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

10525

I N A S S E M B L Y

April 2, 2010

Introduced by M. of A. TEDISCO, AMEDORE, BURLING, CALHOUN, FINCH, McDONOUGH -- Multi-Sponsored by -- M. of A. BACALLES, CONTE, CROUCH, DUPREY, GIGLIO, McKEVITT, MOLINARO, RAIA, SALADINO, SCOZZAFAVA, THIELE, TOWNSEND -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the canal law, the public authorities law, the transportation law, the economic development law and the state finance law, in relation to making the canal corporation an independent public authority; and repealing certain provisions of the canal law and the public authorities law relating thereto

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

Section 1. Articles 1-A, 6-A and 13-A of the canal law are REPEALED.

S 2. Subdivision 2 of section 10 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

2. Appoint and remove all officers and employees in the administration of canal matters in conformity with the provisions of title [nine] FIVE of article two of the public authorities law.

S 3. Subdivision 18 of section 2 of the canal law is REPEALED.

S 4. Sections 382 and 383 of the public authorities law are REPEALED.

S 5. Article 2 of the public authorities law is amended by adding a new title 5 to read as follows:

TITLE 5

CANAL CORPORATION

SECTION 250. CANAL CORPORATION.
251. BONDING OF CANAL CORPORATION.
252. AUTHORITY TO LEASE LAND.
253. CONDITIONS AND TERMS OF LEASES.
254. SPECIAL CONDITIONS FOR LEASES ENTERED PRIOR TO APPROVAL OF CANAL RECREATIONWAY PLAN.
255. CANAL RECREATIONWAY COMMISSION.
256. FUNCTIONS, POWERS AND DUTIES.
257. CANAL RECREATIONWAY PLAN.

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

LBD16051-01-0

258. TITLE NOT AFFECTED IF IN PART UNCONSTITUTIONAL OR INEFFECTIVE.
259. INCONSISTENT PROVISIONS IN OTHER ACTS SUPERSEDED.

S 250. CANAL CORPORATION. 1. THERE IS HEREBY CREATED A PUBLIC BENEFIT CORPORATION KNOWN AS THE "NEW YORK STATE CANAL CORPORATION" (HEREINAFTER REFERRED TO AS THE "CANAL CORPORATION"). THE CANAL CORPORATION IS SOLELY CREATED TO, AND SHALL HAVE ONLY THE POWER TO, OPERATE, MAINTAIN, CONSTRUCT, RECONSTRUCT, IMPROVE, DEVELOP, FINANCE, AND PROMOTE THE NEW YORK STATE CANAL SYSTEM.

2. THE CANAL CORPORATION AND ANY OF ITS PROPERTY, FUNCTIONS AND ACTIVITIES SHALL HAVE ALL OF THE PRIVILEGES, IMMUNITIES, TAX EXEMPTIONS AND OTHER EXEMPTIONS OF THE AUTHORITY AND OF THE AUTHORITY'S PROPERTY, FUNCTIONS AND ACTIVITIES. THERE SHALL BE SIX MEMBERS APPOINTED TO THE CORPORATION. SUCH MEMBERS SHALL BE APPOINTED AS FOLLOWS: TWO MEMBERS BY THE TEMPORARY PRESIDENT OF THE SENATE; TWO MEMBERS BY THE SPEAKER OF THE ASSEMBLY; ONE MEMBER BY THE MINORITY LEADER OF THE SENATE; AND ONE MEMBER BY THE MINORITY LEADER OF THE ASSEMBLY. THE CANAL CORPORATION MAY DELEGATE TO ONE OR MORE OF ITS MEMBERS, OR ITS OFFICERS, AGENTS AND EMPLOYEES, SUCH DUTIES AND POWERS AS IT MAY DEEM PROPER.

3. NO OFFICER OR MEMBER OF THE CANAL CORPORATION SHALL RECEIVE ANY ADDITIONAL COMPENSATION, EITHER DIRECT OR INDIRECT, OTHER THAN REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF HIS OR HER DUTIES, BY REASON OF HIS OR HER SERVING AS A MEMBER, DIRECTOR OR TRUSTEE OF THE CANAL CORPORATION.

4. ALL OFFICERS, AGENTS AND EMPLOYEES OF THE CANAL CORPORATION SHALL BE SUBJECT TO THE PROVISIONS OF THE CIVIL SERVICE LAW WHICH SHALL APPLY TO THE CANAL CORPORATION AS A MUNICIPAL CORPORATION OTHER THAN A CITY. THE CANAL CORPORATION SHALL PARTICIPATE IN THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM.

5. THE CANAL CORPORATION SHALL HAVE THE POWER TO:

(A) OPERATE, MAINTAIN, CONSTRUCT, RECONSTRUCT, IMPROVE, DEVELOP, FINANCE AND PROMOTE THE NEW YORK STATE CANAL SYSTEM AS DEFINED IN THE CANAL LAW;

(B) SUE AND BE SUED;

(C) HAVE A SEAL AND ALTER THE SAME AT PLEASURE;

(D) MAKE AND ALTER BY-LAWS FOR ITS ORGANIZATION AND INTERNAL MANAGEMENT AND MAKE RULES AND REGULATIONS GOVERNING THE USE OF ITS PROPERTY AND FACILITIES;

(E) APPOINT OFFICERS, AGENTS AND EMPLOYEES, WHO SHALL BE SUBJECT TO SECTION TWO HUNDRED FIFTY-FIVE OF THIS TITLE, AND FIX THEIR COMPENSATION;

(F) MAKE AND EXECUTE CONTRACTS AND ALL OTHER INSTRUMENTS NECESSARY OR CONVENIENT FOR THE EXERCISE OF ITS POWERS AND FUNCTIONS UNDER THIS TITLE;

(G) ACQUIRE, HOLD AND DISPOSE OF REAL OR PERSONAL PROPERTY FOR ITS CORPORATE PURPOSES;

(H) ENGAGE THE SERVICES OF PRIVATE CONSULTANTS ON A CONTRACT BASIS FOR RENDERING PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE;

(I) PROCURE INSURANCE AGAINST ANY LOSS IN CONNECTION WITH ITS ACTIVITIES, PROPERTIES AND OTHER ASSETS, IN SUCH AMOUNT AND FROM SUCH INSURERS AS IT DEEMS DESIRABLE;

(J) INVEST ANY FUNDS OF THE CANAL CORPORATION, OR ANY OTHER MONIES UNDER ITS CUSTODY AND CONTROL NOT REQUIRED FOR IMMEDIATE USE OR DISBURSEMENT, AT THE DISCRETION OF THE CANAL CORPORATION, IN OBLIGATIONS OF THE STATE OR THE UNITED STATES GOVERNMENT OR OBLIGATIONS THE PRINCIPAL AND INTEREST OF WHICH ARE GUARANTEED BY THE STATE OR THE UNITED

STATES GOVERNMENT, OR IN ANY OTHER OBLIGATIONS IN WHICH THE COMPTROLLER OF THE STATE IS AUTHORIZED TO INVEST PURSUANT TO SECTION NINETY-EIGHT-A OF THE STATE FINANCE LAW;

(K) PREPARE AND SUBMIT A CAPITAL PROGRAM PLAN PURSUANT TO SECTION TEN OF THE CANAL LAW;

(L) APPROVE AND IMPLEMENT THE NEW YORK STATE CANAL RECREATIONWAY PLAN SUBMITTED PURSUANT TO SECTION TWO HUNDRED FIFTY-SEVEN OF THIS TITLE. THE CANAL CORPORATION'S REVIEW AND APPROVAL OF THE CANAL RECREATIONWAY PLAN SHALL BE BASED UPON ITS CONSIDERATION OF A GENERIC ENVIRONMENTAL IMPACT STATEMENT PREPARED BY THE CANAL CORPORATION IN ACCORDANCE WITH ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW AND THE REGULATIONS THEREUNDER. PRIOR TO THE IMPLEMENTATION OF ANY SUBSTANTIAL IMPROVEMENT BY THE CANAL CORPORATION ON CANAL LANDS, CANAL TERMINALS OR CANAL TERMINAL LANDS, OR THE LEASE OF CANAL LANDS, CANAL TERMINALS OR CANAL TERMINAL LANDS FOR SUBSTANTIAL COMMERCIAL IMPROVEMENT, THE CANAL CORPORATION, IN ADDITION TO ANY REVIEW TAKEN PURSUANT TO SECTION 14.09 OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW, SHALL CONDUCT A RECONNAISSANCE LEVEL SURVEY WITHIN THREE THOUSAND FEET OF SUCH LANDS TO BE IMPROVED OF THE TYPE, LOCATION AND SIGNIFICANCE OF HISTORIC BUILDINGS, SITES AND DISTRICTS LISTED ON, OR WHICH MAY BE ELIGIBLE, FOR THE STATE OR NATIONAL REGISTERS OF HISTORIC PLACES. THE FINDINGS OF SUCH SURVEY SHALL BE USED TO IDENTIFY SIGNIFICANT HISTORICAL RESOURCES AND TO DETERMINE WHETHER THE PROPOSED IMPROVEMENTS ARE COMPATIBLE WITH SUCH HISTORIC BUILDINGS, SITES AND DISTRICTS;

(M) ENTER ON ANY LANDS, WATERS OR PREMISES FOR THE PURPOSE OF MAKING BORINGS, SOUNDINGS AND SURVEYS; AND

(N) ACCEPT ANY GIFTS OR ANY GRANT OF FUNDS OR PROPERTY FROM THE FEDERAL GOVERNMENT OR FROM THE STATE OR ANY OTHER FEDERAL OR STATE PUBLIC BODY OR POLITICAL SUBDIVISION OR ANY OTHER PERSON AND TO COMPLY WITH THE TERMS AND CONDITIONS THEREOF.

6. (A) THE CANAL CORPORATION SHALL REVIEW THE BUDGET REQUEST SUBMITTED BY THE CANAL RECREATIONWAY COMMISSION PURSUANT TO SECTION TWO HUNDRED FIFTY-SIX OF THIS TITLE.

(B) THE CANAL CORPORATION, ON OR BEFORE THE FIRST DAY OF NOVEMBER, TWO THOUSAND TEN AND ON OR BEFORE THE FIFTEENTH DAY OF SEPTEMBER OF EACH YEAR THEREAFTER, SHALL SUBMIT TO THE DIRECTOR OF THE BUDGET A REQUEST FOR THE EXPENDITURE OF FUNDS AVAILABLE FROM THE NEW YORK STATE CANAL SYSTEM DEVELOPMENT FUND PURSUANT TO SECTION NINETY-TWO-U OF THE STATE FINANCE LAW OR AVAILABLE FROM ANY OTHER NON-FEDERAL SOURCES APPROPRIATED FROM THE STATE TREASURY.

(C) IN THE EVENT THAT THE REQUEST SUBMITTED BY THE CANAL CORPORATION TO THE DIRECTOR OF THE BUDGET DIFFERS FROM THE REQUEST SUBMITTED BY THE COMMISSION TO THE CANAL CORPORATION, THEN THE REQUEST SUBMITTED BY THE CANAL CORPORATION TO THE DIRECTOR OF THE BUDGET SHALL SPECIFY THE DIFFERENCES AND SHALL SET FORTH THE REASONS FOR SUCH DIFFERENCES.

7. THE CANAL CORPORATION SHALL REVIEW THE RECOMMENDATIONS OF THE CANAL RECREATIONWAY COMMISSION CONCERNING THE FUTURE USE OF CANAL LANDS IN THE ADIRONDACK PARK ISSUED PURSUANT TO SECTION TWO HUNDRED FIFTY-SIX OF THIS TITLE, AND SHALL REPORT TO THE GOVERNOR AND THE LEGISLATURE NOT LATER THAN THE FIRST DAY OF OCTOBER, TWO THOUSAND TWELVE, IDENTIFYING ANY PROPERTY NOT NEEDED FOR CANAL PURPOSES THAT MAY BE TRANSFERRED TO THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

8. THE CANAL CORPORATION SHALL HAVE THE POWER TO ISSUE BONDS, NOTES OR OTHER OBLIGATIONS.

S 251. BONDING OF CANAL CORPORATION. 1. (A) THE CANAL CORPORATION IS HEREBY AUTHORIZED, AS AN ADDITIONAL CORPORATE PURPOSE THEREOF, TO ISSUE

ITS BONDS, NOTES AND OTHER OBLIGATIONS IN CONFORMITY WITH APPLICABLE PROVISIONS OF THE UNIFORM COMMERCIAL CODE FOR PURPOSES OF FINANCING THE CONSTRUCTION, RECONSTRUCTION, DEVELOPMENT AND IMPROVEMENT OF THE NEW YORK STATE CANAL SYSTEM.

(B) THE CANAL CORPORATION MAY ISSUE BONDS, NOTES OR OTHER OBLIGATIONS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING SIXTY MILLION DOLLARS PLUS A PRINCIPAL AMOUNT OF BONDS, NOTES OR OTHER OBLIGATIONS ISSUED (I) TO FUND ANY RELATED DEBT SERVICE RESERVE FUND, (II) TO PROVIDE CAPITALIZED INTEREST FOR A PERIOD NOT EXCEEDING SIX MONTHS, EXCEPT THAT WHERE THE PROCEEDS OF SUCH BONDS, NOTES OR OTHER OBLIGATIONS ARE EXPENDED ON A REVENUE-PRODUCING PROJECT, SUCH PERIOD SHALL BE THAT ALLOWABLE UNDER THE UNITED STATES INTERNAL REVENUE CODE OF NINETEEN HUNDRED EIGHTY-SIX, AS AMENDED, IN ORDER TO PRESERVE THE EXCLUSION OF INTEREST ON SUCH BONDS, NOTES OR OTHER OBLIGATIONS FROM FEDERAL INCOME TAXATION, AND (III) TO PROVIDE FEES AND OTHER CHARGES AND EXPENSES, INCLUDING UNDERWRITERS' DISCOUNTS, RELATED TO THE ISSUANCE OF SUCH BONDS, NOTES AND OTHER OBLIGATIONS AND THE MAINTENANCE OF SUCH RESERVES, ALL AS DETERMINED BY THE AUTHORITY, EXCLUDING BONDS, NOTES AND OTHER OBLIGATIONS ISSUED TO REFUND OUTSTANDING BONDS, NOTES AND OTHER OBLIGATIONS ISSUED PURSUANT TO THIS SECTION.

(C) THE CANAL CORPORATION, IN ADDITION TO THE BONDS, NOTES AND OTHER OBLIGATIONS AUTHORIZED PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, MAY ISSUE BONDS, NOTES OR OTHER OBLIGATIONS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING TEN MILLION DOLLARS FOR THE PURPOSE OF FUNDING CAPITAL CONSTRUCTION AND RECONSTRUCTION PROJECTS ON THE NEW YORK STATE CANAL SYSTEM WHICH ARE DEEMED BY THE AUTHORITY AS NECESSARY DUE TO THE EXISTENCE OF AN EMERGENCY INVOLVING DANGER TO LIFE, SAFETY OR PROPERTY WHICH REQUIRES IMMEDIATE ACTION. PROVIDED, HOWEVER, THAT NO SUCH BONDS, NOTES OR OTHER OBLIGATIONS SHALL BE ISSUED PURSUANT TO THIS PARAGRAPH UNTIL THE AUTHORITY HAS EXHAUSTED ITS AUTHORIZATION PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION.

(D) IN COMPUTING THE TOTAL PRINCIPAL AMOUNT OF BONDS, NOTES AND OTHER OBLIGATIONS THAT MAY AT ANY TIME BE ISSUED FOR ANY PURPOSE UNDER THIS SECTION, THE AMOUNT OF THE BONDS, NOTES OR OTHER OBLIGATIONS THAT CONSTITUTES INTEREST UNDER THE UNITED STATES INTERNAL REVENUE CODE OF NINETEEN HUNDRED EIGHTY-SIX, AS AMENDED, SHALL BE EXCLUDED.

2. ALL OF THE PROVISIONS OF THIS TITLE RELATING TO BONDS, NOTES AND OTHER OBLIGATIONS, WHICH ARE NOT INCONSISTENT WITH THIS SECTION, SHALL APPLY TO OBLIGATIONS AUTHORIZED BY THIS SECTION, INCLUDING BUT NOT LIMITED TO THE POWER TO ISSUE RENEWAL NOTES OR REFUNDING BONDS THEREOF.

S 252. AUTHORITY TO LEASE LAND. 1. THE CANAL CORPORATION IS HEREBY AUTHORIZED, AFTER REVIEW AND COMMENT BY THE COMMISSION AS TO CONSISTENCY WITH THE CANAL RECREATIONWAY PLAN APPROVED PURSUANT TO SECTION TWO HUNDRED FIFTY-SEVEN OF THIS TITLE, TO ENTER INTO LEASES OF CANAL LANDS, CANAL TERMINALS AND CANAL TERMINAL LANDS WHICH ARE CONSISTENT WITH THE CANAL RECREATIONWAY PLAN. SUCH REVIEW AND COMMENT SHALL BE PROVIDED WITHIN THE TIME PERIOD SET FORTH IN THE PROCEDURES OF THE COMMISSION ESTABLISHED PURSUANT TO SECTION TWO HUNDRED FIFTY-SIX OF THIS TITLE WHICH SHALL BE NO MORE THAN SIXTY DAYS.

2. LANDS TO BE LEASED SHALL BE DETERMINED BY THE CANAL CORPORATION TO HAVE NO ESSENTIAL PURPOSE FOR NAVIGATION.

3. LEASES OF CANAL LANDS, CANAL TERMINALS AND CANAL TERMINAL LANDS SHALL BE FOR PURPOSES WHICH ARE CONSISTENT WITH THE NEW YORK STATE CANAL RECREATIONWAY PLAN APPROVED PURSUANT TO SECTION TWO HUNDRED FIFTY-SEVEN OF THIS TITLE.

4. THE CANAL CORPORATION SHALL CONSIDER FULLY COMPLETED APPLICATIONS FOR LEASES OF CANAL LANDS, CANAL TERMINALS AND CANAL TERMINAL LANDS IN SUCH FORM AND MANNER AS THE CANAL CORPORATION SHALL PRESCRIBE.

5. CANAL LANDS, CANAL TERMINALS AND CANAL TERMINAL LANDS WITHIN THE ADIRONDACK PARK SHALL NOT BE LEASED.

6. THE CANAL CORPORATION SHALL PROVIDE ASSISTANCE, INCLUDING REASONABLE ACCESS TO LANDS, AS MAY BE NECESSARY TO ASSIST POTENTIAL APPLICANTS IN PREPARING AN APPLICATION.

7. THE CANAL CORPORATION MAY REQUIRE AN APPLICANT FOR A LEASE TO PROVIDE NECESSARY PROPERTY SURVEYS, ENVIRONMENTAL STUDIES, MAPS AND PHOTOGRAPHS, SITE PLANS AND SUCH OTHER DOCUMENTS AND STUDIES AS THE CANAL CORPORATION MAY DETERMINE TO BE NECESSARY TO ASCERTAIN THE COMPATIBILITY OF PROPOSED DEVELOPMENT WITH THE NEW YORK STATE CANAL RECREATIONWAY PLAN AND FOR THE CANAL CORPORATION TO SELECT A QUALIFIED LESSEE.

8. REVENUES REALIZED FROM THE LEASE OF CANAL LANDS, CANAL TERMINALS AND CANAL TERMINAL LANDS SHALL BE DEPOSITED INTO THE CANAL FUND PURSUANT TO SECTION NINETY-TWO-U OF THE STATE FINANCE LAW.

S 253. CONDITIONS AND TERMS OF LEASES. LEASES FOR CANAL LANDS, CANAL TERMINALS AND CANAL TERMINAL LANDS SHALL INCLUDE:

1. THE PERIOD OF TIME FOR SUCH LEASES, PROVIDED THAT THE INITIAL TERM OF SUCH LEASES MAY NOT EXCEED FORTY YEARS, AND RENEWALS OF SUCH LEASES MAY NOT EXCEED AN ADDITIONAL FORTY YEARS BEYOND SUCH INITIAL TERMS;

2. REQUIREMENTS THAT THE LESSEE TAKE NO ACTIONS OR CONSTRUCT NO IMPROVEMENTS THAT WILL INTERFERE WITH NAVIGATION, EXCEPT THAT IF THE CANAL CORPORATION DETERMINES THAT ANY POTENTIAL ADVERSE INTERFERENCE WITH NAVIGATION CAN BE REASONABLY MITIGATED, THE CANAL CORPORATION SHALL INCLUDE IN THE LEASE SUCH REQUIREMENTS AS MAY BE NECESSARY TO EFFECTUATE MITIGATION OF IMPEDIMENTS TO NAVIGATION, PROPER COVENANTS TO ASSURE THE PAYMENT OF ADEQUATE CONSIDERATION FOR THE INTERESTS LEASED, AND TO FURTHER PROTECT THE STATE AND THE CORPORATION AS IS DEEMED NECESSARY BY THE CANAL CORPORATION;

3. PROVISIONS REQUIRING THAT PAYMENTS ON THE LEASE SHALL BE PAID TO THE CANAL CORPORATION;

4. PROVISIONS RELATING TO PUBLIC ACCESS, WHERE FEASIBLE, TO LANDS AND WATERS OF THE CANAL SYSTEM; PROVIDED HOWEVER THAT THE CANAL CORPORATION MAY REQUIRE THAT PUBLIC ACCESS BE RESTRICTED IN THOSE CASES WHERE THE CANAL CORPORATION DETERMINES THAT PUBLIC SAFETY WILL BE SERVED BY SUCH RESTRICTION;

5. PROVISIONS PROVIDING A RIGHT OF ENTRY FOR THE COMMISSION AND CANAL CORPORATION MEMBERS AND PERSONNEL AND EQUIPMENT FOR CANAL PURPOSES; AND

6. SUCH OTHER TERMS AS THE CANAL CORPORATION SHALL DETERMINE ARE NECESSARY AND APPROPRIATE FOR THE IMPLEMENTATION OF THIS TITLE AND THE PRESERVATION OF THE STATE'S INTEREST IN THE CANAL SYSTEM.

S 254. SPECIAL CONDITIONS FOR LEASES ENTERED PRIOR TO APPROVAL OF CANAL RECREATIONWAY PLAN. 1. IN THE PERIOD BETWEEN THE EFFECTIVE DATE OF THIS SECTION AND THE COMPLETION OF THE CANAL RECREATIONWAY PLAN, THE COMMISSION SHALL REVIEW AND COMMENT ON PROPOSED LEASES WITH RESPECT TO THE CONSISTENCY OF SUCH LEASES WITH THE PROVISIONS OF THE CANAL LAW.

WHERE LOCAL ZONING LAWS AND ZONING ORDINANCES ARE IN EFFECT ON LANDS PROPOSED TO BE LEASED OR ON LANDS ADJACENT TO THOSE LANDS PROPOSED TO BE LEASED, DURING SUCH PERIOD THE COMMISSION SHALL ALSO REVIEW AND COMMENT ON PROPOSED LEASES WITH RESPECT TO THE COMPATIBILITY OF SUCH LEASES, TO THE EXTENT PRACTICABLE, WITH THE REQUIREMENTS OF SUCH LOCAL ZONING LAWS AND ZONING ORDINANCES.

2. IN ADDITION TO THE OTHER APPLICABLE PROVISIONS OF THIS TITLE, THE CANAL CORPORATION SHALL ENSURE THAT:

(A) THE LEASE WILL BENEFIT THE CANAL SYSTEM BY EFFECTUATING THE DEVELOPMENT OF THE CANAL AS A RECREATIONWAY;

(B) THE LEASE WILL FOSTER A CANAL SYSTEM CHARACTERIZED BY CLUSTERS OF DEVELOPMENT AND STRETCHES OF UNDEVELOPED OPEN SPACE WHICH IS CONDUCIVE TO THE PRESERVATION OF WATERFOWL, FISH AND WILDLIFE HABITATS; AND

(C) MAY ENCOURAGE THE USE OF HISTORIC BUILDINGS, SITES AND DISTRICTS LISTED ON OR ELIGIBLE FOR THE STATE OR NATIONAL REGISTERS OF HISTORIC PLACES.

S 255. CANAL RECREATIONWAY COMMISSION. 1. THERE IS HEREBY ESTABLISHED A CANAL RECREATIONWAY COMMISSION (HEREINAFTER REFERRED TO AS THE "COMMISSION") CONSISTING OF THE FOLLOWING MEMBERS:

(A) THE CHAIR OF THE CANAL CORPORATION, THE COMMISSIONER OF TRANSPORTATION, THE COMMISSIONER OF THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, OR THEIR REPRESENTATIVES;

(B) TWELVE INDIVIDUALS INVOLVED IN CANAL USE, DEVELOPMENT, PRESERVATION OR ENHANCEMENT AND LOCAL GOVERNMENTS FROM COUNTIES ADJACENT TO OR INTERSECTED BY THE CANAL SYSTEM APPOINTED BY THE GOVERNOR OF WHOM THREE SHALL BE APPOINTED AT THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE, THREE SHALL BE APPOINTED AT THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY, ONE SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE AND ONE SHALL BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY. IN APPOINTING SUCH MEMBERS, THE GOVERNOR SHALL ENSURE GEOGRAPHIC REPRESENTATION FROM EACH OF THE CANAL SECTIONS ENCOMPASSING THE CANAL SYSTEM, INCLUDING AT LEAST ONE REPRESENTATIVE FROM COUNTIES IN WHICH THE ERIE, CHAMPLAIN, CAYUGA-SENECA AND OSWEGO CANALS ARE LOCATED. IN ADDITION, INDIVIDUALS APPOINTED TO THE COMMISSION SHALL BE BROADLY REPRESENTATIVE OF THE FOLLOWING AREAS OF INTEREST: PRESERVATION OF THE ENVIRONMENT, THE OPERATION OF TOUR BOATS ON THE CANAL, THE OPERATION OF MARINAS ON THE CANAL, RECREATIONAL TRAIL USERS, HUNTING AND FISHING, TOURIST PROMOTION AGENCIES AS DEFINED IN SECTION ONE HUNDRED SIXTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, HISTORIC PRESERVATION, THE COMMERCIAL FARMING INDUSTRY AND THE COMMERCIAL SHIPPING INDUSTRY, PROVIDED THAT WITH RESPECT TO APPOINTMENT OF AN INDIVIDUAL REPRESENTATIVE OF THE COMMERCIAL FARMING INDUSTRY OR COMMERCIAL SHIPPING INDUSTRY, SUCH AN INDIVIDUAL MAY RESIDE OUTSIDE OF A COUNTY ADJACENT TO OR INTERSECTED BY THE CANAL SYSTEM IF SUCH PERSON HOLDS AN OWNERSHIP INTEREST OR SENIOR MANAGERIAL POSITION IN A COMMERCIAL FARMING FIRM OR COMMERCIAL SHIPPING FIRM, RESPECTIVELY, WHICH REGULARLY USES THE CANAL SYSTEM IN FURTHERANCE OF ITS BUSINESS; AND

(C) THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE SECRETARY OF STATE, OR THEIR REPRESENTATIVES, AND A MEMBER FROM EACH OF THE REGIONAL PLANNING BOARDS, AS ESTABLISHED BY ARTICLES FIVE-G AND TWELVE-B OF THE GENERAL MUNICIPAL LAW, WHOSE REGION IS INTERSECTED BY THE CANAL SHALL BE EX-OFFICIO, NON-VOTING MEMBERS OF THE COMMISSION AND SHALL PROVIDE TECHNICAL EXPERTISE AND ADVICE TO THE COMMISSION AS NECESSARY.

2. THE CHAIRPERSON OF THE COMMISSION SHALL BE THE CHAIR OF THE CANAL CORPORATION. THE MEMBERS OF THE COMMISSION MAY ELECT A SECRETARY AND OTHER NECESSARY OFFICERS TO SERVE FOR SUCH A PERIOD AS THE MEMBERS SHALL DECIDE.

3. MEMBERS OF THE COMMISSION, EXCEPT COMMISSIONERS OF A STATE AGENCY, CHAIRS OF PUBLIC AUTHORITIES, THE SECRETARY OF STATE, AND REPRESENTATIVES OF REGIONAL PLANNING BOARDS SHALL SERVE FOR A TERM OF FOUR YEARS AND MAY BE REAPPOINTED; HOWEVER, OF THOSE MEMBERS APPOINTED INITIALLY, THREE SUCH MEMBERS, ONE APPOINTED BY THE GOVERNOR, ONE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE AND ONE APPOINTED BY THE SPEAKER OF

THE ASSEMBLY SHALL BE APPOINTED FOR TERMS OF TWO YEARS, AND THREE SUCH MEMBERS, ONE APPOINTED BY THE GOVERNOR, ONE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE AND ONE APPOINTED BY THE SPEAKER OF THE ASSEMBLY SHALL BE APPOINTED FOR TERMS OF THREE YEARS.

4. ANY MEMBER, EXCEPT A MEMBER WHO IS A STATE OFFICIAL, AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, MAY BE REMOVED BY THE GOVERNOR FOR NEGLECT OF DUTY OR MALFEASANCE IN OFFICE. ANY MEMBER, EXCEPT A MEMBER WHO IS A STATE OFFICIAL, WHO FAILS TO ATTEND THREE CONSECUTIVE MEETINGS OF THE COMMISSION, UNLESS EXCUSED BY FORMAL VOTE OF THE COMMISSION, SHALL BE DEEMED TO HAVE VACATED HIS OR HER POSITION.

5. ANY VACANCY IN THE COMMISSION SHALL BE FILLED FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

6. A MAJORITY OF THE VOTING MEMBERS OF THE COMMISSION THEN IN OFFICE, AT LEAST FIVE OF WHOM ARE NOT APPOINTED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION, SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ANY BUSINESS OR THE EXERCISE OF ANY POWER OR FUNCTION OF THE COMMISSION. AN ACT, DETERMINATION OR DECISION OF THE MAJORITY OF THE MEMBERS PRESENT AND ENTITLED TO VOTE DURING THE PRESENCE OF A QUORUM SHALL BE HELD TO BE THE ACT, DETERMINATION OR DECISION OF THE COMMISSION.

7. THE COMMISSION SHALL MEET AT LEAST QUARTERLY AT THE CALL OF ITS CHAIRPERSON. SPECIAL MEETINGS SHALL BE CALLED AT THE REQUEST OF A MAJORITY OF THE MEMBERS OF THE COMMISSION THEN IN OFFICE.

8. MEMBERS OF THE COMMISSION SHALL NOT RECEIVE COMPENSATION FOR THEIR SERVICES AS MEMBERS, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

S 256. FUNCTIONS, POWERS AND DUTIES. THE COMMISSION SHALL:

1. DEVELOP, MAINTAIN AND PERIODICALLY REVISE A STATEWIDE CANAL RECREATIONWAY PLAN FOR THE CANAL SYSTEM. SUCH PLAN SHALL BE DEVELOPED IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWO HUNDRED FIFTY-SEVEN OF THIS TITLE AND SHALL BE SUBMITTED TO THE CANAL CORPORATION FOR ITS CONSIDERATION NO LATER THAN THE FIRST DAY OF JUNE, TWO THOUSAND TWELVE.

2. SOLICIT INPUT FROM COUNTIES INTERSECTING OR BORDERING THE CANAL SYSTEM AND INCORPORATE IT TO THE GREATEST DEGREE PRACTICABLE IN THE DEVELOPMENT OF THE CANAL RECREATIONWAY PLAN. IN ORDER TO FACILITATE SUCH INCORPORATION COMMISSION MEMBERS REPRESENTING EACH OF THE REGIONAL PLANNING BOARDS SHALL REQUEST FROM AND PROVIDE ASSISTANCE TO EACH COUNTY IT REPRESENTS IN THE PREPARATION OF A COUNTY CANAL PLAN. MULTI-COUNTY CANAL PLANS MAY BE REQUESTED BY THE REGIONAL PLANNING BOARD REPRESENTATIVE, AS DEEMED APPROPRIATE, IN LIEU OF INDIVIDUAL COUNTY CANAL PLANS. IN A REGION WHERE A REGIONAL PLANNING BOARD DOES NOT EXIST, THE COMMISSION SHALL SOLICIT COUNTY CANAL PLANS FROM EACH OF THE CHIEF EXECUTIVE OFFICERS OF THOSE COUNTIES OUTSIDE THE JURISDICTION OF A REGIONAL PLANNING BOARD. THE COMMISSION SHALL PRESCRIBE UNIFORM GUIDELINES CONCERNING THE FORMAT OF PLANS TO BE USED BY THE REGIONAL PLANNING BOARD REPRESENTATIVES TO ASSIST COUNTIES IN THE PREPARATION OF COUNTY CANAL PLANS. THE REGIONAL PLANNING BOARD REPRESENTATIVE SHALL ENCOURAGE THE DEVELOPMENT OF COUNTY CANAL PLANS THAT REFLECT PARTICIPATION BY DIVERSE LOCAL INTERESTS BY SEEKING ADVICE, TO THE EXTENT POSSIBLE, FROM INDIVIDUALS AND ORGANIZATIONS FROM SUCH COUNTIES WITH AN INTEREST IN RECREATION, HUNTING AND FISHING, THE ENVIRONMENT, CANAL RELATED TOURISM BUSINESSES, HISTORIC PRESERVATION AND COMMERCIAL DEVELOPMENT ALONG THE CANAL. IN ORDER TO BE CONSIDERED IN THE FORMULATION OF THE CANAL RECREATIONWAY PLAN, COUNTY CANAL PLANS MUST BE SUBMITTED TO THE COMMISSION NOT LATER THAN THE FIRST DAY OF JUNE, TWO THOUSAND ELEVEN.

3. ENSURE PUBLIC COMMENT ON THE CANAL RECREATIONWAY PLAN, INCLUDING AT LEAST THREE PUBLIC HEARINGS ON SUCH PLAN PRIOR TO SUBMISSION OF SUCH PLAN TO THE CANAL CORPORATION.

THE COMMISSION MAY ALSO HOLD HEARINGS ON OTHER MATTERS IT DEEMS APPROPRIATE.

4. IF DEEMED APPROPRIATE, REQUEST THAT STUDIES, SURVEYS OR ANALYSES BE PERFORMED BY THE CANAL CORPORATION, THE DEPARTMENTS OF TRANSPORTATION, ECONOMIC DEVELOPMENT AND ENVIRONMENTAL CONSERVATION AND/OR THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION TO ASSIST IN THE DEVELOPMENT, PROMOTION, MARKETING AND/OR PRESERVATION OF THE CANAL SYSTEM OR THE PREPARATION OF THE CANAL RECREATIONWAY PLAN. AT THE REQUEST OF THE COMMISSION, STATE AGENCIES AND PUBLIC AUTHORITIES SHALL COOPERATE FULLY AND SHALL PROVIDE REQUESTED INFORMATION IN A TIMELY MANNER.

5. ADVISE AND ASSIST THE CANAL CORPORATION IN CARRYING OUT ITS DUTIES AND OBLIGATIONS RELATED TO THE CANAL IN THE FOLLOWING MANNER:

(A) EVALUATE AND MAKE RECOMMENDATIONS FOR NEW OPERATIONAL, MAINTENANCE AND CAPITAL INITIATIVES OR PROJECTS TO ENHANCE THE CANAL;

(B) ESTABLISH CRITERIA AND PROCEDURES FOR THE REVIEW BY THE COMMISSION FOR CONSISTENCY WITH THE CANAL RECREATIONWAY PLAN OF ABANDONMENTS OF CANAL LANDS, CANAL TERMINALS AND CANAL TERMINAL LANDS, AND LEASES OF CANAL LANDS, CANAL TERMINALS AND CANAL TERMINAL LANDS PROPOSED BY THE CANAL CORPORATION PURSUANT TO THIS TITLE; PROVIDED, HOWEVER, THAT WHERE LOCAL ZONING LAWS AND ZONING ORDINANCES ARE IN EFFECT ON LANDS PROPOSED TO BE LEASED OR ON LANDS ADJACENT TO THOSE LANDS PROPOSED TO BE LEASED SUCH REVIEW SHALL INCLUDE, TO THE EXTENT PRACTICABLE, THE CONSIDERATION OF THE COMPATIBILITY OF SUCH LEASES WITH THE REQUIREMENTS OF SUCH LOCAL ZONING LAWS AND ZONING ORDINANCES; AND PROVIDED FURTHER THAT THE COMMISSION MAY DETERMINE THAT CERTAIN CATEGORIES OF LEASES DO NOT REQUIRE REVIEW;

(C) SUBMIT TO THE CANAL CORPORATION, THE DIRECTOR OF THE BUDGET AND THE CHAIRPERSONS OF THE SENATE FINANCE COMMITTEE AND THE ASSEMBLY WAYS AND MEANS COMMITTEE, ON THE FIRST DAY OF OCTOBER, TWO THOUSAND TEN, AND ON OR BEFORE THE FIRST DAY OF AUGUST IN EACH YEAR THEREAFTER, A BUDGET REQUEST FOR THE OPERATIONS OF THE COMMISSION. SUCH REQUEST SHALL INCLUDE PROVISIONS FOR STAFF SERVICES AND OTHER ADMINISTRATIVE ASSISTANCE AS DEEMED NECESSARY BY THE COMMISSION TO PERFORM ITS FUNCTIONS AND MEET ITS RESPONSIBILITIES DURING THE NEXT CALENDAR YEAR. THE CANAL CORPORATION SHALL PROVIDE STAFF SERVICES TO THE COMMISSION AND SUCH OTHER ADMINISTRATIVE ASSISTANCE AS MAY BE NECESSARY FOR THE COMMISSION TO CARRY OUT ITS FUNCTIONS, POWERS AND DUTIES;

(D) SUBMIT TO THE CANAL CORPORATION, THE DIRECTOR OF THE BUDGET AND THE CHAIRPERSONS OF THE SENATE FINANCE COMMITTEE AND THE ASSEMBLY WAYS AND MEANS COMMITTEE, ON THE FIRST DAY OF OCTOBER, TWO THOUSAND TEN, AND ON OR BEFORE THE FIRST DAY OF AUGUST IN EACH YEAR THEREAFTER, A BUDGET REQUEST FOR THE EXPENDITURE OF FUNDS AVAILABLE FROM THE CANAL FUND, FOR THE PURPOSES ESTABLISHED BY SECTION NINETY-TWO-U OF THE STATE FINANCE LAW. SUBMISSIONS MADE DURING THE INITIAL YEARS SHALL GIVE FUNDING PRIORITY FOR EXPENDITURES RELATED TO THE DEVELOPMENT AND/OR PROMOTION OF THE CANAL SYSTEM;

(E) UNDERTAKE A COMPREHENSIVE STUDY OF ALTERNATIVE WATERWAY AND CANAL TOLL AND FEE STRUCTURES, INCLUDING BUT NOT LIMITED TO, A COMPARATIVE ANALYSIS OF OTHER EXISTING WATERWAY AND CANAL SYSTEMS, THE IMPACT OF VARIOUS TOLL AND FEE STRUCTURES ON RECREATIONAL USE, TOURISM, AND COMMERCIAL ACTIVITY; AND THE REVENUE IMPLICATIONS FOR EACH OF THESE ALTERNATIVES. THE COMMISSION SHALL MAKE RECOMMENDATIONS TO THE CANAL CORPORATION BY THE FIRST DAY OF APRIL, TWO THOUSAND ELEVEN, ON APPROPRI-

ATE TOLLS AND FEES TO BE CHARGED FOR THE USE OF THE CANAL SYSTEM AND SHALL PROVIDE AN UPDATE ON THE IMPLEMENTATION OF SUCH RECOMMENDATIONS BY THE FIRST DAY OF APRIL, TWO THOUSAND TWELVE; AND

(F) UTILIZE INFORMATION PROVIDED BY THE CANAL CORPORATION AND OTHER STATE AGENCIES AND DEPARTMENTS, PURSUANT TO SECTION TEN OF THE CANAL LAW, SURVEYING CANAL LANDS WITHIN THE ADIRONDACK PARK AND STUDYING CURRENT LAND USES, TO MAKE RECOMMENDATIONS TO THE CANAL CORPORATION, NO LATER THAN THE FIRST DAY OF JUNE, TWO THOUSAND ELEVEN, CONCERNING THE FUTURE USE OF CANAL LANDS WITHIN THE ADIRONDACK PARK, INCLUDING BUT NOT LIMITED TO THE UTILIZATION OF EXISTING PROPERTIES UNDER REVOCABLE PERMITS; AND THE IDENTIFICATION OF ANY PROPERTY NOT NEEDED FOR CANAL PURPOSES THAT MAY BE TRANSFERRED TO THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

6. ESTABLISH COMMITTEES AS IT DEEMS APPROPRIATE ON MATTERS RELATING TO THE COMMISSION'S FUNCTIONS, POWERS AND DUTIES; SUCH COMMITTEES SHALL BE CHAIRED BY A COMMISSION MEMBER BUT MAY INCLUDE PERSONS NOT MEMBERS OF THE COMMISSION WHO PROVIDE EXPERTISE OF INTEREST SPECIFIC TO THE CHARGE OF SUCH COMMITTEE.

7. CREATE A TEMPORARY COMMITTEE WHICH SHALL INCLUDE THE COMMISSIONER OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION OR THEIR REPRESENTATIVES AND OTHERS WITH APPROPRIATE EXPERTISE TO IDENTIFY OPPORTUNITIES FOR ACHIEVING THE ECONOMIC DEVELOPMENT POTENTIAL OF THE CANAL RECREATIONWAY AND TO MAKE RECOMMENDATIONS FOR SPECIFIC IMPLEMENTATION OF THESE OPPORTUNITIES, INCLUDING RECOMMENDATIONS FOR MARKETING AND PROMOTION DESIGNED TO ATTRACT TOURISTS.

8. CREATE A TEMPORARY COMMITTEE, WHICH MAY INCLUDE APPROPRIATELY ACCREDITED PROFESSIONALS, TO ASSESS AND REPORT TO THE AUTHORITY ON ISSUES ASSOCIATED WITH MANAGING THE WATERS OF THE CANAL SYSTEM, INCLUDING ISSUES RELATING TO RECREATIONAL USE, HABITATS AND FLOOD PRONE AREAS.

9. REPORT ON OR BEFORE MARCH THIRTY-FIRST OF EACH YEAR COMMENCING TWO THOUSAND ELEVEN TO THE CANAL CORPORATION, THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY ON THE ACTIVITIES OF THE COMMISSION WITH RESPECT TO THE FUNCTIONS, POWERS AND DUTIES ESTABLISHED IN THIS SECTION.

S 257. CANAL RECREATIONWAY PLAN. 1. THE COMMISSION SHALL, IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWO HUNDRED FIFTY-SIX OF THIS TITLE, FORMULATE A STATEWIDE CANAL RECREATIONWAY PLAN FOR THE CANAL SYSTEM THAT IS BASED UPON THE INVENTORY PREPARED PURSUANT TO SUBDIVISION TWENTY-THREE OF SECTION TEN OF THE CANAL LAW AND THAT IS CONSISTENT WITH THE LAND USE CONCEPTS CONTAINED IN THE STATE LAND ACQUISITION PLAN PREPARED PURSUANT TO SECTION 49-0207 OF THE ENVIRONMENTAL CONSERVATION LAW AND IN THE STATEWIDE PARK AND RECREATION PLAN PREPARED PURSUANT TO SECTION 3.15 OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW. THE CANAL RECREATIONWAY PLAN SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) CRITERIA FOR USES OF THE CANAL SYSTEM WHICH WILL EFFECTUATE THE GOAL AND OBJECTIVE OF DEVELOPING THE CANAL INTO A RECREATIONWAY SYSTEM;

(B) PROVISIONS FOR FOSTERING A CANAL SYSTEM CHARACTERIZED BY CLUSTERS OF DEVELOPMENT CONNECTED BY STRETCHES OF UNDEVELOPED OPEN SPACE IN AREAS BETWEEN CITIES, VILLAGES AND HAMLETS WHICH WILL BE CONDUCIVE TO THE PRESERVATION OF WATERFOWL, FISH AND WILDLIFE HABITATS;

(C) PROVISIONS FOR THE CONSIDERATION OF ENVIRONMENTAL RESOURCES, INCLUDING LANDS WHICH POSSESS SIGNIFICANCE FOR WILDLIFE MANAGEMENT, RECREATION OR NATURAL RESOURCE PROTECTION PURPOSES AND SIGNIFICANT FRESHWATER WETLANDS;

(D) PROVISIONS WHICH PROTECT THE PUBLIC INTEREST IN SUCH LANDS AND WATERS FOR PURPOSES OF COMMERCE, NAVIGATION, FISHING, HUNTING, BATHING, RECREATION AND ACCESS TO THE LANDS AND WATERS OF THE STATE, AND OTHERWISE ENCOURAGE INCREASED PUBLIC ACCESS TO THE CANAL THROUGH THE ESTABLISHMENT OF PARKS, SCENIC BYWAYS AND RECREATIONAL TRAILS ON THE CANAL SYSTEM. SUCH PROVISIONS SHALL ENSURE THE PUBLIC SAFETY;

(E) PROVISIONS TO PROTECT AGRICULTURAL USES OF CANAL LAND AND WATERS;

(F) PROVISIONS FOR APPROPRIATE DEVELOPMENT OF BUSINESSES IN APPROPRIATE LOCATIONS WHICH WILL SUPPORT OUTDOOR RECREATION ACTIVITIES;

(G) PROVISIONS WHICH GIVE GUIDANCE TO THE AUTHORITY WITH RESPECT TO MANAGING WATER LEVELS IN RESERVOIRS TO PROVIDE WATER TO THE CANAL SYSTEM AND RETAIN WATER FOR RECREATIONAL PURPOSES;

(H) PROVISIONS TO PROTECT COMMERCIAL SHIPPING INTERESTS ON THE CANAL SYSTEM; AND

(I) PROVISIONS FOR THE CONSIDERATION OF HISTORIC BUILDINGS, SITES AND DISTRICTS.

2. THE CANAL RECREATIONWAY PLAN SHALL ESTABLISH GOALS AND OBJECTIVES WITH RESPECT TO IMPLEMENTATION, WITH PROVISION FOR AMENDMENT OF SUCH PLAN TO REFLECT CHANGING CONDITIONS.

3. (A) THE CORPORATION SHALL ACT UPON THE CANAL RECREATIONWAY PLAN SUBMITTED BY THE COMMISSION WITHIN FOUR MONTHS AFTER ITS SUBMISSION AND SHALL APPROVE SUCH PLAN UNLESS IT FINDS THAT SUCH PLAN, OR ANY PART THEREOF: (I) IS NOT FINANCIALLY OR OPERATIONALLY FEASIBLE; (II) WOULD VIOLATE ANY FEDERAL OR STATE LAW, RULE OR REGULATION; (III) VIOLATES AGREEMENTS WITH NOTEHOLDERS OR BONDHOLDERS OF THE AUTHORITY; (IV) INTERFERES WITH EXISTING CONTRACTS; OR (V) IS INCONSISTENT WITH THE FINDINGS OF THE GENERIC ENVIRONMENTAL IMPACT STATEMENT UNDERTAKEN PURSUANT TO SECTION TWO HUNDRED FIFTY OF THIS TITLE.

(B) IN THE EVENT THAT THE CORPORATION FINDS THAT THE CANAL RECREATIONWAY PLAN CANNOT BE APPROVED IN ITS ENTIRETY, IT MAY APPROVE SUCH PORTIONS OF SUCH PLAN AS IT DEEMS APPROPRIATE, AND SHALL RECOMMEND CHANGES TO THE REMAINING PORTIONS OF SUCH PLAN TO THE COMMISSION. THE COMMISSION SHALL THEN HAVE THREE MONTHS IN WHICH TO CONSIDER THE RECOMMENDATIONS OF THE CANAL CORPORATION AND SUBMIT A REVISED PLAN OR PORTIONS THEREOF TO THE CANAL CORPORATION.

(C) UPON THE APPROVAL OF THE CANAL RECREATIONWAY PLAN OR A PORTION OF SUCH PLAN AS PROVIDED IN THIS SECTION, THE CANAL CORPORATION SHALL DELIVER WITHIN TEN DAYS A COPY OF SUCH PLAN OR PORTION OF SUCH PLAN TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY, WITH A DATED NOTICE OF SUCH APPROVAL.

S 258. TITLE NOT AFFECTED IF IN PART UNCONSTITUTIONAL OR INEFFECTIVE. IF ANY SECTION, CLAUSE OR PROVISION OF THIS TITLE SHALL BE UNCONSTITUTIONAL OR BE INEFFECTIVE IN WHOLE OR IN PART, TO THE EXTENT THAT IT IS NOT UNCONSTITUTIONAL OR INEFFECTIVE, IT SHALL BE VALID AND EFFECTIVE AND NO OTHER SECTION, CLAUSE OR PROVISION SHALL ON ACCOUNT THEREOF BE DEEMED INVALID OR INEFFECTIVE.

S 259. INCONSISTENT PROVISIONS IN OTHER ACTS SUPERSEDED. INSOFAR AS THE PROVISIONS OF THIS TITLE ARE INCONSISTENT WITH THE PROVISIONS OF ANY OTHER ACT, GENERAL OR SPECIAL, THE PROVISIONS OF THIS TITLE SHALL BE CONTROLLING.

S 6. Subdivisions 9 and 10 of section 481 of the transportation law, as added by section 1 of part A of chapter 60 of the laws of 2005, are amended to read as follows:

9. "Canal corporation" shall mean the New York state canal corporation created pursuant to section [three hundred eighty-two] TWO HUNDRED FIFTY of the public authorities law.

10. "Canal system" shall [mean the "New York state canal system", as such term is defined by subdivision ten of section three hundred fifty-one of the public authorities law] HAVE THE SAME MEANING AS THE TERM "CANAL CORPORATION" AS DEFINED BY SUBDIVISION NINE OF THIS SECTION.

S 7. Subdivision 13 of section 351 of the public authorities law is REPEALED.

S 8. Section 355 of the public authorities law, as amended by chapter 138 of the laws of 1997, is amended to read as follows:

S 355. Officers and employees; transfer, promotion and seniority. 1. Officers and employees of state departments, OR agencies[, or the canal corporation] may be transferred to the authority and officers, agents and employees of the authority may be transferred to state departments, OR agencies[, or the canal corporation], without examination and without loss of any civil service status or rights. No such transfer from the authority [or canal corporation] to any state department, agency, or division may, however, be made except with the approval of the head of the state department, agency, or division involved and the director of the budget and in compliance with the rules and regulations of the state civil service commission.

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

3. In computing seniority for purposes of promotion or for purposes of suspension or demotion upon the abolition of positions in the service of the authority or in the service of the state, in the case of an employee of the authority a period of prior employment in the service of the state shall be counted in the same manner as though such period of employment had been in the service of the authority, and in the case of an employee of the state a period of prior employment in the service of the authority shall be counted in the same manner as though such period of employment had been in the service of the state. For the purposes of the establishment and certification of preferred lists, employees suspended from the authority shall be eligible for reinstatement in the service of the state, and employees suspended from the service of the state shall be eligible for reinstatement in the service of the authority, in the same manner as though the authority were a department of the state. [All provisions contained within this subdivision shall apply to the canal corporation in the same manner that they apply to the authority.]

S 9. Subdivisions 4, 20 and 21 of section 2 of the canal law, subdivision 4 as amended by chapter 584 of the laws of 2007, subdivision 20 as added by chapter 766 of the laws of 1992, subdivision 21 as added by chapter 442 of the laws of 1996 and subdivisions 20 and 21 as renumbered by chapter 335 of the laws of 2001, are amended to read as follows:

4. "Erie Canal" shall mean the portion of the canal system connecting the Hudson river at Albany with the Niagara river at Buffalo, and for the purposes of [article thirteen-A of this chapter and] section ninety-two-u of the state finance law and subdivision ten of section three hundred fifty-one of the public authorities law, shall be deemed to include the historic Erie Canal and its western terminus in the city of Buffalo and historic lock number 1 in the city of Albany.

20. "Commission" shall mean the canal recreationway commission created pursuant to section [one hundred thirty-eight-a of this chapter] TWO HUNDRED FIFTY-FIVE OF THE PUBLIC AUTHORITIES LAW.

21. "Corporation" shall mean the New York state canal corporation[, a subsidiary of the New York state thruway authority,] created pursuant to section [three hundred eighty-two] TWO HUNDRED FIFTY of the public authorities law.

S 10. Subdivisions 10 and 24 of section 10 of the canal law, as amended by chapter 335 of the laws of 2001, are amended to read as follows:

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

24. Prepare on an annual basis a detailed five-year capital plan for the maintenance and improvement of canal infrastructure. Such plan shall set system-wide goals and objectives for capital spending and, commencing January first, nineteen hundred ninety-five, describe the compatibility of such plan to the canal recreationway plan approved pursuant to section [one hundred thirty-eight-c of this chapter] TWO HUNDRED FIFTY-FIVE OF THE PUBLIC AUTHORITIES LAW. Such plan shall include but not be limited to such capital project categories as locks, canal bridges, channels, shorelines, dams, guard gates, and other structures necessary for safe and successful operation of the canal system. The plan shall also include a detailed schedule of all capital projects which the authority intends to undertake within the next five years and shall provide the following information for each such capital project: (a) a description of the project; (b) an indication of the category into which the project has been classified in the capital plan; (c) the estimated total cost of the project and expenditures by year for such project; (d) the actual disbursements by project for the prior year; and (e) the estimated dates of project initiation and completion. The plan shall also include a statement of the mix of financing methods to be used by the authority for financing the capital plan. The capital plan shall be submitted to the governor, the temporary president of the senate and the speaker of the assembly on the first day of January of each year commencing in nineteen hundred ninety-three.

S 11. Subdivision 6 of section 174 of the economic development law, as added by chapter 497 of the laws of 1988, is amended to read as follows:

6. "Board" means the Barge canal planning and development board as established in [article thirteen-A of the canal law] TITLE FIVE OF ARTICLE TWO OF THE PUBLIC AUTHORITIES LAW.

S 12. Subdivision 10 of section 354 of the public authorities law, as amended by chapter 766 of the laws of 1992, is amended to read as follows:

10. To construct, reconstruct or improve on or along the thruway system in the manner herein provided, suitable facilities for gas stations, restaurants, and other facilities for the public, or to lease the right to construct, reconstruct or improve and operate such facilities; such facilities shall be publicly offered for leasing for operation, or the right to construct, reconstruct or improve and operate such facilities shall be publicly offered under rules and regulations to be established by the authority, provided, however, that lessees operating such facilities at the time this act becomes effective, may reconstruct or improve them or may construct additional like facilities, in the manner and upon such terms and conditions as the board shall determine;

and provided further, however, that such facilities constructed, reconstructed or improved on or along the canal system shall be consistent with the canal recreationway plan approved pursuant to section [one hundred thirty-eight-c of the canal law and section three hundred eighty-two of this title] TWO HUNDRED FIFTY-FIVE OF THIS ARTICLE;

S 13. Paragraph (a) of subdivision 1 of section 365 of the public authorities law, as amended by chapter 766 of the laws of 1992, is amended to read as follows:

(a) Subject to the provisions of section three hundred sixty-six of this title, the authority shall have the power and is hereby authorized from time to time to issue its negotiable notes and bonds in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the authority, shall be necessary to provide sufficient moneys for achieving the corporate purposes thereof, including construction, reconstruction and improvement of the thruway sections and connections, and highway connections [herein] described IN THIS SECTION, the New York state canal system subject to the provisions of section [three hundred eighty-three of this title] TWO HUNDRED FIFTY-ONE OF THIS ARTICLE, together with suitable facilities and appurtenances, the payment of all indebtedness to the state, the cost of acquisition of all real property, the expense of maintenance and operation, interest on notes and bonds during construction and for a reasonable period thereafter, establishment of reserves to secure notes or bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

S 14. Subparagraph (iii) of paragraph (a) of subdivision 1 of section 384 of the public authorities law, as amended by chapter 634 of the laws of 1996, is amended to read as follows:

(iii) the project, or portions thereof, known as the Stewart airport access project located in Orange county to provide direct access to Stewart international airport from interstate eighty-four in the vicinity of the airport. [Notwithstanding the provisions of article VI-A and section one hundred thirty-eight-c of the canal law and paragraph (m) of subdivision seven of section three hundred eighty-two of this chapter, the New York state thruway authority, or the subsidiary corporation thereof, is authorized to enter into an agreement with the city of Syracuse for the leasing of the land comprising the inner harbor project in Onondaga county.] Any projects for the construction, reconstruction or improvement of property or structures undertaken pursuant to this section shall be in full compliance with title thirteen of article twenty-seven of the environmental conservation law and shall be deemed public works for the purposes of section two hundred twenty of the labor law and section one hundred three of the general municipal law, except that any contracts let by the authority for the construction, reconstruction or improvement of such projects shall be subject to section three hundred fifty-nine of this title. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article and its contracts for such projects as provided in this article shall be deemed state contracts within the meaning set forth in such article.

S 15. Subdivisions 2 and 5 of section 92-u of the state finance law, subdivision 2 as added by chapter 766 of the laws of 1992 and subdivision 5 as amended by chapter 483 of the laws of 1996, are amended to read as follows:

2. Such fund shall consist of all revenues received from the operation of the New York state canal system as defined in [section three hundred

fifty-one of the public authorities law and] section two of the canal law, including payments on leases for use of canal lands, terminals and terminal lands, tolls received for lock and lift bridge passage, payments for hydroelectric easements and sales, for purchase of other abandoned canal lands, payments for any permits and leases for use of the water and lands of the system and payments for use of dry docks and other moneys made available to the fund from any other source other than a grant, loan or other inter-corporate transfer of funds of the New York state [thruway authority] CANAL CORPORATION, and any income earned by, or incremental to, the fund due to investment thereof, or any repayment of any moneys advanced by the fund.

5. Moneys of the fund, following appropriation by the legislature, shall be available to the New York state [thruway authority and shall be expended by such authority or subsidiary corporation thereof] CANAL CORPORATION only for the maintenance, construction, reconstruction, development or promotion of the canal system; provided, however, that in the initial years, expenditures of moneys of the fund for the development and/or promotion of the canal system shall be accorded a priority by [the authority or subsidiary corporation thereof] SUCH CORPORATION. In addition, moneys of the fund may be used for the purposes of interpretive signage and promotion for appropriate historically significant Erie canal lands and related sites. Moneys shall be paid out of the fund by the state comptroller on certificates issued by the director of the budget.

S 16. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.