are census tracts and block
16 numbering areas which, as of the [two thousand] MOST RECENT census,
17 satisfy either of the following criteria:

18 (A) areas that have both:

19 (i) a poverty rate of at least twenty percent for the year to which
20 the data relate;

21 (ii) an unemployment rate of at least one and one-quarter times the
22 statewide unemployment rate for the year to which the data relate, or;

23 (B) areas that have a poverty rate of at least two times the poverty
24 rate for the county in which the areas are located for the year to which
25 the data relate[, provided, however, that a qualified site shall only be
26 deemed to be located in an environmental zone under this subparagraph
27 (B) if such site was the subject of a brownfield site cleanup agreement
28 pursuant to section 27-1409 of the environmental conservation law that
29 was entered into prior to September first, two thousand ten].

30 Such designation shall be made and a list of all such environmental
31 zones shall be established by the commissioner of economic development
32 no later than December thirty-first, two thousand [four provided, howev-
33 er, that a qualified site shall only be deemed to be located in an envi-
34 ronmental zone under subparagraph (B) of this paragraph if such site was
35 the subject of a brownfield site cleanup agreement pursuant to section
36 27-1409 of the environmental conservation law that was entered into
37 prior to September first, two thousand ten] TWELVE.

38 S 12. Subdivision (a) of section 23 of the tax law, as amended by
39 section 10 of part H of chapter 577 of the laws of 2004, is amended to
40 read as follows:

41 (a) Allowance of credit. General. A taxpayer subject to tax under
42 article nine, nine-A, twenty-two, thirty-two or thirty-three of this
43 chapter shall be allowed a credit against such tax, pursuant to the
44 provisions referenced in subdivision (e) of this section. The amount of
45 such credit shall be equal to the lesser of [thirty] NINETY thousand
46 dollars or fifty percent of the premiums paid on or after the date of
47 the brownfield site cleanup agreement executed by the taxpayer and the
48 department of environmental conservation pursuant to section 27-1409 of
49 the environmental conservation law by the taxpayer for environmental
50 remediation insurance issued with respect to a qualified site.

51 S 13. Section 31 of part H of chapter 1 of the laws of 2003 amending
52 the tax law relating to brownfield redevelopment tax credits, is
53 REPEALED.

54 S 14. Intentionally omitted.

55 S 15. Paragraph (d) of subdivision 3 of section 27-1413 of the envi-
56 ronmental conservation law, as amended by section 6 of part A of chapter

1 577 of the laws of 2004, is amended and a new paragraph (e) is added to
2 read as follows:

3 (d) the economic benefit to the state to be realized by the expe-
4 ditious remediation of the property[.]; AND

5 (E) FOR SITES WITHIN A BROWNFIELD OPPORTUNITY AREA AS DEFINED IN
6 SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW, THE COMPAT-
7 IBILITY OF THE REMEDY WITH THE BROWNFIELD OPPORTUNITY AREA NOMINATION
8 AND IMPLEMENTATION STRATEGIES, AS VERIFIED BY THE SITE OWNER.

9 S 16. Intentionally omitted.

10 S 17. Paragraph (a) of subdivision 4 of section 27-1417 of the envi-
11 ronmental conservation law, as amended by section 8 of part A of chapter
12 577 of the laws of 2004, is amended to read as follows:

13 (a) Within the limits of appropriations made available pursuant to
14 paragraph [j] (J) of subdivision three of section ninety-seven-b of the
15 state finance law, the commissioner is authorized to provide grants to
16 any not-for-profit corporation exempt from taxation under section
17 501(c)(3) of the internal revenue code at any site WHICH MAY BE AFFECTED
18 BY A BROWNFIELD SITE REMEDIAL PROGRAM AND IS determined BY THE DEPART-
19 MENT EITHER to pose a significant threat [by the department and which
20 may be affected by a brownfield site remedial program] OR TO BE LOCATED
21 IN A BROWNFIELD OPPORTUNITY AREA AS DEFINED IN SECTION NINE HUNDRED
22 SEVENTY-R OF THE GENERAL MUNICIPAL LAW. To qualify to receive such
23 assistance, a community group must demonstrate that its membership
24 represents the interests of the community affected by such site.
25 Furthermore, the commissioner is authorized to direct any applicant who
26 is a responsible party, as defined in section 27-1313 of this article,
27 to provide such grants. Such grants shall be known as technical assist-
28 ance grants and may be used to obtain technical assistance in interpret-
29 ing information with regard to the nature of the hazard posed by contam-
30 ination located AT or emanating from a brownfield site or sites and the
31 development and implementation of a brownfield site remedial program or
32 programs. Such grants may also be used to hire health and safety experts
33 to advise affected residents on any health assessments and for the
34 education of interested affected community members to enable them to
35 more effectively participate in the remedy selection process. Grants
36 awarded under this section may not be used for the purposes of collect-
37 ing field sampling data, political activity or lobbying legislative
38 bodies.

39 S 18. Paragraphs e and f of subdivision 1 of section 27-1420 of the
40 environmental conservation law, as added by chapter 390 of the laws of
41 2008, are amended to read as follows:

42 e. the total number of certificates of completion issued; [and]

43 f. HOW MANY OF THE SITES APPROVED FOR PARTICIPATION, DENIED PARTIC-
44 IPATION, CURRENTLY PARTICIPATING, AND GRANTED CERTIFICATES OF COMPLETION
45 ARE LOCATED IN BROWNFIELD OPPORTUNITY AREAS AS DEFINED IN SECTION NINE
46 HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW; AND

47 G. such other information as the commissioner may determine is rele-
48 vant to the status of the administration of the program.

49 S 19. Intentionally omitted.

50 S 20. Subdivision 1 of section 970-r of the general municipal law is
51 amended by adding a new paragraph j to read as follows:

52 J. "BROWNFIELD OPPORTUNITY AREA" SHALL MEAN A STUDY AREA ACCEPTED BY
53 THE SECRETARY IN CONNECTION WITH A FUNDING AWARD MADE PURSUANT TO THIS
54 SECTION OR A BROWNFIELD OPPORTUNITY AREA DESIGNATED BY THE SECRETARY
55 PURSUANT TO THIS SECTION.

1 S 21. Paragraph b of subdivision 2 of section 970-r of the general
2 municipal law, as added by section 1 of part F of chapter 1 of the laws
3 of 2003, is amended to read as follows:

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

7 (1) the borders of the [proposed] brownfield opportunity area;

8 (2) the number and size of brownfield sites;

9 (3) current and anticipated uses of the properties in the [proposed]
10 BROWNFIELD OPPORTUNITY area;

11 (4) current and anticipated future conditions of groundwater in the
12 [proposed] BROWNFIELD OPPORTUNITY area;

13 (5) known data about the environmental conditions of the properties in
14 the [proposed] BROWNFIELD OPPORTUNITY area;

15 (6) ownership of the properties in the [proposed] BROWNFIELD OPPORTU-
16 NITY area; and

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

21 S 22. Paragraph g of subdivision 2 of section 970-r of the general
22 municipal law, as amended by chapter 390 of the laws of 2008, is amended
23 and a new paragraph h is added to read as follows:

24 g. Following notification to the applicant that assistance has been
25 awarded, and prior to disbursement of funds, a contract shall be
26 executed between the department and the applicant or co-applicants.
27 SUCH CONTRACT SHALL BE FOR A PERIOD OF NO MORE THAN ONE YEAR. ANY AND
28 ALL FUNDS AUTHORIZED BY THE SECRETARY UNDER THIS SUBDIVISION MAY ONLY BE
29 UTILIZED BY THE APPLICANT OR CO-APPLICANTS FOR THE PURPOSES OF THIS
30 SUBDIVISION. FAILURE OF THE APPLICANT TO DELIVER ALL WORK PRODUCTS
31 REQUIRED UNDER PARAGRAPH B OF THIS SUBDIVISION, TO THE SECRETARY OR AS
32 OTHERWISE STIPULATED IN THE CONTRACT, WITHIN ONE YEAR, SHALL IMMEDIATELY
33 FORFEIT THE APPLICANT'S AND CO-APPLICANT'S ABILITY TO APPLY FOR ANY AND
34 ALL FUNDS OR OTHER STATE ASSISTANCE PROVIDED UNDER THIS SECTION FOR A
35 MINIMUM PERIOD OF AT LEAST THREE YEARS. IN ADDITION, THE SECRETARY IS
36 AUTHORIZED TO RECOVER ALL AWARDS GRANTED UNDER THIS SUBDIVISION FOR ANY
37 APPLICANT OR CO-APPLICANTS FAILING TO DELIVER ACCORDING TO ALL CONDI-
38 TIONS OF THIS SUBDIVISION OR TERMS OF THE CONTRACT WITHIN THE STIPULATED
39 ONE YEAR PERIOD. The secretary shall establish ALL OTHER terms and
40 conditions for such contracts as the secretary deems appropriate,
41 including provisions to define: applicant's work scope, work schedule,
42 and deliverables; fiscal reports on budgeted and actual use of funds
43 expended; and requirements for submission of a final fiscal report. The
44 contract shall also require the distribution of work products to the
45 department, and, for community based organizations, to the applicant's
46 municipality. Applicants shall be required to make the results publicly
47 available.

48 H. TO THE EXTENT THAT THERE ARE UNEXPENDED FUNDS APPROPRIATED TO THE
49 DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR FINANCIAL ASSISTANCE
50 AUTHORIZED IN THIS SUBDIVISION, THE COMMISSIONER SHALL SUBALLOCATE SUCH
51 FUNDS TO THE SECRETARY.

52 S 23. Subdivision 3 of section 970-r of the general municipal law, as
53 added by section 1 of part F of chapter 1 of the laws of 2003, para-
54 graphs a, b, g, h, i, the opening paragraph and subparagraph 6 of para-
55 graph f as amended by chapter 390 of the laws of 2008, paragraph f as

1 amended by section 1 of part F of chapter 577 of the laws of 2004, is
2 amended to read as follows:

3 3. State assistance for nominations to designate brownfield opportu-
4 nity areas. a. Within the limits of appropriations therefor, the secre-
5 tary is authorized to provide, on a competitive basis, financial assist-
6 ance to municipalities, to community based organizations, to community
7 boards, or to municipalities and community based organizations acting in
8 cooperation to prepare a nomination for designation of a brownfield
9 opportunity area. Such financial assistance shall not exceed ninety
10 percent of the costs of such nomination for any such area.

11 b. An application for such financial assistance shall include an indi-
12 cation of support from owners of brownfield sites in the [proposed]
13 brownfield opportunity area. All residents and property owners in the
14 [proposed] brownfield opportunity area shall receive notice OF THE
15 APPLICATION in such form and manner as the secretary shall prescribe.

16 c. No application for such financial assistance shall be considered
17 unless the applicant demonstrates that it has, to the maximum extent
18 practicable, solicited and considered the views of residents of the
19 [proposed] brownfield opportunity area, the views of state and local
20 officials elected to represent such residents and the local organiza-
21 tions representing such residents.

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

27 (1) A PLAN FOR THE REDEVELOPMENT AND REVITALIZATION OF THE BROWNFIELD
28 OPPORTUNITY AREA, THAT CONTAINS BUT IS NOT LIMITED TO:

29 (I) the borders of the [proposed] brownfield opportunity area;

30 [(2)] (II) the location of each known or suspected brownfield site in
31 the [proposed] brownfield opportunity area;

32 [(3)] (III) EXISTING DETAILED ASSESSMENTS OF INDIVIDUAL BROWNFIELD
33 SITES AND, WHERE THE CONSENT OF THE SITE OWNER HAS BEEN OBTAINED, THE
34 NEED FOR CONDUCTING ON-SITE ASSESSMENTS;

35 (IV) KNOWN DATA ABOUT THE ENVIRONMENTAL CONDITIONS OF PROPERTIES IN
36 THE BROWNFIELD OPPORTUNITY AREA;

37 (V) OWNERSHIP OF THE PROPERTIES IN THE BROWNFIELD OPPORTUNITY AREA;

38 (VI) THE GOALS AND OBJECTIVES, BOTH SHORT TERM AND LONG TERM, FOR THE
39 ECONOMIC REVITALIZATION OF THE BROWNFIELD OPPORTUNITY AREA;

40 (VII) IDENTIFICATION OF THE PUBLICLY CONTROLLED AND DEVELOPABLE LAND
41 AND BUILDINGS WITHIN THE BROWNFIELD OPPORTUNITY AREA WHICH ARE OR COULD
42 BE MADE AVAILABLE FOR DEVELOPMENT; AND

43 (VIII) the identification of strategic sites within the [proposed]
44 brownfield opportunity area AND THE DEVELOPMENT OF STRATEGIES FOR
45 IMPROVING THE LIKELIHOOD THAT SUCH STRATEGIC SITES ARE REUSED OR DEVEL-
46 OPED CONSISTENT WITH THE BROWNFIELD OPPORTUNITY AREA;

47 [(4)] (2) AN IMPLEMENTATION STRATEGY THAT INCLUDES, BUT IS NOT LIMITED
48 TO:

49 (I) the type of potential developments anticipated for sites within
50 the [proposed] brownfield opportunity area proposed by either the
51 current or the prospective owners of such sites;

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

55 [(6)] (III) priorities for public and private investment in infras-
56 tructure, open space, economic development, housing, or community facil-

ities in the [proposed] brownfield opportunity area, INCLUDING THOSE THAT MAY BE ELIGIBLE FOR PRIORITY OR PREFERENCE IN ACCORDANCE WITH SUBDIVISION FIVE OF THIS SECTION;

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

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

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

[(10)] (VII) ownership of the properties in the [proposed] brownfield opportunity area; AND

[(11)] (VIII) descriptions of possible remediation strategies, brownfield redevelopment, necessary infrastructure improvements and other public or private measures needed to stimulate investment, promote revitalization, and enhance community health and environmental conditions[;

(12) the goals and objectives, both short term and long term, for the economic revitalization of the proposed brownfield opportunity area; and

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

(3) ACTIVITIES TO ADDRESS KNOWN CONTAMINATION:

(I) THE TESTING OF PROPERTIES TO DETERMINE THE NATURE AND EXTENT OF THE CONTAMINATION (INCLUDING SOIL AND GROUNDWATER);

(II) ENVIRONMENTAL ASSESSMENTS, IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF THE COMMISSIONER;

(III) THE DEVELOPMENT OF A PROPOSED REMEDIATION STRATEGY TO ADDRESS ANY IDENTIFIED CONTAMINATION, IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF THE COMMISSIONER; AND

(IV) ANY OTHER ACTIVITIES RELATING TO ENVIRONMENTAL CONTAMINATION DEEMED APPROPRIATE BY THE SECRETARY.

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

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

(2) areas with concentrations of brownfield sites;

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

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

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

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

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

(2) the processes by which local participation in the development of the application has been sought;

(3) the process to be carried out under the state assistance including, but not limited to, the goals of and budget for the effort, the

1 work plan and timeline for the attainment of these goals, and the
2 intended process for public participation in the process;

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

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

8 (6) for each community based organization which is an applicant or a
9 co-applicant, a copy of its determination of tax exempt status issued by
10 the federal internal revenue service pursuant to section 501 of the
11 internal revenue code, a description of the relationship between the
12 community based organization and the area that is the subject of the
13 application, its financial and institutional accountability, its experi-
14 ence in conducting and completing planning initiatives and in working
15 with the local government associated with the [proposed] brownfield
16 opportunity area; and

17 (7) the financial commitments the applicant will make to the brown-
18 field opportunity area for activities including, but not limited to,
19 marketing of the area for business development, human resource services
20 for residents and businesses in the brownfield opportunity area, and
21 services for small and minority and women-owned businesses.

22 g. The secretary, upon the receipt of an application for such assist-
23 ance from a community based organization not in cooperation with the
24 local government having jurisdiction over the [proposed] brownfield
25 opportunity area, shall request the municipal government to review and
26 state the municipal government's support or lack of support. The municip-
27 al government's statement shall be considered a part of the applica-
28 tion.

29 h. Prior to making an award for assistance, the secretary shall notify
30 the temporary president of the senate and speaker of the assembly.

31 i. Following notification to the applicant that assistance has been
32 awarded, and prior to disbursement of funds, a contract shall be
33 executed between the department and the applicant or co-applicants.
34 SUCH CONTRACT SHALL BE FOR A PERIOD OF NO MORE THAN ONE YEAR. ANY AND
35 ALL FUNDS AUTHORIZED BY THE SECRETARY UNDER THIS SUBDIVISION MAY ONLY BE
36 UTILIZED BY THE APPLICANT OR CO-APPLICANTS FOR THE PURPOSES OF THIS
37 SUBDIVISION. FAILURE OF THE APPLICANT TO DELIVER ALL WORK PRODUCTS
38 REQUIRED UNDER PARAGRAPH D OF THIS SUBDIVISION, TO THE SECRETARY OR AS
39 OTHERWISE STIPULATED IN THE CONTRACT, WITHIN ONE YEAR, SHALL IMMEDIATELY
40 FORFEIT THE APPLICANT'S AND CO-APPLICANT'S ABILITY TO APPLY FOR ANY AND
41 ALL FUNDS OR OTHER STATE ASSISTANCE PROVIDED UNDER THIS SECTION FOR A
42 MINIMUM PERIOD OF AT LEAST THREE YEARS. IN ADDITION, THE SECRETARY IS
43 AUTHORIZED TO RECOVER ALL AWARDS GRANTED UNDER THIS SUBDIVISION FOR ANY
44 APPLICANT OR CO-APPLICANTS FAILING TO DELIVER ACCORDING TO ALL CONDI-
45 TIONS OF THIS SUBDIVISION OR TERMS OF THE CONTRACT WITHIN THE STIPULATED
46 ONE YEAR PERIOD. The secretary shall establish terms and conditions for
47 such contracts as the secretary deems appropriate, including provisions
48 to define: applicant's work scope, work schedule, and deliverables;
49 fiscal reports on budgeted and actual use of funds expended; and
50 requirements for submission of a final fiscal report. The contract shall
51 also require the distribution of work products to the department, and,
52 for community based organizations, to the applicant's municipality.
53 Applicants shall be required to make the results publicly available.
54 Such contract shall further include a provision providing that if any
55 responsible party payments become available to the applicant, the amount
56 of such payments attributable to expenses paid by the award shall be

1 paid to the department by the applicant; provided that the applicant may
2 first apply such responsible party payments toward any actual project
3 costs incurred by the applicant. UPON SATISFACTION OF ALL TERMS AND
4 CONDITIONS OF THE CONTRACT REQUIRED UNDER THIS PARAGRAPH, THE SECRETARY
5 SHALL NOTIFY THE APPLICANT OR CO-APPLICANTS THAT THEY HAVE THIRTY DAYS
6 FROM SUCH NOTIFICATION TO REQUEST DESIGNATION AS A BROWNFIELD OPPORTU-
7 NITY AREA AS REFERENCED IN SUBDIVISION FOUR OF THIS SECTION. FAILURE TO
8 REQUEST SUCH DESIGNATION SHALL ELIMINATE THE APPLICATION FOR DESIGNATION
9 AS A BROWNFIELD OPPORTUNITY AREA, AND SHALL ELIMINATE THE APPLICANT'S OR
10 CO-APPLICANT'S ABILITY TO RECEIVE ANY ADDITIONAL FUNDS UNDER THIS SUBDI-
11 VISION AND SHALL IMMEDIATELY FORFEIT THE APPLICANT'S AND CO-APPLICANT'S
12 ABILITY TO APPLY FOR ANY OR ALL FUNDS OR OTHER STATE ASSISTANCE PROVIDED
13 UNDER THIS SECTION FOR A MINIMUM OF AT LEAST THREE YEARS.

14 J. TO THE EXTENT THAT THERE ARE UNEXPENDED FUNDS APPROPRIATED TO THE
15 DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR FINANCIAL ASSISTANCE
16 AUTHORIZED IN THIS SUBDIVISION, THE COMMISSIONER SHALL SUBALLOCATE SUCH
17 FUNDS TO THE SECRETARY.

18 S 24. Subdivision 4 of section 970-r of the general municipal law, as
19 amended by chapter 390 of the laws of 2008, is amended to read as
20 follows:

21 4. Designation of brownfield opportunity area. A. Upon completion of a
22 nomination for designation of a brownfield opportunity area, it shall be
23 forwarded by the applicant to the secretary, who WITHIN SIXTY DAYS shall
24 determine whether it is consistent with the provisions of this section.
25 If the secretary determines that the nomination is consistent with the
26 provisions of this section, the brownfield opportunity area shall be
27 designated. If the secretary determines that the nomination is not
28 consistent with the provisions of this section, the secretary shall make
29 recommendations in writing to the applicant of the manner and nature in
30 which the nomination should be amended. THE APPLICANT SHALL HAVE THIRTY
31 DAYS TO AGREE AND MAKE SUCH AMENDMENTS TO THE NOMINATION AND ACCOMPANY-
32 ING PLAN. IF AN APPLICANT DISAGREES WITH THE PROPOSED AMENDMENT, THE
33 APPLICANT SHALL HAVE A FURTHER THIRTY DAYS TO PROPOSE ALTERNATIVES TO
34 THE PROPOSED AMENDMENT OF THE SECRETARY. THE SECRETARY SHALL HAVE THIRTY
35 DAYS TO ACCEPT OR REJECT THE PROPOSED ALTERNATIVES. IF AGREEMENT IS NOT
36 REACHED AT THE END OF THIS LAST PERIOD, THE DESIGNATION OF THE NOMI-
37 NATION SHALL BE DEEMED AS DENIED, AND ALL REFERENCE TO THE PROPOSED AND
38 NOMINATED BROWNFIELD OPPORTUNITY AREA SHALL BE ELIMINATED.

39 B. THE SECRETARY SHALL MAKE THE DETERMINATION REGARDING WHETHER A
40 QUALIFIED SITE SUBJECT TO A BROWNFIELD SITE CLEANUP AGREEMENT PURSUANT
41 TO SECTION 27-1409 OF THE ENVIRONMENTAL CONSERVATION LAW IS CONSISTENT
42 WITH A DESIGNATED BROWNFIELD OPPORTUNITY AREA. THE SECRETARY SHALL
43 PROMULGATE REGULATIONS TO ESTABLISH THE PROCESS, CRITERIA AND TIMING FOR
44 MAKING DETERMINATIONS WHETHER A QUALIFIED SITE IS CONSISTENT WITH A
45 DESIGNATED BROWNFIELD OPPORTUNITY AREA.

46 S 25. Subdivision 5 of section 970-r of the general municipal law, as
47 added by section 1 of part F of chapter 1 of the laws of 2003, is
48 amended to read as follows:

49 5. Priority and preference. The designation of a brownfield opportu-
50 nity area pursuant to this section is intended to serve as a planning
51 tool. It alone shall not impose any new obligations on any property or
52 property owner.

53 A. UPON THE AWARD OF FINANCIAL ASSISTANCE PURSUANT TO THIS SECTION,
54 THE SECRETARY SHALL NOTIFY THE DIVISION OF HOUSING AND COMMUNITY
55 RENEWAL, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE DEPARTMENT OF
56 TRANSPORTATION, THE DEPARTMENT OF PARKS, RECREATION AND HISTORIC PRESER-

1 VATION, AND THE EMPIRE STATE DEVELOPMENT CORPORATION OF SUCH ASSISTANCE,
2 AND INCLUDE IN SUCH NOTIFICATION A DESCRIPTION OF THE BROWNFIELD OPPOR-
3 TUNITY AREA STUDY AREA AND A REQUEST FOR RELEVANT INFORMATION CONCERN-
4 ING, WITHOUT LIMITATION, LAND USES, CAPITAL PROJECTS AND PLANS RELATING
5 TO PROPERTIES OR THE COMMUNITY WITHIN SUCH BROWNFIELD OPPORTUNITY AREA
6 STUDY AREA, EXISTING PLANS AND PLANNING DOCUMENTS, DEMOGRAPHICS, AND
7 LOCATION, MAPS AND DESCRIPTION OF EXISTING AND PROPOSED PUBLIC FACILI-
8 TIES AND INFRASTRUCTURE.

9 B. UPON THE AWARD OF FINANCIAL ASSISTANCE PURSUANT TO THIS SECTION,
10 THE SECRETARY SHALL NOTIFY RELEVANT FEDERAL AND LOCAL AGENCIES OF SUCH
11 ASSISTANCE, AND INCLUDE IN SUCH NOTIFICATION A DESCRIPTION OF THE BROWN-
12 FIELD OPPORTUNITY AREA STUDY AREA AND A REQUEST FOR RELEVANT INFORMATION
13 CONCERNING, WITHOUT LIMITATION, LAND USES, CAPITAL PROJECTS AND PLANS
14 RELATING TO PROPERTIES OR THE COMMUNITY WITHIN SUCH BROWNFIELD OPPORTU-
15 NITY AREA STUDY AREA, EXISTING PLANS AND PLANNING DOCUMENTS, DEMOGRAPH-
16 ICS, AND LOCATION, MAPS AND DESCRIPTION OF EXISTING AND PROPOSED PUBLIC
17 FACILITIES AND INFRASTRUCTURE.

18 C. WITHIN SIX MONTHS OF AN AWARD OF FINANCIAL ASSISTANCE PURSUANT TO
19 THIS SECTION, THE SECRETARY SHALL SEEK COOPERATION FROM RELEVANT FEDER-
20 AL, STATE AND LOCAL AGENCIES IN THE GATHERING OF INFORMATION ABOUT
21 RESOURCES AND OR PROGRAMS THAT MAY BE RELEVANT TO THE BROWNFIELD OPPOR-
22 TUNITY AREA STUDY AREA.

23 D. To the extent authorized by law, projects in brownfield opportunity
24 areas designated pursuant to this section shall receive a priority and
25 preference when considered for financial assistance pursuant to articles
26 fifty-four and fifty-six of the environmental conservation law.

27 E. To the extent authorized by law, projects in brownfield opportunity
28 areas designated pursuant to this section may receive a priority and
29 preference when considered for financial assistance pursuant to any
30 other state, federal or local law.

31 F. THE SECRETARY SHALL TAKE SUCH MEASURES AS MAY BE NECESSARY TO
32 DETERMINE THE AVAILABILITY OF SUCH FINANCIAL AND OTHER ASSISTANCE AND TO
33 SEEK COOPERATION WITH OTHER STATE, FEDERAL AND LOCAL OFFICIALS IN
34 PROVIDING A PRIORITY AND PREFERENCE TO APPLICANTS PURSUANT TO THIS
35 SUBDIVISION.

36 G. THE SECRETARY SHALL, IN CONSULTATION WITH OTHER STATE AGENCIES,
37 ISSUE A BROWNFIELD OPPORTUNITY AREA PREFERENCE AND PRIORITY REPORT TO
38 THE GOVERNOR, LEGISLATURE AND MEMBERS SERVING ON THE NEW YORK BROWN-
39 FIELDS ADVISORY BOARD PURSUANT TO SECTION 27-1435 OF THE ENVIRONMENTAL
40 CONSERVATION LAW WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION
41 AND EACH SUBSEQUENT YEAR THEREAFTER, IDENTIFYING FUNDING PROGRAMS AND
42 RESOURCES RELEVANT TO AND UTILIZED IN THE IMPLEMENTATION OF BROWNFIELD
43 OPPORTUNITY AREAS. STATE AGENCIES SHALL PROVIDE INFORMATION ABOUT HOW
44 THEY HAVE SOUGHT TO ACHIEVE PREFERENCE AND PRIORITY FOR PROJECTS BUILT
45 CONSISTENT WITH A DESIGNATED BROWNFIELD OPPORTUNITY AREA IN FUNDING
46 PROGRAMS IDENTIFIED IN THE REPORT, INCLUDING BUT NOT LIMITED TO, MODIFY-
47 ING PROGRAM ELIGIBILITY AND RANKING CRITERIA TO PROVIDE FOR PREFERENCE
48 AND PRIORITY FOR PROJECTS BUILT CONSISTENT WITH A DESIGNATED BROWNFIELD
49 OPPORTUNITY AREA.

50 H. FOR TEN YEARS FOLLOWING NOTIFICATION OF FINANCIAL ASSISTANCE, MUNI-
51 CIPALITIES, COMMUNITY BASED ORGANIZATIONS AND COMMUNITY BOARDS AWARDED
52 FINANCIAL ASSISTANCE PURSUANT TO THIS SECTION SHALL BE REQUIRED TO
53 SUBMIT AN ANNUAL REPORT TO THE SECRETARY PROJECTING THE FUNDING,
54 PROGRAMS AND ANY OTHER RESOURCES NEEDED OVER THE UPCOMING FIVE YEARS TO
55 ADVANCE THEIR BROWNFIELD OPPORTUNITY AREA.

1 S 26. Subdivision 6 of section 970-r of the general municipal law, as
2 added by section 1 of part F of chapter 1 of the laws of 2003, paragraph
3 a as amended by chapter 386 of the laws of 2007 and paragraph h as
4 amended by section 1 of part F of chapter 577 of the laws of 2004, is
5 amended to read as follows:

6 6. State assistance for [brownfield site assessments in] IMPLEMENTA-
7 TION STRATEGIES FOR brownfield opportunity areas. a. Within the limits
8 of appropriations therefor, the [commissioner, in consultation with the]
9 secretary [of state,] is authorized to provide, on a competitive basis,
10 financial assistance to municipalities, to community based organiza-
11 tions, to community boards, or to municipalities and community based
12 organizations acting in cooperation to conduct [brownfield site assess-
13 ments] IMPLEMENTATION STRATEGIES in a brownfield opportunity area
14 [designated pursuant to this section]. Such financial assistance shall
15 not exceed ninety percent of the costs of such brownfield [site assess-
16 ment] OPPORTUNITY AREA IMPLEMENTATION STRATEGIES.

17 b. [Brownfield sites eligible for such assistance must be owned by a
18 municipality, or volunteer as such term is defined in section 27-1405 of
19 the environmental conservation law.

20 c. Brownfield site assessment] IMPLEMENTATION STRATEGIES activities
21 eligible for funding include, but are not limited to, (I) testing of
22 properties to determine the nature and extent of the contamination
23 (including soil and groundwater), environmental assessments IN CONFORM-
24 ANCE WITH APPLICABLE REQUIREMENTS OF THE COMMISSIONER, the development
25 of a proposed remediation strategy to address any identified contam-
26 ination IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF THE COMMISSIONER,
27 and any other activities deemed appropriate by the [commissioner in
28 consultation with the] secretary [of state]. [Any environmental assess-
29 ment shall be subject to the review and approval of such commissioner.

30 d.] BROWNFIELD SITES ELIGIBLE FOR SUCH ASSISTANCE MUST BE OWNED BY A
31 MUNICIPALITY, OR VOLUNTEER AS SUCH TERM IS DEFINED IN SECTION 27-1405 OF
32 THE ENVIRONMENTAL CONSERVATION LAW; (II) ACTIONS TO EFFECTUATE LOCAL
33 LAND USE CHANGES, INCLUDING ZONING AND NECESSARY LOCAL LAW AMENDMENTS
34 IDENTIFIED IN THE BROWNFIELD OPPORTUNITY AREA; (III) ESTABLISHING DESIGN
35 STANDARDS AND DESIGN GUIDELINES, INCLUDING REQUIREMENTS FOR ENERGY EFFI-
36 CIENCY, GREEN INFRASTRUCTURE AND WATER RE-USE AND OTHER SUSTAINABILITY
37 AND GREEN DESIGN ELEMENTS; (IV) ACTIVITIES TO MARKET STRATEGIC SITES IN
38 A BROWNFIELD OPPORTUNITY AREA AND OTHER ACTIVITIES TO ATTRACT DEVELOPER
39 INTEREST; AND (V) PRE-DEVELOPMENT ACTIVITIES TO ADVANCE THE BROWNFIELD
40 OPPORTUNITY AREA.

41 C. Applications for such assistance shall be submitted to the [commis-
42 sioner] SECRETARY in a format, and containing such information, as
43 prescribed by the [commissioner in consultation with the] secretary [of
44 state].

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

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

50 (2) areas with concentrations of brownfield sites;

51 (3) areas for which the application demonstrates support from a muni-
52 cipality and a community based organization;

53 (4) areas showing indicators of economic distress including low resi-
54 dent incomes, high unemployment, high commercial vacancy rates,
55 depressed property values; and

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

4 [f.] E. The [commissioner] SECRETARY, upon the receipt of an applica-
5 tion for such assistance from a community based organization not in
6 cooperation with the local government having jurisdiction over the
7 [proposed] brownfield opportunity area, shall request the municipal
8 government to review and state the municipal government's support or
9 lack of support. The municipal government's statement shall be consid-
10 ered a part of the application.

11 [g.] F. Prior to making an award for assistance, the [commissioner]
12 SECRETARY shall notify the temporary president of the senate and the
13 speaker of the assembly.

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

32 H. TO THE EXTENT THAT THERE ARE UNEXPENDED FUNDS APPROPRIATED TO THE
33 DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR FINANCIAL ASSISTANCE
34 AUTHORIZED IN THIS SUBDIVISION, THE COMMISSIONER SHALL SUBALLOCATE SUCH
35 FUNDS TO THE SECRETARY.

36 S 27. Subdivision 7 of section 970-r of the general municipal law, as
37 amended by chapter 390 of the laws of 2008, is amended to read as
38 follows:

39 7. Amendments to designated area. Any proposed amendment to a brown-
40 field opportunity area designated pursuant to this section shall be
41 proposed TO, and reviewed by the secretary[, in the same manner and
42 using the same criteria set forth in this section and applicable to an
43 initial nomination for the designation of a brownfield opportunity
44 area]. THE SECRETARY SHALL PROMULGATE RULES THAT CONTAIN CRITERIA AND
45 TIMEFRAMES FOR REVIEW AND APPROVAL OF AMENDMENTS.

46 S 28. Subdivision 8 of section 970-r of the general municipal law, as
47 added by section 1 of part F of chapter 1 of the laws of 2003, is
48 amended to read as follows:

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

53 (1) identification of the interested public and preparation of a
54 contact list;

55 (2) identification of major issues of public concern;

1 (3) provision [to] FOR access to the draft and final application for
2 pre-nomination assistance and brownfield opportunity area designation
3 supporting documents in a manner convenient to the public;

4 (4) public notice and newspaper notice of (i) the intent of the muni-
5 cipality and/or community based organization to undertake a pre-nomina-
6 tion process or prepare a brownfield opportunity area plan, and (ii) the
7 availability of such application.

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

10 (1) a comment period of at least thirty days on a draft application;

11 (2) a public meeting on a brownfield opportunity area draft applica-
12 tion.

13 C. AN APPLICANT THAT HAS SATISFACTORILY SUBMITTED INFORMATION EQUIV-
14 ALENT TO A PRE-NOMINATION STUDY MAY FORGO A PRE-NOMINATION STUDY AND IS
15 ELIGIBLE TO APPLY FOR STATE ASSISTANCE FOR NOMINATIONS TO DESIGNATE A
16 BROWNFIELD OPPORTUNITY AREA.

17 D. APPLICATIONS FOR PRE-NOMINATION OR NOMINATION PURSUANT TO THIS
18 SECTION MAY BE SUBMITTED TO THE SECRETARY AT ANY TIME DURING THE CALEN-
19 DAR YEAR.

20 S 29. Paragraph (a) of subdivision 2 of section 176 of the navigation
21 law, as amended by chapter 584 of the laws of 1992, is amended to read
22 as follows:

23 (a) Upon the occurrence of a discharge of petroleum, the department
24 shall respond promptly and proceed to cleanup and remove the discharge
25 in accordance with environmental priorities or may, at its discretion,
26 direct the discharger to promptly cleanup and remove the discharge. IF
27 A PERSON THE DEPARTMENT DEEMS A DISCHARGER, AND THUS DIRECTS TO CLEANUP
28 AND REMOVE THE DISCHARGE PURSUANT TO THIS SECTION PRESENTS THE DEPART-
29 MENT WITH EVIDENCE THAT A THIRD PARTY IS SOLELY RESPONSIBLE FOR THE
30 DISCHARGE AND REQUESTS THE DEPARTMENT TO DETERMINE WHETHER THE EVIDENCE
31 ESTABLISHES THE THIRD PARTY IS IN FACT SOLELY RESPONSIBLE, THE DEPART-
32 MENT SHALL, WITHIN THIRTY DAYS OF RECEIPT OF SUCH REQUEST, DETERMINE IN
33 WRITING EITHER THAT THE THIRD PARTY: (I) SHALL BE DEEMED A DISCHARGER BY
34 THE DEPARTMENT, AND SHALL BE DIRECTED TO UNDERTAKE THE CLEANUP AND
35 REMOVAL OF THE DISCHARGE; OR (II) WILL NOT BE DEEMED A DISCHARGER BY THE
36 DEPARTMENT BECAUSE THE INFORMATION PRESENTED DOES NOT ESTABLISH THE
37 RESPONSIBILITY OF THE THIRD PARTY BY A PREPONDERANCE OF THE EVIDENCE. IF
38 THE DEPARTMENT DETERMINES THAT THE PERSON THE DEPARTMENT INITIALLY DEEMS
39 A DISCHARGER AND THE THIRD PARTY ARE BOTH DISCHARGERS, THE DEPARTMENT
40 SHALL, WITHIN THIRTY DAYS OF SUCH REQUEST, ADVISE EACH OF THE PARTIES
41 THAT THEY ARE DEEMED DISCHARGERS SUBJECT TO APPORTIONMENT OF LIABILITY
42 FOR THE DISCHARGE PURSUANT TO SUBDIVISIONS ONE AND TWO OF SECTION ONE
43 HUNDRED EIGHTY OF THIS ARTICLE. The department shall be responsible for
44 cleanup and removal or as the case may be, for retaining agents and
45 contractors who shall operate under the direction of that department for
46 such purposes. Implementation of cleanup and removal procedures after
47 each discharge shall be conducted in accordance with environmental
48 priorities and procedures established by the department.

49 S 30. Subdivision 8 of section 176 of the navigation law, as added by
50 chapter 712 of the laws of 1989, is amended and a new subdivision 9 is
51 added to read as follows:

52 8. Notwithstanding any other provision of law to the contrary, includ-
53 ing but not limited to SUBDIVISION (C) OF section 15-108 of the general
54 obligations law, every person providing cleanup, removal of discharge of
55 petroleum or relocation of persons pursuant to this section shall be
56 entitled to contribution from any other responsible party.

1 9. THE FOLLOWING SHALL NOT BE DEEMED A FINAL AGENCY ACTION SUBJECT TO
2 REVIEW PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND
3 RULES, AND SHALL NOT HAVE A BINDING EFFECT ON ANY PARTY IN PENDING OR
4 FUTURE PROCEEDINGS REGARDING THE DISCHARGE: (A) A DETERMINATION OR
5 ACTION OF THE DEPARTMENT PURSUANT TO SUBDIVISION ONE, TWO, OR THREE OF
6 THIS SECTION, INCLUDING BUT NOT LIMITED TO, A DETERMINATION OF THE
7 REASONABLENESS OF ANY COSTS INCURRED; (B) A DETERMINATION OR ACTION OF
8 THE ADMINISTRATOR PURSUANT TO SECTION ONE HUNDRED EIGHTY, ONE HUNDRED
9 EIGHTY-ONE-A, OR ONE HUNDRED EIGHTY-THREE OF THIS ARTICLE, INCLUDING THE
10 FILING OF AN ENVIRONMENTAL LIEN.

11 S 31. Subdivisions 1 and 2 of section 180 of the navigation law,
12 subdivision 1 as added by chapter 845 of the laws of 1977 and subdivi-
13 sion 2 as amended by chapter 672 of the laws of 1991, are amended to
14 read as follows:

15 1. To represent the state in meetings with the alleged discharger OR
16 DISCHARGERS and claimants concerning liability for the discharge and
17 amount of the claims, AND, IF THERE IS MORE THAN ONE DISCHARGER IN A
18 MEETING, TO APPORTION LIABILITY FOR THE DISCHARGE;

19 2. To determine if hearings are needed to settle particular claims
20 filed by injured persons AND TO APPORTION LIABILITY BETWEEN AND AMONG
21 DISCHARGERS;

22 S 32. Subdivision 1 of section 181 of the navigation law, as amended
23 by chapter 712 of the laws of 1989, is amended and a new subdivision 7
24 is added to read as follows:

25 1. (A) Any person who has discharged petroleum shall be strictly
26 liable, without regard to fault, for all cleanup and removal costs and
27 all direct and indirect damages, no matter by whom sustained, as defined
28 in this section, UNLESS THE LIABILITY LIMITATION AS DESCRIBED UNDER
29 PARAGRAPH (B) OF THIS SUBDIVISION APPLIES. In addition to cleanup and
30 removal costs and damages, any such person who is notified of such
31 release and who did not undertake relocation of persons residing in the
32 area of the discharge in accordance with paragraph (c) of subdivision
33 seven of section one hundred seventy-six of this article, shall be
34 liable to the fund for an amount equal to two times the actual and
35 necessary expense incurred by the fund for such relocation pursuant to
36 section one hundred seventy-seven-a of this article.

37 (B) (I) ANY PERSON WHO AGREES TO REMEDIATE THE DISCHARGE TO THE SATIS-
38 FACTION OF THE DEPARTMENT, AND IN CONFORMANCE WITH THIS ARTICLE, SHALL
39 BE ENTITLED TO RECEIVE LIABILITY LIMITATION. SUCH AGREEMENT SHALL BE
40 CALLED THE LIABILITY LIMITATION AGREEMENT AND SHALL BE WRITTEN AND
41 EXECUTED BY BOTH THE DEPARTMENT AND SUCH PERSON. AFTER EXECUTION OF THE
42 LIABILITY LIMITATION AGREEMENT, SUCH PERSON SHALL NOT BE LIABLE TO THE
43 STATE UPON ANY STATUTORY OR COMMON LAW CAUSE OF ACTION, ARISING OUT OF
44 THE PRESENCE OF ANY CONTAMINATION IN, ON, OR EMANATING FROM THE SITE
45 THAT WAS THE SUBJECT OF THE LIABILITY LIMITATION, EXCEPT THAT SUCH
46 PERSON SHALL NOT RECEIVE A RELEASE FOR NATURAL RESOURCE DAMAGES THAT MAY
47 BE AVAILABLE UNDER LAW. THE LIABILITY LIMITATION SHALL APPLY TO ALL
48 SUCCESSORS IN OWNERSHIP OF THE PROPERTY AND TO ALL PERSONS WHO LEASE THE
49 PROPERTY OR WHO ENGAGE IN OPERATIONS ON THE PROPERTY, PROVIDED THAT SUCH
50 PERSONS ACT WITH DUE CARE AND IN GOOD FAITH TO ADHERE TO THE REQUIRE-
51 MENTS OF THE LIABILITY LIMITATION AGREEMENT.

52 (II) A LIABILITY LIMITATION AGREEMENT AND THE PROTECTIONS IT AFFORDS
53 SHALL NOT APPLY TO ANY DISCHARGE THAT OCCURS SUBSEQUENT TO THE EXECUTION
54 OF THE LIABILITY LIMITATION AGREEMENT, NOR SHALL A LIABILITY LIMITATION
55 AGREEMENT AND THE PROTECTIONS IT AFFORDS RELIEVE ANY PERSON OF THE OBLI-
56 GATIONS TO COMPLY IN THE FUTURE WITH LAWS AND REGULATIONS. THE STATE

1 NONETHELESS SHALL RESERVE ALL OF ITS RIGHTS CONCERNING, AND SUCH LIABIL-
2 ITY LIMITATION SHALL NOT EXTEND TO, ANY FURTHER INVESTIGATION AND/OR
3 REMEDIATION THE DEPARTMENT DEEMS NECESSARY DUE TO FRAUD, NONCOMPLIANCE
4 WITH THE TERMS THAT FORMED THE LIABILITY LIMITATION AGREEMENT, OR A
5 WRITTEN FINDING BY THE DEPARTMENT THAT A CHANGE IN AN ENVIRONMENTAL
6 STANDARD, FACTOR, OR CRITERION UPON WHICH THE LIABILITY LIMITATION
7 AGREEMENT WAS BASED WOULD RENDER REMEDIATION ACTIVITIES NO LONGER
8 PROTECTIVE OF PUBLIC HEALTH OR THE ENVIRONMENT. NOTHING IN THIS SECTION
9 SHALL AFFECT THE LIABILITY OF THE PERSON RESPONSIBLE FOR SUCH PERSON'S
10 OWN ACTS OR OMISSIONS CAUSING WRONGFUL DEATH OR PERSONAL INJURY. NOTHING
11 IN THIS SECTION SHALL AFFECT THE LIABILITY OF ANY PERSON WITH RESPECT TO
12 ANY CIVIL ACTION BROUGHT BY A PARTY OTHER THAN THE STATE. THE PROVISIONS
13 OF THIS SECTION SHALL NOT AFFECT AN ACTION OR A CLAIM, INCLUDING A STAT-
14 UTORY OR COMMON LAW CLAIM FOR CONTRIBUTION OR INDEMNIFICATION, THAT SUCH
15 PERSON HAS OR MAY HAVE AGAINST A THIRD PARTY.

16 7. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A PUBLIC
17 CORPORATION SHALL NOT BE LIABLE FOR THE DISCHARGE OF PETROLEUM AT A SITE
18 IF SUCH PUBLIC CORPORATION ACQUIRED SUCH SITE INVOLUNTARILY, AND SUCH
19 PUBLIC CORPORATION RETAINED SUCH SITE WITHOUT PARTICIPATING IN THE
20 DEVELOPMENT OF SUCH SITE. THIS EXEMPTION SHALL NOT APPLY TO ANY PUBLIC
21 CORPORATION THAT HAS (A) CAUSED OR CONTRIBUTED TO THE DISCHARGE OF
22 PETROLEUM FROM OR AT THE SITE, (B) PURCHASED, SOLD, REFINED, TRANS-
23 PORTED, OR DISCHARGED PETROLEUM FROM OR AT SUCH SITE, OR (C) CAUSED THE
24 PURCHASE, SALE, REFINEMENT, TRANSPORTATION, OR DISCHARGE OF PETROLEUM
25 FROM OR AT SUCH SITE. THE TERMS "PUBLIC CORPORATION", "INVOLUNTARY
26 ACQUISITION OF OWNERSHIP OR CONTROL" AND "PARTICIPATING IN DEVELOPMENT"
27 SHALL HAVE THE SAME MEANING AS THOSE TERMS ARE DEFINED IN PARAGRAPHS (C)
28 AND (E) OF SUBDIVISION TWO OF SECTION 27-1323 OF THE ENVIRONMENTAL
29 CONSERVATION LAW. HOWEVER, "PARTICIPATING IN DEVELOPMENT" SHALL NOT
30 INCLUDE IMPROVEMENTS WHICH ARE PART OF A CLEANUP AND REMOVAL OF A
31 DISCHARGE OF PETROLEUM PURSUANT TO THIS ARTICLE.

32 S 33. Section 183 of the navigation law, as added by chapter 845 of
33 the laws of 1977, is amended to read as follows:

34 S 183. Settlements. The administrator shall attempt to promote and
35 arrange a settlement between the claimant and the person OR PERSONS
36 responsible for the discharge. If the source of the discharge can be
37 determined and liability is conceded, the claimant and the alleged
38 discharger OR DISCHARGERS may agree to a settlement which shall be final
39 and binding upon the parties and which will waive all recourse against
40 the fund. TO THE EXTENT AN ALLEGED DISCHARGER PRESENTS EVIDENCE TO THE
41 ADMINISTRATOR THAT ANOTHER PARTY IS WHOLLY OR PARTIALLY RESPONSIBLE FOR
42 THE CLAIM, AND REQUESTS THE ADMINISTRATOR TO CONSIDER WHETHER SUCH
43 INFORMATION PRESENTED ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE
44 THAT THE THIRD PARTY IS IN FACT WHOLLY OR PARTIALLY RESPONSIBLE, THE
45 ADMINISTRATOR WITHIN THIRTY DAYS OF RECEIPT OF SUCH REQUEST SHALL EITHER
46 DETERMINE: (1) IN WRITING, IF THE THIRD PARTY SHALL BE DEEMED AN ADDI-
47 TIONAL DISCHARGER TO ANY PENDING OR ANTICIPATED CLAIM OR (2) IF AN
48 ADMINISTRATIVE HEARING AS TO LIABILITY IS NECESSARY.

49 S 34. Severability. If any clause, sentence, paragraph, subdivision,
50 section or part of this act shall be adjudged by any court of competent
51 jurisdiction to be invalid, such judgment shall not affect, impair or
52 invalidate the remainder thereof, but shall be confined in its operation
53 to the clause, sentence, paragraph, subdivision, section or part thereof
54 directly involved in the controversy in which such judgment shall have
55 been rendered. It is hereby declared to be the intent of the legislature

that this act would have been enacted even if such invalid provisions had not been included herein.

S 35. This act shall take effect immediately provided that sections one through thirteen of this act shall apply to a qualified site for which the commissioner of environmental conservation has issued a notice to the taxpayer or other applicant after July 1, 2013 that its request for participation has been accepted under subdivision 6 of section 27-1407 of the environmental conservation law.

PART 00

Section 1. The executive law is amended by adding a new article 10-A to read as follows:

ARTICLE 10-A

OFFICE OF RISK ASSESSMENT AND MANAGEMENT

SECTION 204. DEFINITIONS.

205. OFFICE OF RISK ASSESSMENT AND MANAGEMENT; QUALIFICATIONS OF RISK MANAGER.

206. FUNCTIONS AND DUTIES OF THE OFFICE.

S 204. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

1. "ENTERPRISE RISK MANAGEMENT" SHALL MEAN A STRATEGIC DISCIPLINE THAT SUPPORTS THE ACHIEVEMENT OF THE STATE'S OBJECTIVES BY ADDRESSING THE FULL SPECTRUM OF ITS RISKS AND MANAGES THE COMBINED IMPACT OF THOSE RISKS AS AN INTERRELATED RISK PORTFOLIO.

2. "LOCAL GOVERNMENT" SHALL MEAN ANY COUNTY, CITY, TOWN, VILLAGE, SUPERVISORY DISTRICT, SCHOOL DISTRICT, FIRE DISTRICT, IMPROVEMENT DISTRICT OR SPECIAL DISTRICT.

3. "OFFICE" SHALL MEAN THE OFFICE OF RISK ASSESSMENT AND MANAGEMENT ESTABLISHED PURSUANT TO SECTION TWO HUNDRED FIVE OF THIS ARTICLE.

4. "RISK MANAGER" SHALL MEAN THE RISK MANAGER OF THE OFFICE.

5. "STATE AGENCY" SHALL MEAN ANY DEPARTMENT, DIVISION, BOARD, COMMISSION, BUREAU, OFFICE OR OTHER AGENCY OF THE STATE.

S 205. OFFICE OF RISK ASSESSMENT AND MANAGEMENT; QUALIFICATIONS OF RISK MANAGER. 1. THERE SHALL BE ESTABLISHED WITHIN THE OFFICE OF GENERAL SERVICES, AN OFFICE OF RISK ASSESSMENT AND MANAGEMENT. THERE SHALL BE APPOINTED BY THE GOVERNOR AND CONFIRMED BY THE SENATE THE RISK MANAGER OF THE OFFICE, WHO SHALL BE CHARGED WITH THE DUTY OF ADMINISTERING THE OFFICE. THE COMMISSIONER OF GENERAL SERVICES SHALL FIX COMPENSATION OF THE RISK MANAGER WITHIN THE AMOUNTS APPROPRIATED THEREFOR.

2. THE RISK MANAGER SHALL HAVE THE FOLLOWING QUALIFICATIONS:

(A) AN UNDERSTANDING OF AND THE ABILITY TO APPLY THE GENERALLY ACCEPTED PRINCIPLES, STANDARDS AND TECHNIQUES UTILIZED FOR THE IDENTIFICATION, ASSESSMENT AND MANAGEMENT OF ENTERPRISE RISK; AND

(B) SUFFICIENT EXPERIENCE IN IDENTIFYING, ASSESSING AND MANAGING ENTERPRISE RISK EXPOSURES THAT PRESENT THE BREADTH AND LEVEL OF COMPLEXITY OF ISSUES THAT CAN REASONABLY BE EXPECTED TO BE RAISED DURING THE COURSE OF STATE OPERATIONS.

3. EVERY RISK MANAGER SHALL HAVE ACQUIRED HIS OR HER QUALIFICATIONS, AS REQUIRED BY SUBDIVISION TWO OF THIS SECTION, THROUGH APPROPRIATE EDUCATION AND RELEVANT RISK MANAGEMENT EXPERIENCE ON BEHALF OF A COMMERCIAL OR GOVERNMENTAL ORGANIZATION.

S 206. FUNCTIONS AND DUTIES OF THE OFFICE. 1. THE FUNCTION OF THE OFFICE SHALL BE:

(A) TO ANALYZE THE POTENTIAL EXPOSURE OF THE STATE TO LIABILITY AND FINANCIAL LOSS ARISING FROM ITS ACTS AND OMISSIONS, FROM THE OWNERSHIP,

CONTROL OR USE OF ITS REAL AND PERSONAL PROPERTY, OR CONDUCT OR ACTIONS OF ITS EMPLOYEES OR AGENTS;

(B) TO ESTABLISH AND COORDINATE BUSINESS CONTINUITY PROGRAMS FOR ESSENTIAL STATE FUNCTIONS AND SERVICES;

(C) TO IMPLEMENT RISK MANAGEMENT PROGRAMS TO MANAGE THE STATE'S EXPOSURE TO RISK IN THE MOST COST EFFECTIVE MANNER INCLUDING, BUT NOT LIMITED TO, PROGRAMS TO REDUCE THE LIKELIHOOD AND POTENTIAL COST OF LOSS EVENTS, AND THE PURCHASE OF INSURANCE OR OTHER RISK SHARING ARRANGEMENTS WHERE APPROPRIATE; AND

(D) TO COORDINATE AND SUPPORT THE RISK MANAGEMENT PROGRAMS OF ALL STATE AGENCIES.

2. THE RISK MANAGER AND OFFICE SHALL FULFILL THEIR FUNCTIONS AND DUTIES BY:

(A) CONDUCTING A STUDY, IN CONSULTATION WITH THE COMPTROLLER, THE ATTORNEY GENERAL, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY, OF THE STATE'S RISK EXPOSURES ON AN ONGOING BASIS. SUCH STUDY SHALL INCLUDE:

(I) PRACTICES AND PROCEDURES OF ALL STATE AGENCIES, AS THEY PERTAIN TO, IMPACT UPON, CAUSE OR DETER DAMAGE OR LOSS TO: PHYSICAL PROPERTY OWNED OR CONTROLLED BY THE STATE, OR PHYSICAL INJURIES SUSTAINED BY STATE EMPLOYEES, PERSONS RECEIVING SERVICES FROM THE STATE OR MEMBERS OF THE GENERAL PUBLIC;

(II) THE ACTIONS, CLAIM SETTLEMENTS, AND CLAIMS SETTLEMENT PROCESSES RELATED TO ACTIONS IN THE COURT OF CLAIMS, AND IN FEDERAL AND STATE COURTS OF COMPETENT JURISDICTIONS AS THEY RELATE TO THE DISPOSITION OF MATTERS AGAINST THE STATE. FURTHERMORE, FOR THE PURPOSE OF DETERMINING PAST, PRESENT AND FUTURE EXPOSURES TO LIABILITY, THE NATURE AND MAGNITUDE OF SUCH EXPOSURES, AND THE TECHNIQUES FOR REDUCING THE COST OF MANAGING AND SETTLING CLAIMS ARISING FROM SUCH EXPOSURES;

(III) THE ESSENTIAL OPERATIONS AND SERVICE FUNCTIONS OF THE STATE, AND THE PROCEDURES NECESSARY TO MAINTAIN OR RESTORE SUCH OPERATIONS AND FUNCTIONS TO THE REQUIRED LEVEL FOLLOWING AN EMERGENCY EVENT;

(IV) THE POTENTIAL FUTURE LIABILITIES ARISING FROM EXISTING OR PROPOSED STATE OPERATIONS OR FUNCTIONS;

(V) THE PREPARATION OF AN INVENTORY OF ALL REAL PROPERTY OWNED OR LEASED, FOR A PERIOD OF TIME OF MORE THAN FIVE YEARS, BY ALL STATE AGENCIES, AND TO ASCERTAIN PAST, PRESENT AND POTENTIAL FUTURE LIABILITY EXPOSURES AND THE NATURE OF THOSE EXPOSURES;

(VI) THE DESIGN AND IMPLEMENTATION OF APPROPRIATE COST EFFECTIVE TECHNIQUES AND PROGRAMS TO REDUCE THE COST OF THE STATE'S EXPOSURE TO LIABILITY AND FINANCIAL LOSS ARISING FROM ITS OPERATIONS OR THE OWNERSHIP, CONTROL OR USE OF REAL AND PERSONAL PROPERTY, INCLUDING RECOMMENDING STEPS AND PROCEDURES TO BE IMPLEMENTED BY INDIVIDUAL STATE AGENCIES; AND

(VII) A REVIEW OF THE APPROPRIATENESS AND NEED TO ENTER INTO CONTRACTS WITH OUTSIDE VENDORS AND CONSULTANTS WITH EXPERTISE IN RISK MANAGEMENT, CLAIMS MANAGEMENT OR SAFETY MANAGEMENT;

(B) RECOMMENDING AND IMPLEMENTING THE APPROPRIATE RISK MANAGEMENT AND BUSINESS CONTINUITY PROGRAMS AS SHALL BE NECESSARY; AND

(C) PRIOR TO IMPLEMENTING THE STUDY, THE RISK MANAGER SHALL PRESENT THE COMPTROLLER, THE ATTORNEY GENERAL, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY A DETAILED PLAN FOR HOW HE OR SHE WILL CONDUCT SUCH STUDY.

3. SUCH STUDY AND RECOMMENDATIONS SHALL BE COMPLETED AND SENT TO THE GOVERNOR, COMPTROLLER, ATTORNEY GENERAL, EXECUTIVE OFFICER OF EACH STATE AGENCY INCLUDED THEREIN, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF

1 THE ASSEMBLY, MINORITY LEADER OF THE SENATE AND MINORITY LEADER OF THE
2 ASSEMBLY NO LATER THAN EIGHTEEN MONTHS AFTER THE EFFECTIVE DATE OF THIS
3 ARTICLE.

4 4. THE RISK MANAGER SHALL FILE AN ANNUAL REPORT ON THE ACTIVITIES OF
5 THE OFFICE WITH THE GOVERNOR, COMPTROLLER, ATTORNEY GENERAL, TEMPORARY
6 PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, THE MINORITY LEADERS
7 OF THE SENATE AND ASSEMBLY, SENATE FINANCE COMMITTEE AND ASSEMBLY WAYS
8 AND MEANS COMMITTEE, NO LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE
9 COMPLETION OF THE CALENDAR YEAR TO WHICH THE REPORT REFERS.

10 5. ANY PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY OR LOCAL GOVERN-
11 MENT MAY CONTRACT FOR THE SERVICES OF THE RISK MANAGER AND THE OFFICE IN
12 THE EVENT THAT SUCH PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY OR
13 LOCAL GOVERNMENT IS WITHOUT INTERNAL RISK ASSESSMENT AND ENTERPRISE RISK
14 MANAGEMENT SERVICES, OR WISHES TO SUPPLEMENT SUCH INTERNAL SERVICES WITH
15 THE SERVICES PROVIDED BY THE RISK MANAGER AND THE OFFICE.

16 S 2. This act shall take effect on the one hundred eightieth day after
17 it shall have become a law, except that any rules and regulations neces-
18 sary for the timely implementation of this act on its effective date
19 shall be promulgated on or before such date.

20 PART PP

21 Section 1. Subdivision (a) of section 3 of part F of chapter 56 of the
22 laws of 2011, relating to permitting authorized state entities to
23 utilize the design-build method for infrastructure projects, is amended
24 to read as follows:

25 (a) "authorized state entity" shall mean the New York state thruway
26 authority, the department of transportation, the office of parks, recre-
27 ation and historic preservation, the department of environmental conser-
28 vation and the New York state bridge authority, EXCEPT FOR A
29 DESIGN-BUILD-FINANCE CONTRACT AS DEFINED IN SUBSECTION (E-1) OF THIS
30 SECTION, THIS SHALL MEAN THE DEPARTMENT OF TRANSPORTATION ONLY.

31 S 2. Section 3 of part F of chapter 56 of the laws of 2011, relating
32 to permitting authorized state entities to utilize the design-build
33 method for infrastructure projects, is amended by adding a new subdivi-
34 sion (e-1) to read as follows:

35 (E-1) "DESIGN-BUILD-FINANCE CONTRACT" SHALL MEAN A CONTRACT FOR THE
36 DESIGN, CONSTRUCTION AND FINANCING, WHICH MAY INCLUDE PRIVATE CAPITAL,
37 OF A CAPITAL PROJECT WITH A SINGLE ENTITY, WHICH MAY BE A TEAM COMPRISED
38 OF SEPARATE ENTITIES.

39 S 3. Section 4 of part F of chapter 56 of the laws of 2011, relating
40 to permitting authorized state entities to utilize the design-build
41 method for infrastructure projects, is amended to read as follows:

42 S 4. Notwithstanding the provisions of section 38 of the highway law,
43 section 136-a of the state finance law, section 359 of the public
44 authorities law, section 7210 of the education law and the provisions of
45 any other law to the contrary, and in conformity with the requirements
46 of this act, an authorized state entity may utilize the alternative
47 delivery [method] METHODS referred to as design-build contracts AND
48 DESIGN-BUILD-FINANCE CONTRACTS for capital projects related to the
49 state's physical infrastructure, including, but not limited to, the
50 state's highways, bridges, dams, flood control projects, canals, and
51 parks, including, but not limited to, to repair damage caused by natural
52 disaster, to correct health and safety defects, to comply with federal
53 and state laws, standards, and regulations, to extend the useful life of
54 or replace the state's highways, bridges, dams, flood control projects,

1 canals, and parks or to improve or add to the state's highways, bridges,
2 dams, flood control projects, canals, and parks; provided that for the
3 contracts executed by the department of transportation, the office of
4 parks, recreation and historic preservation, or the department of envi-
5 ronmental conservation, the total cost of each such project shall not be
6 less than one million two hundred thousand dollars (\$1,200,000).

7 S 4. Section 5 of part F of chapter 56 of the laws of 2011, relating
8 to permitting authorized state entities to utilize the design-build
9 method for infrastructure projects, is amended to read as follows:

10 S 5. An entity selected by an authorized state entity to enter into a
11 design-build contract OR A DESIGN-BUILD-FINANCE CONTRACT shall be
12 selected through a two-step method, as follows:

13 (a) Step one. Generation of a list of entities that have demonstrated
14 the general capability to perform the design-build contract OR
15 DESIGN-BUILD-FINANCE CONTRACT. Such list shall consist of a specified
16 number of entities, as determined by an authorized state entity, and
17 shall be generated based upon the authorized state entity's review of
18 responses to a publicly advertised request for qualifications. The
19 authorized state entity's request for qualifications shall include a
20 general description of the project, the maximum number of entities to be
21 included on the list, and the selection criteria to be used in generat-
22 ing the list. Such selection criteria shall include the qualifications
23 and experience of the design and construction team, organization, demon-
24 strated responsibility, ability of the team or of a member or members of
25 the team to comply with applicable requirements, including the
26 provisions of articles 145, 147 and 148 of the education law, past
27 record of compliance with the labor law, and such other qualifications
28 the authorized state entity deems appropriate which may include but are
29 not limited to project understanding, financial capability and record of
30 past performance. The authorized state entity shall evaluate and rate
31 all entities responding to the request for qualifications. Based upon
32 such ratings, the authorized state entity shall list the entities that
33 shall receive a request for proposals in accordance with subdivision (b)
34 of this section. To the extent consistent with applicable federal law,
35 the authorized state entity shall consider, when awarding any contract
36 pursuant to this section, the participation of: (i) firms certified
37 pursuant to article 15-A of the executive law as minority or women-owned
38 businesses and the ability of other businesses under consideration to
39 work with minority and women-owned businesses so as to promote and
40 assist participation by such businesses; and (ii) small business
41 concerns identified pursuant to subdivision (b) of section 139-g of the
42 state finance law.

43 (b) Step two. Selection of the proposal which is the best value to the
44 state. The authorized state entity shall issue a request for proposals
45 to the entities listed pursuant to subdivision (a) of this section. If
46 such an entity consists of a team of separate entities, the entities
47 that comprise such a team must remain unchanged from the entity as list-
48 ed pursuant to subdivision (a) of this section unless otherwise approved
49 by the authorized state entity. The request for proposals shall set
50 forth the project's scope of work, and other requirements, as determined
51 by the authorized state entity. The request for proposals shall specify
52 the criteria to be used to evaluate the responses and the relative
53 weight of each such criteria. Such criteria shall include the
54 proposal's cost, the quality of the proposal's solution, the qualifica-
55 tions and experience of the design-build OR DESIGN-BUILD-FINANCE entity,
56 and other factors deemed pertinent by the authorized state entity, which

1 may include, but shall not be limited to, the proposal's project imple-
2 mentation, ability to complete the work in a timely and satisfactory
3 manner, maintenance costs of the completed project, maintenance of traf-
4 fic approach, and community impact. Any contract awarded pursuant to
5 this act shall be awarded to a responsive and responsible entity that
6 submits the proposal, which, in consideration of these and other speci-
7 fied criteria deemed pertinent to the project, offers the best value to
8 the state, as determined by the authorized state entity. Nothing herein
9 shall be construed to prohibit the authorized entity from negotiating
10 final contract terms and conditions including cost.

11 S 5. Section 12 of part F of chapter 56 of the laws of 2011, relating
12 to permitting authorized state entities to utilize the design-build
13 method for infrastructure projects, is amended to read as follows:

14 S 12. The submission of a proposal or responses or the execution of a
15 design-build contract OR DESIGN-BUILD-FINANCE CONTRACT pursuant to this
16 act shall not be construed to be a violation of section 6512 of the
17 education law.

18 S 6. This act shall take effect immediately; provided, however, that
19 the amendments to sections 3, 4, 5 and 12 of part F of chapter 56 of the
20 laws of 2011 made by sections one through five of this act shall not
21 affect the repeal of such part and shall be deemed to be repealed there-
22 with.

23

PART QQ

24 Section 1. Clause (E) of subparagraph 5 and clause (F) of subpara-
25 graph 6 of paragraph b of subdivision 1 of section 1016 of the racing,
26 pari-mutuel wagering and breeding law, as amended by chapter 18 of the
27 laws of 2008, are amended to read as follows:

28 (E) On days when a franchised corporation is not conducting a race
29 meeting and when a licensed harness track is neither accepting wagers
30 nor displaying the signal from an in-state thoroughbred corporation or
31 association or an out-of-state thoroughbred track:

32 (i) Such licensed regional harness track shall receive in lieu of any
33 other payments on wagers placed at off-track betting facilities outside
34 the special betting district on races conducted by an in-state thorough-
35 bred racing corporation, [two and eight-tenths] ONE AND FOUR-TENTHS
36 percent on regular and multiple bets during a regional meeting and [one
37 and nine-tenths] NINETY-FIVE HUNDREDTHS percent of such bets if there is
38 no regional meeting and [four and eight-tenths] TWO AND FOUR-TENTHS
39 percent on exotic bets on days on which there is a regional meeting and
40 [three and four-tenths] ONE AND SEVEN-TENTHS percent of such bets if
41 there is no regional meeting.

42 (ii) Such licensed regional harness track shall receive [one and one-
43 half] SEVENTY-FIVE HUNDREDTHS per centum on total regional handle on
44 races conducted at out-of-state or out-of-country thoroughbred tracks.

45 (iii) In those regions in which there is more than one licensed
46 regional harness track, if no track is accepting wagers or displaying
47 the live simulcast signal from the out-of-state track, the total sum
48 shall be divided among the tracks in proportion to the ratio the wagers
49 placed on races conducted by each track bears to the corporation's total
50 in-region harness handle. If one or more tracks are accepting wagers or
51 displaying the live simulcast signal, the total amount shall be divided
52 among those tracks not accepting wagers or displaying the simulcast
53 signal for an out-of-state track or in-state thoroughbred corporation or
54 association.

1 (F) Of the sums retained by a licensed harness facility, [fifty] ONE
2 HUNDRED percent shall be used exclusively for purses awarded in races
3 conducted by such licensed facility [and the remaining fifty percent
4 shall be retained by such licensed facility for its general purposes,
5 provided, however, that in a harness special betting district the
6 portion of the sums retained by a licensed harness facility to be used
7 for purses or the methodology for calculating the amount to be used for
8 purses may be specified in a written contract between a harness racing
9 association or corporation and its representative horsemen's associ-
10 ation].

11 S 2. Section 1017 of the racing, pari-mutuel wagering and breeding
12 law, as amended by chapter 18 of the laws of 2008, is amended to read as
13 follows:

14 S 1017. Out-of-state or out-of-country races. 1. Licensed simulcast
15 facilities may accept wagers and display the signal of out-of-state or
16 out-of-country thoroughbred tracks after 7Labor P.M. in accordance with
17 the provisions of this section. Such simulcasting may include mixed
18 meetings if such meetings are integral to such racing programs and all
19 such wagering on such races shall be construed to be thoroughbred races.
20 For facilities located within the special betting district, such
21 approval shall also be required from a thoroughbred racing corporation
22 during the period a racing program is being conducted at such track.
23 Such approval shall not be required on any day such thoroughbred racing
24 corporation is also accepting an out-of-state or out-of-country signal
25 and wager, as authorized by this section. The provisions of section one
26 thousand sixteen of this article shall be applicable to the conduct of
27 such simulcasting and the provisions of clauses (A) and (B) of subpara-
28 graph four of paragraph b of subdivision one of section one thousand
29 sixteen of this article shall apply to those facilities licensed in
30 accordance with sections one thousand eight and one thousand nine of
31 this article and the provisions of clauses (A) and (B) of subparagraph
32 six of paragraph b of subdivision one of section one thousand sixteen of
33 this article shall apply to those facilities licensed in accordance with
34 section one thousand seven of this article, when such provisions are in
35 full force and effect pursuant to such section. Provided, however, the
36 provisions of section one thousand fourteen of this article shall be
37 applicable to the conduct of such simulcasting, when such provisions are
38 in full force and effect pursuant to such section.

39 2. a. Maintenance of effort. Any off-track betting corporation which
40 engages in accepting wagers on the simulcasts of thoroughbred races from
41 out-of-state or out-of-country as permitted under subdivision one of
42 this section shall submit to the board, for its approval, a schedule of
43 payments to be made in any year or portion thereof, that such off-track
44 corporation engages in nighttime thoroughbred simulcasting. In order to
45 be approved by the board, the payment schedule shall be identical to the
46 actual payments and distributions of such payments to [tracks and] purs-
47 es made by such off-track corporation pursuant to the provisions of
48 section one thousand fifteen of this article during the year two thou-
49 sand two, as derived from out-of-state harness races displayed after
50 6:00 P.M. If approved by the board, such scheduled payments shall be
51 made from revenues derived from any simulcasting conducted pursuant to
52 this section and section one thousand fifteen of this article.

53 b. Additional payments. During each calendar year, to the extent, and
54 at such time in the event, that aggregate statewide wagering handle
55 after 7Labor P.M. on out-of-state and out-of-country thoroughbred races
56 exceeds one hundred million dollars, each off-track betting corporation

conducting such simulcasting shall pay to its regional harness track or tracks, an amount equal to [two] ONE percent of its proportionate share of such excess handle. In any region where there are two or more regional harness tracks, such two percent shall be divided between or among the tracks in a proportion equal to the proportion of handle on live harness races conducted at such tracks during the preceding calendar year. [Fifty percent of the] THE sum received by each track pursuant to this paragraph shall be used exclusively for increasing purses, stakes and prizes at that regional harness track.

S 3. Subdivision 2 of section 529 of the racing, pari-mutuel wagering and breeding law is amended to read as follows:

2. [Ninety-five percent of the balance of such account remaining unclaimed as of the last day of February of such year shall be paid to the state tax commission by March fifteenth. On or before April tenth of each year the balance of such account and any other unclaimed amounts received in the course of conducting off-track betting shall be paid by such corporation to the state tax commission. A penalty of five percent and interest at the rate of one percent per month from the due date to the date of payment of the unclaimed balance due March fifteenth or April tenth, as the case may be, shall be payable in case such balance is not paid when due. Such amounts, interest and penalties when collected by the state tax commission shall be deposited into the general fund of the state treasury] ON APRIL FIRST OF EACH YEAR, THE AMOUNT OF TICKETS REMAINING UNCLAIMED FROM THE PRIOR YEAR MAY BE USED FOR CORPORATE PURPOSES.

S 4. Paragraph b of subdivision 3 of section 1009 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

b. Letters of consent to the application from any regional track which is not a party to the operation of the proposed theater unless such track is located more than [forty] TEN miles from the proposed simulcast theater; and a copy of any agreement between the applicant and such corporation pursuant to which such consent has been given, subject to the provision of subdivision two of section one thousand seven of this article. Notwithstanding the foregoing, the Nassau region may apply to locate [one simulcast theater] ANY FAST TRACK BETTING LOCATIONS within Nassau County without a letter of consent from the operator of the regional track [provided the proposed simulcast theater is not within fifteen miles of the closest border of any racing facility operated by a franchised corporation].

S 5. Section 503 of the racing, pari-mutuel wagering and breeding law is amended by adding a new subdivision 14 to read as follows:

14. ON AND AFTER MAY FIRST, TWO THOUSAND THIRTEEN, ANY REGIONAL OFF-TRACK BETTING CORPORATION WITH A CAPITAL RESERVE FUND IN EXCESS OF FIVE MILLION DOLLARS SHALL DISBURSE ANY EXCESS FUNDS TO ITS PARTICIPATING COUNTIES IN PROPORTION TO SUCH COUNTY'S POPULATION MEASURED AGAINST THE TOTAL POPULATION OF THE REGION.

S 6. This act shall take effect immediately.

PART RR

Section 1. Notwithstanding the provisions of any general, special or local law to the contrary, the public service commission, in consultation with the New York state energy research and development authority, the division of homeland security and emergency services and other interested parties, shall develop recommendations regarding the estab-

lishment of microgrids in the state of New York. For purposes of this act, the term "microgrid" shall mean a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to the grid and can connect and disconnect from the grid to enable it to operate in both grid-connected or island-mode. Specifically, the commission shall develop recommendations which include, but are not limited to, the following:

(a) Whether hospitals, first responder headquarters, such as police and fire stations, emergency shelters, schools, water filtration plants, sewage treatment plants, municipalities, commercial entities, and other locations in the state of New York may desire to collaborate on successful microgrids;

(b) The geographic areas in the state of New York where the establishment of such microgrids should be a priority, based upon severe storm damage during the two years prior to the effective date of this act;

(c) the regulatory structure under which microgrid systems would operate;

(d) how the operation of microgrids would conform with the current requirements of utilities to provide safe and adequate service to ratepayers;

(e) the type of microgrid projects that may be implemented, including, but not limited to, distributed generation, combined heat and power; or utilizing renewable technologies such as fuel cells, wind, solar, or other energy systems;

(f) the technical and regulatory aspect of how a microgrid will be interconnected to the power grid;

(g) the adequacy of a microgrid system to operate in emergency situations and that proper protections are in place to ensure operation in the event of an emergency situation; and

(h) funding mechanisms that should be considered in order to pay for the establishment, operation and maintenance of such microgrids, including a cost benefit analysis for the development and implementation of microgrids.

S 2. The public service commission shall submit a final report of recommendations to the governor, the temporary president of the senate and the speaker of the assembly within one year after the effective date of this act.

S 3. This act shall take effect immediately.

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

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