

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

(PREFILED)

January 7, 2009

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend chapter 279 of the laws of 1998 amending the transportation law relating to enabling the commissioner of transportation to establish a single audit pilot program, in relation to extending such provisions (Part A); to authorize funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2009-10 (Part B); to amend chapter 312 of the laws of 1994, amending the vehicle and traffic law relating to suspensions of licenses pending prosecution of certain alcohol-related charges, and authorizations for probationary and conditional driver's licenses, in relation to the effectiveness thereof (Part C); to amend chapter 533 of the laws of 1993 amending the vehicle and traffic law and the correction law relating to suspension and revocation of driver's licenses upon conviction of certain drug-related offenses, in relation to the effectiveness thereof (Part D); to amend chapter 84 of the laws of 2002, amending the state finance law relating to the costs of the department of motor vehicles, in relation to the effectiveness thereof (Part E); to amend the vehicle and traffic law, in relation to license fees (Part F); to amend the vehicle and traffic law, in relation to motor vehicle registration fees (Part G); to amend the vehicle and traffic law, in relation to the fee for number plates (Part H); to amend the vehicle and traffic law, in relation to eliminating the cap on surcharges (Part I); to amend chapter 569 of the laws of 1981, amending the vehicle and traffic law relating to motor vehicle liability insurance, financial security, criminal acts and penalties for non-compliance, in relation to the effectiveness of certain provisions; to amend chapter 781 of the laws of 1983, amending the vehicle and traffic law and other laws relating to motor vehicle liability insurance, financial security, criminal acts and certain penalties for non-compliance, in relation to the effectiveness of

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

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certain provisions (Part J); to amend the vehicle and traffic law and the transportation law, in relation to the disqualifications of commercial driver's license holders (Part K); to amend the vehicle and traffic law, in relation to authorizing the department of motor vehicles to charge certain entities a fee for course completion certificates (Part L); to amend chapter 166 of the laws of 1991, amending the tax law and other laws relating to taxes, and to amend chapter 746 of the laws of 1988, amending the vehicle and traffic law, the general municipal law and the public officers law, relating to the civil liability of vehicle owners for traffic control signal violations, in relation to the effectiveness of such chapters (Part M); to amend the vehicle and traffic law, in relation to the elimination of the written test for a learner's permit and providing for the repeal of paragraph (g) of subdivision 4 of section 502 of such law relating thereto (Part N); to amend the state finance law, in relation to reporting requirements for the dedicated highway and bridge trust fund; and to amend part Z of chapter 62 of the laws of 2006 amending the state finance law relating to the use of the dedicated highway and bridge trust fund, in relation to certain financial reporting requirements (Part O); to amend chapter 62 of the laws of 2003 amending the general business law and other laws relating to implementing the state fiscal plan for the 2003-2004 state fiscal year, in relation to the effectiveness thereof (Part P); to amend the agriculture and markets law, in relation to increasing the penalty amounts for first, second and subsequent violations (Part Q); to amend the executive law, in relation to the community services block grant program and to amend chapter 728 of the laws of 1982 and chapter 710 of the laws of 1983 amending the executive law relating to the community services block grant program, in relation to extending such program for one year (Part R); to amend the general business law, the executive law and the real property law, in relation to increasing certain fees related to the licensure of disciplines regulated by the department of state; and to repeal certain provisions of the executive law relating thereto (Part S); to amend the tax law, in relation to real estate transfer tax revenue deposits into the environmental protection fund (Part T); 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 U); to amend the racing, pari-mutuel wagering and breeding law, in relation to assessing a fee upon the entry of a horse in a New York state pari-mutuel race (Part V); to amend the insurance law in relation to increasing fines and penalties; authorizing the superintendent of insurance to issue cease and desist orders; and increasing the length of time that an insurance producer, consultant, or adjuster must wait to obtain a license after revocation (Part W); 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 X); to authorize the New York State Energy Research and Development Authority to finance a portion of its research, development and demonstration and policy and planning programs from assessments on gas and electric corporations (Part Y); to require appropriations in the executive budget to the New York Power Authority (Part Z); to amend the public authorities law, in relation to authorizing the battery park city authority to make contributions to the state treasury (Part AA); authorizing the New York state urban development corporation to make contributions to the

state treasury (Part BB); to amend the New York state urban development corporation act, in relation to establishing the New York growth, achievement and investment strategy fund (Part CC); to authorize and direct the governor, the temporary president of the senate and the speaker of the assembly to develop a \$300 million economic development capital spending reduction plan (Part DD); to amend the New York state urban development corporation act, in relation to the abolition of the department of economic development and the New York state foundation for science, technology and innovation and the transfer of functions thereof to the New York state urban development corporation; and to repeal the provisions of sections 10 and 50 of the economic development law and sections 3151 and 3152 of the public authorities law relating thereto (Part EE); to amend the public authorities law, in relation to state cost recovery on the issuance of certain bonds (Part FF); to transfer the functions, powers, duties, obligations and assets of the State Northeastern Queens Nature and Historical Preserve Commission to the office of parks, recreation and historic preservation; and to repeal chapter 919 of the laws of 1973, relating to establishing the State Northeastern Queens Nature and Historical Preserve (Part GG); to amend the executive law, in relation to establishing the Hudson river valley greenway program and transferring certain functions, powers, duties, obligations and assets of the Hudson river valley greenway, the Hudson river valley greenway communities council and the Hudson river valley greenway heritage conservancy created under article 44 of the environmental conservation law to the secretary of state and the department of state; to amend the agriculture and markets law, the highway law and the navigation law, in relation to such transfer; to repeal section 97-n of the state finance law relating to the Hudson river valley greenway fund; to repeal article 44 of the environmental conservation law relating to the establishment of the Hudson river valley greenway; and providing for the repeal of certain provisions upon the expiration thereof (Part HH); to amend the agriculture and markets law, in relation to increasing tonnage fees, and requiring the licensure of seed labelers and distributors (Part II); to amend the environmental conservation law, in relation to fees for the state pollution discharge elimination system program (Part JJ); to amend the environmental conservation law, in relation to establishing a trout and salmon stamp (Part KK); to amend the environmental conservation law and the state finance law, in relation to establishing a recreational marine fishing license; and to repeal subdivision 6 of section 11-0707 of the environmental conservation law relating to the exemption from having a fishing license in the marine district and on the Hudson River, south of the Troy barrier dam (Part LL); to amend the public service law, in relation to authorizing the public service commission to forbear from applying telephone rate and financing provisions; service of commission orders; renewal and amendments of cable franchises; and shared meter conditions; and to repeal certain provisions of such law relating thereto (Part MM); to amend the public service law, in relation to financing the operations of the department of public service, the public service commission, department support and energy management services provided by other state agencies, to increase the utility assessment cap and the minimum threshold for collection thereunder, and to establish a state energy and utility service conservation assessment and provide for the collection thereof; to amend the state finance law in relation to authorizing the aggregate purchases of energy for state agencies,

institutions, public authorities and public benefit corporations; and providing for the repeal of certain provisions upon the expiration thereof (Part NN); to amend the vehicle and traffic law, in relation to fines for certain regulated businesses (Part OO); to amend the vehicle and traffic law, in relation to suspension, termination and license application fees (Part PP); to amend the state finance law, in relation to dedicating the local share of revenue generated by the gaming facility located in the city of Buffalo (Part QQ); 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 the effectiveness thereof (Part RR); to amend the environmental conservation law, the economic development law and the state finance law, in relation to including additional beverage containers and providing for the return of unclaimed deposits on beverage containers to the state for deposit into the environmental protection fund; and to repeal certain provisions of the environmental conservation law relating thereto (Part SS); to amend the parks, recreation and historic preservation law, in relation to requiring that a written determination by the commissioner of parks, recreation and historic preservation be made prior to future sales of merchandise, goods, commodities and food service items by the office of parks, recreation and historic preservation (Part TT); to amend the public authorities law, in relation to the assessment and reimbursement of state expenditures (Part UU); and to amend the tax law, in relation to the imposition of fees on certain taxpayers, to prohibit tax return preparers and software companies from charging separately for electronic filing of New York tax documents, to require registration of tax return preparers with the New York state department of taxation and finance; to amend the general business law, in relation to administration of certain civil penalties; and to repeal paragraphs 1 and 2 of subsection (u) of section 685 of the tax law relating to penalties imposed on certain tax return preparers (Part VV)

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 2009-2010
 3 state fiscal year. Each component is wholly contained within a Part
 4 identified as Parts A through VV. 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 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. Section 2 of chapter 279 of the laws of 1998, amending the
 14 transportation law relating to enabling the commissioner of transporta-
 15 tion to establish a single audit pilot program, as amended by section 1

1 of part D of chapter 59 of the laws of 2008, is amended to read as
2 follows:

3 S 2. This act shall take effect on December 31, 1998, except that the
4 commissioner of transportation is immediately authorized to promulgate
5 rules and regulations necessary for the implementation of this act and
6 shall expire December 31, [2009] 2010 when upon such date the provisions
7 of this act shall be deemed repealed.

8 S 2. This act shall take effect immediately.

9 PART B

10 Section 1. The sum of two hundred ninety million five hundred fifty-
11 five thousand dollars (\$290,555,000), or so much thereof as shall be
12 necessary, and in addition to amounts previously appropriated by law, is
13 hereby made available, in accordance with subdivision 1 of section 380
14 of the public authorities law as amended, according to the following
15 schedule. Payments pursuant to subdivision (a) of this section shall be
16 made available as moneys become available for such payments. Payments
17 pursuant to subdivisions (b) and (c) of this section shall be made
18 available on the fifteenth day of June, September, December and March or
19 as soon thereafter as moneys become available for such payments. No
20 moneys of the state in the state treasury or any of its funds shall be
21 available for payments pursuant to this section:

22 SCHEDULE

23 (a) Thirty-nine million seven hundred thousand dollars (\$39,700,000)
24 to municipalities for repayment of eligible costs of federal aid municipi-
25 pal street and highway projects pursuant to section 15 of chapter 329 of
26 the laws of 1991, as added by section 9 of chapter 330 of the laws of
27 1991, as amended. The department of transportation shall provide such
28 information to the municipalities as may be necessary to maintain the
29 federal tax exempt status of any bonds, notes, or other obligations
30 issued by such municipalities to provide for the non-federal share of
31 the cost of projects pursuant to chapter 330 of the laws of 1991 or
32 section 80-b of the highway law.

33 The program authorized pursuant to section 15 of chapter 329 of the
34 laws of 1991, as added by section 9 of chapter 330 of the laws of 1991,
35 as amended, shall additionally make payments for reimbursement according
36 to the following schedule:

State Fiscal Year	Amount
2009-10	\$39,700,000

39 (b) One hundred ninety-two million fifty-eight thousand dollars
40 (\$192,058,000) to counties, cities, towns and villages for reimbursement
41 of eligible costs of local highway and bridge projects pursuant to
42 sections 16 and 16-a of chapter 329 of the laws of 1991, as added by
43 section 9 of chapter 330 of the laws of 1991, as amended. For the
44 purposes of computing allocations to municipalities, the amount distrib-
45 uted pursuant to section 16 of chapter 329 of the laws of 1991 shall be
46 deemed to be \$111,014,000. The amount distributed pursuant to section
47 16-a of chapter 329 of the laws of 1991 shall be deemed to be
48 \$81,044,000. Notwithstanding the provisions of any general or special
49 law, the amounts deemed distributed in accordance with section 16 of
50 chapter 329 of the laws of 1991 shall be adjusted so that such amounts
51 will not be less than 76.561 percent of the "funding level" as defined
52 in subdivision 5 of section 10-c of the highway law for each such muni-
53 cipality. In order to achieve the objectives of section 16 of chapter
54 329 of the laws of 1991, to the extent necessary, the amounts in excess

1 of 76.561 percent of the funding level to be deemed distributed to each
2 municipality under this subdivision shall be reduced in equal propor-
3 tion.

4 (c) Fifty-eight million seven hundred ninety-seven thousand dollars
5 (\$58,797,000) to municipalities for reimbursement of eligible costs of
6 local highway and bridge projects pursuant to sections 16 and 16-a of
7 chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of
8 the laws of 1991, as amended. For the purposes of computing allocations
9 to municipalities, the amount distributed pursuant to section 16 of
10 chapter 329 of the laws of 1991 shall be deemed to be \$33,986,000. The
11 amount distributed pursuant to section 16-a of chapter 329 of the laws
12 of 1991 shall be deemed to be \$24,811,000. Notwithstanding the
13 provisions of any general or special law, the amounts deemed distributed
14 in accordance with section 16 of chapter 329 of the laws of 1991 shall
15 be adjusted so that such amounts will not be less than 23.439 percent of
16 the "funding level" as defined in subdivision 5 of section 10-c of the
17 highway law for each such municipality. In order to achieve the objec-
18 tives of section 16 of chapter 329 of the laws of 1991, to the extent
19 necessary, the amounts in excess of 23.439 percent of the funding level
20 to be deemed distributed to each municipality under this paragraph shall
21 be reduced in equal proportion. To the extent that the total of remain-
22 ing payment allocations calculated herein varies from \$58,797,000, the
23 payment amounts to each locality shall be adjusted by a uniform percent-
24 age so that the total payments equal \$58,797,000.

25 The program authorized pursuant to sections 16 and 16-a of chapter 329
26 of the laws of 1991, as added by section 9 of chapter 330 of the laws of
27 1991, as amended, shall additionally make payments for reimbursement
28 according to the following schedule:

29	State Fiscal Year	Amount
30	2009-10	\$250,855,000

31 S 2. This act shall take effect immediately.

32 PART C

33 Section 1. Section 7 of chapter 312 of the laws of 1994, amending the
34 vehicle and traffic law relating to suspensions of licenses pending
35 prosecution of certain alcohol-related charges, and authorizations for
36 probationary and conditional driver's licenses, as amended by section 1
37 of part C of chapter 59 of the laws of 2007, is amended to read as
38 follows:

39 S 7. This act shall take effect immediately; provided however that
40 sections three, four, five and six of this act shall take effect on the
41 first day of November next succeeding the date on which it shall have
42 become a law and shall apply to offenses committed on or after such
43 date; provided further, however, that the amendment to paragraph (c) of
44 subdivision 2 of section 1193 of the vehicle and traffic law made by
45 section two of this act shall take effect on the same date as such para-
46 graph takes effect pursuant to section 9 of chapter 533 of the laws of
47 1993, as amended[, provided, further, that the provisions of section
48 four of this act shall remain in full force and effect until October 1,
49 2009 when upon such date the provisions of such section shall be deemed
50 repealed and the provisions of law amended by such section shall revert
51 to and be read as if the provisions of such section had not been
52 enacted].

53 S 2. This act shall take effect immediately, and shall be deemed to
54 have been in full force and effect on and after March 1, 2009.

1

PART D

2 Section 1. Section 9 of chapter 533 of the laws of 1993, amending the
3 vehicle and traffic law and the correction law relating to suspension
4 and revocation of driver's licenses upon conviction of certain drug-re-
5 lated offenses, as amended by section 1 of part N of chapter 59 of the
6 laws of 2007, is amended to read as follows:

7 S 9. This act shall take effect September 30, 1993 and shall apply to
8 convictions based on offenses which occurred on or after such date [and
9 shall remain in full force and effect until October 1, 2009 when upon
10 such date the provisions of this act shall be deemed repealed and the
11 provisions of law amended by this act shall revert to and be read as if
12 the provisions of this act had not been enacted].

13 S 2. This act shall take effect immediately and shall be deemed to
14 have been in full force and effect on and after March 1, 2009.

15

PART E

16 Section 1. Section 2 of part B of chapter 84 of the laws of 2002,
17 amending the state finance law relating to the costs of the department
18 of motor vehicles, as amended by section 1-b of part A of chapter 63 of
19 the laws of 2005, is amended to read as follows:

20 S 2. This act shall take effect April 1, 2002; provided, however, if
21 this act shall become a law after such date it shall take effect imme-
22 diately and shall be deemed to have been in full force and effect on and
23 after April 1, 2002[; provided further, however, that this act shall
24 expire and be deemed repealed on March 31, 2010].

25 S 2. This act shall take effect immediately, and shall be deemed to
26 have been in full force and effect on and after March 1, 2009.

27

PART F

28 Section 1. Paragraphs (b) and (c) of subdivision 2 of section 503 of
29 the vehicle and traffic law, as amended by chapter 55 of the laws of
30 1992, are amended to read as follows:

31 (b) Learner permit/license fee. (i) Upon passage of the knowledge test
32 required to obtain a learner's permit, the applicant for a commercial
33 driver's license shall be required to pay an additional fee of [seven]
34 NINE dollars and fifty cents for each six months or portion thereof of
35 the period of validity of a learner's permit or license which is or may
36 be issued as well as a fee of forty dollars for a road test which must
37 be passed before a license will be issued.

38 (ii) Upon passage of the knowledge test required to obtain a learner's
39 permit, the applicant for a class C license which does not have an H, P
40 or X endorsement or a class E license shall be required to pay [five]
41 SIX dollars AND TWENTY-FIVE CENTS for each six months or portion thereof
42 of the period of validity of a learner's permit or license which is or
43 may be issued, and an applicant for a class D, DJ, M or MJ license shall
44 be required to pay [two] THREE dollars and [fifty] TWENTY-FIVE cents for
45 each six months or portion thereof of the period of validity of a
46 learner's permit or license which is or may be issued. No additional fee
47 shall be required of any such applicant to take up to two road tests.
48 Such road test must be passed before a license will be issued.

49 (iii) If an applicant fails to pass the road test required for issu-
50 ance of a license in the number of times specified in subparagraph (i)
51 or (ii) of this paragraph, an additional fee of forty dollars will be

1 required for each additional test applied for in order to obtain a
2 commercial driver's license and an additional fee of ten dollars will be
3 required for up to two tests applied for in order to obtain any license
4 other than a commercial driver's license.

5 (IV) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, THE
6 DIFFERENCE BETWEEN THE ADDITIONAL FEES PROVIDED FOR IN THIS PARAGRAPH IN
7 EFFECT ON OR AFTER AUGUST FIRST, TWO THOUSAND NINE AND THE FEES IN
8 EFFECT PRIOR TO SUCH DATE SHALL BE DEPOSITED TO THE CREDIT OF THE DEDI-
9 CATED HIGHWAY AND BRIDGE TRUST FUND.

10 (c) Renewal fee. Fees for renewal of a license issued by the commis-
11 sioner shall be as follows:

12 (i) For a commercial driver's license, [seven] NINE dollars and fifty
13 cents for each six months or portion thereof.

14 (ii) For a class C license which does not have an H, P or X endorse-
15 ment or a class E license, [five] SIX dollars AND TWENTY-FIVE CENTS for
16 each six months or portion thereof.

17 (iii) For a class D, DJ, M or MJ license, [two] THREE dollars and
18 [fifty] TWENTY-FIVE cents, for each six months or portion thereof.

19 (IV) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, THE
20 DIFFERENCE BETWEEN THE ADDITIONAL FEES PROVIDED FOR IN THIS PARAGRAPH IN
21 EFFECT ON OR AFTER AUGUST FIRST, TWO THOUSAND NINE AND THE FEES IN
22 EFFECT PRIOR TO SUCH DATE SHALL BE DEPOSITED TO THE CREDIT OF THE DEDI-
23 CATED HIGHWAY AND BRIDGE TRUST FUND.

24 S 2. Paragraph (f) of subdivision 2 of section 503 of the vehicle and
25 traffic law, as amended by section 1-b of part A of chapter 63 of the
26 laws of 2005, is amended to read as follows:

27 (f) Photo image fee. In addition to any other fee prescribed herein, a
28 fee of [ten] TWELVE dollars AND FIFTY CENTS shall be charged for the
29 processing of each learner permit or license document requiring a photo
30 image. Of each such fee collected, five dollars shall be deposited to
31 the credit of the general fund and five dollars shall be deposited in
32 the dedicated highway and bridge trust fund established pursuant to
33 section eighty-nine-b of the state finance law and the dedicated mass
34 transportation fund established pursuant to section eighty-nine-c of the
35 state finance law and distributed according to the provisions of subdivi-
36 sion (d) of section three hundred one-j of the tax law.

37 NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, THE
38 DIFFERENCE BETWEEN THE ADDITIONAL FEES PROVIDED FOR IN THIS PARAGRAPH IN
39 EFFECT ON OR AFTER AUGUST FIRST, TWO THOUSAND NINE AND THE FEES IN
40 EFFECT PRIOR TO SUCH DATE SHALL BE DEPOSITED TO THE CREDIT OF THE DEDI-
41 CATED HIGHWAY AND BRIDGE TRUST FUND.

42 S 3. This act shall take effect August 1, 2009 and shall apply to
43 applications for new licenses and renewals of existing licenses expiring
44 on or after such date.

45

PART G

46 Section 1. Paragraph a of subdivision 6 of section 401 of the vehicle
47 and traffic law, as amended by section 74 of part A of chapter 56 of the
48 laws of 1998, is amended to read as follows:

49 a. The following fees shall be paid to the commissioner, or agent,
50 upon the registration or reregistration of a motor vehicle, including a
51 suburban, in accordance with the provisions of this article:

52 If such motor vehicle, fully equipped, weighs thirty-five hundred
53 pounds or less, [sixty-four and one-half] EIGHTY-ONE cents for each one
54 hundred pounds or major fraction thereof; if such motor vehicle, fully

1 equipped, weighs more than thirty-five hundred pounds, [sixty-four and
2 one-half] EIGHTY-ONE cents for each one hundred pounds up to thirty-five
3 hundred pounds, and [ninety-seven] ONE DOLLAR AND TWENTY-ONE cents for
4 each hundred pounds, or major fraction thereof, in excess of thirty-five
5 hundred pounds; provided, however, that the total fees for the registra-
6 tion or reregistration of any passenger motor vehicle propelled by elec-
7 tricity shall be [twelve dollars and ninety-four] SIXTEEN DOLLARS AND
8 EIGHTEEN cents, of a six, eight, or twelve cylinder motor vehicle not
9 less than [twelve dollars and ninety-four] SIXTEEN DOLLARS AND EIGHTEEN
10 cents, and of any other motor vehicle not less than [ten dollars and
11 thirty-five] TWELVE DOLLARS AND NINETY-FIVE cents; and provided further
12 that for motor vehicles described in subdivision seven of this section,
13 the fee for such registration shall be as therein prescribed. Provided
14 further, however, that the maximum registration fee under this paragraph
15 shall not exceed [fifty-six dollars and six] SEVENTY DOLLARS AND EIGHT
16 cents per registration year. For the purposes of this section a "subur-
17 ban" shall be a motor vehicle with a convertible or interchangeable body
18 or with removable seats, usable for both passenger and delivery
19 purposes, and including motor vehicles, commonly known as station or
20 depot wagons. The manufacturer's weight of motor vehicle shall be
21 accepted as the weight for the purpose of registration under this para-
22 graph.

23 S 2. Subdivision 2 of section 420 of the vehicle and traffic law, as
24 amended by chapter 190 of the laws of 1990, is amended to read as
25 follows:

26 2. Such seller or owner may, however, register another vehicle and use
27 said number plates thereon, if appropriate, upon making application for
28 such registration, paying a transfer fee of [seven] TEN dollars [and
29 seventy-five cents], and paying the proportional excess, if any, of the
30 annual fee for registering the second vehicle over the annual fee for
31 registering the first vehicle for each day or fraction thereof consti-
32 tuting the unexpired registration period. If the number plates of the
33 first vehicle are not appropriate for the second vehicle, the commis-
34 sioner or his or her agent shall, upon the surrender of such number
35 plates, furnish appropriate number plates.

36 S 3. Subdivision 21 of section 401 of the vehicle and traffic law is
37 amended by adding four new undesignated paragraphs to read as follows:

38 NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, THE
39 DIFFERENCE BETWEEN THE REGISTRATION FEES PROVIDED FOR IN PARAGRAPH A OF
40 SUBDIVISION SIX OF THIS SECTION IN EFFECT ON OR AFTER AUGUST FIRST, TWO
41 THOUSAND NINE AND THE REGISTRATION FEES IN EFFECT PRIOR TO SUCH DATE
42 SHALL BE DEPOSITED TO THE CREDIT OF THE DEDICATED HIGHWAY AND BRIDGE
43 TRUST FUND.

44 NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, THE
45 DIFFERENCE BETWEEN THE REGISTRATION FEES PROVIDED FOR IN SCHEDULES A, B,
46 C, D, E, F AND I OF SUBDIVISION SEVEN OF THIS SECTION AND IN SUBDIVI-
47 SIONS EIGHT AND THIRTEEN OF THIS SECTION IN EFFECT ON OR AFTER AUGUST
48 FIRST, TWO THOUSAND NINE AND THE REGISTRATION FEES IN EFFECT PRIOR TO
49 SUCH DATE SHALL BE DEPOSITED TO THE CREDIT OF THE DEDICATED HIGHWAY AND
50 BRIDGE TRUST FUND.

51 NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS CHAPTER, THE
52 DIFFERENCE BETWEEN THE REGISTRATION FEES COLLECTED PURSUANT TO SCHEDULE
53 G OF SUBDIVISION SEVEN OF THIS SECTION ON AND AFTER AUGUST FIRST, TWO
54 THOUSAND NINE AND SUCH FEES COLLECTED IMMEDIATELY PRIOR TO SUCH DATE
55 SHALL BE DEPOSITED TO THE CREDIT OF THE DEDICATED HIGHWAY AND BRIDGE

1 TRUST FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE
2 FINANCE LAW.

3 NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, THE REGIS-
4 TRATION FEES PROVIDED FOR IN SUBDIVISIONS TWO, SIX AND EIGHT OF SECTION
5 FOUR HUNDRED TWENTY OF THIS TITLE SHALL BE DEPOSITED PURSUANT TO
6 PROVISIONS OF THIS SUBDIVISION; PROVIDED, HOWEVER, THE DIFFERENCE
7 BETWEEN THE REGISTRATION FEES PROVIDED FOR IN SUBDIVISIONS TWO, SIX AND
8 EIGHT OF SECTION FOUR HUNDRED TWENTY OF THIS TITLE IN EFFECT ON OR AFTER
9 AUGUST FIRST, TWO THOUSAND NINE AND THE REGISTRATION FEES IN EFFECT
10 PRIOR TO SUCH DATE SHALL BE DEPOSITED TO THE CREDIT OF THE DEDICATED
11 BRIDGE AND HIGHWAY TRUST FUND.

12 S 4. Paragraphs (a) and (b) of subdivision 4 of section 2282 of the
13 vehicle and traffic law, as amended by chapter 402 of the laws of 1986,
14 are amended to read as follows:

15 (a) An annual fee of [ten] TWELVE dollars AND FIFTY CENTS for each
16 individual resident registration.

17 (b) An annual fee of [ten] TWELVE dollars AND FIFTY CENTS for each
18 individual nonresident registration.

19 S 5. Subdivision 3 of section 2251 of the vehicle and traffic law, as
20 amended by section 2 of part K-1 of chapter 62 of the laws of 2003, is
21 amended to read as follows:

22 3. Fees. The triennial fee for registration of a vessel shall be:
23 [eighteen] TWENTY-TWO dollars AND FIFTY CENTS and a vessel surcharge of
24 three dollars AND SEVENTY-FIVE CENTS, if less than sixteen feet in
25 length; [thirty-six] FORTY-FIVE dollars and a vessel surcharge of [ten]
26 TWELVE dollars AND FIFTY CENTS, if sixteen feet or over but less than
27 twenty-six feet in length; [sixty] SEVENTY-FIVE dollars and a vessel
28 surcharge of [fifteen] EIGHTEEN dollars AND SEVENTY-FIVE CENTS, if twen-
29 ty-six feet or over. All funds derived from the collection of the vessel
30 access surcharge pursuant to this subdivision are to be deposited in a
31 subaccount of the "I love NY waterways" [boating safety fund] VESSEL
32 ACCESS ACCOUNT established pursuant to section ninety-seven-~~nn~~ of the
33 state finance law. The vessel access surcharge shall not be considered a
34 registration fee for purposes of section seventy-nine-b of the naviga-
35 tion law. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION,
36 THE DIFFERENCE BETWEEN THE VESSEL SURCHARGE PROVIDED FOR IN THIS SUBDI-
37 VISION IN EFFECT ON OR AFTER AUGUST FIRST, TWO THOUSAND NINE AND THE
38 VESSEL SURCHARGE IN EFFECT PRIOR TO SUCH DATE SHALL BE DEPOSITED TO THE
39 CREDIT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND.

40 S 6. Schedule A of subdivision 7 of section 401 of the vehicle and
41 traffic law, as amended by chapter 55 of the laws of 1992, is amended to
42 read as follows:

43 A. Schedule for buses.

44 For each such vehicle having a seating capacity for passengers of five
45 passengers or less, and meeting the requirements of subdivisions twenty
46 and twenty-one, notwithstanding the capacity limitation of subdivision
47 twenty-one, of section three hundred seventy-five of this chapter, the
48 annual fee of [seventeen] TWENTY-ONE dollars and [twenty-five] FIFTY-SIX
49 cents.

50 For each such vehicle having a seating capacity for passengers of not
51 less than six passengers, nor more than seven passengers, and meeting
52 the requirements of subdivisions twenty and twenty-one, notwithstanding
53 the capacity limitation of subdivision twenty-one, of section three
54 hundred seventy-five of this chapter, the annual fee of [twenty-eight]
55 THIRTY-FIVE dollars and [eighteen] TWENTY-THREE cents.

1 For each such vehicle having a seating capacity for passengers of not
2 less than eight passengers, nor more than ten passengers, and meeting
3 the requirements of subdivisions twenty and twenty-one, notwithstanding
4 the capacity limitation of subdivision twenty-one, of section three
5 hundred seventy-five of this chapter, the annual fee of [thirty-five]
6 FORTY-THREE dollars and [eight] EIGHTY-FIVE cents.

7 For each such vehicle having a seating capacity for passengers of not
8 less than eleven passengers, nor more than fourteen passengers, and
9 meeting the requirements of subdivisions twenty and twenty-one, notwith-
10 standing the capacity limitation of subdivision twenty-one, of section
11 three hundred seventy-five of this chapter, the annual fee of [forty-
12 nine] SIXTY-ONE dollars and [forty-five] EIGHTY-ONE cents.

13 For each such vehicle having a seating capacity for passengers of not
14 less than fifteen passengers, nor more than twenty passengers, the annu-
15 al fee of [fifty-nine] SEVENTY-FOUR dollars and [eighty] SEVENTY-FIVE
16 cents.

17 For each such vehicle having a seating capacity for passengers of not
18 less than twenty-one passengers, nor more than twenty-two passengers,
19 the annual fee of [sixty-three] SEVENTY-NINE dollars and [twenty-five]
20 SIX cents.

21 For each such vehicle having a seating capacity for passengers of not
22 less than twenty-three passengers, nor more than twenty-six passengers,
23 the annual fee of [seventy] EIGHTY-EIGHT dollars and [seventy-three]
24 FORTY-ONE cents.

25 For each such vehicle having a seating capacity for passengers of not
26 less than twenty-seven passengers, nor more than thirty passengers, the
27 annual fee of [seventy-seven] NINETY-SEVEN dollars and [sixty-three]
28 FOUR cents.

29 For each such vehicle having a seating capacity for passengers in
30 excess of thirty passengers, the fee of [seventy-seven] NINETY-SEVEN
31 dollars and [sixty-three] FOUR cents, and the additional fee of two
32 dollars and [thirty] EIGHTY-EIGHT cents for each passenger (measured by
33 seating capacity) in excess of thirty passengers.

34 For the purposes of this schedule, the term "seating capacity for
35 passengers" shall exclude the driver.

36 The words "seating capacity for passengers", as used in this section,
37 shall mean seating capacity for adults. The commissioner shall have
38 authority to determine, for registration purposes, the manner of comput-
39 ing the seating capacity of any vehicle.

40 Provided, however, that in the case of a bus operated entirely by
41 electricity not generated by an engine contained therein the fees to be
42 paid upon registration or reregistration thereof shall be fifty per
43 centum in excess of the foregoing rates.

44 The foregoing schedules shall not apply to omnibuses operated pursuant
45 to a franchise or franchises over streets designated in said franchise
46 or franchises wholly within a city or cities, provided the holder of the
47 franchise or franchises pays for the same a percentage of its gross
48 earnings or gross receipts and for any such omnibus, without regard to
49 the seating capacity; nor shall the foregoing schedules apply to omni-
50 buses operated pursuant to a certificate of public convenience and
51 necessity granted under the transportation law and based upon the
52 consent of the local authorities of any city, town or village, other
53 than in the counties of Nassau, Suffolk and Westchester, as required by
54 the transportation corporations law or, in the county of Nassau, based
55 upon the consent of the board of supervisors of such county or of any
56 city or village therein, or of both such county and any city or village

1 therein or, in the counties of Suffolk and Westchester, based upon the
2 consent of the county board of legislators of such counties, as required
3 by chapter eight hundred seventy-nine of the laws of nineteen hundred
4 thirty-six, provided the holder of such local consent pays for the same
5 an annual fee to any such county, city, town or village, and for any
6 such omnibus, without regard to the seating capacity, the annual fee
7 shall be [ten] TWELVE dollars AND FIFTY CENTS. The foregoing schedules
8 shall not apply to trackless trolleys, but if such omnibus shall not be
9 operated in local transit service pursuant to a certificate of conven-
10 ience and necessity issued by the commissioner of transportation the
11 foregoing schedule of fees shall apply.

12 S 7. Paragraphs 1 and 2 of schedule B of subdivision 7 of section 401
13 of the vehicle and traffic law, as amended by chapter 55 of the laws of
14 1992, are amended to read as follows:

15 1. For each auto truck or light delivery car, the annual fee of [two]
16 THREE dollars and [eighty-eight] SIXTY cents for each five hundred
17 pounds maximum gross weight or fraction thereof, except that the annual
18 fee for such motor vehicle operated entirely by electricity not gener-
19 ated by an engine contained therein shall be [four] FIVE dollars and
20 [thirty-one] THIRTY-NINE cents for each five hundred pounds maximum
21 gross weight or fraction thereof, but in computing the weight of such an
22 electric vehicle the weight of electric batteries shall be excluded and
23 except also that the annual fee for each auto truck having a maximum
24 gross weight in excess of eighteen thousand pounds used exclusively in
25 the transportation of household goods (as defined by the commissioner of
26 transportation of this state or the interstate commerce commission) by a
27 carrier under authority of the commissioner of transportation of this
28 state or of the interstate commerce commission shall be [seven] NINE
29 dollars and [seventy-six] SEVENTY cents for each five hundred pounds
30 maximum gross weight or fraction thereof. Provided however, that no
31 motor vehicle registered pursuant to this paragraph may be charged a
32 registration fee in excess of that charged for a motor vehicle regis-
33 tered with a maximum gross weight of eighty thousand pounds.

34 2. For each tractor of any weight the annual fee of one dollar and
35 [twenty-one] FIFTY-ONE cents for each one hundred pounds, or major frac-
36 tion thereof, of maximum gross weight, except that the annual fee for
37 each tractor of any weight used exclusively in the transportation of
38 household goods (as defined by the commissioner of transportation of
39 this state or the interstate commerce commission) by a carrier under
40 authority of the commissioner of transportation of this state or of the
41 interstate commerce commission shall be [one dollar] TWO DOLLARS and
42 [seventy-three] SIXTEEN cents for each one hundred pounds, or major
43 fraction thereof, of maximum gross weight. Provided however, that no
44 motor vehicle registered pursuant to this paragraph may be charged a
45 registration fee in excess of that charged for a motor vehicle regis-
46 tered with a maximum gross weight of eighty thousand pounds.

47 S 8. Schedule C of subdivision 7 of section 401 of the vehicle and
48 traffic law, as amended by chapter 55 of the laws of 1992, is amended to
49 read as follows:

50 C. Schedule for taxicabs and livery. For each taxicab or livery having
51 a seating capacity for passengers, excluding the driver, of five persons
52 or less, the annual fee of [twenty-five] THIRTY-ONE dollars and [thirty]
53 SIXTY-THREE cents. For each such vehicle having a seating capacity for
54 passengers, excluding the driver, of not less than six persons, nor more
55 than seven persons, the annual fee of [forty-one] FIFTY-ONE dollars and
56 [forty] SEVENTY-FIVE cents. For each such vehicle having a seating

1 capacity for passengers, excluding the driver, of at least eight
2 persons, but not more than ten persons, the annual fee of [fifty-one]
3 SIXTY-FOUR dollars and [seventy-five] SIXTY-NINE cents. For each such
4 vehicle having a seating capacity for passengers, excluding the driver,
5 of at least eleven persons, but not more than fourteen persons, the
6 annual fee of [seventy-three] NINETY-TWO dollars [and sixty cents]. Any
7 registration issued pursuant to this schedule shall be revoked upon
8 receipt by the commissioner of a notice of revocation of any license or
9 permit necessary for the issuance of such registration from the local
10 authority which issued such license or permit, or upon receipt of
11 evidence by the commissioner that the registrant has been convicted of a
12 violation of any local law requiring the issuance of a license or permit
13 in order to engage in for-hire operation. Provided, however, that upon
14 surrender to the commissioner of any such revoked registration and
15 number plates and upon payment of the proper registration fee, a regis-
16 tration may be issued for the vehicle for which such registration has
17 been revoked pursuant to the provisions of subdivision six of this
18 section.

19 S 9. Paragraph 1 of schedule E of subdivision 7 of section 401 of the
20 vehicle and traffic law, as amended by chapter 55 of the laws of 1992,
21 is amended to read as follows:

22 1. For each agricultural truck, the annual fee of two dollars and [one
23 cent] FIFTY-ONE CENTS for each five hundred pounds maximum gross weight,
24 or fraction thereof.

25 S 10. Paragraph (a) of schedule F of subdivision 7 of section 401 of
26 the vehicle and traffic law, as amended by chapter 55 of the laws of
27 1992, is amended to read as follows:

28 (a) For each road roller, tractor crane, truck crane, power shovel,
29 road building machine, snow plow, road sweeper, sand spreader, well
30 driller, well servicing rig, feed processing machine, mobile car crusher
31 (whether self-propelled or a combination used exclusively as one unit),
32 earth mover, which shall mean a motor-driven vehicle in excess of eight
33 feet in width equipped with pneumatic tires designed and constructed for
34 moving or transporting earth and rock in connection with excavation and
35 grading work, and truck with small wheels used in a factory, warehouse
36 or railroad station, for each spreader or sprayer (generally meaning an
37 agricultural vehicle used to spread or spray agricultural chemicals,
38 agricultural lime and/or agricultural fertilizers) and fire vehicles, an
39 annual fee of [eleven] FOURTEEN dollars and [fifty] THIRTY-EIGHT cents;
40 provided, however, that the provisions of paragraph b of subdivision six
41 of this section relating to the exemption of certain motor vehicles from
42 the payment of registration fees thereon shall apply to the motor vehi-
43 cles specified in this schedule. A tractor-trailer combination designed
44 and used as a unit exclusively for the same purpose as a vehicle specif-
45 ically included in this schedule shall be considered as a single vehicle
46 and registered as a motor vehicle under this schedule rather than as a
47 tractor and trailer separately.

48 S 11. Paragraph 2 of schedule I of subdivision 7 of section 401 of the
49 vehicle and traffic law, as amended by chapter 55 of the laws of 1992,
50 is amended to read as follows:

51 2. For each rental vehicle of the passenger or suburban type having a
52 seating capacity for passengers, including the driver, of five persons
53 or less, the annual fee of [forty-two] FIFTY-THREE dollars and [fifty-
54 five] NINETEEN cents. For each such vehicle having a seating capacity
55 for passengers, including the driver, of not less than six persons, nor
56 more than seven persons, the annual fee of [fifty-nine] SEVENTY-FOUR

1 dollars and [eighty] SEVENTY-FIVE cents. For each such vehicle having a
2 seating capacity for passengers, including the driver, of at least eight
3 persons, but not more than ten persons, the annual fee of [sixty-nine]
4 EIGHTY-SIX dollars AND TWENTY-FIVE CENTS. For each such vehicle having
5 a seating capacity for passengers, including the driver, of at least
6 eleven persons, but not more than fifteen persons, the annual fee of
7 [ninety] ONE HUNDRED THIRTEEN dollars and [eighty-five] FIFTY-SIX cents.
8 S 12. Schedule K of subdivision 7 of section 401 of the vehicle and
9 traffic law, as added by chapter 621 of the laws of 1998, is amended to
10 read as follows:

11 K. Schedule for heavy duty vehicles: Notwithstanding any inconsistent
12 provision of this section, the registration fee for any vehicle
13 described in this paragraph shall be increased by up to [two] THREE and
14 [six-tenths] TWENTY-FIVE ONE HUNDREDTHS percent of such registration fee
15 in effect on [June] AUGUST first, [nineteen hundred ninety-eight] TWO
16 THOUSAND NINE, to fund the direct and indirect costs of the development
17 and implementation of a heavy duty emissions inspection program pursuant
18 to section 19-0320 of the environmental conservation law, including
19 planning, development of regulations and guidance, state implementation
20 plan development, personnel costs attributable to the program, and
21 enforcement costs. Such fee is authorized to be collected, commencing
22 June first, nineteen hundred ninety-nine, at the time of registration of
23 any vehicle required to be registered in New York having a gross vehicle
24 weight of greater than eight thousand five hundred pounds and powered by
25 diesel fuels except for those vehicles defined in section one hundred
26 one OF THIS CHAPTER, subparagraph two of paragraph E and subparagraph
27 (a) of paragraph F of this subdivision, and vehicles specified in subdi-
28 vision thirteen of this section, and farm type tractors and all terrain
29 type vehicles used exclusively for agricultural or mowing purposes, or
30 for snow plowing, other than for hire, farm equipment, including self-
31 propelled machines used exclusively in growing, harvesting or handling
32 farm produce, and self-propelled caterpillar or crawler-type equipment
33 while being operated on the contract site, and timber harvesting equip-
34 ment such as harvesters, wood chippers, forwarders, log skidders, and
35 other processing equipment used exclusively off highway for timber
36 harvesting and logging purposes. Notwithstanding any provision of law
37 to the contrary, any fee amount collected pursuant to this paragraph
38 shall be deposited in the clean air fund, to the credit of the mobile
39 source account, in accordance with the provisions of section ninety-sev-
40 en-oo of the state finance law. NOTWITHSTANDING ANY INCONSISTENT
41 PROVISION OF THIS SCHEDULE, THE DIFFERENCE BETWEEN THE INCREASE OF THE
42 PERCENTAGE OF THE REGISTRATION FEES IN EFFECT ON OR AFTER AUGUST FIRST,
43 TWO THOUSAND NINE AND THE PERCENTAGE OF THE REGISTRATION FEES IN EFFECT
44 PRIOR TO SUCH DATE SHALL BE DEPOSITED TO THE CREDIT OF THE DEDICATED
45 HIGHWAY AND BRIDGE TRUST FUND.

46 S 13. Paragraph a of subdivision 8 of section 401 of the vehicle and
47 traffic law, as amended by chapter 55 of the laws of 1992, is amended to
48 read as follows:

49 a. The provisions of this chapter in relation to registration books
50 and registration, certificates of registration, number plates, dupli-
51 cates of certificates and number plates, times of registration and
52 reregistration and the duration thereof, for motor vehicles, shall apply
53 also to trailers. The following fees shall be paid upon the registration
54 or reregistration of a trailer, other than a coach or house trailer or a
55 semitrailer, in accordance with the provisions of this article: The
56 annual fee of [four] FIVE dollars and [thirty-one] THIRTY-NINE cents for

1 each five hundred pounds or fraction thereof of maximum gross weight but
2 in no case shall the annual fee be less than [eleven] FOURTEEN dollars
3 and [fifty] THIRTY-EIGHT cents. The following fees shall be paid upon
4 the registration or reregistration of a coach or house trailer in
5 accordance with the provisions of this article: The annual fee of one
6 dollar and [thirty-eight] SEVENTY-THREE cents for each one hundred
7 pounds or major fraction thereof of unladen weight but in no case shall
8 the annual fee be less than [seventeen] TWENTY-ONE dollars and [twenty-
9 five] FIFTY-SEVEN cents. The following fees shall be paid upon the
10 registration or reregistration of a semitrailer in accordance with
11 provisions of this article: The annual fee of [twenty-three]
12 TWENTY-EIGHT dollars AND SEVENTY-FIVE CENTS. However, upon the request
13 of the applicant upon the registration or renewal of a registration of a
14 nineteen hundred eighty-nine or later model year semitrailer, such semi-
15 trailer may be registered for a period of not less than five and one-
16 half nor more than six and one-half years for a fee of [sixty-nine]
17 EIGHTY-SIX dollars AND TWENTY-FIVE CENTS. A semitrailer, used with any
18 device for converting it to a trailer, other than one being drawn by a
19 tractor semitrailer combination as part of a double tandem combination,
20 shall be registered as a trailer.

21 For the purposes of this paragraph, the unladen weight of a coach or
22 house trailer shall include the weight of any equipment permanently
23 attached to or installed in such trailer. Notwithstanding the foregoing
24 provisions and pursuant to regulations and limitations to be established
25 by the commissioner and upon payment of a fee of two dollars and thirty
26 cents therefor a temporary permit to move a coach or house trailer on
27 the public highways from one site to another shall be issued to the
28 owner thereof upon application therefor. Such application shall be made
29 in the manner prescribed by the commissioner.

30 S 14. Subdivisions 2 and 3 of section 405-c of the vehicle and traffic
31 law, as added by chapter 755 of the laws of 1987, are amended to read as
32 follows:

33 2. In addition to the registration fees provided in subdivision one of
34 this section, each applicant for such registration shall pay a fee of
35 two dollars AND FIFTY CENTS for each cab card, including a duplicate,
36 issued by the commissioner in accordance with such agreement. If a
37 number plate or plates is or are to be issued as a result of such appli-
38 cation, the applicant shall also pay any fee which would be required of
39 any applicant for registration of a similar type vehicle under section
40 four hundred one of this [chapter] TITLE for the issuance of a number
41 plate or plates.

42 3. The fee for a trip permit which allows operation of a vehicle with-
43 in this state shall be [fifteen] EIGHTEEN dollars AND SEVENTY-FIVE
44 CENTS.

45 S 15. The opening paragraph of section 401-a of the vehicle and traf-
46 fic law, as amended by chapter 289 of the laws of 1992, is amended to
47 read as follows:

48 The owner of a vehicle intended to be operated upon a public highway
49 or street only for the purpose of transporting the same to a jurisdic-
50 tion, within this state or to any other state, where the same is to be
51 registered, may file with the commissioner or any agent of the commis-
52 sioner an application for issuance of an in-transit permit for such
53 vehicle. The application shall be made on a form furnished by the
54 commissioner for such purpose and shall contain such information as the
55 commissioner shall require. If satisfied that the vehicle is to be oper-
56 ated as provided in this section, the commissioner shall upon payment of

1 a fee of [ten] TWELVE dollars AND FIFTY CENTS assign to such vehicle a
2 distinctive number and issue and deliver to the applicant an in-transit
3 permit, valid for a period of thirty days from the date of issuance, in
4 such form as the commissioner shall prescribe, indicating the extent to
5 which the vehicle covered by such permit may be operated on the public
6 highways and such vehicle may be operated only as so indicated.

7 S 16. Paragraph a of subdivision 5 of section 410 of the vehicle and
8 traffic law, as amended by chapter 435 of the laws of 1997, is amended
9 to read as follows:

10 a. The annual fee for registration or reregistration of a motorcycle
11 shall be eleven dollars and fifty cents. Beginning April first, nine-
12 teen hundred ninety-eight the annual fee for registration or reregistra-
13 tion of a motorcycle shall be [fourteen] SEVENTEEN dollars AND FIFTY
14 CENTS, of which two dollars and fifty cents shall be deposited into the
15 motorcycle safety fund established pursuant to section ninety-two-g of
16 the state finance law.

17 S 17. Subdivision 1 of section 411-a of the vehicle and traffic law,
18 as added by chapter 962 of the laws of 1981, is amended to read as
19 follows:

20 1. The commissioner may issue special number plates to applicants
21 therefor in the same manner as other number plates are issued pursuant
22 to this article. Such special number plates shall be issued only upon
23 payment of an annual service charge of [fifteen] EIGHTEEN dollars AND
24 SEVENTY-FIVE CENTS in addition to the regular fee prescribed by section
25 four hundred ten of this [chapter] ARTICLE. Application for special
26 number plates shall be made in accordance with regulations promulgated
27 by the commissioner with respect to issuance of such number plates.

28 S 18. Section 411-b of the vehicle and traffic law, as added by chap-
29 ter 30 of the laws of 1989, is amended to read as follows:

30 S 411-b. Registration fee schedule for historical motorcycles. For
31 each motorcycle which is owned and operated as an exhibition piece or
32 collectors item, and is used for participation in club activities,
33 exhibit, tours, parades, occasional transportation and similar uses, but
34 not used for general daily transportation, an annual fee of [twenty]
35 TWENTY-FIVE dollars. For purposes of this section, a historical motorcy-
36 cle shall mean any motorcycle manufactured more than twenty-five years
37 prior to the current calendar year, and any other model, year and type
38 motorcycle which has unique characteristics and which is determined by
39 the commissioner to be of historical, classic or exhibition value.
40 Registration plates for such motorcycles shall be of a type and design
41 approved by the commissioner, but shall be of a distinctive nature,
42 except that, with the approval of the commissioner, an owner of any such
43 motorcycle may utilize registration plates of this state with the date
44 of year corresponding to the model year date when the vehicle was manu-
45 factured, if the model year date registration plate is legible and serv-
46 iceable, as determined by the department, in lieu of the registration
47 plates otherwise required by this chapter. Such plates shall be used
48 only for the operation of the motorcycle listed on the registration
49 application and on other motorcycles which would qualify for registra-
50 tion under this schedule owned by persons other than the registrant for
51 the purpose of test driving by the registrant or his agent in antic-
52 ipation of possible purchase. No such registration will be issued unless
53 evidence of financial security, in a form prescribed by the commission-
54 er, is submitted which provides coverage for the motorcycle listed on
55 the registration application and for non-owned motorcycles being oper-
56 ated with such plates.

1 S 19. Paragraph (b) of subdivision 3 of section 2261 of the vehicle
2 and traffic law, as added by chapter 869 of the laws of 1976, is amended
3 to read as follows:

4 (b) The annual fee for the registration, renewal, reregistration or
5 amendment or duplicate of a registration of a limited use motorcycle
6 shall be [five] SIX dollars AND TWENTY-FIVE CENTS. Any such registra-
7 tion will commence and expire on dates to be determined by the commis-
8 sioner. A fee for a registration for periods of more or less than one
9 year shall not be prorated.

10 S 20. Paragraphs (a) and (b) of subdivision 4 of section 2222 of the
11 vehicle and traffic law, as amended by section 2 of part I of chapter 59
12 of the laws of 2004, are amended to read as follows:

13 (a) A fee of [ten] TWELVE dollars AND FIFTY CENTS for each individual
14 resident registration.

15 (b) A fee of [ten] TWELVE dollars AND FIFTY CENTS for each individual
16 nonresident registration.

17 S 21. Subparagraph A of paragraph e of subdivision 6 of section 401 of
18 the vehicle and traffic law, as added by chapter 793 of the laws of
19 1977, is amended to read as follows:

20 A. In addition to any other fee for registration required to be paid
21 pursuant to this article, the commissioner may require the payment of an
22 annual service charge of [five] SIX dollars AND TWENTY-FIVE CENTS upon
23 the issuance of a radio operator number plate which he, in his
24 discretion, is hereby authorized to do as provided by this paragraph.
25 NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, THE DIFFER-
26 ENCE BETWEEN THE REGISTRATION FEES PROVIDED FOR IN THIS PARAGRAPH IN
27 EFFECT ON OR AFTER AUGUST FIRST, TWO THOUSAND NINE AND THE REGISTRATION
28 FEES IN EFFECT PRIOR TO SUCH DATE SHALL BE DEPOSITED TO THE CREDIT OF
29 THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND.

30 S 22. Subdivision 1 of section 404 of the vehicle and traffic law, as
31 amended by chapter 170 of the laws of 1994, is amended to read as
32 follows:

33 1. The commissioner may issue special number plates to applicants
34 therefor in the same manner as other number plates are issued pursuant
35 to this article. Such special number plates shall be issued only upon
36 payment of an annual service charge of [twenty-five] THIRTY-ONE dollars
37 AND TWENTY-FIVE CENTS in addition to the regular fee prescribed by
38 section four hundred one of this [chapter] ARTICLE. Application for
39 special number plates shall be made in accordance with regulations
40 promulgated by the commissioner with respect to issuance of such number
41 plates. Provided, however, in lieu of the annual fee specified herein,
42 the commissioner may establish specific categories of plates for which
43 an annual fee of not less than [fifteen] EIGHTEEN dollars AND
44 SEVENTY-FIVE CENTS nor more than [twenty-five] THIRTY-ONE dollars AND
45 TWENTY-FIVE CENTS may be charged subject to the approval of the director
46 of the division of the budget. NOTWITHSTANDING ANY INCONSISTENT
47 PROVISION OF THIS SECTION, THE DIFFERENCE BETWEEN THE SPECIAL PLATES FEE
48 OR SERVICE CHARGE PROVIDED FOR IN THIS SUBDIVISION IN EFFECT ON OR AFTER
49 AUGUST FIRST, TWO THOUSAND NINE AND THE SPECIAL PLATES FEE OR SERVICE
50 CHARGE IN EFFECT PRIOR TO SUCH DATE SHALL BE DEPOSITED TO THE CREDIT OF
51 THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND.

52 S 23. Subdivision 2 of section 404 of the vehicle and traffic law, as
53 separately amended by chapters 158 and 190 of the laws of 1990, is
54 amended to read as follows:

55 2. For purposes of this section, a special number plate shall be a
56 plate which contains not more than eight letters, numerals or any combi-

1 nation thereof and which is reserved by the commissioner for issuance in
2 accordance with the provisions of this section, or a plate reserved for
3 issuance in a series for vehicles owned by public officers, physicians,
4 visiting nurses, accredited representatives of the press or other
5 groups. In issuing special number plates the commissioner shall give
6 those applicants who held a special number plate at the time of the
7 enactment of this section the right to retain such special number plate
8 upon the payment of the annual service charge of [twenty-five]
9 THIRTY-ONE dollars AND TWENTY-FIVE CENTS. Provided, however, that such
10 right of retention shall apply only to the first renewal of the regis-
11 tration of such special number plate following the enactment of this
12 section. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION,
13 THE DIFFERENCE BETWEEN THE ANNUAL SERVICE CHARGE PROVIDED FOR IN THIS
14 SUBDIVISION IN EFFECT ON OR AFTER AUGUST FIRST, TWO THOUSAND NINE AND
15 THE ANNUAL SERVICE CHARGE IN EFFECT PRIOR TO SUCH DATE SHALL BE DEPOSIT-
16 ED TO THE CREDIT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND.

17 S 24. Subdivision 2 of section 404-1 of the vehicle and traffic law,
18 as amended by chapter 170 of the laws of 1994, is amended to read as
19 follows:

20 2. A distinctive plate issued pursuant to this section shall be issued
21 in the same manner as other number plates upon payment of the regular
22 registration fee prescribed by section four hundred one of this article
23 provided, however, that an additional annual service charge of [twenty-
24 five] THIRTY-ONE dollars AND TWENTY-FIVE CENTS shall be charged for such
25 plates, and provided that a further additional annual service charge of
26 [twenty-five] THIRTY-ONE dollars AND TWENTY-FIVE CENTS shall be charged
27 for any such plate containing specially requested numerals and/or
28 letters. Provided, however, in lieu of the annual fee specified herein,
29 the commissioner may establish specific categories of plates for which
30 an annual fee of not less than [fifteen] EIGHTEEN dollars AND
31 SEVENTY-FIVE CENTS nor more than [twenty-five] THIRTY-ONE dollars AND
32 TWENTY-FIVE CENTS may be charged subject to the approval of the director
33 of the division of the budget. NOTWITHSTANDING ANY INCONSISTENT
34 PROVISION OF THIS SECTION, THE DIFFERENCE BETWEEN THE ANNUAL SERVICE
35 CHARGE OR FEE PROVIDED FOR IN THIS SUBDIVISION IN EFFECT ON OR AFTER
36 AUGUST FIRST, TWO THOUSAND NINE AND THE ANNUAL SERVICE CHARGE OR FEE IN
37 EFFECT PRIOR TO SUCH DATE SHALL BE DEPOSITED TO THE CREDIT OF THE DEDI-
38 CATED HIGHWAY AND BRIDGE TRUST FUND.

39 S 25. Paragraph b of subdivision 3 of section 401 of the vehicle and
40 traffic law, as amended by chapter 548 of the laws of 1986, is amended
41 to read as follows:

42 b. During a registration period the commissioner may, upon application
43 by the owner of a registered motor vehicle and upon payment of a fee of
44 three dollars AND SEVENTY-FIVE CENTS, change the distinctive number
45 assigned to such motor vehicle and issue a new set of number plates
46 provided the original registration and number plates are surrendered.

47 S 26. Schedule G of subdivision 7 of section 401 of the vehicle and
48 traffic law, as amended by chapter 710 of the laws of 2004, is amended
49 to read as follows:

50 G. Schedule for historical motor vehicles. For each motor vehicle
51 which is owned and operated as an exhibition piece or collectors item,
52 and is used for participation in club activities, exhibit, tours,
53 parades, occasional transportation and similar uses, but not used for
54 general daily transportation, an annual fee of [twenty-three]
55 TWENTY-EIGHT dollars AND SEVENTY-FIVE CENTS. For purposes of this para-
56 graph, a historical motor vehicle shall mean any vehicle manufactured

1 more than twenty-five years prior to the current calendar year, and any
2 other model, year and type vehicle which has unique characteristics and
3 which is determined by the commissioner to be of historical, classic or
4 exhibition value. Registration plates for such vehicles shall be of a
5 type and design approved by the commissioner, but shall be of a distinc-
6 tive nature. Except that, with the approval of the commissioner, an
7 owner of any such vehicle may utilize registration plates issued in the
8 year corresponding to the model year date in which the vehicle was manu-
9 factured, if the registration plate is legible, durable, and servicea-
10 ble, of this state, and accurate in color, as determined by the depart-
11 ment. Nothing in this paragraph shall be construed to prohibit the use
12 of previously issued registration plates that have been restored, with-
13 out deviation from their original alphanumeric or pictorial content, to
14 such condition as otherwise satisfies all applicable requirements. Such
15 plates shall be used only for the operation of the motor vehicle listed
16 on the registration application and on other motor vehicles which would
17 qualify for registration under this schedule owned by persons other than
18 the registrant for the purpose of test driving by the registrant or his
19 or her agent in anticipation of possible purchase. No such registration
20 will be issued unless evidence of financial security, in a form
21 prescribed by the commissioner, is submitted which provides coverage for
22 the motor vehicle listed on the registration application and for non-
23 owned motor vehicles being operated with such plates.

24 S 27. Subdivisions 6 and 8 of section 420 of the vehicle and traffic
25 law, as amended by chapter 190 of the laws of 1990, are amended to read
26 as follows:

27 6. Provided, further, that the registration of a vehicle registered in
28 the names of two or more persons, as partners or otherwise, shall not
29 expire upon a change in ownership of the vehicle so long as any of the
30 persons named in such registration as owners of the vehicle is the owner
31 or part owner of the vehicle. However, when any change in the ownership
32 of such a vehicle occurs and the registration does not expire, the owner
33 or owners after such change shall forthwith file with the commissioner a
34 statement of the ownership of such vehicle in such form as the commis-
35 sioner shall require, together with a fee of [seven] TEN dollars [and
36 seventy-five cents], and the commissioner shall issue a new certificate
37 of registration.

38 8. The owner of a registered motor vehicle, motorcycle or trailer may
39 transfer the registration and, if appropriate, the number plates thereof
40 to another vehicle owned by him or her upon making application for such
41 transfer, paying a transfer fee of [seven] TEN dollars [and seventy-five
42 cents], and paying the proportionate excess, if any, of the annual fee
43 for registering the second vehicle over the annual fee for registering
44 the first vehicle for each day or fraction thereof constituting the
45 unexpired registration period, provided, however, that the registration
46 and number plates for the second vehicle, if such vehicle is registered
47 in this state, are either surrendered to the commissioner or transferred
48 to another vehicle as provided herein. If the number plates of the first
49 vehicle are not appropriate for the second vehicle, the commissioner or
50 his or her agent shall, upon the surrender of such number plates,
51 furnish appropriate number plates. Whenever a total fee for reregistra-
52 tion prescribed in this section shall amount to a fee other than a whole
53 dollar amount, the fee required to be paid shall be rounded to the near-
54 est twenty-five cents.

55 S 28. This act shall take effect August 1, 2009; provided, however,
56 that sections one through fourteen of this act and section twenty-four

1 of this act shall apply to applications for new registrations and
2 renewals of existing registrations required to be registered on or after
3 such date; provided, further, that section sixteen of this act shall
4 apply to applications for in-transit permits on or after such date.

5

PART H

6 Section 1. Paragraph a of subdivision 3 of section 401 of the vehicle
7 and traffic law, as amended by section 1 of part B of chapter 62 of the
8 laws of 2003, is amended to read as follows:

9 a. Upon filing of such application and the payment of the fee herein-
10 after provided, the commissioner shall assign to such motor vehicle a
11 distinctive number and, without expense to the applicant, issue and
12 deliver in such manner as the commissioner may select to the owner a
13 certificate of registration, in such form as the commissioner shall
14 prescribe, and two number plates at a place within the state of New York
15 named by the applicant in his OR HER application. A number plate, with-
16 in the meaning of this chapter, may, in the discretion of the commis-
17 sioner, be a plate of a permanent nature, treated with reflectorized
18 material according to specifications prescribed by the commissioner, and
19 with a date tag attached to such plate or to the vehicle as prescribed
20 by regulations of the commissioner indicating the validity of the plate
21 during a certain period and the issuance of such a number plate with
22 such date tag to a person possessing such a number plate shall be deemed
23 the issuance of a number plate. An additional fee, not to exceed
24 [fifteen] TWENTY-FIVE dollars, shall be paid to the commissioner whenev-
25 er a set of reflectorized number plates is issued for any vehicle for
26 which a registration fee is normally charged except that, with respect
27 to any number plate which is specifically requested by the applicant,
28 such fee shall be paid to the commissioner upon approval of such
29 request. In the event of the loss, mutilation or destruction of any
30 certificate of registration, any number plate or set of number plates
31 whether with or without a date tag or tags, or any date tag or set of
32 date tags provided for in this article, the owner of a registered motor
33 vehicle may file such statement and proof of the facts as the commis-
34 sioner shall require, with a fee of three dollars, in the office of the
35 commissioner, or, unless and until the commissioner shall otherwise
36 direct, in the office of the agent who issued the certificate, plate,
37 plates, tag or tags and the commissioner or his OR HER agent, as the
38 case may be, shall issue a duplicate or substitute. It shall be the duty
39 of every owner holding a certificate of registration to notify the
40 commissioner in writing of any change of residence of such person within
41 ten days after such change occurs, and to inscribe on such certificate,
42 in the place provided by the commissioner, a record of such change of
43 residence.

44 S 2. This act shall take effect on April 1, 2010 and shall apply to
45 applications for new registrations and renewals of existing registra-
46 tions of any vehicle required to be registered on or after such date.

47

PART I

48 Section 1. Subdivision 2 of section 1809 of the vehicle and traffic
49 law, as amended by section 3 of part M of chapter 62 of the laws of
50 2003, is amended to read as follows:

51 2. Where a person is convicted of two or more such crimes or traffic
52 infractions committed through a single act or omission, or through an

1 act or omission which in itself constituted one of the crimes or traffic
2 infractions and also was a material element of the other, the court or
3 administrative tribunal shall impose a crime victim assistance fee and a
4 mandatory surcharge mandated by subdivision one of this section for each
5 such conviction[; provided however, that in no event shall the total
6 amount of such crime victim assistance fees and mandatory surcharges
7 imposed pursuant to paragraph (a) or (c) of subdivision one of this
8 section exceed one hundred dollars].

9 S 2. This act shall take effect on the ninetieth day after it shall
10 have become a law; provided, however, that the amendments to subdivision
11 2 of section 1809 of the vehicle and traffic law made by section one of
12 this act shall not affect the expiration of such subdivision and shall
13 be deemed to expire therewith.

14

PART J

15 Section 1. Section 12 of chapter 569 of the laws of 1981, amending the
16 vehicle and traffic law relating to motor vehicle liability insurance,
17 financial security, criminal acts and penalties for non-compliance, as
18 amended by section 1 of part I of chapter 59 of the laws of 2007, is
19 amended to read as follows:

20 S 12. This act shall take effect on the first day of September, 1982
21 and the amendments made to the provisions of the vehicle and traffic law
22 by sections one through nine of this act shall expire on June 30, [2009]
23 2011 and shall apply to the use and operation of motor vehicles during
24 such period. Upon such expiration date the provisions of such sections
25 of such law shall revert to and be read as set out in law on the date
26 immediately preceding the effective date of this act. The commissioner
27 shall widely publicize the provisions of this act and take all actions
28 necessary to prepare for its implementation prior to the effective date.

29 S 2. Section 15 of chapter 781 of the laws of 1983, amending the vehi-
30 cle and traffic law and other laws relating to motor vehicle liability
31 insurance, financial security, criminal acts and certain penalties for
32 non-compliance, as amended by section 2 of part I of chapter 59 of the
33 laws of 2007, is amended to read as follows:

34 S 15. This act shall take effect immediately except that sections ten
35 and eleven hereof shall take effect on June 30, [2009] 2011; the amend-
36 ments made to the provisions of the vehicle and traffic law and the
37 insurance law by sections one through seven of this act shall expire
38 June 30, [2009] 2011; upon such date the provisions of such sections of
39 such laws shall revert to and be read as set out in law on the date
40 immediately preceding the effective date of this act.

41 S 3. This act shall take effect immediately and shall be deemed to
42 have been in full force and effect on and after March 1, 2009.

43

PART K

44 Section 1. Item 2 of clause (A) of subparagraph (ii) of paragraph (i)
45 of subdivision 1 of section 201 of the vehicle and traffic law, as
46 amended by chapter 251 of the laws of 2007, is amended to read as
47 follows:

48 (2) fifteen years for violating an out of service order as provided
49 for in the rules and regulations of the department of [motor vehicles]
50 TRANSPORTATION while operating a commercial motor vehicle.

1 S 2. Subparagraph (ii) of paragraph (b) of subdivision 2 of section
2 501 of the vehicle and traffic law, as amended by section 3 of part E of
3 chapter 60 of the laws of 2005, is amended to read as follows:

4 (ii) H endorsement. Shall be required to transport hazardous materials
5 as defined in section one hundred three of the hazardous materials
6 transportation act, public law 93-633, title I, when the vehicle trans-
7 porting such materials is required to be placarded under the hazardous
8 materials regulation, 49 CFR part 172, subpart F or is transporting any
9 quantity of material listed as a select agent or toxin in 42 CFR part
10 73. An applicant for a commercial driver's license in this state who
11 wishes to transport hazardous materials must obtain a New York state
12 hazardous materials endorsement even if such applicant holds a valid
13 hazardous materials endorsement issued by another state. A farm vehicle
14 shall be exempt from the requirement for such endorsement when trans-
15 porting hazardous materials within one hundred fifty miles of the
16 person's farm. However, a separate non-commercial endorsement shall be
17 required for such exempted transportation. In order to obtain such
18 endorsement, the license holder must submit fingerprints for purposes of
19 a criminal history record check pursuant to subdivision six of this
20 section. IN ADDITION TO THE PROVISIONS OF THIS SUBPARAGRAPH, NO PERSON
21 SHALL BE ISSUED A HAZARDOUS MATERIALS ENDORSEMENT IF SUCH PERSON DOES
22 NOT MEET THE QUALIFICATIONS FOR ISSUANCE OF SUCH ENDORSEMENT SET FORTH
23 IN SECTIONS 383.71(A)(9) AND 383.141 AND PART 1572 OF TITLE 49 OF THE
24 CODE OF FEDERAL REGULATIONS.

25 S 3. Subparagraph (i) of paragraph (d) of subdivision 2 of section 501
26 of the vehicle and traffic law, as amended by section 6 of part E of
27 chapter 60 of the laws of 2005, is amended to read as follows:

28 (i) Notwithstanding the foregoing provisions of this subdivision, a
29 motor vehicle or combination of vehicles, other than a motorcycle, that
30 is a military vehicle operated by a member of the armed forces, or a
31 police or fire vehicle during its use in an emergency operation, as
32 defined in section one hundred fourteen-b of this chapter, or a vehicle
33 owned and identified as being owned by the state, a political subdivi-
34 sion thereof, an ambulance service as defined in subdivision two of
35 section three thousand one of the public health law or a voluntary ambu-
36 lance service as defined in subdivision three of such section and used
37 to provide emergency medical service as defined in section three thou-
38 sand one of the public health law may be operated with any class license
39 other than a class DJ, M or MJ license. For the purposes of this para-
40 graph the term "member of the armed forces" shall include active duty
41 military personnel; members of the reserve components of the armed forc-
42 es; members of the national guard on active duty, including personnel on
43 full time active guard duty, personnel on part-time national guard
44 training, and national guard military technicians (civilians who are
45 required to wear military uniforms); and active duty United States coast
46 guard personnel. The term shall not include United States reserve tech-
47 nicians. NOTWITHSTANDING THE PROVISIONS OF SECTION ONE HUNDRED FOUR-
48 TEEN-B OF THIS CHAPTER, FOR THE PURPOSES OF THIS SUBPARAGRAPH, THE TERM
49 EMERGENCY OPERATION SHALL INCLUDE RETURNING FROM EMERGENCY SERVICE.

50 S 4. Paragraph (b) of subdivision 4 of section 501-a of the vehicle
51 and traffic law, as amended by chapter 251 of the laws of 2007, is
52 amended to read as follows:

53 (b) However, a commercial motor vehicle shall not include: (i) a
54 personal use vehicle or a farm vehicle or a combination of such vehi-
55 cles; (ii) any motor vehicle or combination of motor vehicles operated
56 by a member of the armed forces for military purposes; (iii) a police or

1 fire vehicle or a vehicle during its use in an emergency operation, as
2 defined in section one hundred fourteen-b of this chapter, owned and
3 identified as being owned by the state, a political subdivision thereof,
4 an ambulance service as defined in subdivision two of section three
5 thousand one of the public health law or a voluntary ambulance service
6 as defined in subdivision three of such section and used to provide
7 emergency medical service as defined in section three thousand one of
8 the public health law or combination of such vehicles; or (iv) a vehicle
9 or combination of vehicles which is designed and primarily used for
10 purposes other than the transportation of persons or property and which
11 is operated on a public highway only occasionally for the purpose of
12 being transported to a construction or off-highway site at which its
13 primary purpose is to be performed except as may otherwise be specif-
14 ically provided by regulation of the commissioner. For the purposes of
15 this paragraph, the term "member of the armed forces" shall include
16 active duty military personnel; members of the reserve components of the
17 armed forces; members of the national guard on active duty, including
18 personnel on full time active guard duty, personnel on part-time
19 national guard training, and national guard military technicians (civil-
20 ians who are required to wear military uniforms); and active duty United
21 States coast guard personnel. The term shall not include United States
22 reserve technicians. NOTWITHSTANDING THE PROVISIONS OF SECTION ONE
23 HUNDRED FOURTEEN-B OF THIS CHAPTER, FOR THE PURPOSES OF THIS PARAGRAPH,
24 THE TERM EMERGENCY OPERATION SHALL INCLUDE RETURNING FROM EMERGENCY
25 SERVICE.

26 S 5. Paragraphs (a) and (b) of subdivision 2 of section 510-a of the
27 vehicle and traffic law, as amended by section 2 of part J of chapter 59
28 of the laws of 2006, are amended to read as follows:

29 (a) Except as otherwise provided in paragraph (b) of this subdivision,
30 where revocation of a commercial driver's license is mandatory pursuant
31 to paragraph (a), (C), (d) or (e) of subdivision one of this section no
32 new commercial driver's license shall be issued for at least one year
33 nor thereafter except in the discretion of the commissioner, except that
34 if such person has previously been found to have refused a chemical test
35 pursuant to section eleven hundred ninety-four of this chapter or has a
36 prior conviction of any of the following offenses: any violation of
37 section eleven hundred ninety-two of this chapter, any violation of
38 subdivision one or two of section six hundred of this chapter, or any
39 felony involving the use of a motor vehicle pursuant to paragraph (a) of
40 subdivision one of this section, or has been convicted of operating a
41 commercial motor vehicle when, as a result of prior violations committed
42 while operating a commercial motor vehicle, the driver's commercial
43 driver's license is revoked, suspended, or canceled, or the driver is
44 disqualified from operating a commercial motor vehicle, or has been
45 convicted of causing a fatality through the negligent operation of a
46 commercial motor vehicle, including but not limited to the crimes of
47 vehicular manslaughter or criminally negligent homicide, then such
48 commercial driver's license revocation shall be permanent.

49 (b) Where revocation is mandatory pursuant to paragraph (a), (C), (d)
50 or (e) of subdivision one of this section and the commercial motor vehi-
51 cle was transporting hazardous materials, no new commercial driver's
52 license shall be issued for at least three years nor thereafter except
53 in the discretion of the commissioner, except that if such person has
54 previously been found to have refused a chemical test pursuant to
55 section eleven hundred ninety-four of this chapter or has a prior
56 conviction of any of the following offenses: any violation of section

1 eleven hundred ninety-two of this chapter, any violation of subdivision
2 one or two of section six hundred of this chapter, or any felony involv-
3 ing the use of a motor vehicle pursuant to paragraph (a) of subdivision
4 one of this section, or been convicted of operating a commercial motor
5 vehicle when, as a result of prior violations committed while operating
6 a commercial motor vehicle the driver's commercial driver's license is
7 revoked, suspended, or canceled, or the driver is disqualified from
8 operating a commercial motor vehicle, or has been convicted of causing a
9 fatality through the negligent operation of a commercial motor vehicle,
10 including but not limited to the crimes of vehicular manslaughter or
11 criminally negligent homicide, then such commercial driver's license
12 revocation shall be permanent.

13 S 6. Paragraphs (a) and (b) of subdivision 3 of section 510-a of the
14 vehicle and traffic law, paragraph (a) as added by chapter 173 of the
15 laws of 1990 and paragraph (b) as amended by chapter 251 of the laws of
16 2007, are amended to read as follows:

17 (a) A commercial driver's license shall be suspended by the commis-
18 sioner for a period of sixty days where the holder is convicted[, during
19 any three year period,] of two serious traffic violations as defined in
20 subdivision four of this section COMMITTED WITHIN A THREE YEAR PERIOD,
21 in separate incidents whether such convictions occurred within or
22 outside of this state.

23 (b) A commercial driver's license shall be suspended by the commis-
24 sioner for a period of one hundred twenty days where the holder is
25 convicted[, during any three year period,] of three serious traffic
26 violations as defined in subdivision four of this section COMMITTED
27 WITHIN A THREE YEAR PERIOD, in separate incidents whether such
28 convictions occurred within or outside of this state. Such suspension
29 shall take effect upon the termination of any other suspension already
30 in effect pursuant to paragraph (a) of this subdivision or this para-
31 graph.

32 S 7. Subparagraphs (i) and (ii) of paragraph (d) of subdivision 3 of
33 section 510-a of the vehicle and traffic law, as amended by chapter 569
34 of the laws of 2002, are amended to read as follows:

35 (i) for a period of [ninety] ONE HUNDRED EIGHTY days where the holder
36 was found to have operated a commercial motor vehicle designed or used
37 to transport property as defined in subparagraphs (i) and (ii) of para-
38 graph (a) of subdivision four of section five hundred one-a of this
39 title, in violation of an out-of-service order as provided for in the
40 rules and regulations of the department of transportation whether such
41 violation was committed within this state or was the same or a similar
42 violation involving an out-of-service order committed outside of this
43 state;

44 (ii) for a period of [one year] TWO YEARS if, during any ten-year
45 period, the holder is found to have committed two such violations not
46 arising from the same incident whether such violations were committed
47 within or outside of the state;

48 S 8. Subdivision 6 of section 510-a of the vehicle and traffic law, as
49 added by chapter 173 of the laws of 1990, is amended to read as follows:

50 6. Application of section to persons not holding a commercial driver's
51 license. Whenever a person who is not the holder of a commercial driv-
52 er's license issued by the commissioner is convicted of a violation
53 ARISING OUT OF THE OPERATION OF A COMMERCIAL MOTOR VEHICLE which would
54 require the mandatory revocation or suspension of a commercial driver's
55 license pursuant to this [section] CHAPTER, the privilege of such person
56 to operate a commercial motor vehicle and/or to obtain a commercial

1 driver's license issued by the commissioner will be suspended or revoked
2 for the same periods of time and subject to the same conditions provided
3 in this [section] CHAPTER which would be applicable to the holder of a
4 commercial driver's license and in addition, the driver's license or
5 privilege of operating a motor vehicle by such person shall be suspended
6 or revoked for the same periods of time for which the privilege of oper-
7 ating a commercial motor vehicle or the privilege to obtain a commercial
8 driver's license are suspended or revoked.

9 S 9. Subparagraphs (v) and (vi) of paragraph d of subdivision 2 of
10 section 140 of the transportation law, subparagraph (v) as amended by
11 section 2 of part K of chapter 412 of the laws of 1999 and subparagraph
12 (vi) as added by chapter 173 of the laws of 1990, are amended to read as
13 follows:

14 (v) (a) [Operation of any motor vehicle after it has been placed out-
15 of-service] A DRIVER WHO IS CONVICTED OF VIOLATING AN OUT-OF-SERVICE
16 ORDER as provided for in the department's safety rules and regulations
17 shall [constitute] BE GUILTY OF a [misdemeanor and] TRAFFIC INFRACTION
18 WHICH shall be punishable by a fine of not less than [one] TWO thousand
19 FIVE HUNDRED dollars nor more than [two] FOUR thousand [five hundred]
20 dollars[, or by imprisonment for not more than ninety days, or by both
21 such fine and imprisonment] upon the first offense, and [upon being
22 found guilty of a second or subsequent offense within eighteen months]
23 by a fine of not less than [two] FIVE thousand [five hundred] dollars
24 nor more than [five] SIX thousand dollars [or by imprisonment for not
25 more than one hundred eighty days or by both such fine and imprisonment]
26 UPON BEING FOUND GUILTY OF A SECOND OR SUBSEQUENT OFFENSE.

27 (b) No person, corporation, limited liability company or business
28 entity, joint stock association, partnership, or any officer or agent
29 thereof, shall knowingly allow, require, permit or authorize any person
30 to operate a commercial motor vehicle as defined by section five hundred
31 one-a of the vehicle and traffic law during any period in which such
32 person [or], such commercial motor vehicle, OR SUCH MOTOR CARRIER OPERA-
33 TION has been placed out of service as provided for in the department's
34 safety rules and regulations and shall be subject to a fine of not less
35 than two thousand [five] SEVEN hundred FIFTY dollars and not more than
36 [ten] TWENTY-FIVE thousand dollars for any violation thereof.

37 (C) NO PERSON, CORPORATION, LIMITED LIABILITY COMPANY OR BUSINESS
38 ENTITY, JOINT STOCK ASSOCIATION, PARTNERSHIP, OR ANY OFFICER OR AGENT
39 THEREOF, SHALL KNOWINGLY ALLOW, REQUIRE, PERMIT OR AUTHORIZE ANY PERSON
40 TO OPERATE A COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION FIVE HUNDRED
41 ONE-A OF THE VEHICLE AND TRAFFIC LAW IN VIOLATION OF ANY FEDERAL, STATE
42 OR LOCAL LAWS OR REGULATIONS RELATED TO HIGHWAY-RAILROAD GRADE CROSSINGS
43 OR IN VIOLATION OF SECTION ELEVEN HUNDRED SEVENTY-ONE OR ELEVEN HUNDRED
44 SEVENTY-SIX OF THE VEHICLE AND TRAFFIC LAW AND, UPON CONVICTION THEREOF,
45 SHALL BE SUBJECT TO A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS FOR ANY
46 VIOLATION THEREOF.

47 (vi) If any person, corporation, company, association, joint stock
48 association, partnership, person or any officer or agent thereof, does
49 not appear in response to an appearance ticket or the court's direction,
50 or pay any fine imposed BY THE COURT OR A CIVIL PENALTY IMPOSED PURSUANT
51 TO THE PROVISIONS OF SECTION ONE HUNDRED FORTY-FIVE OF THIS ARTICLE, the
52 commissioner of motor vehicles shall have the power to suspend the
53 registration or privilege of operation of any vehicle operated or
54 alleged to have been operated in violation of the department's safety
55 rules and regulations.

1 S 10. This act shall take effect immediately, provided however,
2 sections seven and nine of this act shall take effect on the sixtieth
3 day after it shall have become a law.

4 PART L

5 Section 1. Subdivision 4 of section 502 of the vehicle and traffic law
6 is amended by adding a new paragraph (h) to read as follows:

7 (H) COURSE COMPLETION CERTIFICATE FEE. THE FEE FOR A COURSE
8 COMPLETION CERTIFICATE PROVIDED BY THE DEPARTMENT TO AN ENTITY THAT IS
9 APPROVED BY THE COMMISSIONER TO OFFER THE PRE-LICENSING COURSE, REQUIRED
10 BY THIS SUBDIVISION, FOR ISSUANCE BY SUCH ENTITY TO STUDENTS UPON THEIR
11 COMPLETION OF SUCH PRE-LICENSING COURSE SHALL BE ONE DOLLAR. SUCH FEE
12 SHALL BE PAID BY SUCH ENTITY AND SHALL NOT BE CHARGED TO A PERSON WHO
13 TAKES THE COURSE IN ANY MANNER.

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

16 PART M

17 Section 1. Subdivision (p) of section 406 of chapter 166 of the laws
18 of 1991, amending the tax law and other laws relating to taxes, as
19 amended by section 13 of part C of chapter 56 of the laws of 2007, is
20 amended to read as follows:

21 (p) The amendments to section 1809 of the vehicle and traffic law made
22 by sections three hundred thirty-seven and three hundred thirty-eight of
23 this act shall not apply to any offense committed prior to such effec-
24 tive date; provided, further, that section three hundred forty-one of
25 this act shall take effect immediately and shall expire November 1, 1993
26 at which time it shall be deemed repealed; sections three hundred
27 forty-five and three hundred forty-six of this act shall take effect
28 July 1, 1991; sections three hundred fifty-five, three hundred fifty-
29 six, three hundred fifty-seven and three hundred fifty-nine of this act
30 shall take effect immediately and shall expire June 30, 1995 and shall
31 revert to and be read as if this act had not been enacted; section three
32 hundred fifty-eight of this act shall take effect immediately and shall
33 expire June 30, 1998 and shall revert to and be read as if this act had
34 not been enacted; section three hundred sixty-four through three hundred
35 sixty-seven of this act shall apply to claims filed on or after such
36 effective date; sections three hundred sixty-nine, three hundred seven-
37 ty-two, three hundred seventy-three, three hundred seventy-four, three
38 hundred seventy-five and three hundred seventy-six of this act shall
39 remain in effect until September 1, [2009] 2011, at which time they
40 shall be deemed repealed; provided, however, that the mandatory
41 surcharge provided in section three hundred seventy-four of this act
42 shall apply to parking violations occurring on or after said effective
43 date; and provided further that the amendments made to section 235 of
44 the vehicle and traffic law by section three hundred seventy-two of this
45 act, the amendments made to section 1809 of the vehicle and traffic law
46 by sections three hundred thirty-seven and three hundred thirty-eight of
47 this act and the amendments made to section 215-a of the labor law by
48 section three hundred seventy-five of this act shall expire on September
49 1, [2009] 2011 and upon such date the provisions of such subdivisions
50 and sections shall revert to and be read as if the provisions of this
51 act had not been enacted; the amendments to subdivisions 2 and 3 of
52 section 400.05 of the penal law made by sections three hundred seventy-

1 seven and three hundred seventy-eight of this act shall expire on July
2 1, 1992 and upon such date the provisions of such subdivisions shall
3 revert and shall be read as if the provisions of this act had not been
4 enacted; the state board of law examiners shall take such action as is
5 necessary to assure that all applicants for examination for admission to
6 practice as an attorney and counsellor at law shall pay the increased
7 examination fee provided for by the amendment made to section 465 of the
8 judiciary law by section three hundred eighty of this act for any exam-
9 ination given on or after the effective date of this act notwithstanding
10 that an applicant for such examination may have prepaid a lesser fee for
11 such examination as required by the provisions of such section 465 as of
12 the date prior to the effective date of this act; the provisions of
13 section 306-a of the civil practice law and rules as added by section
14 three hundred eighty-one of this act shall apply to all actions pending
15 on or commenced on or after September 1, 1991, provided, however, that
16 for the purposes of this section service of such summons made prior to
17 such date shall be deemed to have been completed on September 1, 1991;
18 the provisions of section three hundred eighty-three of this act shall
19 apply to all money deposited in connection with a cash bail or a
20 partially secured bail bond on or after such effective date; and the
21 provisions of sections three hundred eighty-four and three hundred
22 eighty-five of this act shall apply only to jury service commenced
23 during a judicial term beginning on or after the effective date of this
24 act; provided, however, that nothing contained herein shall be deemed to
25 affect the application, qualification, expiration or repeal of any
26 provision of law amended by any section of this act and such provisions
27 shall be applied or qualified or shall expire or be deemed repealed in
28 the same manner, to the same extent and on the same date as the case may
29 be as otherwise provided by law;

30 S 2. Section 17 of chapter 746 of the laws of 1988 amending the vehi-
31 cle and traffic law, the general municipal law and the public officers
32 law, relating to the civil liability of vehicle owners for traffic
33 control signal violations, as amended by chapter 667 of the laws of
34 2004, is amended to read as follows:

35 S 17. This act shall take effect on the thirtieth day after it shall
36 have become a law and shall remain in full force and effect until
37 [December] SEPTEMBER 1, [2009] 2011 when upon such date the amendments
38 and provisions made by this act shall be deemed repealed; provided,
39 however, any such local laws as may be enacted pursuant to this act
40 shall remain in full force and effect only until the expiration on
41 [December] SEPTEMBER 1, [2009] 2011.

42 S 3. This act shall take effect immediately and shall be deemed to
43 have been in full force and effect on and after March 1, 2009.

44

PART N

45 Section 1. Subdivision 3 of section 502 of the vehicle and traffic
46 law, as amended by chapter 692 of the laws of 1985, is amended to read
47 as follows:

48 3. Application for learner's permit. An application for a learner's
49 permit shall be included in the application for a license. A learner's
50 permit shall be issued in such form as the commissioner shall determine
51 but shall not be issued unless the applicant has successfully passed the
52 vision test required by this section [and the test set forth in para-
53 graph (a) of subdivision four of this section with respect to laws
54 relating to traffic and ability to read and comprehend traffic signs and

1 symbols] and has satisfactorily completed any course required pursuant
2 to paragraph (a) of subdivision four of this section OR A DRIVER EDUCA-
3 TION COURSE APPROVED BY THE STATE EDUCATION DEPARTMENT AND THE COMMIS-
4 SIONER IN A HIGH SCHOOL OR COLLEGE WITHIN THE SIX MONTHS PRECEDING THE
5 APPLICATION FOR SUCH PERMIT. Upon acceptance of an application for a
6 learner's permit the commissioner shall provide the applicant with a
7 driver's manual which includes but is not limited to the laws relating
8 to traffic, the laws relating to and physiological effects of driving
9 while ability impaired and driving while intoxicated, explanations of
10 traffic signs and symbols and such other matters as the commissioner may
11 prescribe.

12 S 2. Subparagraph (i) of paragraph (a) of subdivision 4 of section 502
13 of the vehicle and traffic law, as amended by chapter 585 of the laws of
14 2002, is amended to read as follows:

15 (i) Upon submission of an application for a driver's license, the
16 applicant shall be required [to take and pass a test, or submit evidence
17 of passage of a test, with respect to the laws relating to traffic, the
18 laws relating to driving while ability is impaired and while intoxicat-
19 ed, under the overpowering influence of "Road Rage", or "Work Zone Safe-
20 ty" awareness as defined by the commissioner, the ability to read and
21 comprehend traffic signs and symbols and such other matters as the
22 commissioner may prescribe, and] to satisfactorily complete a course
23 prescribed by the commissioner of not less than four hours and not more
24 than five hours, consisting of classroom driver training and highway
25 safety instruction or the equivalent thereof OR A DRIVER EDUCATION
26 COURSE APPROVED BY THE STATE EDUCATION DEPARTMENT AND THE COMMISSIONER
27 IN A HIGH SCHOOL OR COLLEGE. [Such test shall include at least seven
28 written questions concerning the effects of consumption of alcohol or
29 drugs on the ability of a person to operate a motor vehicle and the
30 legal and financial consequences resulting from violations of section
31 eleven hundred ninety-two of this chapter, prohibiting the operation of
32 a motor vehicle while under the influence of alcohol or drugs. Such test
33 shall include one or more written questions concerning the devastating
34 effects of "Road Rage" on the ability of a person to operate a motor
35 vehicle and the legal and financial consequences resulting from assault-
36 ing, threatening or interfering with the lawful conduct of another
37 person legally using the roadway. Such test shall include one or more
38 questions concerning the potential dangers to persons and equipment
39 resulting from the unsafe operation of a motor vehicle in a work zone.
40 Such test shall be administered by the commissioner.] THE COMMISSIONER
41 MAY PRESCRIBE BY REGULATION THAT ANY PERSON WHO ENROLLS IN THE PRE-LI-
42 CENSING COURSE, REQUIRED BY THIS PARAGRAPH, OR A DRIVER EDUCATION COURSE
43 APPROVED BY THE STATE EDUCATION DEPARTMENT AND THE COMMISSIONER IN A
44 HIGH SCHOOL OR COLLEGE MUST COMPLETE A WRITTEN TEST PRIOR TO RECEIVING A
45 COURSE COMPLETION CERTIFICATE. The commissioner shall cause the appli-
46 cant to take a vision test and a test for color blindness. Upon passage
47 of the vision test, the application may be accepted and the application
48 fee shall be payable. NOTWITHSTANDING ANY OTHER PROVISION OF THIS
49 SECTION, AN APPLICANT FOR A COMMERCIAL DRIVER'S LICENSE, AS DEFINED IN
50 SUBDIVISION ONE OF SECTION FIVE HUNDRED ONE-A OF THIS ARTICLE, MUST PASS
51 A WRITTEN TEST, THE FORM AND CONTENT OF WHICH IS PRESCRIBED BY THE
52 COMMISSIONER, UNLESS SUCH APPLICANT IS THE HOLDER OF A VALID OR RENEWA-
53 BLE COMMERCIAL DRIVER'S LICENSE ISSUED BY ANOTHER JURISDICTION.

54 S 3. Paragraph (g) of subdivision 4 of section 502 of the vehicle and
55 traffic law is REPEALED.

1 S 4. Paragraph (a) of subdivision 2 of section 503 of the vehicle and
2 traffic law, as amended by chapter 55 of the laws of 1992, is amended to
3 read as follows:

4 (a) Initial application fee. The fee required for the initiation of
5 the licensing process by a person who does not hold a valid or renewable
6 license issued by the commissioner shall be ten dollars.

7 (i) [If application is made for any license other than a commercial
8 driver's license, such fee shall enable the applicant to take the know-
9 ledge test required for issuance of a learner's permit and driver's
10 license no more than twice.

11 (ii) (A)] If application is made for a commercial driver's license,
12 such fee shall enable the applicant to take the knowledge test required
13 for issuance of a learner's permit and driver's license once and also
14 take any knowledge test or tests required for any endorsement or
15 endorsements applied for which are taken at the same time.

16 [(B)] (II) The knowledge tests for such learner's permit, driver's
17 license or endorsements shall be available in both the English and Span-
18 ish language versions.

19 (iii) If an applicant FOR A COMMERCIAL DRIVER'S LICENSE fails [to
20 pass] the knowledge test required for issuance of a learner's permit [in
21 the number of times specified in subparagraph (i) or (ii) of this para-
22 graph] OR ANY ENDORSEMENT OR ENDORSEMENTS, a new application fee shall
23 be required.

24 S 5. Subparagraph (ii) of paragraph (b) of subdivision 2 of section
25 503 of the vehicle and traffic law, as amended by chapter 55 of the laws
26 of 1992, is amended to read as follows:

27 (ii) Upon [passage of the knowledge test required to obtain a
28 learner's permit] COMPLETION OF THE PRE-LICENSING COURSE REQUIRED PURSU-
29 ANT TO PARAGRAPH (A) OF SUBDIVISION FOUR OF SECTION FIVE HUNDRED TWO OF
30 THIS ARTICLE OR A DRIVER EDUCATION COURSE APPROVED BY THE STATE EDUCA-
31 TION DEPARTMENT AND THE COMMISSIONER IN A HIGH SCHOOL OR COLLEGE, the
32 applicant for a class C license which does not have an H, P or X
33 endorsement or a class E license shall be required to pay five dollars
34 for each six months or portion thereof of the period of validity of a
35 learner's permit or license which is or may be issued, and an applicant
36 for a class D, DJ, M or MJ license shall be required to pay two dollars
37 and fifty cents for each six months or portion thereof of the period of
38 validity of a learner's permit or license which is or may be issued. No
39 additional fee shall be required of any such applicant to take up to two
40 road tests. Such road test must be passed before a license will be
41 issued.

42 S 6. This act shall take effect on the ninetieth day after it shall
43 have become a law.

44

PART O

45 Section 1. Paragraph (e) of subdivision 3 of section 22-c of the state
46 finance law, as added by section 1 of part Z of chapter 62 of the laws
47 of 2006, subparagraph (vi) as amended by section 1 of part Q of chapter
48 61 of the laws of 2006, is amended to read as follows:

49 (e) A comprehensive financial report and plan for the dedicated high-
50 way and bridge trust fund established by section eighty-nine-b of this
51 chapter, which shall be submitted to the comptroller at the same time as
52 the plan is submitted to the legislature, and which shall include the
53 following information pertaining to the dedicated highway and bridge
54 trust fund separately stated for the last completed fiscal year, [the

1 completed quarters of] the current fiscal year and the next five fiscal
2 years UNLESS ANOTHER REPORT OR SUBMISSION DATE IS REQUIRED BY THIS
3 SECTION:

4 (i) a detailed description of all actual and projected revenues of the
5 dedicated highway and bridge trust fund, separately stating the amount
6 received or expected to be received from bond proceeds, and the amounts,
7 separately identified, received or expected to be received from taxes,
8 fees, transfers, or other sources;

9 (ii) a detailed description of [actual or proposed appropriations and
10 reappropriations from the dedicated highway and bridge trust fund, and
11 the] actual or planned disbursements [pursuant to such appropriations
12 and reappropriations] AND TRANSFERS FROM THE DEDICATED HIGHWAY AND
13 BRIDGE TRUST FUND, separately stating in the aggregate the amounts
14 [appropriated, reappropriated, and] disbursed OR TRANSFERRED OR PLANNED
15 TO BE DISBURSED OR TRANSFERRED for (A) debt service costs, (B) capital
16 project costs, (C) state operations costs, (D) costs of contracts for
17 engineering and similar or related services related to capital project
18 costs and state operations, and (E) the costs of state employees to
19 provide similar services on projects for which service contracts are not
20 expected to be used, and further separately stating the amounts of such
21 [debt service,] capital project and state operations costs [appropri-
22 ated, reappropriated, and] disbursed OR PLANNED TO BE DISBURSED for
23 personal service and non-personal service costs;

24 (iii) a detailed description of each capital project supported by the
25 dedicated highway and bridge trust fund for the completed prior year,
26 and the capital projects anticipated or available to be performed in
27 whole or in part in the next year including the information required by
28 paragraph (d) of this subdivision [together with the probable life of
29 the work as determined in accordance with section sixty-one of this
30 chapter]. SUCH DETAILED DESCRIPTION OF PROJECTS FUNDED OR TO BE FUNDED
31 BY THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND SHALL BE DEEMED SATISFIED
32 BY PROVIDING TO THE STATE COMPTROLLER THOSE REPORTS ON SUCH PROGRAMS AND
33 PROJECTS AS SHALL BE AGREED UPON BY THE GOVERNOR, THE MAJORITY LEADER OF
34 THE SENATE, AND THE SPEAKER OF THE ASSEMBLY. SUCH REPORTS SHALL BE
35 DELIVERED TO THE STATE COMPTROLLER IN SUCH FORM, AND AT SUCH TIMES, AS
36 REQUIRED BY SUCH AGREEMENT;

37 (iv) [for prior periods,] the bond coverage ratio on [a biennial] AN
38 ANNUAL basis, including the formula used to compute such ratio and the
39 source of that formula;

40 (v) an explanation of any deficit projected for the end of any fiscal
41 year covered by the plan stating whether the projected deficit is
42 expected to be caused by an imbalance between projected revenues and
43 projected expenditures, or by the timing of payments within a fiscal
44 year, or by other causes;

45 (vi) A DETAILED DESCRIPTION OF ACTUAL OR PROPOSED APPROPRIATIONS AND
46 REAPPROPRIATIONS FROM THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND, AND
47 THE ACTUAL OR PLANNED DISBURSEMENTS PURSUANT TO SUCH APPROPRIATIONS AND
48 REAPPROPRIATIONS;

49 (VII) an explanation of any actions proposed to be taken to achieve
50 increased opportunity for meaningful participation in the performance of
51 state contracts by minority and women-owned business enterprises in
52 accordance with article fifteen-A of the executive law, including a
53 compliance report to be submitted by July first of each year commencing
54 with the two thousand five--two thousand six fiscal year and for each
55 subsequent year thereafter that includes: all the items of information
56 required in accordance with regulations promulgated by the director of

1 the division of minority and women's business development in the depart-
2 ment of economic development under article fifteen-A of the executive
3 law; goals for participation by certified minority or women-owned busi-
4 ness enterprises for such fiscal year; and a description of the types of
5 expenditures, projects or contracts; and

6 [(vii)] (VIII) such other information as shall be necessary to present
7 a full and accurate description of the financial position of the dedi-
8 cated highway and bridge trust fund.

9 S 2. Subdivision 2 of section 24 of the state finance law, as amended
10 by section 3 of part Z of chapter 62 of the laws of 2006, is amended to
11 read as follows:

12 2. (a) On or after January first, nineteen hundred eighty-four, no
13 budget bill submitted by the governor may include any proposed appropri-
14 ation or reappropriation for any capital project which is not included
15 in the capital plan presented as part of the budget submitted pursuant
16 to section twenty-two of this article. Each proposed appropriation or
17 reappropriation for a capital project shall bear the capital plan
18 project reference number or numbers to which it shall pertain, and shall
19 be classified into the same category as the associated capital project
20 or projects have been classified in such capital plan. Reappropriations
21 of appropriations effective for fiscal years beginning prior to April
22 first, nineteen hundred eighty-four may be presented by the categories
23 of appropriation contained in the bill originally enacting such appro-
24 priation.

25 (b) On or after January first, two thousand [seven] TEN, any budget
26 bill submitted by the governor containing a proposed appropriation [or
27 reappropriation] from the dedicated highway and bridge trust fund shall
28 be itemized to show the following information for each such appropri-
29 ation [or reappropriation]:

30 (i) each amount appropriated [or reappropriated] from the dedicated
31 highway and bridge trust fund for capital purposes;

32 (ii) [the amount of each such appropriation or reappropriation to be
33 financed by pay-as-you-go moneys, as defined in paragraph (c) of subdi-
34 vision one of section twenty-two-c of this article;

35 (iii)] the amount of each such appropriation [or reappropriation] to
36 be used for personal service expenses; AND

37 [(iv)] (III) the amount of each such appropriation [or reappropri-
38 ation] to be used for non-personal service expenses[; and

39 (v) the citation of the statutory provision authorizing the use of the
40 dedicated highway and bridge trust fund for such capital project or
41 other purpose].

42 S 3. Subdivision 6 of section 89-b of the state finance law, as
43 amended by section 4 of part Z of chapter 62 of the laws of 2006, is
44 amended to read as follows:

45 6. All payments of moneys from the dedicated highway and bridge trust
46 fund shall be made on audit and warrant of the comptroller. Not later
47 than [ten] TWENTY days after the end of each calendar quarter, the comp-
48 troller shall submit to the director of the budget and the chairpersons
49 of the fiscal committees of the legislature a report showing the amount
50 of receipts identified as bond proceeds and the amounts, separately
51 identified, received from taxes, fees, transfers, or other sources, and
52 the amounts disbursed from the dedicated highway and bridge trust fund
53 for state operations, capital projects and transfers to other funds.
54 [Not later than thirty days after receiving such report, the director of
55 the budget shall submit to the comptroller and the chairpersons of the
56 fiscal committees of the legislature a detailed report identifying the

1 amount of the previous quarter's disbursements that will be financed
 2 with state or public authority bond proceeds, taxes, fees, transfers, or
 3 other available sources.]
 4 S 4. This act shall take effect immediately.

5 PART P

6 Section 1. Section 13 of part U1 of chapter 62 of the laws of 2003
 7 amending the general business law and other laws relating to implement-
 8 ing the state fiscal plan for the 2003-2004 state fiscal year, as
 9 amended by section 1-b of part A of chapter 63 of the laws of 2005, is
 10 amended to read as follows:

11 S 13. This act shall take effect immediately[; provided however that
 12 sections one through nine of this act shall expire and be deemed
 13 repealed on March 31, 2010; provided further, however, that the
 14 provisions of section eleven of this act shall take effect April 1, 2004
 15 and shall expire and be deemed repealed on March 31, 2010].

16 S 2. This act shall take effect immediately, and shall be deemed to
 17 have been in full force and effect on and after March 1, 2009.

18 PART Q

19 Section 1. Section 39 of the agriculture and markets law, as amended
 20 by chapter 189 of the laws of 2008, is amended to read as follows:

21 S 39. Penalties for violation of chapter or other laws. Every person
 22 violating any of the provisions of this chapter, or of any other law the
 23 enforcement of which is within the jurisdiction of the department shall,
 24 except where other penalties are hereinafter prescribed, be subject to a
 25 penalty in the sum of not more than [three hundred] ONE THOUSAND dollars
 26 for the first violation, nor more than [six hundred] TWO THOUSAND
 27 dollars for the second and each subsequent violation and provided
 28 further, however, that for a violation of subdivision thirteen or
 29 fifteen of section two hundred of this chapter, the minimum penalty
 30 shall be five hundred dollars and the maximum penalty shall be one thou-
 31 sand dollars and that for the second and subsequent offenses such person
 32 may also be subject to an administrative order suspending the manufac-
 33 ture and/or sale of such confectionery for a period of time up to three
 34 months for each such violation. When such violation consists of the
 35 manufacture or production of any prohibited article, each day during
 36 which or any part of which such manufacture or production is carried on
 37 or continued, shall be deemed a separate violation. When the violation
 38 consists of the sale, or the offering or exposing for sale or exchange
 39 of any prohibited article or substance, the sale of each one of several
 40 packages shall constitute a separate violation, and each day on which
 41 any such article or substance is offered or exposed for sale or exchange
 42 shall constitute a separate violation. If the sale be of milk and it be
 43 in cans, bottles or containers of any kind and if the milk in any one of
 44 such containers be adulterated, it shall be deemed a violation whether
 45 such vendor be selling all the milk in all of his containers to one
 46 person or not. When the use of any such article or substance is prohib-
 47 ited, each day during which or any part of which such article or
 48 substance is so used or furnished for use, shall constitute a separate
 49 violation, and the furnishing of the same for use to each person to whom
 50 the same may be furnished shall constitute a separate violation. When
 51 the storage of any article is prohibited beyond a certain period, each
 52 day during which or any part of which any article is so stored beyond

1 the period provided for by this chapter, shall constitute a separate
2 violation. A right of action for the recovery of, or a liability for,
3 penalties incurred as provided in this chapter, or in any other law the
4 enforcement of which is within the jurisdiction of the department, may
5 be released, settled or compromised before the matter is referred to the
6 attorney general as provided in section forty-four of this article, and
7 thereafter may be released, settled or compromised by the attorney
8 general, either before or after an action is brought to recover such
9 penalties.

10 S 2. Section 40 of the agriculture and markets law, as amended by
11 chapter 55 of the laws of 1992, is amended to read as follows:

12 S 40. Penalty for violation of rule or order. [1.] Every person,
13 association or corporation and all agents, officers and employees there-
14 of, shall obey every order made as provided in this chapter, so long as
15 such order shall be in force. A person, association or corporation who
16 shall fail by himself, itself or through his or its agents, officers and
17 employees, to obey any order of the commissioner, or who shall violate
18 any rule of the department shall be subject to a penalty not exceeding
19 the sum of [two hundred] ONE THOUSAND dollars for each and every first
20 offense, and a penalty not exceeding the sum of [four hundred] TWO THOU-
21 SAND dollars for a second and each subsequent offense. Every violation
22 of such order, or of the rules of the department, shall be a separate
23 and distinct offense, and in case of a continuing violation, every day's
24 continuance thereof shall be a separate and distinct offense.

25 S 3. This act shall take effect immediately.

26

PART R

27 Section 1. Section 159-i of the executive law, as amended by section
28 1 of part R of chapter 59 of the laws of 2008, is amended to read as
29 follows:

30 S 159-i. Distribution of funds. For federal fiscal year two thousand
31 [nine] TEN at least ninety percent of the community services block grant
32 funds received by the state shall be distributed pursuant to a contract
33 by the secretary to grantees as defined in subdivision one of section
34 one hundred fifty-nine-e of this article. Each such grantee shall
35 receive the same proportion of community services block grant funds as
36 was the proportion of funds received in federal fiscal year nineteen
37 hundred eighty-one by such grantee under the federal community services
38 administration program account numbers 01 and 05 pursuant to section two
39 hundred twenty-one of title II and for migrant and seasonal farm worker
40 organizations pursuant to section two hundred twenty-two of title II of
41 the economic opportunity act of 1964, as amended, as compared to the
42 total amount received by all grantees in the state, under the federal
43 community services administration program account numbers 01 and 05
44 pursuant to section two hundred twenty-one of title II and for migrant
45 and seasonal farm worker organizations pursuant to section two hundred
46 twenty-two of title II of such act in federal fiscal year nineteen
47 hundred eighty-one.

48 For federal fiscal year two thousand [nine] TEN the secretary shall,
49 pursuant to section one hundred fifty-nine-h of this article, retain not
50 more than five percent of the community services block grant funds for
51 administration at the state level.

52 For federal fiscal year two thousand [nine] TEN the remainder of the
53 community services block grant funds received by the state shall be
54 distributed pursuant to a contract by the secretary in the following

1 order of preference: a sum of up to one-half of one percent of the
2 community services block grant funds received by the state to Indian
3 tribes and tribal organizations as defined in this article, on the basis
4 of need; community action agencies established in federal fiscal year
5 nineteen hundred eighty-three; counties which do not have a community
6 action agency in existence and seek to establish an organization which
7 is consistent with the objectives of an eligible entity; limited purpose
8 agencies which had received funding during federal fiscal year nineteen
9 hundred eighty-one under section two hundred twenty-one, section two
10 hundred twenty-two(a)(4) or section two hundred thirty-two of title II
11 of the economic opportunity act of 1964, as amended; and community based
12 organizations.

13 S 2. Section 5 of chapter 728 of the laws of 1982, amending the execu-
14 tive law relating to the community services block grant program, as
15 amended by section 2 of part R of chapter 59 of the laws of 2008, is
16 amended to read as follows:

17 S 5. This act shall take effect immediately provided, however, that
18 section four hereof shall take effect October 1, 1982 and provided
19 further, however, that the provisions of sections two, three and four of
20 this act shall be in full force and effect only until September 30, 1983
21 and section one of this act shall be in full force and effect until
22 September 30, [2009] 2010, provided, however, that the distribution of
23 funds pursuant to section 159-i of the executive law shall be limited to
24 the federal fiscal year expressly set forth in such section.

25 S 3. Section 7 of chapter 710 of the laws of 1983, amending the execu-
26 tive law relating to the community services block grant program, as
27 amended by section 3 of part R of chapter 59 of the laws of 2008, is
28 amended to read as follows:

29 S 7. This act shall take effect September 30, 1983 and shall be in
30 full force and effect only until September 30, [2009] 2010 at which time
31 the amendments and additions made pursuant to the provisions of this act
32 shall be deemed to be repealed, provided, however, that the distribution
33 of funds pursuant to section 159-i of the executive law shall be limited
34 to the federal fiscal year expressly set forth in such section.

35 S 4. This act shall take effect September 30, 2009; provided, however,
36 that the amendments to section 159-i of the executive law made by
37 section one of this act shall not affect the expiration of such section
38 as provided in section 5 of chapter 728 of the laws of 1982, as amended,
39 and section 7 of chapter 710 of the laws of 1983, as amended, and shall
40 be deemed to expire therewith.

41

PART S

42 Section 1. Subdivision 3 of section 409 of the general business law,
43 as amended by section 9 of part B of chapter 411 of the laws of 1999, is
44 amended to read as follows:

45 3. The secretary shall receive a non-refundable examination fee of
46 [fifteen] SEVENTY-FIVE dollars from each person who takes a written OR
47 PRACTICAL examination pursuant to this article. Fees collected pursuant
48 to this article shall be deposited to the credit of the business and
49 licensing services account established pursuant to the provisions of
50 section ninety-seven-y of the state finance law.

51 S 2. Subdivision 5 of section 69-o of the general business law, as
52 amended by chapter 575 of the laws of 1993, is amended to read as
53 follows:

1 5. There shall be an examination fee of [fifteen] SEVENTY-FIVE
2 dollars.

3 S 3. Subdivision 2 of section 69-r of the general business law, as
4 amended by chapter 575 of the laws of 1993, is amended to read as
5 follows:

6 2. The fee for taking an examination under this article shall be
7 [fifteen] SEVENTY-FIVE dollars; provided, however, that if the applicant
8 qualifies for a license as the result of such examination, the fee paid
9 for the privilege of taking such examination shall be included in the
10 license fee for the license issued to him thereon.

11 S 4. Paragraph b of subdivision 1 of section 160-f of the executive
12 law, as amended by chapter 397 of the laws of 1991, is amended to read
13 as follows:

14 b. An examination fee of [fifty dollars] SUCH REASONABLE AMOUNT AS THE
15 SECRETARY OF STATE SHALL PRESCRIBE.

16 S 5. Subdivision 3 of section 440 of the general business law, as
17 amended by chapter 61 of the laws of 1989, is amended to read as
18 follows:

19 3. The fee for taking a written or practical examination under this
20 article shall be [fifteen] SEVENTY-FIVE dollars.

21 S 6. Subdivision 1 of section 797 of the general business law, as
22 added by chapter 599 of the laws of 1998, is amended to read as follows:

23 1. a nonrefundable fee of [fifty] SEVENTY-FIVE dollars from each
24 person who takes the required examination or any component thereof
25 pursuant to this article;

26 S 7. Subdivision 2 of section 444-f of the real property law, as
27 amended by chapter 225 of the laws of 2005, is amended to read as
28 follows:

29 2. The secretary shall collect a fee of two hundred fifty dollars for
30 the first application for a license and the license as a home inspector.
31 The secretary shall collect a fee of one hundred dollars to renew a home
32 inspector license. The secretary shall collect an examination fee of
33 [fifty] SEVENTY-FIVE dollars. All fees and any fines imposed by the
34 secretary pursuant to this article shall be deposited in the business
35 and licensing services account established pursuant to section ninety-
36 seven-y of the state finance law.

37 S 8. Paragraph (c) of subdivision 1 of section 74 of the general busi-
38 ness law, as amended by chapter 562 of the laws of 2000, is amended to
39 read as follows:

40 (c) The secretary of state shall receive a non-refundable examination
41 fee of [fifteen] SEVENTY-FIVE dollars from each person who takes an
42 examination to qualify for application for licensure pursuant to this
43 article. Fees paid to the department of state pursuant to this article
44 shall be deposited in the business and licensing services account estab-
45 lished pursuant to section ninety-seven-y of the state finance law.

46 S 9. Subdivision 12 of section 131 of the executive law is REPEALED
47 and a new subdivision 12 is added to read as follows:

48 12. THE SECRETARY OF STATE SHALL RECEIVE A NON-REFUNDABLE EXAMINATION
49 FEE OF SEVENTY-FIVE DOLLARS FROM EACH PERSON WHO TAKES AN EXAMINATION TO
50 QUALIFY FOR APPLICATION FOR A COMMISSION AS A NOTARY PUBLIC PURSUANT TO
51 THIS ARTICLE.

52 S 10. Subdivision 1-A of section 441-b of the real property law, as
53 amended by section 12 of part B of chapter 411 of the laws of 1999, is
54 amended to read as follows:

55 1-A. The fee for a person to take an examination offered by the secre-
56 tary of state pursuant to this article shall be [fifteen dollars] SEVEN-

1 TY-FIVE DOLLARS FOR REAL ESTATE SALESPERSONS AND ONE HUNDRED TWENTY-FIVE
 2 DOLLARS FOR REAL ESTATE BROKERS AND ASSOCIATE BROKERS. Fees collected by
 3 the department of state pursuant to this article shall be deposited to
 4 the credit of the business and licensing services account established
 5 pursuant to section ninety-seven-y of the state finance law.
 6 S 11. This act shall take effect immediately.

7 PART T

8 Section 1. Section 1421 of the tax law, as amended by chapter 258 of
 9 the laws of 2007, is amended to read as follows:

10 S 1421. Deposit and dispositions of revenues. From the taxes, interest
 11 and penalties attributable to the tax imposed pursuant to section four-
 12 teen hundred two of this article, the amount of thirty-three and one-
 13 half million dollars shall be deposited by the comptroller in the envi-
 14 ronmental protection fund established pursuant to section ninety-two-s
 15 of the state finance law for the fiscal year beginning April first,
 16 nineteen hundred ninety-five; the amount of eighty-seven million dollars
 17 shall be deposited in such fund for the fiscal years beginning April
 18 first, nineteen hundred ninety-six and nineteen hundred ninety-seven;
 19 the amount of one hundred twelve million dollars shall be deposited in
 20 such fund for the fiscal years beginning April first, nineteen hundred
 21 ninety-eight, nineteen hundred ninety-nine, two thousand, two thousand
 22 one, two thousand two, two thousand three, two thousand four and two
 23 thousand five; the amount of one hundred thirty-seven million dollars
 24 shall be deposited in such fund for the fiscal year beginning April
 25 first, two thousand six; the amount of two hundred twelve million
 26 dollars shall be deposited in such fund for the fiscal year beginning
 27 April first, two thousand seven; the amount of two hundred thirty-seven
 28 million dollars shall be deposited in such fund for the fiscal year
 29 beginning April first, two thousand eight; and the amount of [two
 30 hundred eighty-seven] EIGHTY million dollars shall be deposited in such
 31 fund for the fiscal year beginning April first, two thousand nine and
 32 for each fiscal year thereafter; provided however that at the direction
 33 of the director of the budget, an additional amount of up to twenty-five
 34 million dollars may be deposited in such fund for the fiscal year begin-
 35 ning April first, two thousand seven and ending March thirty-first, two
 36 thousand eight, for disposition as provided under such section. On or
 37 before June twelfth, nineteen hundred ninety-five and on or before the
 38 twelfth day of each month thereafter (excepting the first and second
 39 months of each fiscal year), the comptroller shall deposit into such
 40 fund from the taxes, interest and penalties collected pursuant to such
 41 section fourteen hundred two of this article which have been deposited
 42 and remain to the comptroller's credit in the banks, banking houses or
 43 trust companies referred to in section one hundred seventy-one-a of this
 44 chapter at the close of business on the last day of the preceding month,
 45 an amount equal to one-tenth of the annual amount required to be depos-
 46 ited in such fund pursuant to this section for the fiscal year in which
 47 such deposit is required to be made. In the event such amount of taxes,
 48 interest and penalties so remaining to the comptroller's credit is less
 49 than the amount required to be deposited in such fund by the comp-
 50 troller, an amount equal to the shortfall shall be deposited in such
 51 fund by the comptroller with subsequent deposits, as soon as the revenue
 52 is available. Beginning April first, nineteen hundred ninety-seven, the
 53 comptroller shall transfer monthly to the clean water/clean air fund
 54 established pursuant to section ninety-seven-bbb of the state finance

1 law, all moneys remaining from such taxes, interest and penalties
2 collected that are not required for deposit in the environmental
3 protection fund.

4 S 2. This act shall take effect immediately.

5 PART U

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

10 S 2. This act shall take effect immediately and shall be deemed to
11 have been in full force and effect on and after March 1, 2009.

12 PART V

13 Section 1. The racing, pari-mutuel wagering and breeding law is
14 amended by adding a new section 112 to read as follows:

15 S 112. FEE FOR THE ENTRY OF A HORSE IN NEW YORK STATE PARI-MUTUEL
16 RACES. 1. IN ORDER TO PROVIDE SUPPLEMENTAL FUNDING TO SUPPORT THE OPER-
17 ATIONS OF THE STATE RACING AND WAGERING BOARD, A FEE IN THE AMOUNT OF
18 TEN DOLLARS PER HORSE ENTERED IN A PARI-MUTUEL RACE IN NEW YORK STATE
19 SHALL BE ASSESSED AND PAID. THE STATE RACING AND WAGERING BOARD SHALL,
20 AS A CONDITION OF RACING, REQUIRE ANY CORPORATION AUTHORIZED UNDER THIS
21 CHAPTER TO CONDUCT PARI-MUTUEL BETTING AT A RACE MEETING OR RACES RUN
22 THEREAT, TO REQUIRE THAT EACH OWNER RACING A HORSE SHALL HAVE PLACED ON
23 DEPOSIT AT THE TIME OF ENTRY WITH THE HORSEMEN'S BOOKKEEPER OR SIMILAR
24 OFFICE OF SUCH CORPORATION THE REQUIRED FEE IN THE AMOUNT OF TEN DOLLARS
25 PER HORSE ENTERED IN A PARI-MUTUEL RACE. ALL AMOUNTS COLLECTED BY THE
26 HORSEMEN'S BOOKKEEPER OR SIMILAR OFFICE OF SUCH CORPORATIONS SHALL BE
27 PAID TO THE RACING AND WAGERING BOARD BY SUCH CORPORATIONS ON THE FIRST
28 BUSINESS DAY OF EACH MONTH AND SHALL INCLUDE ALL FEES FOR THE IMMEDIATE
29 PRIOR MONTH. PAYMENT SHALL BE ACCOMPANIED BY A REPORT, UNDER OATH, SHOW-
30 ING SUCH INFORMATION AS THE BOARD MAY REQUIRE. A PENALTY OF FIVE
31 PERCENT, AND INTEREST AT THE RATE OF ONE PERCENT PER MONTH FROM THE DATE
32 THE REPORT IS REQUIRED TO BE FILED TO THE DATE OF THE PAYMENT OF THE
33 FEE, SHALL BE PAYABLE IN CASE ANY FEE IMPOSED BY THIS SUBDIVISION IS NOT
34 PAID WHEN DUE. IF THE BOARD DETERMINES THAT ANY FEES RECEIVED BY IT
35 UNDER THIS SUBDIVISION WERE PAID IN ERROR, THE BOARD MAY CAUSE THE SAME
36 TO BE REFUNDED WITHOUT INTEREST OUT OF ANY MONIES COLLECTED HEREUNDER,
37 PROVIDED AN APPLICATION THEREFOR IS FILED WITH THE BOARD WITHIN ONE YEAR
38 FROM THE TIME THE ERRONEOUS PAYMENT IS MADE.

39 2. THE BOARD OR ITS DULY AUTHORIZED REPRESENTATIVES SHALL HAVE THE
40 POWER TO EXAMINE OR CAUSE TO BE EXAMINED THE BOOKS AND RECORDS OF SUCH
41 CORPORATIONS REQUIRED TO PAY OVER THE FEE IMPOSED BY THIS SUBDIVISION
42 FOR THE PURPOSE OF EXAMINING AND CHECKING THE SAME AND ASCERTAINING
43 WHETHER THE PROPER AMOUNT OR AMOUNTS DUE ARE BEING PAID. IF IN THE OPIN-
44 ION OF THE BOARD, AFTER SUCH EXAMINATION, ANY SUCH REPORT IS INCORRECT,
45 THE BOARD IS AUTHORIZED TO ISSUE AN ASSESSMENT FIXING THE CORRECT AMOUNT
46 OF SUCH FEE. SUCH ASSESSMENTS MAY BE ISSUED WITHIN THREE YEARS FROM THE
47 FILING OF ANY REPORT. ANY SUCH ASSESSMENT SHALL BE FINAL AND CONCLUSIVE
48 UNLESS AN APPLICATION FOR A HEARING IS FILED BY THE REPORTING ENTITY
49 WITHIN THIRTY DAYS OF THE ASSESSMENT. THE ACTION OF THE BOARD IN MAKING
50 SUCH FINAL ASSESSMENT SHALL BE REVIEWABLE IN THE SUPREME COURT IN THE
51 MANNER PROVIDED BY AND SUBJECT TO THE PROVISIONS OF ARTICLE
52 SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

1 3. THE RACING AND WAGERING BOARD SHALL PAY INTO THE RACING REGULATION
2 ACCOUNT, UNDER THE JOINT CUSTODY OF THE COMPTROLLER AND THE BOARD, THE
3 TOTAL AMOUNT OF THE FEES COLLECTED PURSUANT TO THIS SUBDIVISION. WITH
4 THE APPROVAL OF THE DIRECTOR OF THE BUDGET, MONIES TO BE UTILIZED TO PAY
5 THE COSTS AND EXPENSES OF THE OPERATIONS OF THE STATE RACING AND WAGER-
6 ING BOARD SHALL BE PAID OUT OF SUCH ACCOUNT ON THE AUDIT AND WARRANT OF
7 THE COMPTROLLER ON VOUCHERS, CERTIFIED AND APPROVED BY THE DIRECTOR OF
8 THE DIVISION OF THE BUDGET OR HIS OR HER DULY DESIGNATED OFFICIAL.
9 S 2. This act shall take effect on the thirtieth day after it shall
10 have become a law.

11 PART W

12 Section 1. Paragraph 1 of subsection (c) of section 109 of the insur-
13 ance law is amended to read as follows:

14 (1) If the superintendent finds after notice and hearing that any
15 authorized insurer, representative of [such] THE insurer, licensed
16 insurance agent, licensed insurance broker [or], licensed adjuster, OR
17 ANY OTHER PERSON OR ENTITY LICENSED, CERTIFIED, REGISTERED, OR AUTHOR-
18 IZED PURSUANT TO THIS CHAPTER, has wilfully violated the provisions of
19 this chapter[, he] OR ANY REGULATION PROMULGATED THEREUNDER, THEN THE
20 SUPERINTENDENT may order [such insurer, representative, agent, broker,
21 or adjuster, as the case may be,] THE PERSON OR ENTITY, EXCEPT FOR THOSE
22 PERSONS OR ENTITIES LICENSED PURSUANT TO ARTICLES TWENTY-ONE OR
23 SIXTY-EIGHT OF THIS CHAPTER, to pay to the people of this state a penal-
24 ty in a sum not exceeding [five hundred] TEN THOUSAND dollars for each
25 [such] offense. THE SUPERINTENDENT MAY ORDER ANY PERSON OR ENTITY
26 LICENSED PURSUANT TO ARTICLES TWENTY-ONE OR SIXTY-EIGHT OF THIS CHAPTER
27 TO PAY TO THE PEOPLE OF THIS STATE A PENALTY IN A SUM NOT EXCEEDING TWO
28 THOUSAND FIVE HUNDRED DOLLARS FOR EACH OFFENSE.

29 S 2. Subsection (b) of section 304 of the insurance law, as amended by
30 chapter 635 of the laws of 1996, is amended to read as follows:

31 (b) The person conducting such hearing shall have power to administer
32 oaths, examine and cross-examine witnesses and receive documentary
33 evidence, and shall report his OR HER findings, orally or in writing, to
34 the superintendent with or without recommendation. [Such] THE report,
35 if adopted by the superintendent or by [his] THE SUPERINTENDENT'S
36 authority may be the basis of any determination made by the superinten-
37 dent or by [his] THE SUPERINTENDENT'S authority. One hundred twenty days
38 after the effective date of a determination of liability for a civil
39 penalty pursuant to [section four hundred three, two thousand one
40 hundred two or two thousand one hundred thirty-three of] this chapter,
41 [such] THE determination of liability for a civil penalty may be entered
42 as a judgment and enforced, without court proceedings, in the same
43 manner as the enforcement of a money judgment in civil actions in any
44 court of competent jurisdiction or any other place provided for the
45 entry of civil judgment within the state of New York.

46 S 3. Section 304 of the insurance law is amended by adding a new
47 subsection (f) to read as follows:

48 (F) THE SUPERINTENDENT MAY IMPOSE A PENALTY AFTER NOTICE AND A HEARING
49 WHENEVER ANY PROVISION OF THIS CHAPTER SETS FORTH A CIVIL PENALTY.

50 S 4. Paragraph 4 of subsection (a) of section 307 of the insurance law
51 is amended to read as follows:

52 (4) Every insurer and every fraternal benefit society [which] THAT is
53 authorized to do an insurance business in this state, and every pension
54 fund, retirement system or state fund [which] THAT is required by any

1 law of this state to report to the superintendent, [which] THAT willful-
2 ly fails to file an annual statement as required in this section, or
3 willfully fails to reply within thirty days to a written inquiry by the
4 superintendent in connection therewith, shall, in addition to other
5 penalties provided by this chapter, be subject, upon due notice and
6 opportunity to be heard, to a penalty of up to [two hundred fifty] ONE
7 THOUSAND dollars per day of delay[, not to exceed twenty-five thousand
8 dollars in the aggregate,] for each such failure.

9 S 5. Subsection (a) of section 308 of the insurance law, as amended by
10 chapter 11 of the laws of 2008, is amended to read as follows:

11 (a) The superintendent may also address to any health maintenance
12 organization, any authorized insurer or rate service organization, or
13 officers thereof, any inquiry in relation to its transactions or condi-
14 tion or any matter connected therewith. Every corporation or person so
15 addressed shall reply in writing to [such] THE inquiry promptly and
16 truthfully, and [such] THE reply shall be, if required by the super-
17 intendent, subscribed by [such] THE individual, or by [such] THE officer
18 or officers of a corporation, as [he] THE INDIVIDUAL shall designate,
19 and affirmed by them as true under the penalties of perjury. In the
20 event any corporation or person does not provide a good faith response
21 to an inquiry from the superintendent pursuant to this section [relating
22 to accident insurance, health insurance, accident and health insurance
23 or health maintenance organization coverage], within a time period spec-
24 ified by the superintendent of not less than fifteen business days, the
25 superintendent is authorized to levy a civil penalty, after notice and
26 hearing, against such corporation or person not to exceed [five hundred]
27 ONE THOUSAND dollars per day for each day beyond the date specified by
28 the superintendent for response[, but in no event shall such penalty
29 exceed seven thousand five hundred dollars].

30 S 6. Section 317 of the insurance law, as amended by chapter 509 of
31 the laws of 1998, is amended to read as follows:

32 S 317. Compliance with reporting requirements of the financial securi-
33 ty act. Insurers licensed to write personal injury liability insurance
34 in connection with the ownership, maintenance or use of motor vehicles,
35 as authorized pursuant to paragraph thirteen of subsection (a) of
36 section one thousand one hundred thirteen of this chapter, shall fully
37 comply with the reporting requirements of article six of the vehicle and
38 traffic law. In the event that an insurer fails to timely and properly
39 report any of the information required by [such] THE article or the
40 regulations of the commissioner of motor vehicles promulgated there-
41 under, the superintendent, upon notice and an opportunity to be heard,
42 is authorized to impose a fine on [such] THE insurer in an amount not to
43 exceed [five hundred] ONE THOUSAND dollars for each failure to timely
44 and properly report. In the event of a persistent and willful violation
45 of the reporting requirements, the superintendent, upon notice and an
46 opportunity to be heard, is authorized to impose a fine on [such] THE
47 insurer, in an amount not to exceed [five] TEN thousand dollars per day
48 for each day [such] THAT THE violation continues.

49 S 7. Subsection (a) of section 1102 of the insurance law is amended to
50 read as follows:

51 (a) No person, firm, association, corporation or joint-stock company
52 shall do an insurance business in this state unless authorized by a
53 license in force pursuant to the provisions of this chapter, or exempted
54 by the provisions of this chapter from such requirement. Any person,
55 firm, association, corporation or joint-stock company [which] THAT tran-
56 sacts any insurance business in this state while not authorized to do so

1 by a license issued and in force pursuant to this chapter, or exempted
2 by this chapter from the requirement of having such license, shall, in
3 addition to any other penalty provided by law, forfeit to the people of
4 this state [the] A sum [of one] NOT EXCEEDING TEN thousand dollars for
5 the first violation and [two] TWENTY-FIVE thousand [five hundred]
6 dollars for each subsequent violation.

7 S 8. Paragraph 4 of subsection (a) of section 1510 of the insurance
8 law, as amended by chapter 805 of the laws of 1984, is amended to read
9 as follows:

10 (4) direct that, in addition to any other penalty provided by law,
11 such person forfeit to the people of this state a sum not exceeding five
12 [hundred] THOUSAND dollars for a first violation and [two] TWELVE thou-
13 sand five hundred dollars for any subsequent violation. An additional
14 sum not exceeding [two] TWELVE thousand five hundred dollars shall be
15 imposed for each month during which any such violation shall continue.

16 S 9. Paragraph 2 of subsection (a) of section 2102 of the insurance
17 law is amended to read as follows:

18 (2) Any person, firm, association or corporation who or [which] THAT
19 acts [as a reinsurance intermediary] WITHOUT A LICENSE in violation of
20 paragraph one [hereof] OF THIS SUBSECTION, OR OF SUBSECTION (B) OR (C)
21 OF THIS SECTION, shall, in addition to other penalties prescribed by
22 law, be subject to a penalty not to exceed [five] TEN thousand dollars
23 for each transaction.

24 S 10. Paragraph 9 of subsection (a) of section 2110 of the insurance
25 law, as amended by chapter 687 of the laws of 2003, is amended to read
26 as follows:

27 (9) had an insurance producer license, or its equivalent, denied,
28 suspended or revoked in any other [state, province, district or territo-
29 ry] JURISDICTION;

30 S 11. Paragraph 1 of subsection (e) of section 2110 of the insurance
31 law, as amended by chapter 687 of the laws of 2003, is amended to read
32 as follows:

33 (1) No individual, corporation, firm or association whose license as
34 an insurance producer or other licensee subject to subsection (a) of
35 this section has been revoked, and no firm or association of which
36 [such] THE individual is a member, and no corporation of which [such]
37 THE individual is an officer or director, shall be entitled to obtain
38 any license under the provisions of this chapter for a period of [one
39 year] THREE YEARS after [such] THE revocation, or, if [such] THE revo-
40 cation [be] IS judicially reviewed, for [one year] THREE YEARS after the
41 final determination thereof affirming the action of the superintendent
42 in revoking [such] THE license.

43 S 12. Subsection (g) of section 2117 of the insurance law is amended
44 to read as follows:

45 (g) Any person, firm, association or corporation violating any
46 provision of this section shall, in addition to any other penalty
47 provided by law, forfeit to the people of the state [the] A sum [of five
48 hundred] NOT EXCEEDING TEN THOUSAND dollars for the first offense, and
49 [an additional sum of five hundred] TEN THOUSAND dollars for each [month
50 during which any such person, firm, association or corporation shall
51 continue to act in violation of this section] SUBSEQUENT OFFENSE.

52 S 13. Subsection (a) of section 2127 of the insurance law is amended
53 to read as follows:

54 (a) The superintendent, in lieu of revoking or suspending the license
55 of a licensee in accordance with the provisions of this article, may in
56 any one proceeding by order, require the licensee to pay to the people

1 of this state a penalty in a sum not exceeding TWO THOUSAND five hundred
2 dollars for each offense, and a penalty in a sum not exceeding [twenty-
3 five hundred] FIVE THOUSAND dollars in the aggregate for all offenses.

4 S 14. Subsection (c) of section 2320 of the insurance law is amended
5 to read as follows:

6 (c) If the superintendent, after notice and hearing, finds that any
7 insurer, rate service organization or other person has violated the
8 applicable provisions of this article, [he] THE SUPERINTENDENT shall
9 order the payment of a penalty. The issuance, procurement or negotiation
10 of a single policy of insurance shall be deemed a separate offense. A
11 penalty not to exceed [one] FIVE thousand dollars may be imposed for
12 each such offense. A further penalty not to exceed [two] TEN thousand
13 [five hundred] dollars may be imposed for each offense in which the
14 superintendent finds that there was a knowing violation, provided that a
15 [minumum] MINIMUM penalty of at least [twenty-five] FIFTY thousand
16 dollars shall be imposed regardless of the number of [such] knowing
17 offenses.

18 S 15. Subsection (e) of section 2321 of the insurance law is amended
19 to read as follows:

20 (e) Any person, association, corporation or rate service organization
21 wilfully violating the applicable provisions of this article shall, in
22 addition to any other penalty provided by law, be liable to the people
23 of this state for a penalty in an amount not less than [twenty-five] ONE
24 HUNDRED dollars nor more than [one] FIVE thousand dollars for each
25 offense. If the superintendent finds after notice and hearing, that any
26 authorized insurer, licensed agent or licensed insurance broker has
27 wilfully violated any of the provisions of this article, [he] THE SUPER-
28 INTENDENT may, in lieu of any other penalty provided by law, order the
29 insurer, agent or broker, as the case may be, to pay to the people of
30 this state a penalty in the sum of one [hundred] THOUSAND dollars, for
31 each offense, and the failure of any [such] person to pay the penalty
32 within thirty days after the making of the order, unless the order is
33 suspended by a court of competent jurisdiction, shall constitute a
34 violation of the provisions of this chapter. Within the meaning of this
35 subsection, the issuance, procurement or negotiation of each policy of
36 insurance, by an insurer, agent or broker, as the case may be, in will-
37 ful violation of the provisions of this article shall be deemed a sepa-
38 rate offense.

39 S 16. Subsection (f) of section 2324 of the insurance law is amended
40 to read as follows:

41 (f) Any person or corporation violating the provisions of this section
42 shall, in addition to all other penalties provided by law, pay to the
43 people of this state as a penalty [the] A sum [of] NOT EXCEEDING five
44 [hundred] THOUSAND dollars for each [such] violation.

45 S 17. Subsection (b) of section 2402 of the insurance law, as amended
46 by chapter 631 of the laws of 2007, is amended to read as follows:

47 (b) "Defined violation" means the commission by a person of an act
48 prohibited by[: section one thousand two hundred fourteen, one thousand
49 two hundred seventeen, one thousand two hundred twenty, one thousand
50 three hundred thirteen, subparagraph (B) of paragraph two of subsection
51 (i) of section one thousand three hundred twenty-two, subparagraph (B)
52 of paragraph two of subsection (i) of section one thousand three hundred
53 twenty-four, two thousand one hundred twenty-two, two thousand one
54 hundred twenty-three, subsection (p) of section two thousand three
55 hundred thirteen, section two thousand three hundred twenty-four, two
56 thousand five hundred two, two thousand five hundred three, two thousand

1 five hundred four, two thousand six hundred one, two thousand six
2 hundred two, two thousand six hundred three, two thousand six hundred
3 four, two thousand six hundred six, two thousand seven hundred three,
4 three thousand one hundred nine, three thousand two hundred
5 twenty-four-a, three thousand four hundred twenty-nine, three thousand
6 four hundred thirty-three, paragraph seven of subsection (e) of section
7 three thousand four hundred twenty-six, four thousand two hundred twen-
8 ty-four, four thousand two hundred twenty-five or four thousand two
9 hundred twenty-six of] this chapter[;] or BY ANY REGULATION PROMULGATED
10 THEREUNDER, OR section 135.60, 135.65, 175.05, 175.45, or 190.20, or
11 article one hundred five of the penal law.

12 S 18. Section 2404 of the insurance law, as amended by chapter 666 of
13 the laws of 1997, is amended to read as follows:

14 S 2404. Power of superintendent. The superintendent is empowered to
15 examine and investigate into the affairs of any person in order to
16 determine whether the person has violated or is violating section two
17 thousand four hundred three of this article. In the event any person
18 does not provide a good faith response to a request for information from
19 the superintendent, within a time period specified by the superintendent
20 of not less than fifteen business days, [as part of an examination or
21 investigation initiated by the superintendent pursuant to this section
22 relating to accident insurance, health insurance, accident and health
23 insurance or health maintenance organization coverage,] the superinten-
24 dent is authorized, after notice and hearing, to levy a civil penalty
25 against [such] THE person in an amount not to exceed [five hundred] ONE
26 THOUSAND dollars per day for each day beyond the date specified by the
27 superintendent for response[, but in no event shall such penalty exceed
28 ten thousand dollars. In the event the superintendent levies five sepa-
29 rate civil penalties against any one person within five years for fail-
30 ure to comply with this section, the superintendent is authorized, after
31 notice and hearing, to levy an additional civil penalty against such
32 person in an amount not to exceed fifty thousand dollars. The super-
33 intendent is also authorized to levy additional civil penalties not to
34 exceed fifty thousand dollars, after notice and hearing, against such
35 person for every five subsequent violations of this section within a
36 five year period]. Any person licensed pursuant to article twenty-one of
37 this chapter may surrender such license in lieu of payment of any civil
38 penalty imposed by the superintendent pursuant to this section.

39 S 19. Section 2406 of the insurance law, subsection (a) as amended by
40 chapter 666 of the laws of 1997, is amended to read as follows:

41 S 2406. Procedure after report; defined violation. (a) If the hearing
42 was on a charge of a defined violation, THEN the superintendent shall
43 make an order on [his] THE SUPERINTENDENT'S report and serve a copy of
44 the findings and order upon the person charged with the violation and
45 any intervenor. If the superintendent finds that the person complained
46 of has engaged in a defined violation, THEN the order shall require the
47 person to cease and desist from engaging in [such] THE defined
48 violation. [Furthermore, if the superintendent finds, after notice and
49 hearing, that the person complained of has engaged in an act prohibited
50 by section three thousand two hundred twenty-four-a of this chapter, the
51 superintendent is authorized to levy a civil penalty against such person
52 in an amount up to five hundred dollars per day for each day beyond the
53 date that a bill or claim was to be processed in accordance with section
54 three thousand two hundred twenty-four-a of this chapter, but in no
55 event shall such penalty exceed five thousand dollars.]

1 (B) (1) THE SUPERINTENDENT MAY ISSUE AN EMERGENCY CEASE AND DESIST
2 ORDER UNDER THIS SECTION WITHOUT PRIOR NOTICE AND HEARING IF THE SUPER-
3 INTENDENT FINDS THAT A PERSON IS ENGAGING IN UNLICENSED ACTIVITIES OR IN
4 CONDUCT THAT CREATES AN IMMEDIATE DANGER TO THE PUBLIC SAFETY, OR IS
5 CAUSING, OR IS REASONABLY EXPECTED TO CAUSE, SIGNIFICANT, IMMINENT, AND
6 IRREPARABLE PUBLIC INJURY.

7 (2) AN EMERGENCY CEASE AND DESIST ORDER UNDER THIS SECTION IS EFFEC-
8 TIVE IMMEDIATELY, AND WILL CONTINUE IN FULL FORCE AND EFFECT UNTIL
9 FURTHER ORDER BY THE SUPERINTENDENT, OR UNLESS STAYED BY THE SUPERINTEN-
10 DENT OR BY A COURT OF COMPETENT JURISDICTION.

11 (3) UPON ISSUANCE OF AN EMERGENCY CEASE AND DESIST ORDER UNDER THIS
12 SECTION, THE SUPERINTENDENT SHALL SERVE ON THE PERSON AFFECTED BY THE
13 ORDER, BY REGISTERED OR CERTIFIED MAIL TO THE PERSON'S LAST KNOWN
14 ADDRESS, AN ORDER THAT SETS FORTH A STATEMENT OF THE CHARGES AND A
15 NOTICE OF HEARING. THE SUPERINTENDENT SHALL HOLD THE HEARING WITHIN TEN
16 DAYS OF THE EFFECTIVE DATE OF THE EMERGENCY ORDER, UNLESS ALL PARTIES
17 AGREE UPON A LATER TIME.

18 (4) AT THE HEARING, THE SUPERINTENDENT SHALL AFFIRM, MODIFY, OR SET
19 ASIDE, IN WHOLE OR IN PART, THE EMERGENCY CEASE AND DESIST ORDER, AND
20 MAY COMBINE AND EMPLOY ANY OTHER ENFORCEMENT OR PENALTY PROVISIONS
21 AVAILABLE TO THE SUPERINTENDENT TO ARRIVE AT A FINAL ORDER.

22 (5) THE SUPERINTENDENT'S ORDER AFTER HEARING IS A FINAL ORDER IN ALL
23 RESPECTS.

24 [(b)] (C) Until a proceeding for judicial review has been commenced,
25 or the time to commence the proceeding has expired, the superintendent
26 may, upon notice and in the manner [he] THAT THE SUPERINTENDENT deems
27 proper, modify or set aside all or part of any order issued by [him] THE
28 SUPERINTENDENT under this section.

29 [(c)] (D) If a proceeding for judicial review has not been commenced
30 within the time allowed, the superintendent may, after notice and oppor-
31 tunity for hearing, modify or set aside, all or part, of any order
32 issued by [him] THE SUPERINTENDENT under this section, whenever in [his]
33 THE SUPERINTENDENT'S opinion changed conditions of fact or law or the
34 public interest require.

35 [(d)] (E) A cease and desist order issued under this section is final
36 upon the expiration of the time allowed for commencing a proceeding for
37 judicial review if no proceeding has been commenced within such time, or
38 upon the final decision of the court affirming the order or dismissing
39 the proceeding.

40 [(e)] (F) Any person who violates a cease and desist order issued by
41 the superintendent under this section after it has become final, and
42 while it is in effect, shall be liable to the people of this state for a
43 penalty in an amount not to exceed [five] TEN thousand dollars for each
44 violation. In determining the amount of the penalty, the question of
45 whether the violation was wilful shall be taken into consideration.
46 Nothing herein shall limit a court in enforcing its own orders.

47 S 20. Section 2605 of the insurance law is amended to read as follows:

48 S 2605. Penalty for violating workers' compensation law. The super-
49 intendent may impose a penalty not to exceed [twenty-five hundred] TEN
50 THOUSAND dollars upon any insurer required to be licensed under the
51 provisions of this chapter, if, after notice to and a hearing of [such]
52 THE insurer, [he] THE SUPERINTENDENT finds [it] THAT THE INSURER has
53 unreasonably failed to comply with the workers' compensation law.

54 S 21. Subsection (j) of section 2615 of the insurance law, as added by
55 chapter 497 of the laws of 1996 and renumbered by chapter 246 of the
56 laws of 2005, is amended to read as follows:

1 (j) If the superintendent determines after notice and a hearing that
2 an authorized insurer or a person acting on behalf of an authorized
3 insurer has violated this section, then the superintendent shall levy a
4 fine OF up to five thousand dollars. [Also, any authorized insurer or
5 person acting on behalf of an authorized insurer who violates the
6 provisions of this section shall be subject to the provisions of article
7 twenty-four of this chapter. Violations of this section shall also be
8 subject to the provisions of section one hundred nine of this chapter,
9 except paragraph one of subsection (c) of such section.]

10 S 22. Subsection (k) of section 3216 of the insurance law, as amended
11 by chapter 13 of the laws of 2002, is amended to read as follows:

12 (k) Any person, partnership or corporation willfully violating any
13 provision of this section, regulation or order of the superintendent
14 made in accordance with this section, shall forfeit to the people of the
15 state a sum not to exceed [one hundred] FIVE THOUSAND dollars for each
16 [such] violation. The superintendent may also suspend or revoke the
17 license of an insurer or agent or broker for any [such] willful
18 violation.

19 S 23. Section 3224-a of the insurance law is amended by adding a new
20 subsection (g) to read as follows:

21 (G) IF THE SUPERINTENDENT FINDS, AFTER NOTICE AND HEARING, THAT THE
22 PERSON COMPLAINED OF HAS ENGAGED IN AN ACT PROHIBITED BY THIS SECTION,
23 THEN THE SUPERINTENDENT IS AUTHORIZED TO LEVY A CIVIL PENALTY AGAINST
24 THE PERSON IN AN AMOUNT UP TO ONE THOUSAND DOLLARS PER DAY FOR EACH DAY
25 BEYOND THE DATE THAT A BILL OR CLAIM WAS TO BE PROCESSED IN ACCORDANCE
26 WITH THIS SECTION.

27 S 24. Subsection (n) of section 3411 of the insurance law is amended
28 to read as follows:

29 (n) If the superintendent, after notice and hearing, finds that any
30 insurer or its authorized representative has violated any provision of
31 this section, [he] THE SUPERINTENDENT shall order the payment of a
32 penalty, not to exceed [five hundred] FIVE THOUSAND dollars for each
33 [such] offense. Each issuance, procurement or negotiation of a policy of
34 insurance in violation of this section shall be a separate offense.

35 S 25. Subsection (i) of section 3427 of the insurance law, as amended
36 by chapter 111 of the laws of 1995, is amended to read as follows:

37 (i) If a lessor, creditor or assignee charges the lessee or debtor for
38 the waiver of the gap amount, the lessor or creditor, or, in the absence
39 of a waiver by the creditor or lessor, the assignee, as part of the
40 waiver offer, shall provide the lessee or debtor with a notice specify-
41 ing the name of the insurer that has issued the lessor or creditor gap
42 insurance policy, the cost of the lessor or creditor gap insurance
43 coverage, and the charge for the waiver. Any person having been found,
44 after notice and hearing, to have wilfully violated this subsection
45 shall be liable to the people of this state for a civil penalty in a sum
46 not exceeding [five hundred] ONE THOUSAND dollars for each violation.

47 S 26. Section 4224 of the insurance law is amended by adding a new
48 subsection (f) to read as follows:

49 (F) ANY PERSON OR CORPORATION VIOLATING THE PROVISIONS OF THIS SECTION
50 SHALL, IN ADDITION TO ALL OTHER PENALTIES PROVIDED BY LAW, PAY TO THE
51 PEOPLE OF THIS STATE AS A PENALTY A SUM NOT EXCEEDING FIVE THOUSAND
52 DOLLARS FOR EACH VIOLATION.

53 S 27. Subparagraph (B) of paragraph 5 of subsection (f) of section
54 4228 of the insurance law, as added by chapter 616 of the laws of 1997,
55 is amended to read as follows:

1 (B) In addition to the actions set forth in the preceding subpara-
2 graph, and upon finding that a company's actions constitute a willful
3 violation of the provisions of subsection (d) of this section, the
4 superintendent is authorized to impose a fine on the company in an
5 amount not to exceed the lesser of [one] TEN thousand dollars per
6 violation or three times the amount of any overpayments that are found
7 to constitute a willful violation.

8 S 28. Subsection (b) of section 4241 of the insurance law is amended
9 to read as follows:

10 (b) If the superintendent finds after notice and hearing, that any
11 authorized insurer, representative of such insurer, licensed insurance
12 agent or licensed insurance broker has wilfully violated the provisions
13 of subsection (d) hereof or this article relating to such filings, [he]
14 THEN THE SUPERINTENDENT may, in lieu of any other penalty provided by
15 law, order such insurer, or person to pay to the people of this state a
16 penalty not exceeding [one] FIVE thousand dollars for each [such]
17 offense.

18 S 29. Subsection (e) of section 4413 of the insurance law is amended
19 to read as follows:

20 (e) The superintendent may impose a penalty of not to exceed [twenty-
21 five hundred] FIVE THOUSAND dollars upon any trustee or other officer,
22 agent or employee of any employee welfare fund subject to this article
23 or may remove [such] THE trustee, officer, agent or employee from office
24 or employment, or both [such] penalty and removal, if after notice and a
25 hearing [he] THE SUPERINTENDENT shall find that [he] THE TRUSTEE, OFFI-
26 CER, AGENT OR EMPLOYEE has wilfully failed to comply with the require-
27 ments of this article.

28 S 30. Subsection (e) of section 4504 of the insurance law is amended
29 to read as follows:

30 (e) If the superintendent finds after notice and hearing, that any
31 authorized society has wilfully violated any of the foregoing provisions
32 of this section relating to the filing of amendments to its charter,
33 constitution, and by-laws, [he] THE SUPERINTENDENT may, in lieu of any
34 other penalty provided by law, order [such] THE society to pay to the
35 people of this state a penalty in a sum not exceeding [five hundred] TEN
36 THOUSAND dollars for each [such] offense, and failure of any [such]
37 society to pay [such] THE penalty within thirty days after the making of
38 [such] THE order, unless [such] THE order is suspended by an order of a
39 court of competent jurisdiction, shall constitute a violation of the
40 provisions of this chapter.

41 S 31. Subsection (a) of section 4523 of the insurance law is amended
42 to read as follows:

43 (a) Any person, firm, association or corporation who or [which] THAT
44 shall solicit a member or members for, or in any way assist in procuring
45 a member or members for, or collect payments or dues for or in
46 connection with the membership of, any fraternal benefit society [which]
47 THAT is not licensed to do business in this state and [which] THAT is
48 not exempted under the provisions of section four thousand five hundred
49 twenty-two of this article, shall be guilty of a misdemeanor, and in
50 addition, [such] THE person, firm, association or corporation shall be
51 liable to a penalty of one [hundred] THOUSAND dollars for each person so
52 solicited or so procured to become a member in [such] THE unauthorized
53 society, and may in addition to either of the foregoing, be enjoined
54 from doing any [such] unlawful acts, in the manner specified in section
55 three hundred twenty-seven of this chapter.

56 S 32. Section 5224 of the insurance law is amended to read as follows:

1 S 5224. Penalty for false statements. Any person and any agent or
2 employee of a person, who knowingly files with the corporation any docu-
3 ment required under this article[, which] THAT is false or contains any
4 material misstatement of fact, shall be guilty of a misdemeanor and upon
5 conviction [therof] THEREOF shall be subject to a fine of not less than
6 [five hundred] ONE THOUSAND dollars, nor more than [twenty-five hundred]
7 FIVE THOUSAND dollars, or imprisonment for not more than thirty days.

8 S 33. Subsection (d) of section 6409 of the insurance law is amended
9 to read as follows:

10 (d) No title insurance corporation or any other person acting for or
11 on behalf of it, shall make any rebate of any portion of the fee, premi-
12 um or charge made, or pay or give to any applicant for insurance, or to
13 any person, firm, or corporation acting as agent, representative, attor-
14 ney, or employee of the owner, lessee, mortgagee or the prospective
15 owner, lessee, or mortgagee of the real property or any interest there-
16 in, either directly or indirectly, any commission, any part of its fees
17 or charges, or any other consideration or valuable thing, as an induce-
18 ment for, or as compensation for, any title insurance business. Any
19 person or entity who accepts or receives [such] a commission or rebate
20 shall be subject to a penalty equal to the greater of [one] FIVE thou-
21 sand dollars or five times the amount thereof.

22 S 34. Subsection (a) of section 7711 of the insurance law, as added by
23 chapter 802 of the laws of 1985, is amended to read as follows:

24 (a) The superintendent may suspend or revoke, after notice and hear-
25 ing, the certificate of authority to transact insurance in this state of
26 any member insurer [which] THAT fails to pay an assessment when due or
27 fails to comply with the plan of operation. As an alternative, the
28 superintendent may levy a penalty to be paid to the people of this
29 state, after notice and hearing, on any member insurer [which] THAT
30 fails to pay an assessment when due. [Such] THE penalty shall not exceed
31 five percent of the unpaid assessment per month, [but no penalty] AND
32 shall NOT be less than one [hundred] THOUSAND dollars per month.

33 S 35. Subparagraph (A) of paragraph 1 of subsection (b) of section
34 9109 of the insurance law is amended to read as follows:

35 (A) not less than [one] FIVE hundred nor more than five [hundred]
36 THOUSAND dollars for each and every failure to file a report or state-
37 ment within the time prescribed;

38 S 36. This act shall take effect immediately, provided that:

39 a. the amendments to section 317 of the insurance law made by section
40 six of this act shall not affect the expiration of such section and
41 shall be deemed repealed therewith; and

42 b. the amendments to section 2320 of the insurance law made by section
43 fourteen of this act shall expire on the same date as such section
44 expires and shall not affect the expiration of such section.

45

PART X

46 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
47 New York state urban development corporation act relating to the powers
48 of the New York state urban development corporation to make loans, as
49 amended by section 1 of part W of chapter 59 of the laws of 2008, is
50 amended to read as follows:

51 S 2. This act shall take effect immediately [provided, however, that
52 section one of this act shall expire on July 1, 2009, at which time the
53 provisions of subdivision 26 of section 5 of the New York state urban
54 development corporation act shall be deemed repealed; provided, however,

1 that neither the expiration nor the repeal of such subdivision as
2 provided for herein shall be deemed to affect or impair in any manner
3 any loan made pursuant to the authority of such subdivision prior to
4 such expiration and repeal].

5 S 2. This act shall take effect immediately and shall be deemed to
6 have been in full force and effect on and after April 1, 2009.

7

PART Y

8 Section 1. Expenditures of moneys appropriated in a chapter of the
9 laws of 2009 to the energy research and development authority from the
10 special revenue funds - other/state operations, miscellaneous special
11 revenue fund-339, energy research and planning account, and special
12 revenue funds - other/aid to localities, miscellaneous special revenue
13 fund - 339, energy research and planning account under the research,
14 development and demonstration and policy and planning programs for
15 services and expenses for the research, development and demonstration
16 and policy and planning programs shall be subject to the provisions of
17 this section. Notwithstanding the provisions of subdivision 4-a of
18 section 18-a of the public service law, all moneys committed or expended
19 shall be reimbursed by assessment against gas corporations and electric
20 corporations as defined in section 2 of the public service law, and the
21 total amount which may be charged to any gas corporation and any elec-
22 tric corporation shall not exceed one cent per one thousand cubic feet
23 of gas sold and .010 cent per kilowatt-hour of electricity sold by such
24 corporations in their intrastate utility operations in calendar year
25 2007. Such amounts shall be excluded from the general assessment
26 provisions of subdivision 2 of section 18-a of the public service law,
27 but shall be billed and paid in the manner set forth in such subdivision
28 and upon receipt shall be paid to the state comptroller for deposit in
29 the state treasury for credit to the miscellaneous special revenue fund.
30 The director of the budget shall not issue a certificate of approval
31 with respect to the commitment and expenditure of moneys hereby appro-
32 priated until the chair of such authority shall have submitted, and the
33 director of the budget shall have approved, a comprehensive financial
34 plan encompassing all moneys available to and all anticipated commit-
35 ments and expenditures by such authority from any source for the oper-
36 ations of such authority. Copies of the approved comprehensive financial
37 plan shall be immediately submitted by the director of the budget to the
38 chairs and secretaries of the legislative fiscal committees.

39 S 2. This act shall take effect immediately and shall be deemed to
40 have been in full force and effect on and after March 1, 2009.

41

PART Z

42 Section 1. Notwithstanding any other provision of law, the Governor
43 shall include an appropriation in a budget bill for each state fiscal
44 year that reflects the value of the assets transferred from the power
45 authority of the state of New York to the state of New York pursuant to
46 a memorandum of understanding between the power authority of the state
47 of New York and the state of New York relating to the transfer to the
48 state of New York of assets aggregating \$318,000,000 presently held in
49 certain accounts of the power authority of the state of New York. The
50 state comptroller shall encumber the amount so appropriated before the
51 end of the fiscal year for which such appropriation is made. If for any
52 of the fiscal years commencing during the period from April 1, 2009

1 until such time as the assets have been returned by the state of New
 2 York to the power authority of the state of New York the Governor fails
 3 to submit a budget bill containing an appropriation of such amount, such
 4 amount appropriated to and encumbered during the preceding fiscal year
 5 shall be payable to the authority on the last day of June of such year.
 6 S 2. This act shall take effect immediately.

7 PART AA

8 Section 1. Subdivisions 2, 3 and 4 of section 1975 of the public
 9 authorities law are renumbered subdivisions 3, 4 and 5, and a new subdi-
 10 vision 2 is added to read as follows:

11 2. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY
 12 IS HEREBY AUTHORIZED TO CONTRIBUTE TWENTY MILLION DOLLARS TO THE STATE
 13 TREASURY TO THE CREDIT OF THE GENERAL FUND.

14 S 2. Subdivision 1 of section 1977-a of the public authorities law is
 15 amended by adding a new paragraph (e) to read as follows:

16 (E) ADDITIONAL AUTHORIZATIONS. FOR THE PURPOSE OF FINANCING CAPITAL
 17 COSTS OF THE STATE, THE AUTHORITY MAY, IN ADDITION TO THE AUTHORIZATIONS
 18 CONTAINED ELSEWHERE IN THIS TITLE, BORROW MONEY BY ISSUING BONDS OR
 19 NOTES IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING TWO HUNDRED FIFTY
 20 MILLION DOLLARS PLUS A PRINCIPAL AMOUNT OF BONDS OR NOTES ISSUED (I) TO
 21 FUND ANY RELATED DEBT SERVICE RESERVE FUND, (II) TO PROVIDE CAPITALIZED
 22 INTEREST, AND (III) TO PROVIDE FOR FEES AND OTHER CHARGES AND EXPENSES
 23 INCLUDING ANY UNDERWRITERS' DISCOUNTS, RELATED TO THE ISSUANCE OF SUCH
 24 BONDS OR NOTES, ALL AS DETERMINED BY THE AUTHORITY, EXCLUDING BONDS AND
 25 NOTES ISSUED TO REFUND OUTSTANDING BONDS AND NOTES ISSUED PURSUANT TO
 26 THIS SECTION.

27 S 3. This act shall take effect March 1, 2009.

28 PART BB

29 Section 1. Notwithstanding any provisions of law to the contrary, the
 30 New York state urban development corporation is authorized to make
 31 contributions to the state treasury to the credit of the general fund of
 32 any excess receipts which are authorized to be paid to the urban devel-
 33 opment corporation under certain provisions of the public authorities
 34 control board resolutions, 04-UD-838A and 06-UD-900. Pursuant to a plan
 35 approved by the director of the division of budget, the urban develop-
 36 ment corporation shall also remit any additional payments received on or
 37 after March 1, 2009 and which are authorized to be paid to the urban
 38 development corporation under certain provisions of the public authori-
 39 ties control board resolutions, 04-UD-838A and 06-UD-900, to the state
 40 treasury to the credit of the general fund.

41 S 2. This act shall take effect immediately and shall be deemed to
 42 have been in full force and effect on and after March 1, 2009.

43 PART CC

44 Section 1. Section 1 of chapter 174 of the laws of 1968, constituting
 45 the New York state urban development corporation act, is amended by
 46 adding a new section 16-t to read as follows:

47 S 16-T. THE NEW YORK GROWTH, ACHIEVEMENT AND INVESTMENT STRATEGY
 48 FUND. 1. THE NEW YORK GROWTH, ACHIEVEMENT AND INVESTMENT STRATEGY FUND
 49 IS HEREBY CREATED. THE CORPORATION IS AUTHORIZED, WITHIN AVAILABLE
 50 APPROPRIATIONS, TO PROVIDE FINANCIAL, TECHNICAL OR OTHER ASSISTANCE FROM

1 SUCH FUND FOR THE FOLLOWING: LOANS, LOAN GUARANTEES AND GRANTS INCLUDING
2 INTEREST SUBSIDY GRANTS TO ANY ELIGIBLE BUSINESS EXPANSION OR ATTRACTION
3 PROJECT ASSOCIATED WITH THE CREATION OF NET NEW, PERMANENT, FULL-TIME
4 PRIVATE SECTOR JOBS IN NEW YORK STATE. ELIGIBLE FIRMS MAY INCLUDE, BUT
5 ARE NOT LIMITED TO, THOSE IN INDUSTRIES CATEGORIZED AS MANUFACTURING,
6 FINANCIAL SERVICES, AGRIBUSINESS, HIGH TECHNOLOGY AND BIOTECHNOLOGY.
7 LOANS, LOAN GUARANTEES AND INTEREST SUBSIDY GRANTS MAY BE USED TO
8 FINANCE NEW CONSTRUCTION, RENOVATION OR LEASEHOLD IMPROVEMENTS AND THE
9 ACQUISITION OF LAND, BUILDINGS, MACHINERY AND EQUIPMENT. THE PROCEEDS
10 OF SUCH LOANS, LOAN GUARANTEES AND INTEREST SUBSIDY GRANTS MAY ALSO BE
11 USED TO FINANCE WORKING CAPITAL.

12 2. APPLICATIONS FOR ASSISTANCE PURSUANT TO THIS SECTION SHALL BE
13 REVIEWED AND EVALUATED PURSUANT TO ELIGIBILITY REQUIREMENTS AND CRITERIA
14 SET FORTH IN RULES AND REGULATIONS PROMULGATED BY THE CORPORATION.

15 3. FINANCIAL ASSISTANCE SHALL BE DETERMINED PURSUANT TO CRITERIA SET
16 FORTH IN RULES AND REGULATIONS PROMULGATED BY THE CORPORATION.

17 4. APPROVAL OF PROJECT APPLICATIONS SHALL BE MADE ONLY UPON A DETERMI-
18 NATION BY THE CORPORATION: (A) THAT THE PROPOSED PROJECT WOULD PROMOTE
19 THE ECONOMIC HEALTH OF NEW YORK STATE BY FACILITATING THE CREATION OR
20 RETENTION OF JOBS; (B) THAT THE PROJECT WOULD BE UNLIKELY TO TAKE PLACE
21 IN NEW YORK STATE WITHOUT THE REQUESTED ASSISTANCE; (C) THAT THE PROJECT
22 IS REASONABLY LIKELY TO ACCOMPLISH ITS STATED OBJECTIVES AND THAT THE
23 LIKELY BENEFITS OF THE PROJECT EXCEED COSTS; AND (D) THAT, SHOULD THE
24 PROJECT ONLY INCLUDE THE RETENTION OF JOBS, IT SHALL BE DEMONSTRATED
25 UPON CERTIFICATION THAT WITHOUT FINANCIAL ASSISTANCE, THE JOBS WOULD
26 OTHERWISE LOCATE OUTSIDE OF THE STATE OF NEW YORK.

27 5. THE CORPORATION SHALL SUBMIT A REPORT TO THE DIRECTOR OF THE BUDG-
28 ET, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY,
29 THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEM-
30 BLY ON THE INVESTMENTS AND ACCOMPLISHMENTS OF THE NEW YORK GROWTH,
31 ACHIEVEMENT AND INVESTMENT STRATEGY FUND. SUCH REPORT SHALL INCLUDE, BUT
32 NOT BE LIMITED TO, INFORMATION ON THE NUMBER OF JOBS CREATED AND
33 RETAINED, LEVELS OF PRIVATE SECTOR INVESTMENT, ECONOMIC BENEFIT TO THE
34 STATE AND LOCAL ECONOMIES AND TYPES OF INDUSTRIES INVESTED IN. SUCH
35 REPORT SHALL BE SUBMITTED BY JULY FIRST, TWO THOUSAND TEN AND JULY FIRST
36 EVERY YEAR THEREAFTER.

37 S 2. This act shall take effect immediately and shall be deemed to
38 have been in full force and effect on and after March 1, 2009.

39

PART DD

40 Section 1. Notwithstanding any provision of law to the contrary, the
41 New York state urban development corporation, the dormitory authority of
42 the state of New York, and any other department, agency or public
43 authority shall not be authorized to approve funding by its board of
44 directors or by other similar administrative action pursuant to the
45 following capital appropriations:

46 \$425,000,000 authorized by chapter 55 of the laws of 1997 to all state
47 agencies for payment of costs related to the community enhancement
48 facilities assistance projects established pursuant to chapter 432 of
49 the laws of 1997;

50 \$50,000,000 authorized by chapter 55 of the laws of 2000 to the urban
51 development corporation for payment of costs related to economic devel-
52 opment projects in the downtown Buffalo, the Buffalo inner harbor area,
53 or surrounding environs;

1 \$225,000,000 authorized by chapter 55 of the laws of 2000 to all state
2 agencies for payment of costs related to the strategic investment
3 program;

4 \$1,200,000,000 authorized by chapter 55 of the laws of 2002 for
5 payment of costs related to economic development projects established
6 pursuant to chapter 84 of the laws of 2002;

7 \$250,000,000 authorized by chapter 55 of the laws of 2004 for payment
8 of costs related to economic development projects established pursuant
9 to chapter 84 of the laws of 2002;

10 \$350,000,000 authorized by chapter 3 of the laws of 2004 for the New
11 York state economic development program;

12 \$90,000,000 authorized by chapter 62 of the laws of 2005 for regional
13 development;

14 \$250,000,000 authorized by chapter 62 of the laws of 2005 for technol-
15 ogy and development;

16 \$75,000,000 authorized by chapter 162 of the laws of 2005 for the New
17 York state economic development program;

18 capital appropriations of \$603,050,000 authorized by chapter 108 of
19 the laws of 2006 to the urban development corporation for economic
20 development/other projects;

21 \$269,500,000 authorized by chapter 108 of the laws of 2006 to the
22 dormitory authority or the urban development corporation for economic
23 development projects;

24 \$201,500,000 authorized by chapter 108 of the laws of 2006 to the
25 urban development corporation for university development projects;

26 \$143,000,000 authorized by chapter 108 of the laws of 2006 to the
27 urban development corporation for cultural facilities projects;

28 capital appropriations totaling \$60,000,000 authorized by chapter 108
29 of the laws of 2006 to the urban development corporation for
30 energy/environmental projects;

31 \$20,000,000 authorized by chapter 108 of the laws of 2006 to the urban
32 development corporation for a competitive solicitation for construction
33 of a pilot cellulosic ethanol refinery;

34 \$74,700,000 authorized by chapter 55 of the laws of 2006 to the urban
35 development corporation for services and expenses related to infrastruc-
36 ture for a new stadium in Queens county;

37 \$74,700,000 authorized by chapter 55 of the laws of 2006 to the urban
38 development corporation for services and expenses related to infrastruc-
39 ture improvements to construct a new parking facility at a new stadium
40 in Bronx county;

41 capital disbursements of up to \$500,000,000 from an appropriation
42 authorized by chapter 108 of the laws of 2006 to the urban development
43 corporation for development of a semiconductor manufacturing facility,
44 and up to \$150,000,000 from an appropriation authorized by chapter 108
45 of the laws of 2006 to the urban development corporation for research
46 and development activities of a semiconductor manufacturer;

47 \$300,000,000 from an appropriation to the urban development corpo-
48 ration authorized by chapter 108 of the laws of 2006 for community revi-
49 talization projects;

50 \$15,000,000 from any capital appropriation or reappropriation author-
51 ized by chapter 55 of the laws of 2007 for the Roosevelt Island Operat-
52 ing Corporation aerial tramway;

53 \$20,000,000 from any capital appropriation or reappropriation author-
54 ized by chapter 55 of the laws of 2007 for Governor's Island;

1 \$7,500,000 from any capital appropriation or reappropriation author-
2 ized by chapter 55 of the laws of 2007 for Harriman research and tech-
3 nology park;
4 \$7,950,000 from any capital appropriation or reappropriation author-
5 ized by chapter 55 of the laws of 2007 for USA Niagara;
6 \$300,000,000 from any capital appropriation or reappropriation author-
7 ized by a chapter of the laws of 2007 for the development and/or expan-
8 sion of an international computer chip research and development center;
9 \$50,000,000 authorized by a chapter of the laws of 2008 to the urban
10 development corporation for services and expenses related to the invest-
11 ment opportunity fund;
12 \$140,000,000 authorized by a chapter of the laws of 2008 to the urban
13 development corporation for services and expenses related to economic
14 development and community development initiatives;
15 \$35,000,000 authorized by a chapter of the laws of 2008 to the urban
16 development corporation for services and expenses related to downstate
17 regional projects;
18 \$145,000,000 authorized by a chapter of the laws of 2008 to the urban
19 development corporation for services and expenses related to upstate
20 city-by-city projects;
21 \$35,000,000 authorized by a chapter of the laws of 2008 to the urban
22 development corporation for services and expenses related to the down-
23 state revitalization projects;
24 \$120,000,000 authorized by a chapter of the laws of 2008 to the urban
25 development corporation for services and expenses related to the upstate
26 regional blueprint fund;
27 \$40,000,000 authorized by a chapter of the laws of 2008 to the urban
28 development corporation for services and expenses related to the upstate
29 agricultural economic development fund;
30 \$350,000,000 authorized by a chapter of the laws of 2008 to the urban
31 development corporation for services and expenses related to the New
32 York state capital assistance program; and
33 \$350,000,000 authorized by a chapter of the laws of 2008 to the urban
34 development corporation for services and expenses related to the New
35 York state economic development assistance program;
36 until the governor, the temporary president of the senate and the speak-
37 er of the assembly execute a capital spending reduction and strategic
38 re-investment plan; provided, however, that such plan must achieve
39 reductions in capital authorizations from the programs listed in this
40 section in an amount equal to or exceeding \$375 million, of which (a) no
41 more than \$200 million shall be reprogrammed for initiatives that will
42 facilitate the creation or retention of jobs; (b) no more than \$50
43 million shall be reprogrammed for the development of a semiconductor
44 packaging facility; and (c) no more than \$25 million shall be repro-
45 grammed for the purchase of machinery and equipment at Albany nanotech.
46 S 2. This act shall take effect immediately and shall be deemed to
47 have been in full force and effect on and after March 1, 2009.

48

PART EE

49 Section 1. Section 1 of chapter 174 of the laws of 1968, constituting
50 the New York state urban development corporation act, is amended by
51 adding a new section 44 to read as follows:
52 S 44. ABOLITION OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE NEW
53 YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION. 1.
54 ECONOMIC DEVELOPMENT EFFICIENCY. IN ORDER TO PROMOTE ECONOMIC DEVELOP-

1 MENT EFFICIENCY IN THE STATE, THE TRANSFER OF THE DEPARTMENT OF ECONOMIC
2 DEVELOPMENT AND THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY
3 AND INNOVATION TO THE CORPORATION IS HEREBY AUTHORIZED.

4 2. TRANSFER OF POWERS OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT. THE
5 FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES
6 OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT, AS ESTABLISHED PURSUANT TO
7 THE ECONOMIC DEVELOPMENT LAW, THE GENERAL MUNICIPAL LAW, THE ENVIRON-
8 MENTAL CONSERVATION LAW, THE EXECUTIVE LAW, THE STATE FINANCE LAW, THE
9 TAX LAW AND CHAPTER 110 OF THE LAWS OF 2008 SHALL BE TRANSFERRED AND
10 ASSIGNED TO, AND ASSUMED BY AND DEVOLVED UPON THE CORPORATION. NOTWITH-
11 STANDING THE FOREGOING, ANY PROGRAMS SPECIFIED IN LAW TO BE ADMINISTERED
12 BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL BE ADMINISTERED BY THE
13 CORPORATION ONLY TO THE EXTENT OF AVAILABLE APPROPRIATIONS.

14 3. ABOLITION OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT. UPON THE
15 TRANSFER PURSUANT TO SUBDIVISION 2 OF THIS SECTION OF THE FUNCTIONS AND
16 POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DEPART-
17 MENT OF ECONOMIC DEVELOPMENT, AS ESTABLISHED PURSUANT TO THE ECONOMIC
18 DEVELOPMENT LAW, THE GENERAL MUNICIPAL LAW, THE ENVIRONMENTAL CONSERVA-
19 TION LAW, THE EXECUTIVE LAW, THE STATE FINANCE LAW, THE TAX LAW AND
20 CHAPTER 110 OF THE LAWS OF 2008, THE DEPARTMENT OF ECONOMIC DEVELOPMENT
21 SHALL BE ABOLISHED.

22 4. CONTINUITY OF AUTHORITY OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT.
23 EXCEPT AS HEREIN OTHERWISE PROVIDED, UPON THE TRANSFER PURSUANT TO
24 SUBDIVISION 2 OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY
25 AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DEPARTMENT OF ECONOMIC
26 DEVELOPMENT AS ESTABLISHED PURSUANT TO THE ECONOMIC DEVELOPMENT LAW, THE
27 GENERAL MUNICIPAL LAW, THE ENVIRONMENTAL CONSERVATION LAW, THE EXECUTIVE
28 LAW, THE STATE FINANCE LAW, THE TAX LAW AND CHAPTER 110 OF THE LAWS OF
29 2008 TO THE CORPORATION AS PRESCRIBED BY SUBDIVISION 2 OF THIS SECTION
30 FOR THE PURPOSE OF SUCCESSION OF ALL FUNCTIONS, POWERS, DUTIES AND OBLI-
31 GATIONS OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT, THE CORPORATION SHALL
32 BE DEEMED AND BE HELD TO CONSTITUTE THE CONTINUATION OF SUCH AUTHORITY
33 AND NOT A DIFFERENT AGENCY OR AUTHORITY.

34 5. TRANSFER OF RECORDS OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT. UPON
35 THE TRANSFER PURSUANT TO SUBDIVISION 2 OF THIS SECTION OF THE FUNCTIONS
36 AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE
37 DEPARTMENT OF ECONOMIC DEVELOPMENT AS ESTABLISHED PURSUANT TO THE
38 ECONOMIC DEVELOPMENT LAW, THE GENERAL MUNICIPAL LAW, THE ENVIRONMENTAL
39 CONSERVATION LAW, THE EXECUTIVE LAW, THE STATE FINANCE LAW, THE TAX LAW
40 AND CHAPTER 110 OF THE LAWS OF 2008 TO THE CORPORATION AS PRESCRIBED BY
41 SUBDIVISION 2 OF THIS SECTION, ALL BOOKS, PAPERS, RECORDS AND PROPERTY
42 PERTAINING TO THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL BE TRANS-
43 FERRED TO AND MAINTAINED BY THE CORPORATION.

44 6. COMPLETION OF UNFINISHED BUSINESS OF THE DEPARTMENT OF ECONOMIC
45 DEVELOPMENT. UPON THE TRANSFER PURSUANT TO SUBDIVISION 2 OF THIS SECTION
46 OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND
47 DUTIES OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT AS ESTABLISHED PURSUANT
48 TO THE ECONOMIC DEVELOPMENT LAW, THE GENERAL MUNICIPAL LAW, THE ENVIRON-
49 MENTAL CONSERVATION LAW, THE EXECUTIVE LAW, THE STATE FINANCE LAW, THE
50 TAX LAW AND CHAPTER 110 OF THE LAWS OF 2008 TO THE CORPORATION AS
51 PRESCRIBED BY SUBDIVISION 2 OF THIS SECTION, ANY BUSINESS OR OTHER
52 MATTER UNDERTAKEN OR COMMENCED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT
53 PERTAINING TO OR CONNECTED WITH THE FUNCTIONS, POWERS, OBLIGATIONS AND
54 DUTIES SO TRANSFERRED AND ASSIGNED TO THE CORPORATION MAY BE CONDUCTED
55 OR COMPLETED BY THE CORPORATION.

1 7. TERMS OCCURRING IN LAWS, CONTRACTS OR OTHER DOCUMENTS. UPON THE
2 TRANSFER PURSUANT TO SUBDIVISION 2 OF THIS SECTION OF THE FUNCTIONS AND
3 POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DEPART-
4 MENT OF ECONOMIC DEVELOPMENT AS ESTABLISHED PURSUANT TO THE ECONOMIC
5 DEVELOPMENT LAW, THE GENERAL MUNICIPAL LAW, THE ENVIRONMENTAL CONSERVA-
6 TION LAW, THE EXECUTIVE LAW, THE STATE FINANCE LAW, THE TAX LAW AND
7 CHAPTER 110 OF THE LAWS OF 2008 AS PRESCRIBED BY SUBDIVISION 2 OF THIS
8 SECTION, WHENEVER THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE COMMIS-
9 SIONER THEREOF, THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES OF WHICH
10 ARE TRANSFERRED TO THE CORPORATION ARE REFERRED TO OR DESIGNATED IN ANY
11 LAW, CONTRACT OR DOCUMENT PERTAINING TO THE FUNCTIONS, POWERS, OBLI-
12 GATIONS AND DUTIES TRANSFERRED AND ASSIGNED PURSUANT TO THIS TITLE, SUCH
13 REFERENCE OR DESIGNATION SHALL BE DEEMED TO REFER TO THE CORPORATION AND
14 ITS PRESIDENT. NOTWITHSTANDING ANY LAW TO THE CONTRARY, ALL RIGHTS AND
15 BENEFITS, INCLUDING TERMS AND CONDITIONS OF EMPLOYMENT, AND PROTECTION
16 OF CIVIL SERVICE AND COLLECTIVE BARGAINING OF ALL EMPLOYEES AFFECTED BY
17 THE TRANSFER OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT TO THE CORPO-
18 RATION, SHALL BE PRESERVED AND PROTECTED UNDER THE TRANSFER, AND ALL
19 TRANSFERRED EMPLOYEES SHALL BE CONSIDERED FOR ALL PURPOSES OF ARTICLE
20 FOURTEEN OF THE CIVIL SERVICE LAW PUBLIC EMPLOYEES AND EMPLOYEES WHO ARE
21 TRANSFERRED SHALL REMAIN IN THE SAME COLLECTIVE BARGAINING UNIT.

22 8. EXISTING RIGHTS AND REMEDIES PRESERVED. UPON THE TRANSFER PURSUANT
23 TO SUBDIVISION 2 OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED
24 BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DEPARTMENT OF ECONOMIC
25 DEVELOPMENT AS ESTABLISHED PURSUANT TO THE ECONOMIC DEVELOPMENT LAW, THE
26 GENERAL MUNICIPAL LAW, THE ENVIRONMENTAL CONSERVATION LAW, THE EXECUTIVE
27 LAW, THE STATE FINANCE LAW, THE TAX LAW AND CHAPTER 110 OF THE LAWS OF
28 2008 TO THE CORPORATION AS PRESCRIBED BY SUBDIVISION 2 OF THIS SECTION,
29 NO EXISTING RIGHT OR REMEDY OF THE STATE, INCLUDING THE DEPARTMENT OF
30 ECONOMIC DEVELOPMENT, SHALL BE LOST, IMPAIRED OR AFFECTED BY REASON OF
31 THIS TITLE.

32 9. PENDING ACTIONS AND PROCEEDINGS. UPON THE TRANSFER PURSUANT TO
33 SUBDIVISION 2 OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY
34 AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DEPARTMENT OF ECONOMIC
35 DEVELOPMENT AS ESTABLISHED PURSUANT TO THE ECONOMIC DEVELOPMENT LAW, THE
36 GENERAL MUNICIPAL LAW, THE ENVIRONMENTAL CONSERVATION LAW, THE EXECUTIVE
37 LAW, THE STATE FINANCE LAW, THE TAX LAW AND CHAPTER 110 OF THE LAWS OF
38 2008 TRANSFER TO THE CORPORATION AS PRESCRIBED BY SUBDIVISION 2 OF THIS
39 SECTION, NO ACTION OR PROCEEDING PENDING ON THE EFFECTIVE DATE OF THIS
40 SECTION, BROUGHT BY OR AGAINST THE DEPARTMENT OF ECONOMIC DEVELOPMENT OR
41 COMMISSIONER THEREOF SHALL BE AFFECTED BY ANY PROVISION OF THIS SECTION,
42 BUT THE SAME MAY BE PROSECUTED OR DEFENDED IN THE NAME OF THE CORPO-
43 RATION. IN ALL SUCH ACTIONS AND PROCEEDINGS, THE CORPORATION, UPON
44 APPLICATION TO THE COURT, SHALL BE SUBSTITUTED AS A PARTY.

45 10. CONTINUATION OF RULES AND REGULATIONS. UPON THE TRANSFER PURSUANT
46 TO SUBDIVISION 2 OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED
47 BY AND ALL THE OBLIGATIONS AND DUTIES OF THE DEPARTMENT OF ECONOMIC
48 DEVELOPMENT AS ESTABLISHED PURSUANT TO THE ECONOMIC DEVELOPMENT LAW, THE
49 GENERAL MUNICIPAL LAW, THE ENVIRONMENTAL CONSERVATION LAW, THE EXECUTIVE
50 LAW, THE STATE FINANCE LAW, THE TAX LAW AND CHAPTER 110 OF THE LAWS OF
51 2008, TRANSFER TO THE CORPORATION AS PRESCRIBED BY SUBDIVISION 2 OF THIS
52 SECTION, ALL RULES, REGULATIONS, ACTS, DETERMINATIONS AND DECISIONS OF
53 THE DEPARTMENT OF ECONOMIC DEVELOPMENT, PERTAINING TO THE FUNCTIONS
54 TRANSFERRED AND ASSIGNED BY THIS SECTION TO THE CORPORATION IN FORCE AT
55 THE TIME OF SUCH TRANSFER, ASSIGNMENT, ASSUMPTION OR DEVOLUTION SHALL

1 CONTINUE IN FORCE AND EFFECT AS RULES, REGULATIONS, ACTS, DETERMINATIONS
2 AND DECISIONS OF THE CORPORATION UNTIL DULY MODIFIED OR REPEALED.

3 11. TRANSFER OF APPROPRIATION. TRANSFER OF APPROPRIATIONS HERETOFORE
4 MADE TO THE DEPARTMENT OF ECONOMIC DEVELOPMENT. UPON THE TRANSFER PURSU-
5 ANT TO SUBDIVISION 2 OF THIS SECTION OF THE FUNCTIONS AND POWERS
6 POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE DEPARTMENT OF
7 ECONOMIC DEVELOPMENT AS ESTABLISHED PURSUANT TO THE ECONOMIC DEVELOPMENT
8 LAW, THE GENERAL MUNICIPAL LAW, THE ENVIRONMENTAL CONSERVATION LAW, THE
9 EXECUTIVE LAW, THE STATE FINANCE LAW, THE TAX LAW AND CHAPTER 110 OF THE
10 LAWS OF 2008 TO THE CORPORATION AS PRESCRIBED BY SUBDIVISION 2 OF THIS
11 SECTION, ALL APPROPRIATIONS AND REAPPROPRIATIONS WHICH SHALL HAVE BEEN
12 MADE AVAILABLE AS OF THE DATE OF SUCH TRANSFER TO THE DEPARTMENT OF
13 ECONOMIC DEVELOPMENT OR SEGREGATED PURSUANT TO LAW, TO THE EXTENT OF
14 REMAINING UNEXPENDED OR UNENCUMBERED BALANCES THEREOF, WHETHER ALLOCATED
15 OR UNALLOCATED AND WHETHER OBLIGATED OR UNOBLIGATED, SHALL BE TRANS-
16 FERRED TO AND MADE AVAILABLE FOR USE AND EXPENDITURE BY THE CORPORATION
17 AND SHALL BE PAYABLE ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMIS-
18 SIONER OF TAXATION AND FINANCE, ON AUDIT AND WARRANT OF THE COMPTROLLER.
19 PAYMENTS OF LIABILITIES FOR EXPENSES OF PERSONAL SERVICES, MAINTENANCE
20 AND OPERATION WHICH SHALL HAVE BEEN INCURRED AS OF THE DATE OF SUCH
21 TRANSFER BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT, AND FOR LIABILITIES
22 INCURRED AND TO BE INCURRED IN COMPLETING ITS AFFAIRS SHALL ALSO BE MADE
23 ON VOUCHERS CERTIFIED OR APPROVED BY THE PRESIDENT OF THE CORPORATION,
24 ON AUDIT AND WARRANT OF THE COMPTROLLER.

25 12. TRANSFER OF POWERS OF THE NEW YORK STATE FOUNDATION FOR SCIENCE,
26 TECHNOLOGY AND INNOVATION. THE FUNCTIONS AND POWERS POSSESSED BY AND ALL
27 OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR
28 SCIENCE, TECHNOLOGY AND INNOVATION, EXCEPT AS OTHERWISE HEREIN PROVIDED,
29 AS ESTABLISHED PURSUANT TO ARTICLE TEN-A OF THE PUBLIC AUTHORITIES LAW
30 AND ARTICLE TEN-B OF THE EXECUTIVE LAW SHALL BE TRANSFERRED AND ASSIGNED
31 TO, AND ASSUMED BY AND DEVOLVED UPON THE CORPORATION.

32 13. ABOLITION OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY
33 AND INNOVATION. UPON THE TRANSFER PURSUANT TO SUBDIVISION 12 OF THIS
34 SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY THE NEW YORK STATE
35 FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AND ALL OF THE OBLI-
36 GATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECH-
37 NOLOGY AND INNOVATION, AS ESTABLISHED PURSUANT TO ARTICLE TEN-A OF THE
38 PUBLIC AUTHORITIES LAW AND ARTICLE TEN-B OF THE EXECUTIVE LAW, THE NEW
39 YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION SHALL BE
40 ABOLISHED.

41 14. CONTINUITY OF AUTHORITY. EXCEPT AS HEREIN OTHERWISE PROVIDED, UPON
42 THE TRANSFER PURSUANT TO SUBDIVISION 12 OF THIS SECTION OF THE FUNCTIONS
43 AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW
44 YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTAB-
45 LISHED PURSUANT TO THE EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TO
46 THE CORPORATION AS PRESCRIBED BY SUBDIVISION 12 OF THIS SECTION FOR THE
47 PURPOSE OF SUCCESSION OF ALL FUNCTIONS, POWERS, DUTIES AND OBLIGATIONS
48 OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION,
49 THE CORPORATION SHALL BE DEEMED AND BE HELD TO CONSTITUTE THE CONTINUA-
50 TION OF SUCH AUTHORITY AND NOT A DIFFERENT AGENCY OR AUTHORITY.

51 15. TRANSFER OF RECORDS OF THE NEW YORK STATE FOUNDATION FOR SCIENCE,
52 TECHNOLOGY AND INNOVATION. UPON THE TRANSFER PURSUANT TO SUBDIVISION 12
53 OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE
54 OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE,
55 TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO THE EXECUTIVE LAW
56 AND THE PUBLIC AUTHORITIES LAW TO THE CORPORATION AS PRESCRIBED BY

1 SUBDIVISION 12 OF THIS SECTION, ALL BOOKS, PAPERS, RECORDS AND PROPERTY
2 PERTAINING TO THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND
3 INNOVATION SHALL BE TRANSFERRED TO AND MAINTAINED BY THE CORPORATION.

4 16. COMPLETION OF UNFINISHED BUSINESS OF THE NEW YORK STATE FOUNDATION
5 FOR SCIENCE, TECHNOLOGY AND INNOVATION. UPON THE TRANSFER PURSUANT TO
6 SUBDIVISION 12 OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY
7 AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION
8 FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO THE
9 EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TO THE CORPORATION AS
10 PRESCRIBED BY SUBDIVISION 12 OF THIS SECTION, ANY BUSINESS OR OTHER
11 MATTER UNDERTAKEN OR COMMENCED BY THE NEW YORK STATE FOUNDATION FOR
12 SCIENCE, TECHNOLOGY AND INNOVATION PERTAINING TO OR CONNECTED WITH THE
13 FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES SO TRANSFERRED AND ASSIGNED TO
14 THE CORPORATION MAY BE CONDUCTED OR COMPLETED BY THE CORPORATION.

15 17. TERMS OCCURRING IN LAWS, CONTRACTS OR OTHER DOCUMENTS. UPON THE
16 TRANSFER PURSUANT TO SUBDIVISION 12 OF THIS SECTION OF THE FUNCTIONS AND
17 POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW
18 YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTAB-
19 LISHED PURSUANT TO THE EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW AS
20 PRESCRIBED BY SUBDIVISION 12 OF THIS SECTION, WHENEVER THE NEW YORK
21 STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION AND THE EXECU-
22 TIVE DIRECTOR THEREOF, THE FUNCTIONS, POWERS, OBLIGATIONS AND DUTIES OF
23 WHICH ARE TRANSFERRED TO THE CORPORATION ARE REFERRED TO OR DESIGNATED
24 IN ANY LAW, CONTRACT OR DOCUMENT PERTAINING TO THE FUNCTIONS, POWERS,
25 OBLIGATIONS AND DUTIES TRANSFERRED AND ASSIGNED PURSUANT TO THIS TITLE,
26 SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO REFER TO THE CORPO-
27 RATION AND ITS PRESIDENT. NOTWITHSTANDING ANY LAW TO THE CONTRARY, ALL
28 RIGHTS AND BENEFITS, INCLUDING TERMS AND CONDITIONS OF EMPLOYMENT, AND
29 PROTECTION OF CIVIL SERVICE AND COLLECTIVE BARGAINING OF ALL EMPLOYEES
30 AFFECTED BY THE TRANSFER OF THE NEW YORK STATE FOUNDATION FOR SCIENCE,
31 TECHNOLOGY AND INNOVATION TO THE CORPORATION, SHALL BE PRESERVED AND
32 PROTECTED UNDER THE TRANSFER, AND ALL TRANSFERRED EMPLOYEES SHALL BE
33 PRESERVED AND PROTECTED UNDER THE TRANSFER, AND ALL TRANSFERRED EMPLOY-
34 EES SHALL BE CONSIDERED FOR ALL PURPOSES OF ARTICLE FOURTEEN OF THE
35 CIVIL SERVICE LAW PUBLIC EMPLOYEES AND EMPLOYEES WHO ARE TRANSFERRED
36 SHALL REMAIN IN THE SAME COLLECTIVE BARGAINING UNIT AND ANY NEWLY
37 CREATED POSITIONS SHALL BE ASSIGNED TO THE APPROPRIATE COLLECTIVE
38 BARGAINING UNIT.

39 18. EXISTING RIGHTS AND REMEDIES PRESERVED. UPON THE TRANSFER PURSUANT
40 TO SUBDIVISION 12 OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED
41 BY AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDA-
42 TION FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO
43 THE EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TO THE CORPORATION AS
44 PRESCRIBED BY SUBDIVISION 12 OF THIS SECTION, NO EXISTING RIGHT OR REME-
45 DY OF THE STATE, INCLUDING THE NEW YORK STATE FOUNDATION FOR SCIENCE,
46 TECHNOLOGY AND INNOVATION, SHALL BE LOST, IMPAIRED OR AFFECTED BY REASON
47 OF THIS SECTION.

48 19. PENDING ACTIONS AND PROCEEDINGS. UPON THE TRANSFER PURSUANT TO
49 SUBDIVISION 12 OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED BY
50 AND ALL OF THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION
51 FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO THE
52 EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TRANSFER TO THE CORPORATION
53 AS PRESCRIBED BY SUBDIVISION 12 OF THIS SECTION, NO ACTION OR PROCEEDING
54 PENDING ON THE EFFECTIVE DATE OF THIS SECTION, BROUGHT BY OR AGAINST THE
55 NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION OR
56 EXECUTIVE DIRECTOR THEREOF SHALL BE AFFECTED BY ANY PROVISION OF THIS

1 SECTION, BUT THE SAME MAY BE PROSECUTED OR DEFENDED IN THE NAME OF THE
2 CORPORATION. IN ALL SUCH ACTIONS AND PROCEEDINGS, THE CORPORATION, UPON
3 APPLICATION TO THE COURT, SHALL BE SUBSTITUTED AS A PARTY.

4 20. CONTINUATION OF RULES AND REGULATIONS. UPON THE TRANSFER PURSUANT
5 TO SUBDIVISION 12 OF THIS SECTION OF THE FUNCTIONS AND POWERS POSSESSED
6 BY AND ALL THE OBLIGATIONS AND DUTIES OF THE NEW YORK STATE FOUNDATION
7 FOR SCIENCE, TECHNOLOGY AND INNOVATION AS ESTABLISHED PURSUANT TO THE
8 EXECUTIVE LAW AND THE PUBLIC AUTHORITIES LAW TRANSFER TO THE CORPORATION
9 AS PRESCRIBED BY SUBDIVISION 12 OF THIS SECTION, ALL RULES, REGULATIONS,
10 ACTS, DETERMINATIONS AND DECISIONS OF THE NEW YORK STATE FOUNDATION FOR
11 SCIENCE, TECHNOLOGY AND INNOVATION, PERTAINING TO THE FUNCTIONS TRANS-
12 FERRED AND ASSIGNED BY THIS SECTION TO THE CORPORATION IN FORCE AT THE
13 TIME OF SUCH TRANSFER, ASSIGNMENT, ASSUMPTION OR DEVOLUTION SHALL
14 CONTINUE IN FORCE AND EFFECT AS RULES, REGULATIONS, ACTS, DETERMINATIONS
15 AND DECISIONS OF THE CORPORATION UNTIL DULY MODIFIED OR REPEALED.

16 21. TRANSFER OF APPROPRIATION. TRANSFER OF APPROPRIATIONS HERETOFORE
17 MADE TO THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNO-
18 VATION. UPON THE TRANSFER PURSUANT TO SUBDIVISION 12 OF THIS SECTION OF
19 THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND
20 DUTIES OF THE NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND
21 INNOVATION AS ESTABLISHED PURSUANT TO THE EXECUTIVE LAW AND THE PUBLIC
22 AUTHORITIES LAW TO THE CORPORATION AS PRESCRIBED BY SUBDIVISION 12 OF
23 THIS SECTION, ALL APPROPRIATIONS AND REAPPROPRIATIONS WHICH SHALL HAVE
24 BEEN MADE AVAILABLE AS OF THE DATE OF SUCH TRANSFER TO THE NEW YORK
25 STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION OR SEGREGATED
26 PURSUANT TO LAW, TO THE EXTENT OF REMAINING UNEXPENDED OR UNENCUMBERED
27 BALANCES THEREOF, WHETHER ALLOCATED OR UNALLOCATED AND WHETHER OBLIGATED
28 OR UNOBLIGATED, SHALL BE TRANSFERRED TO AND MADE AVAILABLE FOR USE AND
29 EXPENDITURE BY THE CORPORATION AND SHALL BE PAYABLE ON VOUCHERS CERTI-
30 FIED OR APPROVED BY THE COMMISSIONER OF TAXATION AND FINANCE, ON AUDIT
31 AND WARRANT OF THE COMPTROLLER. PAYMENTS OF LIABILITIES FOR EXPENSES OF
32 PERSONAL SERVICES, MAINTENANCE AND OPERATION WHICH SHALL HAVE BEEN
33 INCURRED AS OF THE DATE OF SUCH TRANSFER BY THE NEW YORK STATE FOUNDA-
34 TION FOR SCIENCE, TECHNOLOGY AND INNOVATION, AND FOR LIABILITIES
35 INCURRED AND TO BE INCURRED IN COMPLETING ITS AFFAIRS SHALL ALSO BE MADE
36 ON VOUCHERS CERTIFIED OR APPROVED BY THE PRESIDENT OF THE CORPORATION,
37 ON AUDIT AND WARRANT OF THE COMPTROLLER.

38 22. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, OR SUBDIVISION
39 OF THIS SECTION SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION
40 TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE
41 REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE,
42 SENTENCE, PARAGRAPH, OR SUBDIVISION THEREOF DIRECTLY INVOLVED IN THE
43 CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED.

44 S 2. Section 10 of the economic development law is REPEALED.

45 S 3. Section 50 of the economic development law is REPEALED.

46 S 4. Section 3151 of the public authorities law is REPEALED.

47 S 5. Section 3152 of the public authorities law is REPEALED.

48 S 6. This act shall take effect immediately and shall be deemed to
49 have been in full force and effect on and after March 1, 2009; provided
50 that the provisions of sections two and three of this act shall take
51 effect upon the transfer of the functions and powers of the department
52 of economic development to the urban development corporation as provided
53 in section one of this act; and the provisions of sections four and five
54 of this act shall take effect upon the transfer of the functions and
55 powers of the New York state foundation for science, technology and

1 innovation to the urban development corporation as provided in section
2 one of this act.

3 PART FF

4 Section 1. Subdivision 2 of section 2976 of the public authorities
5 law, as amended by section 1 of part X of chapter 85 of the laws of
6 2002, is amended to read as follows:

7 2. The bond issuance charge shall be computed by multiplying the prin-
8 cipal amount of bonds issued by the percentage set forth in the schedule
9 below, provided that: (a) the charge applicable to the principal amount
10 of single family mortgage revenue bonds shall be seven one-hundredths of
11 one percent; (b) the issuance of bonds shall not include the remarketing
12 of bonds; and (c) the issuance of bonds shall not include the current
13 refunding of short term bonds, notes or other obligations for which the
14 bond issuance charge provided by this section has been paid, provided
15 that such current refunding (i) occurs within one year from the issuance
16 of the refunded obligations, or (ii) is part of a program created by a
17 single indenture or bond resolution that provides for the periodic issu-
18 ance and refunding of short term obligations.

19 SCHEDULE

20 Principal Amount of Bonds Issued	Percentage Charge
21 a. \$1,000,000 or less	[.14%] .168%
22 b. \$1,000,001 to \$5,000,000	[.28%] .336%
23 c. \$5,000,001 to \$10,000,000	[.42%] .504%
24 d. \$10,000,001 to \$20,000,000	[.56%] .672%
25 e. More than \$20,000,000	[.70%] .84%

26 S 2. This act shall take effect immediately and shall be deemed to
27 have been in full force and effect on and after March 1, 2009.

28 PART GG

29 Section 1. Notwithstanding any provision of law to the contrary, all
30 functions, powers, duties, obligations and assets of the State North-
31 eastern Queens Nature and Historical Preserve Commission, as established
32 by chapter 919 of the laws of 1973, are transferred and assigned to, and
33 assumed by, the office of parks, recreation and historic preservation.

34 S 2. All books, papers, records and property of the State Northeastern
35 Queens Nature and Historical Preserve Commission are transferred and
36 assigned to, and assumed and devolved upon, the office of parks, recre-
37 ation and historic preservation.

38 S 3. Any business or other matter undertaken or commenced by the State
39 Northeastern Queens Nature and Historical Preserve Commission relating
40 to the functions, powers, duties and obligations of such commission and
41 pending on the effective date of this act, may be conducted and
42 completed by the office of parks, recreation and historic preservation
43 in the same manner and under the same terms and conditions and with the
44 same effect as if conducted by the State Northeastern Queens Nature and
45 Historical Preserve Commission.

46 S 4. All rules, regulations, acts, determinations and decisions of the
47 State Northeastern Queens Nature and Historical Preserve Commission with
48 respect to the functions, powers, duties and obligations of such commis-
49 sion in force and effect on the effective date of this act shall contin-
50 ue in force and effect as rules, regulations, acts, determinations and
51 decisions of the office of parks, recreation and historic preservation
52 until amended or revised by such office.

1 S 5. Whenever the functions, powers, duties and obligations relating
 2 to the State Northeastern Queens Nature and Historical Preserve Commis-
 3 sion are referred to or designated in any law, contract or document,
 4 such reference or designation shall be deemed to refer to the appropri-
 5 ate functions, powers, duties and obligations of the office of parks,
 6 recreation and historic preservation.

7 S 6. No existing right or remedy of any character shall be lost,
 8 impaired or affected by reason of this act.

9 S 7. Chapter 919 of the laws of 1973, relating to establishing the
 10 State Northeastern Queens Nature and Historical Preserve, is REPEALED.

11 S 8. This act shall take effect immediately.

12 PART HH

13 Section 1. Legislative findings and declaration. The Hudson valley
 14 region plays a role of prime importance to the economy, the history and
 15 the character of New York. In 1991, the legislature established the
 16 Hudson river valley greenway program to further the protection of
 17 natural and cultural resources, the conservation and management of
 18 renewable natural resources, regional planning, economic development,
 19 public access and heritage education. Since the inception of the Hudson
 20 river valley greenway, new challenges and important issues have arisen
 21 that can be addressed through government action, including smart growth,
 22 water quality, sea level rise, and climate change. The department of
 23 state's local waterfront revitalization program has evolved to address
 24 these and other issues through progressive new plans and planning
 25 approaches that will help communities respond to these challenges. In
 26 view of the changing dynamics in the Hudson river valley, and the
 27 resources and expertise of the department of state, a transfer of the
 28 functions, powers, duties, obligations and assets of the Hudson river
 29 valley greenway, Hudson river valley greenway communities council and
 30 Hudson river valley greenway heritage conservancy to the department of
 31 state will allow New York state to more efficiently and effectively
 32 advance the greenway program, assuring that the character and values
 33 that make the region a vibrant place to live and work continue to be
 34 protected.

35 S 2. The executive law is amended by adding a new article 42-A to read
 36 as follows:

37 ARTICLE 42-A

38 HUDSON RIVER VALLEY GREENWAY

39 SECTION 925. DEFINITIONS.

40 927. POWERS AND DUTIES OF THE SECRETARY.

41 929. STATE AGENCY CONSISTENCY.

42 931. HUDSON RIVER VALLEY GEOGRAPHIC INFORMATION SYSTEMS.

43 933. GREENWAY COMPACT.

44 935. GREENWAY TRAIL.

45 937. PLANS DEVELOPED UNDER ARTICLE FORTY-FOUR OF THE ENVIRON-
 46 MENTAL CONSERVATION LAW.

47 S 925. DEFINITIONS. UNLESS OTHERWISE SPECIFIED WITHIN THIS ARTICLE, AS
 48 USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEAN-
 49 INGS:

50 1. "CHIEF ELECTED OFFICIAL OF A COUNTY" MEANS THE COUNTY EXECUTIVE OR,
 51 IF THERE IS NONE, THE CHAIR OF THE BOARD OF SUPERVISORS OR, IF THERE IS
 52 NEITHER, ANY OTHER OFFICERS POSSESSING SIMILAR POWERS AND DUTIES.

1 2. "COMPACT" OR "GREENWAY COMPACT" MEANS A REGIONAL PLAN FOR THE OVER-
2 ALL GREENWAY AREA ADOPTED PURSUANT TO SECTION NINE HUNDRED THIRTY-THREE
3 OF THIS ARTICLE.

4 3. "COUNTRYSIDE" MEANS THE CITIES, TOWNS AND VILLAGES WITHIN THE
5 GREENWAY WHICH DO NOT BORDER THE HUDSON RIVER.

6 4. "FUND" MEANS THE HUDSON RIVER VALLEY GREENWAY FUND ESTABLISHED IN
7 SECTION NINETY-SEVEN-N OF THE STATE FINANCE LAW.

8 5. "GREENWAY CRITERIA" MEANS NATURAL AND CULTURAL RESOURCE PROTECTION,
9 REGIONAL SUSTAINABLE DEVELOPMENT PLANNING, ECONOMIC DEVELOPMENT, PUBLIC
10 ACCESS, HERITAGE ENVIRONMENTAL EDUCATION AND SMART GROWTH, IDENTIFIED AS
11 THE BASIS FOR ATTAINING THE GOAL OF A HUDSON RIVER VALLEY GREENWAY AND
12 SMART GROWTH.

13 6. "GREENWAY" OR "HUDSON RIVER VALLEY GREENWAY" MEANS THE COUNTIES,
14 INCLUDING ALL CITIES, TOWNS AND VILLAGES THEREIN, OF WESTCHESTER, ROCK-
15 LAND, ORANGE, PUTNAM, DUTCHESS, ULSTER, COLUMBIA, GREENE, ALBANY, RENS-
16 SELAER, SARATOGA AND WASHINGTON; PROVIDED THE GREENWAY SHALL NOT INCLUDE
17 ANY AREA OF GREENE AND ULSTER COUNTIES WITHIN THE CATSKILL PARK AS
18 DEFINED IN SUBDIVISION TWO OF SECTION 9-0101 OF THE ENVIRONMENTAL
19 CONSERVATION LAW. IN ADDITION, IN THE CITY OF NEW YORK THE GREENWAY
20 SHALL INCLUDE THE AREAS OF BRONX AND NEW YORK COUNTIES THAT ARE BOTH
21 ADJACENT TO THE HUDSON RIVER AND INCLUDED AS OF THE EFFECTIVE DATE OF
22 THIS SECTION WITHIN THE BOUNDARIES OF SUCH CITY'S WATERFRONT REVITALIZA-
23 TION PROGRAM PREPARED PURSUANT TO ARTICLE FORTY-TWO OF THIS CHAPTER.

24 7. "GREENWAY TRAIL" OR "TRAIL" MEANS THE TRAIL ESTABLISHED PURSUANT TO
25 SECTION NINE HUNDRED THIRTY-FIVE OF THIS ARTICLE.

26 8. "PARTICIPATING COMMUNITY" MEANS A COUNTY, CITY, TOWN OR VILLAGE
27 WHICH HAS ADOPTED THE REGIONAL PLAN FOR ITS DISTRICT PURSUANT TO SECTION
28 NINE HUNDRED THIRTY-THREE OF THIS ARTICLE.

29 9. "RIVERSIDE" MEANS THE CITIES, TOWNS AND VILLAGES WITHIN THE GREEN-
30 WAY WHICH BORDER THE HUDSON RIVER AND SHALL INCLUDE THE CITY OF NEW
31 YORK, WITH RESPECT TO AREAS OF BRONX AND NEW YORK COUNTIES DESIGNATED IN
32 SUBDIVISION SIX OF THIS SECTION.

33 10. "SECRETARY" MEANS THE SECRETARY OF STATE OF THE STATE OF NEW YORK.

34 11. "SMART GROWTH" MEANS DEVELOPMENT THAT PRIORITIZES THE USE OF
35 EXISTING INFRASTRUCTURE, PARTICULARLY IN DEVELOPED AREAS, PROTECTION OF
36 OPEN SPACE, PROTECTION OF NATURAL RESOURCES AND AVOIDANCE OF SPRAWL.

37 S 927. POWERS AND DUTIES OF THE SECRETARY. THE SECRETARY SHALL HAVE
38 THE POWER:

39 1. TO MAKE AND EXECUTE CONTRACTS AND ALL OTHER INSTRUMENTS NECESSARY
40 OR CONVENIENT FOR THE EXERCISE OF THE SECRETARY'S POWERS AND FUNCTIONS
41 UNDER THIS ARTICLE.

42 2. TO CONTRACT FOR AND TO ACCEPT ASSISTANCE, INCLUDING BUT NOT LIMITED
43 TO GIFTS, GRANTS, OR LOANS OF FUNDS OR PERSONAL PROPERTY FROM THE FEDER-
44 AL GOVERNMENT OR ANY AGENCY OR INSTRUMENTALITY THEREOF, OR FROM ANY
45 AGENCY OR INSTRUMENTALITY OF THE STATE, OR FROM ANY OTHER PUBLIC OR
46 PRIVATE SOURCE AND TO COMPLY, SUBJECT TO THE PROVISIONS OF THIS ARTICLE,
47 WITH THE TERMS AND CONDITIONS THEREOF. NOTWITHSTANDING THE PROVISION OF
48 SECTION ELEVEN OF THE STATE FINANCE LAW, THE SECRETARY MAY ACCEPT GIFTS,
49 GRANTS, DEVICES AND BEQUESTS, WHETHER CONDITIONAL OR UNCONDITIONAL
50 PROVIDING THAT ANY GIFTS, GRANTS, DEVICES AND BEQUESTS BE CONSISTENT
51 WITH GREENWAY CRITERIA.

52 3. TO CONTRACT FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE.

53 4. TO CONDUCT SCIENTIFIC, ENVIRONMENTAL, ECONOMIC, TOURISM AND
54 CULTURAL STUDIES THAT ARE GERMANE TO THE GREENWAY CRITERIA AND COMPRE-
55 HENSIVE INVENTORIES OF THE NATURAL, SCENIC, HISTORIC, CULTURAL AND

1 RECREATIONAL RESOURCES OF THE HUDSON RIVER VALLEY, OR TO CONTRACT FOR
2 SUCH STUDIES AND SERVICES.

3 5. TO PREPARE PLANS TO ADVANCE THE SIX GREENWAY CRITERIA.

4 6. TO REVIEW AND COMMENT AS AN INTERESTED AGENCY DURING THE ENVIRON-
5 MENTAL REVIEW PROCESS PURSUANT TO ARTICLE EIGHT OF THE ENVIRONMENTAL
6 CONSERVATION LAW ON PROPOSED ACTIONS WITHIN THE GREENWAY, AND UPON THE
7 FILING OF A DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR ANY SUCH ACTION TO
8 REQUIRE THE LEAD AGENCY TO CONDUCT A HEARING UNDER ARTICLE EIGHT OF THE
9 ENVIRONMENTAL CONSERVATION LAW.

10 7. TO REVIEW AND COMMENT ON CAPITAL AND LONG RANGE PLANS OF STATE
11 AGENCIES AS THEY AFFECT THE CRITERIA, OBJECTIVES AND PLANS OF THE GREEN-
12 WAY.

13 8. TO REVIEW AND COMMENT ON ACTIONS PURSUANT TO SECTION SEVENTY-FIVE
14 OF THE PUBLIC LANDS LAW WITHIN THE GREENWAY FOR THEIR CONSISTENCY WITH
15 THE PUBLIC'S RIGHT AND INTEREST IN LAND UNDER WATER FOR THE PURPOSES OF
16 NAVIGATION AND COMMERCE, FISHING, BATHING, NATURAL RESOURCE CONSERVA-
17 TION, RECREATION AND ACCESS TO THE WATERS AND LANDS UNDER WATER OF THE
18 STATE.

19 9. TO DESIGNATE AND DEVELOP MODEL GREENWAY PROJECTS TO DEMONSTRATE THE
20 IMPLEMENTATION OF GREENWAY PLANNING AND MAKE CONTRACTS FOR ASSISTANCE TO
21 MUNICIPALITIES AND NONPROFIT ENTITIES WITHIN THE GREENWAY THEREFOR.

22 10. TO DESIGNATE MULTI-COUNTY PLANNING DISTRICTS OR SUBREGIONS BASED
23 ON ENVIRONMENTAL, ECONOMIC AND SOCIAL FACTORS LINKING COUNTIES, CITIES,
24 TOWNS AND VILLAGES AND THE RECOMMENDATIONS OF MUNICIPAL OFFICIALS FROM
25 SUCH COUNTIES AND THEIR POLITICAL SUBDIVISIONS FOR THE PURPOSE OF DEVEL-
26 OPMENT OF THE GREENWAY COMPACT, PROVIDED THAT THE AREAS OF BRONX AND NEW
27 YORK COUNTIES DESIGNATED IN SUBDIVISION SIX OF SECTION NINE HUNDRED
28 TWENTY-FIVE OF THIS ARTICLE SHALL BE DEEMED TO BE A MULTI-COUNTY PLAN-
29 NING DISTRICT AND REGION AND SHALL NOT BE LINKED WITH ANY OTHER COUNTY,
30 CITY, TOWN OR VILLAGE IN A MULTI-COUNTY PLANNING DISTRICT OR REGION.

31 11. TO ENCOURAGE INDIVIDUALS, CORPORATIONS, ASSOCIATIONS AND PUBLIC
32 ENTITIES TO PROTECT AND PRESERVE THE UNIQUE RESOURCES OF THE GREENWAY
33 AND MAKE GRANTS TO MUNICIPALITIES AND NONPROFIT ENTITIES WITHIN THE
34 GREENWAY THEREFOR.

35 12. TO MAKE AVAILABLE OR TO CAUSE TO MAKE AVAILABLE DISPUTE RESOLUTION
36 SERVICES FOR CONFLICTS OVER LAND USE REGULATION BETWEEN UNITS OF GOVERN-
37 MENT AND/OR BETWEEN INTERESTS INCLUDING DEVELOPMENT, CONSERVATION AND
38 NEIGHBORHOOD INTERESTS UPON REQUEST OF ALL PARTIES IN DISPUTE.

39 13. TO ORGANIZE AND MEET WITH A COMMITTEE OF COUNTY PLANNERS WITHIN
40 THE GREENWAY REGARDING REGIONAL PROJECTS AND THE PROVISION OF PLANNING
41 SERVICES.

42 14. TO EXERCISE AND PERFORM SUCH OTHER POWERS AND DUTIES AS SHALL HAVE
43 BEEN OR MAY BE FROM TIME TO TIME CONFERRED BY LAW.

44 15. TO SUE ON CAUSES OF ACTION CONSISTENT WITH THE PURPOSES AND ITS
45 RESPONSIBILITIES UNDER THIS ARTICLE AND WITH RESPECT TO CONTRACTS TO
46 WHICH THE SECRETARY IS A PARTY ARISING WITHIN THE BOUNDARIES OF THE
47 GREENWAY; AND TO BE SUED.

48 16. TO ACQUIRE, IN THE NAME OF THE STATE, INTERESTS OR RIGHTS IN REAL
49 PROPERTY INCLUDING TITLE BY GIFT OR DEVISE ANYWHERE WITHIN THE GREENWAY,
50 OR BY PURCHASE SOLELY FOR THE PURPOSES OF A RIVERSIDE PARK OR DEVELOP-
51 MENT OF THE GREENWAY TRAIL, OR BY EASEMENT FOR THE CONSERVATION, MANAGE-
52 MENT AND PRESERVATION OF OPEN SPACE CHARACTERIZED BY NATURAL SCENIC
53 BEAUTY, HERITAGE, NATURAL RESOURCE VALUES OR CONDITIONS ENHANCING
54 REGIONAL QUALITIES OF THE HUDSON RIVER VALLEY PROVIDED, HOWEVER, THAT
55 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, TRANSFERS OF SUCH INTERESTS
56 OR RIGHTS IN REAL PROPERTY MAY BE MADE TO MUNICIPALITIES OR NOT-FOR-PRO-

1 FIT CORPORATIONS WHICH CONTRACT TO HOLD SUCH PROPERTY FOR THE BENEFICIAL
2 ENJOYMENT OF THE PEOPLE OF THE STATE AND IN NO EVENT SHALL SUCH LAND BE
3 SOLD BY ANY SUCH MUNICIPALITY OR NOT-FOR-PROFIT CORPORATION EXCEPT FOR
4 PURPOSES CONSISTENT WITH THE BENEFICIAL ENJOYMENT OF THE PEOPLE OF THE
5 STATE.

6 17. TO CREATE COMMITTEES AND APPOINT MEMBERS THERETO TO ASSIST AND
7 ADVISE THE SECRETARY IN CARRYING OUT HIS OR HER FUNCTIONS, POWERS AND
8 DUTIES PURSUANT TO THIS ARTICLE AND IN COORDINATING THE ACTIVITIES OF
9 THE SECRETARY WITH STATE AND LOCAL AGENCIES FUNCTIONING WITHIN THE
10 HUDSON RIVER VALLEY.

11 18. TO INTERVENE IN PROCEEDINGS BEFORE FEDERAL AND STATE AGENCIES ON
12 MATTERS AFFECTING THE HUDSON RIVER VALLEY.

13 19. TO ENCOURAGE AND ASSIST IN THE CREATION OF SPECIAL LOCAL IMPROVE-
14 MENT DISTRICTS CONSISTENT WITH THE PURPOSES OF THIS ARTICLE.

15 20. TO IDENTIFY LAND AND WATER AREAS IN THE HUDSON RIVER VALLEY THAT
16 ARE SUITABLE FOR DESIGNATION AS SCENIC AREAS, DEVELOP RESOURCE MANAGE-
17 MENT PLANS FOR SUCH SCENIC AREAS, AND PROVIDE SUPPORT FOR UTILIZATION OF
18 SCENIC IMPACT PROJECT REVIEW GUIDELINES FOR PROJECTS OR ACTIONS WITHIN
19 SUCH AREA.

20 21. TO HELP TO ADVANCE, GUIDE AND COORDINATE ON A PRIORITY BASIS THE
21 ACQUISITION OF LAND AND WATER AREAS POSSESSED OF SCENIC, NATURAL,
22 HISTORICAL, RECREATIONAL OR CULTURAL SIGNIFICANCE, FOR THE PURPOSE OF
23 PRESERVING OR ENHANCING SUCH AREAS; AND TO DO SO IN COOPERATION WITH
24 APPROPRIATE PUBLIC AND PRIVATE AGENCIES.

25 22. TO PROVIDE LOCAL GOVERNMENTS AND THE PRIVATE SECTOR WITH IMPROVED
26 LIAISON, INTERPRETATION AND FOCUS RELATIVE TO A VARIETY OF STATE AND
27 FEDERAL PROGRAMS WHICH BEAR ON THE HUDSON RIVER VALLEY AND ITS SHORE-
28 LANDS, INCLUDING COASTAL MANAGEMENT; BASIN LEVEL B STUDY; WILD, SCENIC
29 AND RECREATIONAL RIVERS; HERITAGE AREAS; SCENIC BYWAYS; FISHERIES
30 MANAGEMENT; ESTUARINE SANCTUARIES; AREAS OF NATIONAL CONCERN; HISTORIC
31 PRESERVATION; TOURISM AND OUTDOOR RECREATION; AND GRANTS-IN-AID.

32 23. TO HELP DEVELOP AND IMPLEMENT PLANS AT THE STATE, COUNTY AND LOCAL
33 LEVELS FOR RESOURCE PROTECTION, RENEWABLE NATURAL RESOURCE MANAGEMENT,
34 SEA LEVEL RISE, CLIMATE CHANGE, AND ENHANCEMENT IN SCENIC HIGHWAY CORRI-
35 DORS IN ACCORDANCE WITH THE GREENWAY CRITERIA.

36 24. TO PREPARE A WORK PLAN OF INTENDED PROJECTS AND ACTIVITIES IN THE
37 GREENWAY, PERIODICALLY REPORT TO THE GOVERNOR AND THE LEGISLATURE ON THE
38 CONDUCT OF ITS ACTIVITIES, MAKE SUCH REPORTS AVAILABLE TO THE PUBLIC,
39 AND ESTABLISH A PROCESS TO RECEIVE PUBLIC COMMENTS ON SUCH REPORTS AND
40 ON SUGGESTIONS FOR PROPOSED PROJECTS AND ACTIVITIES IN THE GREENWAY.

41 25. TO PROMOTE THE GREENWAY AS A SINGLE, TOURISM DESTINATION SITE IN
42 CONJUNCTION WITH THE DESIGNATION AND DEVELOPMENT OF THE GREENWAY TRAIL.

43 26. TO ASSIST IN THE PRESERVATION OF FARMLANDS WITHIN THE GREENWAY FOR
44 CONTINUED AGRICULTURAL USE.

45 27. NOTWITHSTANDING ANY OTHER SECTION OF LAW, THE SECRETARY MAY EXER-
46 CISE ITS POWERS UNDER THIS ARTICLE WITHIN THE COUNTY OF NEW YORK ONLY
47 FOR THE PURPOSES OF DESIGNATING, DEVELOPING, OR CAUSING TO BE DEVELOPED
48 A TRAIL PURSUANT TO SECTION NINE HUNDRED THIRTY-FIVE OF THIS ARTICLE.
49 FOR THE PURPOSES OF THIS SUBDIVISION, "TRAIL" MEANS A LINEAR CORRIDOR OR
50 PATHWAY, WALKWAY OR BIKEWAY USED SOLELY FOR PUBLIC TRANSPORTATION AND
51 RECREATION. THE SECRETARY SHALL NOT DEVELOP, CONSTRUCT OR CAUSE TO BE
52 DEVELOPED OR CONSTRUCTED ANY LANDFILL, PIER OR STRUCTURE OVER WATER
53 LOCATED WEST OF THE EXISTING BULKHEAD OR SHORELINE; NOR SHALL THE SECRE-
54 TARY DEVELOP, CONSTRUCT OR CAUSE TO BE DEVELOPED OR CONSTRUCTED ANY
55 COMMERCIAL OR RESIDENTIAL USES ON ANY TRAIL DEVELOPED PURSUANT TO THIS
56 SUBDIVISION.

1 28. WITHIN THE AMOUNT OF APPROPRIATIONS EXPRESSLY THEREFOR, TO
2 PURCHASE THE MAXIMUM INSURANCE COVERAGE PRACTICABLE AND AFFORDABLE FROM
3 REVENUES IN THE FUND, TO BE EFFECTIVE UPON THE ADOPTION BY A COMMUNITY
4 OF A REGIONAL SUSTAINABLE DEVELOPMENT PLAN, FROM ANY DULY AUTHORIZED
5 INSURER IN THIS STATE, AGAINST ANY LIABILITY OF ANY PARTICIPATING COMMU-
6 NITY OR ITS AGENTS THAT MAY RESULT FROM ITS ACQUISITION OF LAND,
7 CONSISTENT WITH ITS REGIONAL SUSTAINABLE DEVELOPMENT PLAN, OR THE
8 ADOPTION OR IMPLEMENTATION OF ANY LAND USE CONTROL INCLUDING, BUT NOT
9 LIMITED TO, A ZONING LAW OR ORDINANCE; PROVIDED, HOWEVER, SUCH INSURANCE
10 SHALL NOT APPLY TO ANY SUCH CLAIM THAT RESULTS FROM THE INTENTIONAL
11 WRONGDOING, RECKLESSNESS, GROSS NEGLIGENCE OR AN UNLAWFUL DISCRIMINATORY
12 PRACTICE AS PROVIDED IN SUBDIVISIONS TWO, TWO-A, THREE-B, FOUR, PARA-
13 GRAPHS (A) AND (B) OF SUBDIVISION FIVE AND SUBDIVISIONS SIX, SEVEN,
14 FOURTEEN AND EIGHTEEN OF SECTION TWO HUNDRED NINETY-SIX OF THIS CHAPTER
15 AND 42 U.S.C. SS 1981, 1983 BY SUCH COMMUNITY OR ITS AGENTS. EXCEPT WITH
16 RESPECT TO NEW YORK CITY, THE SECRETARY SHALL PURCHASE SUCH INSURANCE
17 AND BEGIN COVERAGE UPON THE ADOPTION BY A COMMUNITY OF A REGIONAL
18 SUSTAINABLE DEVELOPMENT PLAN, AND MAINTAIN SUCH INSURANCE FOR ALL
19 PARTICIPATING COMMUNITIES. NOTHING IN THIS SUBDIVISION SHALL REQUIRE THE
20 SECRETARY TO PURCHASE OR PROVIDE COVERAGE FOR NEW YORK CITY.

21 29. TO TAKE ANY ACTIONS NECESSARY TO CARRY OUT THE FUNCTIONS, POWERS
22 AND DUTIES IMPOSED BY THIS ARTICLE.

23 30. TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THIS ARTICLE,
24 INCLUDING FOR PURPOSES OF MAINTAINING AND UPDATING THE COMPACT PRODUCED
25 PURSUANT TO SECTION NINE HUNDRED THIRTY-THREE OF THIS ARTICLE.

26 S 929. STATE AGENCY CONSISTENCY. 1. THE SECRETARY, IN CARRYING OUT
27 HIS OR HER FUNCTIONS AND RESPONSIBILITIES UNDER THIS ARTICLE, SHALL
28 CONSULT WITH, COOPERATE WITH, AND, TO THE MAXIMUM EXTENT PRACTICABLE,
29 COORDINATE HIS OR HER ACTIVITIES WITH OTHER INTERESTED STATE AGENCIES.

30 2. AFTER THE COMPACT IS IN EFFECT, ANY STATE AGENCY CONDUCTING, FUND-
31 ING OR APPROVING ACTIVITIES DIRECTLY AFFECTING GREENWAY RESOURCES SHALL,
32 TO THE FULLEST EXTENT PRACTICABLE, CONSULT WITH, COOPERATE WITH, AND
33 COORDINATE ITS ACTIVITIES WITH THE SECRETARY AND THE APPROPRIATE PARTIC-
34 IPATING COMMUNITY. ANY SUCH STATE AGENCY SHALL CONDUCT OR SUPPORT SUCH
35 ACTIVITIES IN A MANNER WHICH IS, TO THE MAXIMUM EXTENT PRACTICABLE,
36 CONSISTENT WITH THE COMPACT IN ADDITION TO REQUIREMENTS OF OTHER LAWS,
37 INCLUDING THOSE OF ARTICLE FORTY-TWO OF THIS CHAPTER. THE COMPACT SHALL
38 BE INCORPORATED AS PART OF THE REVIEWS OF ACTIONS PURSUANT TO THE STATE
39 ENVIRONMENTAL QUALITY REVIEW ACT AS PROVIDED IN ARTICLE EIGHT OF THE
40 ENVIRONMENTAL CONSERVATION LAW AND THE NEW YORK STATE HISTORIC PRESERVA-
41 TION ACT OF 1980. FOR PURPOSES OF SECTION 8-0113 OF THE ENVIRONMENTAL
42 CONSERVATION LAW, THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION SHALL
43 INCORPORATE CONSIDERATION OF THE GREENWAY INTO RULES AND REGULATIONS
44 ADOPTED PURSUANT TO SUCH SECTION.

45 3. NOTHING IN THIS ARTICLE SHALL PREEMPT THE AUTHORITY AND RESPONSI-
46 BILITIES OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION PURSUANT TO
47 ARTICLE ELEVEN OF THE ENVIRONMENTAL CONSERVATION LAW.

48 S 931. HUDSON RIVER VALLEY GEOGRAPHIC INFORMATION SYSTEMS. THE SECRE-
49 TARY SHALL CONTINUE, UPDATE AND MAINTAIN THE HUDSON RIVER VALLEY
50 GEOGRAPHIC INFORMATION SYSTEM AND MAKE AVAILABLE INFORMATION THEREFROM
51 TO COUNTIES, CITIES, TOWNS AND VILLAGES WITHIN THE GREENWAY. THE SECRE-
52 TARY MAY CHARGE A FEE FOR SUCH INFORMATION TO COVER THE COST OF PROVID-
53 ING THE INFORMATION.

54 S 933. GREENWAY COMPACT. 1. THE SECRETARY SHALL GUIDE AND SUPPORT A
55 COOPERATIVE DEVELOPMENT PLANNING PROCESS TO ESTABLISH A VOLUNTARY
56 REGIONAL COMPACT AMONG THE COUNTIES, CITIES, TOWNS AND VILLAGES OF THE

1 GREENWAY TO FURTHER THE RECOMMENDED CRITERIA OF NATURAL AND CULTURAL
2 RESOURCE PROTECTION, CONSERVATION AND MANAGEMENT OF RENEWABLE NATURAL
3 RESOURCES, SUSTAINABLE PLANNING, ECONOMIC DEVELOPMENT, PUBLIC ACCESS AND
4 HERITAGE EDUCATION AND SMART GROWTH.

5 2. THE SECRETARY SHALL OFFER TECHNICAL ASSISTANCE TO COMMUNITIES IN
6 THE GREENWAY IN COMPREHENSIVELY PLANNING FOR AND ATTAINING THE GOAL OF
7 ESTABLISHING AND HAVING MAXIMUM EFFECTIVE IMPLEMENTATION OF LOCAL PLAN-
8 NING AND ZONING THROUGH NATURAL AND CULTURAL RESOURCES INVENTORIES, THE
9 ADOPTION OF A COMPREHENSIVE ZONING ORDINANCE OR LOCAL LAW, COMPREHENSIVE
10 PLAN, SITE PLAN AND SUBDIVISION PLAT REVIEW CONSISTENT WITH THE GREENWAY
11 CRITERIA. THE SECRETARY SHALL ALSO ENCOURAGE THE USE OF CLUSTER SUBDIVI-
12 SION, LOCAL HISTORIC PRESERVATION REGULATIONS, TRANSFER OF DEVELOPMENT
13 RIGHTS, CONSERVATION EASEMENTS, DESIGNATION OF CRITICAL ENVIRONMENTAL
14 AREAS AND OTHER ZONING TECHNIQUES WHERE APPROPRIATE TO ATTAIN LOCAL
15 PLANNING AND ENVIRONMENTAL OBJECTIVES AND PARTICIPATION IN THE COASTAL
16 MANAGEMENT PROGRAM AND THE STATE SYSTEM OF HERITAGE AREAS. THE SECRETARY
17 MAY ENTER INTO CONTRACTS NOT TO EXCEED FIFTY PERCENT OF PROJECT COST
18 WITH COMMUNITIES IN THE GREENWAY AND IN CONSULTATION WITH APPROPRIATE
19 STATE AGENCIES FOR PURPOSES OF ADMINISTRATING GRANTS PURSUANT TO THIS
20 SUBDIVISION INCLUDING, BUT NOT LIMITED TO, GRANTS TO CONDUCT NATURAL AND
21 CULTURAL RESOURCES INVENTORIES, PREPARE OR UPDATE A COMPREHENSIVE PLAN,
22 A ZONING LOCAL LAW OR ORDINANCE, A TRANSFER OF DEVELOPMENT RIGHTS LOCAL
23 LAW OR ORDINANCE, A LOCAL GOVERNMENT WATERFRONT REVITALIZATION PROGRAM,
24 A HERITAGE AREA FEASIBILITY STUDY OR MANAGEMENT PLAN OR A TOURISM DEVEL-
25 OPMENT FEASIBILITY STUDY OR PLAN. ANY COMMUNITY WHICH RECEIVES A GRANT
26 PURSUANT TO THIS SUBDIVISION MAY, AT THE DISCRETION OF THE SECRETARY,
27 CONTRIBUTE ITS FIFTY PERCENT OF THE PROJECT COST IN THE FORM OF AN
28 IN-KIND OR OTHER NON-MONETARY CONTRIBUTION AS APPROVED BY THE SECRETARY.

29 3. THE SECRETARY SHALL PERIODICALLY CONVENE MEETINGS OF THE CHIEF
30 ELECTED OFFICIALS OF COUNTIES, CITIES, TOWNS AND VILLAGES OR THEIR
31 DESIGNATED REPRESENTATIVES FOR EACH OF THE SUBREGIONAL DISTRICTS DESIG-
32 NATED BY THE SECRETARY. SUCH OFFICIALS IN EACH DISTRICT SHALL ORGANIZE
33 TO PREPARE, OR CAUSE TO BE PREPARED PURSUANT TO SCHEDULES ESTABLISHED BY
34 THE SECRETARY A COMPREHENSIVE REGIONAL SUSTAINABLE DEVELOPMENT PLAN FOR
35 THEIR DISTRICT TO BE SUBMITTED TO THE SECRETARY. THE SECRETARY SHALL
36 OFFER TECHNICAL ASSISTANCE IN PREPARATION OF SUCH PLANS AND AMENDMENTS
37 THEREOF. WITHIN FUNDS AVAILABLE THEREFOR, THE SECRETARY SHALL GRANT
38 FUNDS TO MEET THE COST OF EACH REGIONAL SUSTAINABLE DEVELOPMENT PLAN AND
39 AMENDMENTS THEREOF. EACH SUCH REGIONAL SUSTAINABLE DEVELOPMENT PLAN
40 SHALL ADDRESS THE GREENWAY CRITERIA AND THE OBJECTIVES ADOPTED BY THE
41 SECRETARY BY PROVISIONS INCLUDING, BUT NOT LIMITED TO, IDENTIFYING
42 DEVELOPMENTS OF REGIONAL IMPACT AND AREAS OF REGIONAL CONCERN INCLUDING,
43 BUT NOT LIMITED TO IDENTIFYING NECESSARY PUBLIC FACILITIES AND INFRA-
44 STRUCTURE CONSISTENT WITH SUCH CRITERIA AND OBJECTIVES AND PROVIDING FOR
45 THE VOLUNTARY ADOPTION BY ACTION OF A LOCAL LEGISLATIVE BODY AND IMPLE-
46 MENTATION OF RELEVANT PROVISIONS BY EACH PARTICIPATING COUNTY, CITY,
47 TOWN AND VILLAGE. THE SECRETARY SHALL REVIEW EACH REGIONAL SUSTAINABLE
48 DEVELOPMENT PLAN FOR ITS CONSISTENCY WITH THE GREENWAY CRITERIA AND
49 OBJECTIVES AND TO ASSURE THAT THE REGIONAL SUSTAINABLE DEVELOPMENT PLANS
50 CONFORM TO ESTABLISH AN OVERALL GREENWAY COMPACT. UPON FINDING SUCH
51 CONSISTENCY AND CONFORMANCE, THE SECRETARY SHALL APPROVE THE REGIONAL
52 SUSTAINABLE DEVELOPMENT PLAN AND, UPON APPROVING ALL THE REGIONAL
53 SUSTAINABLE DEVELOPMENT PLANS, SHALL PRODUCE AN OVERALL GREENWAY PLAN TO
54 BE KNOWN AS THE COMPACT. IF THE LOCAL OFFICIALS IN ANY DISTRICT FAIL TO
55 PRODUCE A REGIONAL SUSTAINABLE DEVELOPMENT PLAN FOR THEIR DISTRICT OR
56 SUBMIT SUCH PLAN WHICH THE SECRETARY CANNOT APPROVE, THE SECRETARY MAY

1 PREPARE OR CAUSE TO BE PREPARED A REGIONAL SUSTAINABLE DEVELOPMENT PLAN
2 WHICH CITIES, TOWNS AND VILLAGES IN SUCH DISTRICT MAY VOLUNTARILY ADOPT
3 BY LOCAL LAW TO BECOME PARTICIPATING COMMUNITIES. THE SECRETARY'S
4 ACTIONS SHALL NOT BE INCONSISTENT WITH THE REQUIREMENTS OF ARTICLE
5 FORTY-TWO OF THIS CHAPTER IN APPROVING ANY REGIONAL SUSTAINABLE DEVELOP-
6 MENT PLAN.

7 4. UPON APPROVAL BY THE SECRETARY OF A REGIONAL SUSTAINABLE DEVELOP-
8 MENT PLAN, EACH COUNTY, CITY, TOWN OR VILLAGE WITHIN THE DISTRICT FOR
9 WHICH THE PLAN WAS PREPARED AND THAT ADOPTED THE PLAN BY ITS LOCAL
10 LEGISLATIVE BODY SHALL BECOME A PARTICIPATING COMMUNITY IN THE GREENWAY
11 COMPACT BY ADOPTING THE REGIONAL SUSTAINABLE DEVELOPMENT PLAN AS
12 PROVIDED IN SUCH PLAN.

13 5. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE MAYOR OF
14 THE CITY OF NEW YORK MAY SUBMIT THOSE PORTIONS OF SUCH CITY'S WATERFRONT
15 REVITALIZATION PROGRAM, PREPARED PURSUANT TO ARTICLE FORTY-TWO OF THIS
16 CHAPTER AND ADOPTED THROUGH THE PROCESS FOR THE ADOPTION AND AMENDMENT
17 OF PLANS CONTAINED IN THE CHARTER OF SUCH CITY, AS SUCH PROGRAM APPLIES
18 TO AREAS WITHIN THE GREENWAY, AS THE REGIONAL SUSTAINABLE DEVELOPMENT
19 PLAN FOR THE REGION COMPRISED OF THE AREAS OF BRONX AND NEW YORK COUN-
20 TIES DESCRIBED IN SUBDIVISION SIX OF SECTION NINE HUNDRED TWENTY-FIVE OF
21 THIS ARTICLE. THE MAYOR OF SUCH CITY MAY SUBMIT AMENDMENTS TO SUCH
22 REGIONAL SUSTAINABLE DEVELOPMENT PLAN ADOPTED THROUGH THE PROCESS FOR
23 THE ADOPTION AND AMENDMENT OF PLANS CONTAINED IN THE CHARTER OF SUCH
24 CITY. ANY SUCH PLAN OR AMENDMENT THEREOF SUBMITTED PURSUANT TO THIS
25 SUBDIVISION SHALL BE DEEMED TO HAVE BEEN APPROVED PURSUANT TO THIS
26 SECTION AND, UPON SUBMISSION OF SUCH PLAN, THE AREAS OF THE CITY OF NEW
27 YORK DESIGNATED IN SUBDIVISION SIX OF SECTION NINE HUNDRED TWENTY-FIVE
28 OF THIS ARTICLE AND WHICH ARE ALSO INCLUDED WITHIN SUCH PLAN SHALL BE
29 DEEMED TO BE A PARTICIPATING COMMUNITY AND, UNLESS OTHERWISE SPECIFIED,
30 THE MAYOR OF SUCH CITY SHALL EXERCISE THE AUTHORITY GRANTED TO SUCH
31 PARTICIPATING COMMUNITY. SOLELY FOR PURPOSES OF THIS SUBDIVISION THE
32 PLAN SUBMITTED BY THE CITY OF NEW YORK PURSUANT TO THIS SECTION AND ANY
33 AMENDMENTS THERETO SHALL NOT BE DEEMED A GENERIC ENVIRONMENTAL IMPACT
34 STATEMENT OR REGIONAL SUSTAINABLE DEVELOPMENT PLAN.

35 6. NOTHING CONTAINED IN THIS ARTICLE SHALL BE DEEMED TO AFFECT, IMPAIR
36 OR SUPERSEDE THE PROVISIONS OF ANY CITY CHARTER, LOCAL LAW, RULE OR
37 OTHER LOCAL REQUIREMENTS AND PROCEDURES HERETOFORE OR HEREAFTER ADOPTED,
38 INCLUDING, BUT NOT LIMITED TO, ANY SUCH PROVISIONS RELATING TO THE
39 ZONING AND USE OF LAND.

40 7. A REGIONAL SUSTAINABLE DEVELOPMENT PLAN PREPARED CONSISTENT WITH
41 THE PROCEDURES OF SECTION 8-0109 OF THE ENVIRONMENTAL CONSERVATION LAW
42 RELATING TO THE PREPARATION AND CONTENTS OF AN ENVIRONMENTAL IMPACT
43 STATEMENT SHALL BE CONSIDERED A GENERIC ENVIRONMENTAL IMPACT STATEMENT.
44 ACTIONS PROPOSED IN CONFORMANCE WITH THE CONDITIONS AND THRESHOLDS
45 ESTABLISHED IN SUCH REGIONAL SUSTAINABLE DEVELOPMENT PLAN WILL REQUIRE
46 NO FURTHER COMPLIANCE WITH ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVA-
47 TION LAW.

48 8. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY STATE AGENCY MAY
49 PROVIDE IN IMPLEMENTING A RANKING SYSTEM FOR ALLOCATING FUNDS FOR
50 INFRASTRUCTURE, LAND ACQUISITION OR PARK ASSISTANCE PROJECTS A PREFER-
51 ENCE NOT TO EXCEED THE EQUIVALENT OF AN ADVANTAGE OF FIVE PERCENT FOR
52 SUCH PROJECTS WHICH ARE IDENTIFIED IN A REGIONAL SUSTAINABLE DEVELOPMENT
53 PLAN APPROVED PURSUANT TO THIS SECTION.

54 9. FOR EACH SUCH PARTICIPATING COMMUNITY THERE SHALL BE INDEMNITY FROM
55 THE STATE IN THE EVENT OF LEGAL ACTIONS BROUGHT AGAINST THE COMMUNITY OR
56 ITS AGENTS THAT MAY RESULT FROM THE COMMUNITY'S ACQUISITION OF LAND

1 CONSISTENT WITH ITS REGIONAL SUSTAINABLE DEVELOPMENT PLAN OR THE
2 ADOPTION OR IMPLEMENTATION OF ANY LAND USE CONTROL INCLUDING, BUT NOT
3 LIMITED TO, A ZONING LAW OR ORDINANCE. SUCH INDEMNITY SHALL NOT APPLY TO
4 THE COUNTIES OF NEW YORK AND BRONX FOR SUCH LEGAL ACTIONS BROUGHT AS A
5 RESULT OF NEW YORK CITY'S ADOPTION OF A REGIONAL SUSTAINABLE DEVELOPMENT
6 PLAN OR AMENDMENTS THERETO PURSUANT TO SUBDIVISION FIVE OF THIS SECTION.
7 SUCH INDEMNITY SHALL APPLY TO THE EXTENT THAT ANY SUCH CLAIM EXCEEDS THE
8 INSURANCE COVERAGE OBTAINED BY THE SECRETARY PURSUANT TO THIS ARTICLE;
9 PROVIDED, HOWEVER, SUCH INDEMNITY SHALL NOT APPLY TO ANY SUCH CLAIM THAT
10 RESULTS FROM INTENTIONAL WRONGDOING, RECKLESSNESS, GROSS NEGLIGENCE OR
11 AN UNLAWFUL DISCRIMINATORY PRACTICE AS PROVIDED IN SUBDIVISIONS TWO,
12 TWO-A, THREE-B, FOUR, PARAGRAPHS (A) AND (B) OF SUBDIVISION FIVE AND
13 SUBDIVISIONS SIX, SEVEN, FOURTEEN AND EIGHTEEN OF SECTION TWO HUNDRED
14 NINETY-SIX OF THIS CHAPTER AND 42 U.S.C. SS 1981, 1983 BY SUCH COMMUNITY
15 OR ITS AGENTS. IN ANY CLAIM AGAINST A PARTICIPATING COMMUNITY OF UNLAW-
16 FUL DISCRIMINATORY PRACTICE, THE ATTORNEY GENERAL SHALL NOT REPRESENT
17 THE DEFENDANT OR DEFENDANTS; PROVIDED, HOWEVER, THAT IF THE PLAINTIFF IS
18 NOT THE PREVAILING PARTY, THE DEFENDANT OR DEFENDANTS SHALL BE REIM-
19 BURED BY THE STATE FOR ALL REASONABLE ATTORNEYS' FEES AND LITIGATION
20 EXPENSES INCURRED IN THE DEFENSE OF THE ACTION.

21 10. IN ADDITION TO ANY OTHER FUNDS AVAILABLE FROM THE STATE, PARTIC-
22 IPATING COMMUNITIES AND NONPROFIT ENTITIES DESIGNATED BY SUCH COMMUNI-
23 TIES SHALL BE ELIGIBLE FOR CAPITAL, PROGRAM AND PLANNING MATCHING GRANTS
24 FROM THE SECRETARY TO THE EXTENT APPROPRIATIONS HAVE BEEN MADE THEREFOR,
25 INCLUDING, BUT NOT LIMITED TO GRANTS FOR MUNICIPAL HISTORIC PRESERVATION
26 PROJECTS TO ACQUIRE, RESTORE OR REHABILITATE PROPERTY LISTED ON THE
27 STATE OR NATIONAL REGISTERS OF HISTORIC PLACES OR FOR EDUCATIONAL
28 PROGRAMS RELATED TO SUCH HISTORIC PLACES, MUNICIPAL PARK PROJECTS FOR
29 THE ACQUISITION, DEVELOPMENT OR IMPROVEMENT OF RECREATIONAL FACILITIES
30 OR THE ACQUISITION OF LAND FOR OPEN SPACE CONSERVATION AND MANAGEMENT OF
31 RENEWABLE NATURAL RESOURCES AND NATURAL RESOURCE PROTECTION INCLUDING
32 THE PRESERVATION OF ENDANGERED SPECIES AND THEIR NATURAL COMMUNITIES,
33 WATERFRONT REVITALIZATION PROJECTS TO ACQUIRE LAND FOR PUBLIC ACCESS TO
34 THE HUDSON RIVER OR TO PROTECT RIVER RESOURCES OR TO CLEAR WATERFRONT
35 SITES FOR PUBLIC OR PRIVATE WATER DEPENDENT USES OR TO DEVELOP, IMPROVE
36 OR REHABILITATE WATER DEPENDENT OR WATERFRONT FACILITIES INCLUDING
37 WHARFS AND PIERS, CONSISTENT WITH A LOCAL WATERFRONT REVITALIZATION
38 PROGRAM, HERITAGE AREA PROJECTS FOR PLANNING, PROGRAM, ACQUISITION OR
39 DEVELOPMENT CONSISTENT WITH THE PURPOSES OF ARTICLE THIRTY-FIVE OF THE
40 PARKS, RECREATION AND HISTORIC PRESERVATION LAW, TOURISM MARKETING
41 PROJECTS, DEVELOPMENT AND COMMERCIAL REVITALIZATION AND COMMUNITY DEVEL-
42 OPMENT PROGRAMS AND PROJECTS, NATURAL RESOURCES INVENTORIES, AGRICULTURE
43 PRESERVATION PROJECTS AND PUBLIC AND PRIVATE INFRASTRUCTURE IMPROVEMENT
44 RELATED TO THE DEVELOPMENT OF THE GREENWAY TRAIL. THE STATE SHARE OF THE
45 COST OF SUCH PROJECTS SHALL NOT EXCEED FIFTY PERCENT OF THE TOTAL
46 PROJECT COST. THE SECRETARY SHALL ENTER INTO CONTRACTS WITH PARTICIPAT-
47 ING COMMUNITIES AND IN CONSULTATION WITH APPROPRIATE STATE AGENCIES FOR
48 THE PURPOSE OF ADMINISTERING THESE GRANTS.

49 11. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, PARTICIPATING COMMUNI-
50 TIES SHALL BE ELIGIBLE TO TAKE PART IN AND RECEIVE GRANTS AND LOANS FROM
51 THE URBAN DEVELOPMENT CORPORATION'S URBAN AND COMMUNITY DEVELOPMENT
52 PROGRAM AND REGIONAL ECONOMIC DEVELOPMENT PROGRAM.

53 12. THE SECRETARY MAY, AFTER HOLDING A PUBLIC HEARING IN THE APPROPRI-
54 ATE DISTRICT, WITHDRAW ITS APPROVAL OF A REGIONAL SUSTAINABLE DEVELOP-
55 MENT PLAN WHERE IT FINDS THAT THERE HAS BEEN A SIGNIFICANT FAILURE TO
56 IMPLEMENT SUCH PLAN BY A MAJORITY OF THE PARTICIPATING COUNTIES, CITIES,

1 TOWNS AND VILLAGES WITHIN THE DISTRICT. WHEN APPROVAL HAS BEEN WITHDRAWN
 2 FROM A REGIONAL SUSTAINABLE DEVELOPMENT PLAN, THE COMMUNITIES THEREIN
 3 MAY NOT HAVE THE BENEFITS OF PARTICIPATING COMMUNITIES PURSUANT TO
 4 SUBDIVISIONS SEVEN THROUGH TEN OF THIS SECTION. THE SECRETARY SHALL
 5 REPORT SUCH WITHDRAWAL OF APPROVAL TO THE GOVERNOR AND THE LEGISLATURE
 6 STATING THE REASONS FOR SUCH ACTION CONSISTENT WITH SUBDIVISIONS ONE
 7 THROUGH EIGHT OF THIS SECTION.

8 S 935. GREENWAY TRAIL. 1. THE SECRETARY SHALL DESIGNATE AND DEVELOP
 9 OR CAUSE TO BE DEVELOPED A TRAIL OR PATHWAY SYSTEM CONSISTENT WITH THE
 10 GREENWAY CRITERIA CONNECTING THE CITY OF NEW YORK FROM THE SOUTHERNMOST
 11 BOUNDARY OF THE AREA DESIGNATED AS THE GREENWAY TO THE ERIE CANAL LOCK
 12 TWO PARK IN THE TOWN OF WATERFORD, SARATOGA COUNTY TO BE KNOWN AS THE
 13 HUDSON RIVER VALLEY GREENWAY TRAIL. TO THE FULLEST EXTENT PRACTICABLE,
 14 THE TRAIL SHALL:

15 A. BE LOCATED WITH DIRECT PHYSICAL OR, IF NOT PHYSICAL, VISUAL ACCESS
 16 TO THE HUDSON RIVER;

17 B. BE PLANNED FOR BOTH SIDES OF THE HUDSON RIVER;

18 C. HAVE SEGMENTS THAT CAN BE RESTRICTED TO NON-MOTORIZED USE;

19 D. UTILIZE EXISTING HERITAGE TRAILS, BIKEWAYS, SCENIC HIGHWAYS, RAIL-
 20 ROAD RIGHTS OF WAY AND ESPLANADES AND MAKE CONNECTIONS WITH OTHER TRAILS
 21 INCLUDING TRAILS ALONG TRIBUTARIES OF THE HUDSON RIVER;

22 E. HIGHLIGHT AND LINK EXISTING PARKS, HERITAGE AREAS AND HISTORIC
 23 SITES;

24 F. PROVIDE FOR INTERPRETIVE SIGNAGE AND OPPORTUNITIES TO EXPERIENCE
 25 THE UNIQUE NATURAL AND CULTURAL HERITAGE OF THE VALLEY;

26 G. REFLECT THE NATURAL AND CULTURAL DIVERSITY;

27 H. INVOLVE STATE AND LOCAL AGENCIES AND PRIVATE ORGANIZATIONS IN THE
 28 PLANNING, DEVELOPMENT AND MAINTENANCE OF THE TRAIL OF THE GREENWAY;

29 I. USE THE SERVICES OF LOCAL SCHOOL DISTRICTS AND THE YOUTH CONSERVA-
 30 TION CORPS TO PARTICIPATE IN TRAIL DEVELOPMENT AND MAINTENANCE;

31 J. HAVE SEGMENT MANAGEMENT PLANS PREPARED FOR EACH SEGMENT OF THE
 32 TRAIL TO ASSURE UNIFORM MAINTENANCE AND UPKEEP; AND

33 K. HAVE CONNECTIONS TO PATHWAYS THAT HIGHLIGHT THE CHARACTER AND
 34 RESOURCES OF THE COUNTRYSIDE COMMUNITIES.

35 2. THE GREENWAY TRAIL TO THE EXTENT PRACTICABLE SHALL BE COMPLETED ON
 36 OR BEFORE JUNE FIRST, TWO THOUSAND FIFTEEN.

37 3. THE DEPARTMENT, THE OFFICE OF PARKS, RECREATION AND HISTORIC PRES-
 38 ERVATION, THE DEPARTMENT OF TRANSPORTATION, THE DEPARTMENT OF ENVIRON-
 39 MENTAL CONSERVATION AND THE OFFICE OF GENERAL SERVICES ARE HEREBY
 40 AUTHORIZED AND DIRECTED TO SUPPORT AND ASSIST IN THE PLANNING AND DEVEL-
 41 OPMENT OF THE TRAIL.

42 S 937. PLANS DEVELOPED UNDER ARTICLE FORTY-FOUR OF THE ENVIRONMENTAL
 43 CONSERVATION LAW. ALL PLANS PREPARED BY PARTICIPATING COMMUNITIES AND
 44 COUNTIES, INCLUDING REGIONAL AND COMPACT PLANS, UNDER ARTICLE FORTY-FOUR
 45 OF THE ENVIRONMENTAL CONSERVATION LAW SHALL HAVE THE SAME FORCE, VALIDI-
 46 TY AND EFFECT AS IF THEY WERE PREPARED UNDER THIS ARTICLE.

47 S 3. Subdivisions 2 and 3 of section 285-b of the agriculture and
 48 markets law, as amended by section 2 of part Z of chapter 383 of the
 49 laws of 2001, are amended to read as follows:

50 2. The advisory council, in consultation with the [Hudson river valley
 51 greenway communities council] SECRETARY OF STATE, the upstate New York
 52 tourism council and the downstate New York tourism council, may recom-
 53 mend programs and promotional activities designed to preserve and
 54 enhance Hudson valley region tourism and agricultural open space,
 55 address issues affecting the viability of agriculture including real
 56 property tax policies and promote greater agricultural marketing and

1 promotional opportunities for the region's agricultural producers to the
2 department.

3 3. From time to time, but at least every two years, the advisory coun-
4 cil shall issue a report evaluating such programs and promotional activ-
5 ities to be transmitted to the commissioner, the [chairperson of the
6 Hudson river valley greenway communities council] SECRETARY OF STATE,
7 the chairperson of the upstate New York tourism council, and the chair-
8 person of the downstate New York tourism council and, upon request, any
9 other interested party. The advisory council shall also do all other
10 things necessary and proper for the completion of a feasibility study of
11 developing a tour of the Hudson valley to be known as "The Hudson Valley
12 Ag Trail" to highlight the unique and significant agricultural and
13 natural resources of the Hudson valley region.

14 S 4. Subdivision 2 of section 285-b of the agriculture and markets
15 law, as amended by chapter 571 of the laws of 2008, is amended to read
16 as follows:

17 2. The advisory council, in consultation with the [Hudson river valley
18 greenway communities council] SECRETARY OF STATE, the upstate New York
19 tourism council, and the downstate New York tourism council, may recom-
20 mend programs and promotional activities designed to preserve and
21 enhance Hudson valley region tourism and agricultural open space,
22 address issues affecting the viability of agriculture, including real
23 property tax policies and municipal land use issues, and promote greater
24 agricultural marketing and promotional opportunities for the region's
25 agricultural producers to the department.

26 S 5. Subdivision 1 of section 349-cc of the highway law, as amended by
27 chapter 399 of the laws of 2005, is amended to read as follows:

28 1. An advisory board of state agencies with responsibilities related
29 to the designation and management of scenic byways and not-for-profit
30 organizations related to the promotion and development of scenic byways
31 is hereby formed to advise and assist the department in the operation of
32 its scenic byways program. The advisory board shall consist of one
33 member appointed by the temporary president of the senate, one member
34 appointed by the speaker of the assembly, the secretary of state, and
35 the commissioners of the department of agriculture and markets, the
36 [department of economic development] URBAN DEVELOPMENT CORPORATION, and
37 the department of environmental conservation, and the office of parks,
38 recreation and historic preservation or their duly designated represen-
39 tatives. The commissioner shall appoint as members of the advisory board
40 the chief executive officer, or his or her duly authorized represen-
41 tative, of not-for-profit organizations related to the promotion and
42 development of a scenic byway designated pursuant to this article, three
43 representatives of organizations concerned with the preservation of
44 scenic qualities, the motoring public and tourism development and
45 members or representatives of the upstate New York tourism council and
46 of the downstate New York tourism council. The commissioner, or his or
47 her duly designated representative, shall serve as chair. Members of the
48 advisory board shall receive no pay, but shall be eligible to receive
49 actual and necessary expenses from their respective agencies, or for the
50 expenses of representatives of organizations related to the promotion
51 and development of a scenic byway, the preservation of scenic qualities,
52 the motoring public and tourism development, from the department. The
53 advisory board shall consult with the Adirondack Park Agency regarding
54 scenic byways within the Adirondack Park. The advisory board shall also
55 consult with the [Hudson River Valley Communities Council] SECRETARY OF
56 STATE regarding scenic byways within the Hudson River Valley Greenway as

1 defined in article [forty-four of the environmental conservation law]
2 FORTY-TWO-A OF THE EXECUTIVE LAW. The advisory board shall consult with
3 the Niagara River Greenway Commission regarding scenic byways within the
4 Niagara River Greenway as defined in article thirty-nine of the parks,
5 recreation and historic preservation law. The advisory board shall
6 consult with the upstate New York tourism council regarding scenic
7 byways in the upstate New York region, and with the downstate New York
8 tourism council regarding scenic byways in the downstate New York
9 region.

10 S 6. Subdivision 5 of section 46-a of the navigation law, as amended
11 by chapter 225 of the laws of 1995, is amended to read as follows:

12 (5) The local legislative body of any city, town or village which is a
13 participating community as defined in [subdivision ten of section
14 44-0103 of the environmental conservation law] SUBDIVISION EIGHT OF
15 SECTION NINE HUNDRED TWENTY-FIVE OF THE EXECUTIVE LAW may adopt, amend
16 and enforce local laws, rules and regulations not inconsistent with the
17 laws of this state or the United States or with the Hudson river valley
18 greenway compact, with respect to the restriction and regulation of the
19 manner of construction and location of boathouses, moorings and docks in
20 any waters within or bounding the respective municipality to a distance
21 of fifteen hundred feet from the shoreline. Nothing in this subdivision
22 or in article [forty-four of the environmental conservation law] FORTY-
23 TWO-A OF THE EXECUTIVE LAW or in the Hudson river valley greenway
24 compact produced pursuant to such article, shall be deemed to affect,
25 impair or supersede the provisions of any charter, local law, rule or
26 other local requirements and procedures heretofore or hereafter adopted
27 by such participating community, including, but not limited to, any such
28 provisions relating to the zoning and use of land or any waters within
29 or bounding such participating community to a distance of fifteen
30 hundred feet from the shoreline.

31 S 7. Transfer of appropriations. As approved by the director of the
32 budget, appropriations made to the Hudson river valley greenway, the
33 Hudson river valley greenway communities council or the Hudson river
34 valley greenway heritage conservancy, to the extent of remaining unex-
35 pended balances, shall be transferred by the comptroller to and made
36 available for use by the secretary of state for the payment of liabil-
37 ities heretofore incurred by the Hudson river valley greenway, the
38 Hudson river valley greenway communities council or the Hudson river
39 valley greenway heritage conservancy. Payments for liabilities for
40 expenses of personal service, maintenance and operation heretofore
41 incurred by the Hudson river valley greenway, the Hudson river valley
42 greenway communities council or the Hudson river valley greenway herit-
43 age conservancy and for liabilities incurred and to be incurred shall be
44 made on vouchers or certificates approved by the director of adminis-
45 tration and management of the department of state on audit and warrant
46 of the comptroller.

47 S 8. Transfer of assets and liabilities. All assets and liabilities of
48 the Hudson river valley greenway, the Hudson river valley greenway
49 communities council and the Hudson river valley greenway heritage
50 conservancy, are hereby transferred and assigned to, assumed by and
51 devolved upon the department of state.

52 S 9. Transfer of records. All books, papers, records and property of
53 the Hudson river valley greenway, the Hudson river valley greenway
54 communities council and the Hudson river valley greenway heritage
55 conservancy are transferred and assigned to the department of state.

1 S 10. Completion of unfinished business. Any business or other matter
2 undertaken or commenced by the Hudson river valley greenway, the Hudson
3 river valley greenway communities council and the Hudson river valley
4 greenway heritage conservancy and pending on the effective date of this
5 act may be conducted and completed by the department of state, and/or
6 the secretary of state, as appropriate, in the same manner and under the
7 same terms and conditions and with the same effect as if conducted by
8 the Hudson river valley greenway, the Hudson river valley greenway
9 communities council or the Hudson river valley greenway heritage conser-
10 vancy, as appropriate.

11 S 11. Continuity of authority. For the purpose of succession to all
12 functions, powers, duties and obligations transferred and assigned to,
13 devolved upon and assumed by it pursuant to this act, the department of
14 state, and/or the secretary of state, as appropriate, shall be deemed
15 and held to constitute the continuation of the Hudson river valley
16 greenway, the Hudson river valley greenway communities council and the
17 Hudson river valley greenway heritage conservancy pertaining to the
18 powers and functions herein transferred.

19 S 12. Terms occurring in laws, contracts and documents. Whenever the
20 Hudson river valley greenway, the Hudson river valley greenway communi-
21 ties council or the Hudson river valley greenway heritage conservancy,
22 or the chairman or the executive director thereof, is referred to or
23 designated in laws, contracts or documents, the department of state or
24 the secretary of state, as appropriate, shall be substituted.

25 S 13. Transfer of employees. Upon the transfer of the functions,
26 powers, duties, obligations and assets of the Hudson river valley green-
27 way, the Hudson river valley greenway communities council and the Hudson
28 river valley greenway heritage conservancy to the secretary of state and
29 the department of state pursuant to this act, employees transferred
30 therefrom to the department of state, if any, as determined by the
31 director of the budget in consultation with the secretary of state,
32 shall be transferred in accordance with the provisions of section 70 of
33 the civil service law without further examination or qualification and
34 shall retain their respective civil service classifications and status.

35 S 14. Existing rights and remedies provided. No existing right or
36 remedy of any character shall be lost, impaired or affected by reason of
37 this act.

38 S 15. Pending actions and proceedings. No action pending at the time
39 this act takes effect, brought by or against the Hudson river valley
40 greenway, the Hudson river valley greenway communities council or the
41 Hudson river valley greenway heritage conservancy, or the chairman or
42 executive director thereof, shall be affected by any provision of this
43 act, but the same may be prosecuted or defended in the name of the
44 secretary of state or department of state as appropriate, and the proper
45 party shall, upon application to the court, be substituted as a party.

46 S 16. Continuation of rules and regulations. All rules, regulations,
47 acts, determinations and decisions of the Hudson river valley greenway,
48 the Hudson river valley greenway communities council and the Hudson
49 river valley greenway heritage conservancy pertaining to the functions
50 herein transferred and assigned, in force at the time of such transfer,
51 assignment, assumption or devolution shall continue in force and effect
52 as rules, regulations, acts, determinations and decisions of the secre-
53 tary of state in accordance with the context therefor, until duly modi-
54 fied or abrogated by the secretary of state.

55 S 17. Severability clause. If any clause, sentence, paragraph, section
56 or part of this act shall be adjudged by a court of competent jurisdic-

1 tion to be invalid, such judgment shall not affect, impair, or invali-
2 date the remainder thereof, but shall be confined in its operation to
3 the clause, sentence, paragraph, section or part thereof directly
4 involved in the controversy in which such judgment shall have been
5 rendered.

6 S 18. Section 97-n of the state finance law is REPEALED.

7 S 19. Article 44 of the environmental conservation law is REPEALED.

8 S 20. This act shall take effect on March 1, 2009, provided, however,
9 that subdivision 9 of section 933 of the executive law added by section
10 two of this act shall expire and be deemed repealed on December 31,
11 2012; and provided further that section four of this act shall take
12 effect on the same date and in the same manner as chapter 571 of the
13 laws of 2008 takes effect.

14

PART II

15 Section 1. Subdivision 1 of section 133-a of the agriculture and
16 markets law, as amended by chapter 233 of the laws of 1996, is amended
17 to read as follows:

18 1. Any person who distributes in this state any feed ingredient or
19 commercial feed, except a pet food or specialty pet food, shall pay to
20 the commissioner a tonnage fee at the rate of [five] TEN cents per ton
21 for each ingredient or feed distributed, subject to the following:

22 (a) No fee shall be paid on a feed ingredient or commercial feed if
23 payment has been made for the particular ingredient or feed by a previ-
24 ous distributor;

25 (b) No fee shall be paid on a customer-formula feed if the tonnage fee
26 has been paid on the commercial feeds which are used as ingredients
27 therein[;

28 (c) No fee shall be paid by persons distributing less than one hundred
29 tons per year of any feed ingredient or commercial feed in this state].

30 S 2. The second undesignated paragraph of section 251-z-3 of the agri-
31 culture and markets law, as amended by chapter 80 of the laws of 2006,
32 is amended to read as follows:

33 The applicant shall furnish evidence of his or her good character,
34 experience and competency, that the establishment has adequate facili-
35 ties and equipment for the business to be conducted, that the establish-
36 ment is such that the cleanliness of the premises can be maintained,
37 that the product produced therein will not become adulterated and, if
38 the applicant is a retail food store, that the applicant has an individ-
39 ual in a position of management or control who has completed an approved
40 food safety education program pursuant to section two hundred fifty-one-
41 z-twelve of this article. The commissioner, if so satisfied, shall issue
42 to the applicant, upon payment of the license fee of [two] FOUR hundred
43 dollars, a license to operate the food processing establishment
44 described in the application. HOWEVER, THE LICENSE FEE SHALL BE NINE
45 HUNDRED DOLLARS FOR A FOOD PROCESSING ESTABLISHMENT DETERMINED BY THE
46 COMMISSIONER, PURSUANT TO DULY PROMULGATED REGULATIONS, TO REQUIRE MORE
47 INTENSIVE REGULATORY OVERSIGHT DUE TO THE VOLUME OF THE PRODUCTS
48 PRODUCED, THE POTENTIALLY HAZARDOUS NATURE OF THE PRODUCT PRODUCED OR
49 THE MULTIPLE NUMBER OF PROCESSING OPERATIONS CONDUCTED IN THE ESTABLISH-
50 MENT. The license application for retail food stores shall be accompa-
51 nied by documentation in a form approved by the commissioner which
52 demonstrates that the food safety education program requirement has been
53 met. The license shall take effect on the date of issuance and continue

1 until the last day of the applicable license period set forth in this
2 section.

3 S 3. Subdivision 5 of section 500 of the agriculture and markets law,
4 as added by section 8 of part 11 of chapter 62 of the laws of 2003, is
5 amended to read as follows:

6 5. Licensure. No person shall maintain or operate a retail food store,
7 food service establishment or food warehouse unless such establishment
8 is licensed pursuant to the provisions of this article, provided, howev-
9 er, that establishments registered, permitted or licensed by the depart-
10 ment pursuant to other provisions of this chapter, under permit and
11 inspection by the state department of health or by a local health agency
12 which maintains a program certified and approved by the state commis-
13 sioner of health, or subject to inspection by the United States depart-
14 ment of agriculture pursuant to the federal meat, poultry or egg
15 inspection programs, shall be exempt from licensure under this article.
16 Application for licensure of a retail food store, food service estab-
17 lishment or food warehouse shall be made, upon a form prescribed by the
18 commissioner, on or before December first of every other year for the
19 registration period beginning January first following. Upon submission
20 of a completed application, together with the applicable licensing fee,
21 the commissioner shall license the retail food store, food service
22 establishment or food warehouse described in the application for two
23 years from the applicable registration commencement period set forth in
24 this section. The licensing fee shall be [one hundred] TWO HUNDRED FIFTY
25 dollars provided, however, that food warehouses shall pay a licensing
26 fee of [two] FOUR hundred dollars. [The commissioner shall prorate the
27 licensing fee for any person licensed after the commencement of the
28 licensing period.]

29 S 4. The agriculture and markets law is amended by adding three new
30 sections 137-b, 137-c, and 142-a to read as follows:

31 S 137-B. LICENSING. A. NO PERSON WHOSE LABEL IS APPLIED TO ANY KIND
32 OR VARIETY OF SEED SHALL SELL OR OFFER FOR SALE SUCH SEED IN THE STATE
33 WITHOUT FIRST RECEIVING FROM THE COMMISSIONER A LICENSE TO CONDUCT SUCH
34 ACTIVITY. NO PERSON SHALL SELL OR OFFER FOR SALE ANY KIND OR VARIETY OF
35 SEED FOR RESALE IN THE STATE WITHOUT FIRST RECEIVING A LICENSE FROM THE
36 COMMISSIONER TO CONDUCT SUCH ACTIVITY, PROVIDED HOWEVER, THAT A LICENSE
37 SHALL NOT BE REQUIRED IF THE LABELER OF SUCH SEED IS LICENSED PURSUANT
38 TO THIS SECTION. APPLICATION FOR A LICENSE, UPON A FORM PRESCRIBED BY
39 THE COMMISSIONER, SHALL BE MADE ON OR BEFORE JULY FIRST FOR THE LICENSE
40 YEAR BEGINNING THE FOLLOWING AUGUST FIRST, AND BIENNIALLY THEREAFTER,
41 AND SHALL BE ACCOMPANIED BY A BIENNIAL LICENSE FEE OF ONE HUNDRED
42 DOLLARS.

43 B. THE COMMISSIONER IS AUTHORIZED AND EMPOWERED TO SUSPEND OR REVOKE
44 ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE, OR TO REFUSE TO GRANT OR
45 RENEW ANY LICENSE UPON FINDING, AFTER NOTICE AND OPPORTUNITY FOR HEAR-
46 ING, THAT:

47 1. THE LICENSEE OR APPLICANT HAS USED FRAUDULENT OR DECEPTIVE PRAC-
48 TICES IN THE EVASION OR ATTEMPTED EVASION OF THE PROVISIONS OF THIS
49 ARTICLE OR OF ANY RULES OR REGULATIONS PROMULGATED HEREUNDER;

50 2. INFORMATION FURNISHED IN THE LICENSE APPLICATION IS FALSE OR
51 MISLEADING;

52 3. INFORMATION FURNISHED IN CONNECTION WITH THE SALE OF SEEDS COVERED
53 BY THIS ARTICLE IS MISLEADING OR DECEPTIVE OR TENDS TO MISLEAD OR
54 DECEIVE AS TO THE QUALITY OF SUCH SEEDS, OR THE CONSTITUENTS OR MATERI-
55 ALS OF WHICH SUCH SEEDS ARE COMPOSED;

1 4. THE COMMISSIONER HAS DETERMINED THAT THE LICENSEE OR APPLICANT HAS
2 FAILED TO PAY THE FEES SET FORTH IN THIS SECTION AND SECTION ONE HUNDRED
3 THIRTY-SEVEN-C OF THIS ARTICLE; OR

4 5. THE LICENSEE OR APPLICANT HAS VIOLATED ANY PROVISIONS OF THIS CHAP-
5 TER.

6 S 137-C. REPORTS AND FEES. A. EACH LICENSEE SHALL PROVIDE THE COMMIS-
7 SIONER WITH A REPORT OF THE VOLUME OF SALES OF SEEDS SOLD IN THIS STATE
8 TO PERSONS NOT REQUIRED TO BE LICENSED UNDER THIS ARTICLE. THE LICENSEE
9 SHALL PAY TO THE COMMISSIONER A FEE OF TWENTY-FIVE CENTS PER ONE HUNDRED
10 DOLLARS OF GROSS ANNUAL DOLLAR VOLUME SALES. THE REPORT AND FEE SHALL BE
11 REMITTED ON OR BEFORE SEPTEMBER FIRST OF EACH YEAR. THE FEE SHALL BE
12 CALCULATED BASED UPON SALES IN NEW YORK DURING THE CALENDAR YEAR IMME-
13 DIATELY PRECEDING.

14 B. INFORMATION FURNISHED TO THE DEPARTMENT UNDER THIS SECTION SHALL BE
15 EXEMPT FROM DISCLOSURE TO THE EXTENT AUTHORIZED BY ARTICLE SIX OF THE
16 PUBLIC OFFICERS LAW.

17 C. THE LICENSEE SHALL MAKE SUCH REPORTS AS THE COMMISSIONER MAY
18 REQUIRE.

19 S 142-A. MISCELLANEOUS SPECIAL REVENUE FUND ACCOUNT. NOTWITHSTANDING
20 ANY OTHER PROVISION OF LAW TO THE CONTRARY, ALL FEES COLLECTED PURSUANT
21 TO THIS ARTICLE SHALL BE DEPOSITED IN AN ACCOUNT WITHIN THE MISCELLA-
22 NEOUS SPECIAL REVENUE FUND.

23 S 5. This act shall take effect immediately; provided however, that
24 section four of this act shall take effect on the sixtieth day after it
25 shall have become law; and any rule or regulation necessary for the
26 implementation of the provisions of section four of this act on its
27 effective date may be promulgated on or before such effective date.

28 PART JJ

29 Section 1. Subdivisions a, b, c, d, e, f, g, h, q and r of section
30 72-0602 of the environmental conservation law, subdivisions a and b as
31 amended by chapter 62 of the laws of 1989, subdivisions c, d, e, f, g
32 and h as amended by section 1 of part T1 of chapter 62 of the laws of
33 2003 and subdivision q as added and subdivision r as amended by section
34 1 of part Q of chapter 59 of the laws of 2004, are amended to read as
35 follows:

36 a. [\$100.00] \$300.00 for any P/C/I facilities having a permit to
37 discharge or discharging at an average daily rate of less than 100,000
38 gallons;

39 b. [\$200.00] \$600.00 for P/C/I facilities having a permit to discharge
40 or discharging at an average daily rate of 100,000 gallons or more;

41 c. [\$475.00] \$600.00 for industrial facilities having a permit to
42 discharge or discharging at an average daily rate of less than 10,000
43 gallons;

44 d. [\$1,575.00] \$2,000.00 for industrial facilities having a permit to
45 discharge or discharging at an average daily rate of between 10,000
46 gallons and 99,999 gallons;

47 e. [\$4,750.00] \$6,000.00 for industrial facilities having a permit to
48 discharge or discharging at an average daily rate of between 100,000
49 gallons and 499,999 gallons;

50 f. [\$15,750.00] \$20,000.00 for industrial facilities having a permit
51 to discharge or discharging at an average daily rate of between 500,000
52 and 999,999 gallons;

1 g. [\$23,500.00] \$30,000.00 for industrial facilities having a permit
 2 to discharge or discharging at an average daily rate of between
 3 1,000,000 and 9,999,999 gallons;

4 h. [\$47,000.00] \$50,000.00 for industrial facilities having a permit
 5 to discharge or discharging at an average daily rate of 10,000,000
 6 gallons or more;

7 q. [\$50.00] \$100.00 per acre disturbed plus [\$300.00] \$600.00 per
 8 future impervious acre for any facility, not owned or managed by a local
 9 government or a state department, agency, or authority, discharging or
 10 authorized to discharge pursuant to a SPDES permit for stormwater
 11 discharges from construction activity. For the purposes of this subdivi-
 12 sion, acres disturbed are acres subject to clearing, grading, or exca-
 13 vating subject to SPDES permitting and future impervious acres are acres
 14 that will be newly paved or roofed during construction;

15 r. \$50.00 FOR A MEDIUM CONCENTRATED ANIMAL FEEDING OPERATION DISCHARG-
 16 ING OR AUTHORIZED TO DISCHARGE PURSUANT TO A GENERAL PERMIT;

17 s. \$50.00 FOR A LARGE CONCENTRATED ANIMAL FEEDING OPERATION DISCHARG-
 18 ING OR AUTHORIZED TO DISCHARGE PURSUANT TO A GENERAL PERMIT;

19 T. [\$50.00] \$100.00 for any facility, other than a municipal separate
 20 storm sewer as defined by 40 CFR S122.26 (b) (8), discharging or author-
 21 ized to discharge pursuant to a general permit[;] unless a [higher]
 22 SPECIFIC fee is imposed pursuant to subdivisions a through q of this
 23 section for such discharge or authorization to discharge, provided that
 24 the department may by regulation, establish a general permit fee lower
 25 than the permit fee imposed pursuant to subdivisions a through [q] S of
 26 this section.

27 S 2. This act shall take effect immediately, and shall be deemed to
 28 have been in full force and effect on and after March 1, 2009.

29 PART KK

30 Section 1. Subdivision 4 of section 11-0701 of the environmental
 31 conservation law, as amended by chapter 470 of the laws of 1994, is
 32 amended to read as follows:

33 4. A fishing license entitles the holder to take fish, EXCEPT TROUT
 34 AND SALMON (TROUT, LAKE TROUT, LANDLOCKED SALMON, AND PACIFIC SALMON),
 35 by angling, spearing, hooking, longbow and tipups, to take frogs by
 36 spearing, catching with the hands or by use of a club or hook, and to
 37 take bait fish for personal use, as provided in titles 9 and 13.

38 S 2. Subdivision 16 of section 11-0701 of the environmental conserva-
 39 tion law, as added by section 17 of part F of chapter 82 of the laws of
 40 2002, is amended to read as follows:

41 16. A conservation legacy license entitles the holder to fish, EXCEPT
 42 FOR TROUT AND SALMON (TROUT, LAKE TROUT, LANDLOCKED SALMON, AND PACIFIC
 43 SALMON), hunt wildlife, hunt big game with a longbow and a muzzle-load-
 44 ing firearm during special seasons therefor, hunt turkey, enjoy the
 45 benefits of a voluntary habitat stamp and receive the "New York State
 46 Conservationist" magazine as if the holder of such license held sepa-
 47 rately a resident super-sportsman license, a voluntary habitat stamp and
 48 a subscription to the "New York State Conservationist" magazine.

49 S 3. Section 11-0701 of the environmental conservation law is amended
 50 by adding a new subdivision 18 to read as follows:

51 18. A TROUT AND SALMON STAMP, WHEN ACCOMPANIED BY A LICENSE THAT
 52 AUTHORIZES THE HOLDER TO FISH, ENTITLES THE HOLDER TO TAKE TROUT AND
 53 SALMON.

1 S 4. Subdivisions 1 and 2 of section 11-0702 of the environmental
 2 conservation law, as amended by section 18 of part F of chapter 82 of
 3 the laws of 2002, are amended to read as follows:

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

8 Licenses	Fees
9 a. Lifetime sportsman 10 license and turkey 11 permit. If purchased, 12 for a child four years 13 of age or younger	\$300.00
14 for a child age five through 15 eleven years of age	\$420.00
16 for a person age twelve through 17 sixty-four years of age	\$600.00
18 for a person age sixty-five 19 and over.	\$ 50.00
20 b. Lifetime small and 21 big game license.	\$350.00
22 c. Lifetime fishing 23 license.	\$350.00
24 d. Lifetime trapping 25 license.	\$300.00
26 e. Lifetime archery 27 stamp.	\$180.00
28 f. Lifetime muzzle- 29 loading stamp.	\$180.00
30 G. LIFETIME TROUT AND 31 SALMON STAMP.	\$110.00

32 The holder of a lifetime small and big game license or fishing license
 33 may, at any time, convert such license to a lifetime sportsman license
 34 and turkey permit for an additional fee equal to the existing differen-
 35 tial.

36 2. Legal residency within the state of New York shall be a prerequi-
 37 site for persons to obtain, or have obtained for them, any lifetime
 38 licenses included within this section. Lifetime licenses so obtained
 39 shall continue to be valid for use within the state by the person to
 40 whom the lifetime license was issued, regardless of a change in residen-
 41 cy of that lifetime license holder. Holders of lifetime licenses which
 42 include lifetime big game privileges who become non-residents of the
 43 state may continue to obtain resident bowhunting and muzzle-loading
 44 stamps, including lifetime archery and muzzle-loading stamps. Holders of
 45 lifetime licenses which include bowhunting and muzzle-loading privileges

1 who become non-residents of the state may continue to obtain resident
2 big game privileges, including lifetime sportsman or small and big game
3 licenses. [An annual turkey permit] A LIFETIME TROUT AND SALMON STAMP
4 will be granted at no additional fee as an additional privilege of all
5 [existing] lifetime sportsman licenses AND LIFETIME FISHING LICENSES
6 EXISTING AS OF OCTOBER FIRST, TWO THOUSAND NINE. Possession of lifetime
7 licenses is nontransferable.

8 S 5. Subdivision 4 of section 11-0703 of the environmental conserva-
9 tion law is amended by adding a new paragraph f to read as follows:

10 F. ONLY PERSONS WHO POSSESS A RESIDENT OR NON-RESIDENT LICENSE THAT
11 ENTITLES THE HOLDER TO FISH ARE ELIGIBLE FOR A TROUT AND SALMON STAMP.

12 S 6. Subdivisions 2 and 3 of section 11-0715 of the environmental
13 conservation law, subdivision 2 as amended by chapter 418 of the laws of
14 2004, and subdivision 3 as amended by chapter 344 of the laws of 2008,
15 are amended to read as follows:

16 2. A resident in the state for thirty days immediately prior to the
17 date of application who has attained the age of seventy is entitled to
18 receive all licenses, stamps, tags, buttons, and permits authorized by
19 this title for which he or she is eligible, except turkey permits,
20 renewable each year for a five dollar fee; a member of the Shinnecock
21 tribe or the Poospatuck tribe or a member of the six nations, residing
22 on any reservation wholly or partly within the state, is entitled to
23 receive free of charge a fishing license, a small and big game license,
24 a sportsman license, a muzzle-loading stamp, a trapping license, A TROUT
25 AND SALMON STAMP, and a bow hunting stamp; a resident of the state who
26 is a member of the United States armed forces in active service who is
27 not stationed within the state and has not been herein longer than thir-
28 ty days on leave or furlough, is entitled to receive free of charge a
29 fishing license, a small and big game license, and a trapping license;
30 an active member of the organized militia of the state of New York as
31 defined by section one of the military law, or the reserve components of
32 the armed forces of the United States, and excluding members of the
33 inactive national guard and individual ready reserve, is entitled to
34 receive free of charge a fishing license, a small and big game license,
35 and a trapping license; and a resident who is blind is entitled to
36 receive a fishing license free of charge. For the purposes of this
37 subdivision a person is blind only if either: (a) his or her central
38 visual acuity does not exceed 20/200 in the better eye with correcting
39 lenses, or (b) his or her visual acuity is greater than 20/200 but is
40 accompanied by a limitation of the field of vision such that the widest
41 diameter of the visual field subtends an angle no greater than 20
42 degrees.

43 A resident in the state for a period of thirty days immediately prior
44 to the date of application who has attained the age of sixty-five is
45 entitled to receive a sportsman license at the cost of five dollars as a
46 license fee.

47 3. Each applicant for a license, permit or stamp shall pay to the
48 issuing officer a fee, according to the license, permit or stamp issued
49 and the residence or other qualification of the applicant.

50 a. In the case of persons who have been residents of the state for
51 [more than] thirty days OR MORE immediately preceding the date of appli-
52 cation or who are enrolled in a full-time course at a college or univer-
53 sity within the state and who are in residence in the state for the
54 school year, Indians residing off reservations in the state and members
55 of the United States armed forces in active service stationed in this

1 state regardless of place of residence at the time of entry into
2 service:

3	License	Fee
4	(1) Super-sportsman	\$68.00
5	(2) Sportsman	\$37.00
6	(3) Small and big game	\$19.00
7	(4) Fishing	\$19.00
8	(5) Trapping	\$16.00
9	(6) Small game	\$16.00
10	(7) Junior trapping	\$ 6.00
11	(8) Muzzle-loading stamp	\$16.00
12	(9) Bowhunting stamp	\$16.00
13	(10) Turkey permit	\$ 5.00
14	(11) Seven-day fishing	\$12.00
15	(12) Conservation legacy	\$76.00
16	(13) TROUT AND SALMON STAMP	\$10.00

17 b. In the case of a non-resident and persons resident in the state for
18 less than thirty days, other than persons who are enrolled in a full-
19 time course at a college or university within the state and who are in
20 residence in the state for the school year and those members of the
21 United States armed forces as to whom fees are specified in paragraph a
22 of this subdivision:

23	License	Fee
24	(1) Big game	\$110.00
25	(2) Small game	\$ 55.00
26	(3) Fishing	\$ 40.00
27	(4) Seven-day fishing	\$ 25.00
28	(5) Trapping	\$255.00
29	(6) Super-sportsman	\$250.00
30	(7) Bowhunting	\$110.00
31	(8) Muzzle-loading	\$110.00
32	(9) Bear tag	\$ 30.00
33	(10) Turkey permit	\$ 30.00
34	(11) TROUT AND SALMON STAMP	\$ 10.00

35 c. In all cases:

36	(1) Certificates in lieu of	
37	lost license or stamp	\$ 5.00
38	(2) Duplicate for lost or destroyed	
39	permit, button or tag	\$10.00
40	(3) Junior hunting license	\$ 5.00
41	(4) Junior archery license	\$ 9.00
42	(5) One-day fishing license	[\$15.00] \$5.00
43	(6) Conservation patron license	\$12.00

44 S 7. This act shall take effect October 1, 2009; provided, however,
45 that effective immediately, the addition, amendment and/or repeal of any
46 rule or regulation necessary for the implementation of this act on its
47 effective date are authorized and directed to be made and completed on
48 or before such effective date.

49

PART LL

50 Section 1. Subdivisions 4 and 16 of section 11-0701 of the environ-
51 mental conservation law, subdivision 4 as amended by chapter 470 of the
52 laws of 1994, and subdivision 16 as added by section 17 of part F of
53 chapter 82 of the laws of 2002, are amended to read as follows:

1 4. A fishing license entitles the holder to take fish by angling,
2 spearing, hooking, longbow and tipups, to take frogs by spearing, catch-
3 ing with the hands or by use of a club or hook, and to take bait fish
4 for personal use, as provided in titles 9 and 13 OF THIS ARTICLE, EXCEPT
5 THAT SUCH LICENSE SHALL NOT ENTITLE THE HOLDER TO TAKE MIGRATORY FISH OF
6 THE SEA OR TO TAKE FISH FROM THE WATERS OF THE MARINE DISTRICT.

7 16. A conservation legacy license entitles the holder to fish, EXCEPT
8 FOR MIGRATORY FISH OF THE SEA OR FROM THE WATERS OF THE MARINE DISTRICT,
9 hunt wildlife, hunt big game with a longbow and a muzzle-loading firearm
10 during special seasons therefor, hunt turkey, enjoy the benefits of a
11 voluntary habitat stamp and receive the "New York State Conservationist"
12 magazine as if the holder of such license held separately a resident
13 super-sportsman license, a voluntary habitat stamp and a subscription to
14 the "New York State Conservationist" magazine.

15 S 2. Subdivision 6 of section 11-0707 of the environmental conserva-
16 tion law is REPEALED.

17 S 3. Subdivisions 1 and 5 of section 11-0713 of the environmental
18 conservation law, paragraph a of subdivision 1 as amended by section 4
19 of part D of chapter 61 of the laws of 2000, paragraph b of subdivision
20 1 as relettered by chapter 470 of the laws of 1994, paragraph d of
21 subdivision 1 as amended by chapter 108 of the laws of 1995 and subdivi-
22 sion 5 as added by chapter 316 of the laws of 1996 and as renumbered by
23 section 5 of part D of chapter 61 of the laws of 2000, are amended to
24 read as follows:

25 1. a. All licenses, stamps, tags, buttons, permits, and permit appli-
26 cations authorized by this title OR SECTION 13-0355 OF THIS CHAPTER, and
27 any additional privileges authorized by the department shall be issued
28 by[:

29 (1) clerks of a county, town or city, except a city having a popu-
30 lation of one million or more,

31 (2) clerks of a village having more than one thousand inhabitants
32 according to the last preceding federal census, or of a village in a
33 county of less than five hundred thousand inhabitants, adjoining a city
34 of over one million inhabitants, both according to such census, and

35 (3) License] LICENSE issuing officers as may be appointed by the
36 commissioner. Applicants for designation as license issuing officers
37 shall be over the age of eighteen years and shall meet such other
38 requirements of eligibility, including posting bond, as the department
39 may by regulation specify. Such issuing officers shall be entitled to
40 receive and keep the same fees for issuing licenses and stamps that are
41 specified in section 11-0715 of this [article for issuing clerks] TITLE
42 AND SECTION 13-0355 OF THIS CHAPTER, and shall file reports and remit
43 license fees to the appropriate regional environmental conservation
44 officer or the department as required by regulation.

45 b. Special antlerless deer licenses shall be issued by the department
46 as provided in subdivision 6 of section 11-0903 OF THIS ARTICLE.

47 [d.] C. One-day fishing licenses AND ONE-DAY RECREATIONAL MARINE FISH-
48 ING LICENSES may be issued by any person who has never been convicted of
49 or pleaded guilty to a misdemeanor under this chapter within the past
50 three years, and has not been convicted of a crime under any other law.
51 [One-day fishing] SUCH licenses shall be issued to any such person
52 following payment of [ten dollars] THE APPLICABLE LICENSE FEE for each
53 license. One-day fishing licenses AND ONE-DAY RECREATIONAL MARINE FISH-
54 ING LICENSES may be sold by the initial purchaser for no more than [ten
55 dollars as a] THE APPLICABLE license fee [and], PLUS one dollar for the
56 person selling such license. In the case of misuse or fraud in handling

1 the fishing licenses, the department shall have the authority to revoke
2 the privilege to buy and sell the licenses.

3 5. The commissioner [shall] MAY establish a toll-free telephone number
4 or a dedicated number for use to purchase sporting licenses by credit
5 card purchasers. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS
6 CHAPTER, THE COMMISSIONER MAY AUTHORIZE THE SALE OF LICENSES VIA THE
7 INTERNET, TELEPHONE OR MAIL AND ESTABLISH PROCEDURES THEREFOR, AND MAY,
8 THROUGH BULK SALES OR OTHERWISE, FURNISH LICENSES FOR RETAIL SALE TO
9 OUTDOOR AND RECREATIONAL OUTLETS AND NOT-FOR-PROFIT ORGANIZATIONS, AND
10 THE DEPARTMENT MAY SELL LICENSES AT DEPARTMENT FACILITIES. EXCEPT AS
11 PROVIDED IN SUBDIVISION 1 OF THIS SECTION, A LICENSE SOLD AT RETAIL
12 SHALL NOT BE SOLD FOR A PRICE WHICH EXCEEDS THE FEE FOR SUCH LICENSE
13 ESTABLISHED IN THE FISH AND WILDLIFE LAW.

14 S 4. Paragraph (a) of subdivision 4 of section 13-0350 of the environ-
15 mental conservation law, as amended by chapter 365 of the laws of 1994,
16 is amended to read as follows:

17 (a) To review the allocations and expenditures of the department for
18 the care, management, protection and enlargement of marine resources and
19 report to the commissioner by January first of each year. THE REPORT
20 SHALL INCLUDE RECOMMENDED MAXIMUM FEES FOR THE RECREATIONAL MARINE FISH-
21 ING LICENSES IDENTIFIED IN SECTION 13-0355 OF THIS TITLE. IN RECOMMEND-
22 ING SUCH FEES, THE COUNCIL SHALL CONSIDER ECONOMIC INDICATORS, THE
23 GENERAL FINANCIAL CONDITION OF THE SALTWATER RECREATIONAL FISHING INDUS-
24 TRY AND THE STATUS OF THE CONSERVATION FUND, INCLUDING THE VIABILITY OF
25 THE MARINE RESOURCES PROGRAM, AS IT MAY DEEM APPROPRIATE. THE COUNCIL
26 SHALL, BY SEPTEMBER FIRST OF EACH YEAR, SUBMIT THE PORTION OF SUCH
27 REPORT RELATED TO RECREATIONAL MARINE FISHING LICENSE FEES TO THE
28 CONSERVATION FUND ADVISORY BOARD ESTABLISHED PURSUANT TO SECTION 11-0327
29 OF THIS CHAPTER. The commissioner shall, by February first of each year,
30 submit such report, in its entirety, to the governor, the legislature
31 and interested individuals and organizations. Such report shall include
32 the findings of the advisory council regarding such allocations and
33 expenditures, including expenditures and appropriations from the conser-
34 vation fund and the extent to which such expenditures and appropriations
35 are consistent with the requirements of state law.

36 S 5. The environmental conservation law is amended by adding a new
37 section 13-0355 to read as follows:

38 S 13-0355. RECREATIONAL MARINE FISHING LICENSE.

39 1. DEFINITIONS OF LICENSES; PRIVILEGES. A. A RECREATIONAL MARINE
40 FISHING LICENSE ENTITLES THE HOLDER WHO IS SIXTEEN YEARS OF AGE OR OLDER
41 TO TAKE FISH FROM THE WATERS OF THE MARINE AND COASTAL DISTRICT AND TO
42 TAKE MIGRATORY FISH OF THE SEA FROM ALL WATERS OF THE STATE, EXCEPT AS
43 PROVIDED IN SECTIONS 13-0333 AND 13-0335 OF THIS TITLE. A RECREATIONAL
44 MARINE FISHING LICENSE IS EFFECTIVE FOR A LICENSE YEAR BEGINNING OCTOBER
45 FIRST AND ENDING SEPTEMBER THIRTIETH.

46 B. A SEVEN-DAY RECREATIONAL MARINE FISHING LICENSE ENTITLES THE HOLDER
47 TO EXERCISE THE PRIVILEGES OF A RECREATIONAL MARINE FISHING LICENSE FOR
48 THE SEVEN CONSECUTIVE DAYS SPECIFIED IN SUCH LICENSE.

49 C. A ONE-DAY RECREATIONAL MARINE FISHING LICENSE ENTITLES THE HOLDER
50 TO EXERCISE THE PRIVILEGES OF A RECREATIONAL MARINE FISHING LICENSE ON
51 THE DAY SPECIFIED ON SUCH LICENSE.

52 2. GENERAL PROVISIONS. A. THE PRIVILEGES OF A RECREATIONAL MARINE
53 FISHING LICENSE MAY BE EXERCISED ONLY AT THE TIMES AND PLACES, AND IN
54 THE MANNER AND TO THE EXTENT, PERMITTED BY THE FISH AND WILDLIFE LAW AND
55 APPLICABLE REGULATIONS OF THE DEPARTMENT.

1 B. RECREATIONAL MARINE FISHING LICENSES ARE NOT TRANSFERABLE. NO
2 PERSON SHALL ALTER, CHANGE, LEND TO ANOTHER PERSON OR ATTEMPT TO TRANS-
3 FER TO ANOTHER PERSON ANY RECREATIONAL MARINE FISHING LICENSE.

4 C. A LICENSE ISSUED IN LIEU OF A LOST OR DESTROYED LICENSE IS VOID IF
5 IT IS OBTAINED: (I) BY FRAUD; OR (II) BY A PERSON WHO IS NOT AUTHORIZED
6 TO HOLD IT OR WHO MAKES A FALSE STATEMENT IN APPLYING FOR IT.

7 3. FAILURE TO CARRY LICENSE. A. THE HOLDER OF A RECREATIONAL MARINE
8 FISHING LICENSE SHALL:

9 (I) AT ALL TIMES HAVE SUCH LICENSE ON THE HOLDER'S PERSON WHILE EXER-
10 CISING ANY PRIVILEGE OF THAT LICENSE; AND

11 (II) SHALL EXHIBIT SUCH LICENSE ON DEMAND TO ANY POLICE OFFICER, PEACE
12 OFFICER, OR OWNER, LESSEE OR OTHER PERSON IN CONTROL OF THE LANDS OR
13 WATERS ON WHICH THE LICENSE HOLDER IS EXERCISING THE PRIVILEGES THEREOF.

14 B. FAILURE TO HAVE A RECREATIONAL MARINE FISHING LICENSE ON ONE'S
15 PERSON WHILE EXERCISING ANY PRIVILEGE OF THAT LICENSE IS PRESUMPTIVE
16 EVIDENCE THAT SUCH PERSON IS FISHING WITHOUT A LICENSE.

17 4. FEES. EACH APPLICANT FOR A RECREATIONAL MARINE FISHING LICENSE
18 SHALL PAY TO THE ISSUING OFFICER A FEE ACCORDING TO THE LICENSE ISSUED
19 AND THE RESIDENCE OR OTHER QUALIFICATION OF THE APPLICANT, AS FOLLOWS:

20 A. IN THE CASE OF PERSONS WHO HAVE BEEN RESIDENTS OF THE STATE FOR
21 THIRTY DAYS OR MORE IMMEDIATELY PRECEDING THE DATE OF APPLICATION OR WHO
22 ARE ENROLLED IN A FULL-TIME COURSE AT A COLLEGE OR UNIVERSITY WITHIN THE
23 STATE AND WHO ARE IN RESIDENCE IN THE STATE FOR THE SCHOOL YEAR, INDIANS
24 RESIDING OFF RESERVATIONS IN THE STATE AND MEMBERS OF THE UNITED STATES
25 ARMED FORCES IN ACTIVE SERVICE STATIONED IN THIS STATE REGARDLESS OF
26 PLACE OF RESIDENCE AT THE TIME OF ENTRY INTO SERVICE:

LICENSE	FEE
(1) RECREATIONAL MARINE FISHING	\$19.00
(2) SEVEN-DAY RECREATIONAL MARINE FISHING	\$12.00
(3) ONE-DAY RECREATIONAL MARINE FISHING	\$ 5.00

33 B. IN THE CASE OF A NON-RESIDENT AND PERSONS RESIDENT IN THE STATE FOR
34 LESS THAN THIRTY DAYS, OTHER THAN PERSONS WHO ARE ENROLLED IN A
35 FULL-TIME COURSE AT A COLLEGE OR UNIVERSITY WITHIN THE STATE AND WHO ARE
36 IN RESIDENCE IN THE STATE FOR THE SCHOOL YEAR AND THOSE MEMBERS OF THE
37 UNITED STATES ARMED FORCES AS TO WHOM FEES ARE SPECIFIED IN PARAGRAPH A
38 OF THIS SUBDIVISION:

LICENSE	FEE
(1) RECREATIONAL MARINE FISHING	\$40.00
(2) SEVEN-DAY RECREATIONAL MARINE FISHING	\$25.00
(3) ONE-DAY RECREATIONAL MARINE FISHING	\$ 5.00

45 C. A PERSON ELIGIBLE FOR ANY FREE LICENSE PURSUANT TO SUBDIVISION 2 OF
46 SECTION 11-0715 OF THIS CHAPTER SHALL BE ELIGIBLE FOR A FREE RECREATION-
47 AL MARINE FISHING LICENSE.

48 D. LICENSE ISSUING OFFICERS MAY RETAIN 5.5 PERCENT OF THE GROSS
49 PROCEEDS FROM THE SALE OF ALL RECREATIONAL MARINE FISHING LICENSES.

50 5. EXEMPTION FROM REQUIREMENT OF RECREATIONAL MARINE FISHING LICENSE.
51 MINORS UNDER THE AGE OF SIXTEEN MAY TAKE FISH AS IF THEY HELD A RECRE-
52 ATIONAL MARINE FISHING LICENSE.

53 6. RECREATIONAL MARINE FISHING LICENSE DATA. A. THE DEPARTMENT IS
54 AUTHORIZED TO COLLECT DATA ON HOLDERS OF RECREATIONAL MARINE FISHING
55 LICENSES, WHICH SHALL INCLUDE BUT NOT BE LIMITED TO, A LICENSEE'S NAME,
56 ADDRESS AND DATE OF BIRTH.

1 B. LICENSE HOLDER DATA COLLECTED BY THE DEPARTMENT OR AVAILABLE TO THE
2 DEPARTMENT SHALL BE CONFIDENTIAL AND SHALL NOT BE DISCLOSED EXCEPT AS
3 REQUIRED TO COMPLY WITH SECTION 401(G) OF THE MAGNUSON-STEVENSON FISHERIES
4 MANAGEMENT AND CONSERVATION ACT (16 U.S.C. 1881), AS MAY BE AMENDED FROM
5 TIME TO TIME, OR BY COURT ORDER, EXCEPT THAT THE DEPARTMENT MAY RELEASE
6 OR MAKE PUBLIC ANY STATISTICS IN AN AGGREGATE OR SUMMARY FORM WHICH DOES
7 MAKE IT POSSIBLE TO IDENTIFY ANY PERSON WHO SUBMITS SUCH DATA. THE
8 DEPARTMENT MAY PRESCRIBE SUCH PROCEDURES AS MAY BE NECESSARY TO PRESERVE
9 SUCH CONFIDENTIALITY.

10 7. RECIPROCITY IN BOUNDARY WATERS. IF PERSONS HOLDING RECREATIONAL
11 MARINE FISHING LICENSES ISSUED UNDER THE FISH AND WILDLIFE LAW ARE NOT
12 REQUIRED TO HAVE SIMILAR LICENSES ISSUED BY A STATE NAMED IN PARAGRAPH
13 A, B OR C OF THIS SUBDIVISION WHEN FISHING IN THOSE WATERS SPECIFIED IN
14 SUCH PARAGRAPH, THEN, IN SUCH CASE, A PERSON HOLDING SUCH SIMILAR
15 LICENSE ISSUED BY SUCH STATE MAY, WITHOUT A RECREATIONAL MARINE FISHING
16 LICENSE ISSUED UNDER THE FISH AND WILDLIFE LAW, TAKE FISH AS PROVIDED IN
17 THIS TITLE, FROM THAT PART OF SUCH WATERS SPECIFIED IN PARAGRAPH A, B OR
18 C OF THIS SUBDIVISION WHICH LIES WITHIN THIS STATE:

19 A. LICENSE ISSUED BY CONNECTICUT: THOSE PARTS OF LONG ISLAND SOUND
20 LYING BETWEEN NEW YORK AND CONNECTICUT.

21 B. LICENSE ISSUED BY NEW JERSEY: THOSE PARTS OF NEW YORK HARBOR,
22 HUDSON RIVER, KILL VAN KULL, ARTHUR KILL, RARITAN BAY AND ATLANTIC OCEAN
23 LYING BETWEEN NEW YORK AND NEW JERSEY.

24 C. LICENSE ISSUED BY RHODE ISLAND: THOSE PARTS OF LONG ISLAND SOUND,
25 BLOCK ISLAND SOUND AND ATLANTIC OCEAN LYING BETWEEN NEW YORK AND RHODE
26 ISLAND.

27 S 6. Paragraph 1 of subdivision (a) of section 83 of the state finance
28 law, as amended by chapter 512 of the laws of 1994, is amended to read
29 as follows:

30 1. The conservation fund shall consist of all moneys belonging to the
31 state received by the department of environmental conservation from the
32 sale of licenses for hunting, for trapping, and for fishing, all moneys
33 received in actions for penalties under articles eleven and thirteen of
34 the environmental conservation law and subdivision two of section
35 71-1929 of the environmental conservation law, or upon the settlement or
36 compromise thereof, all fines for violation of any of the provisions of
37 articles eleven and thirteen of the environmental conservation law, all
38 moneys arising out of the operation of real property under the jurisdic-
39 tion of the division of fish [and], wildlife AND MARINE RESOURCES in the
40 department of environmental conservation heretofore or hereafter
41 acquired by the state of New York, and from any concessions thereon and
42 from any leases thereof, including moneys received from the sale thereof
43 when authorized by law, all moneys received from leases or rentals of
44 shellfish grounds in the marine and coastal district, all moneys from
45 gifts for fish and wildlife management pursuant to section six hundred
46 twenty-five of the tax law, moneys received by the department of envi-
47 ronmental conservation from the sale of limited edition prints of fish
48 and wildlife paintings, as authorized by paragraph t of subdivision two
49 of section 3-0301 of the environmental conservation law, all moneys
50 received from the reimbursement provided for in paragraph b of subdivi-
51 sion seven of section 8-0109 of the environmental conservation law, and
52 all other moneys arising out of the application of any provisions of
53 articles eleven and thirteen of the environmental conservation law.
54 These moneys, after appropriation by the legislature, and within the
55 amounts set forth and for the several purposes specified, shall be
56 available to the department of environmental conservation for the care,

1 management, protection and enlargement of the fish, game and shell fish
 2 resources of the state and for the promotion of public fishing and
 3 shooting. In the accomplishment of these objects the moneys made avail-
 4 able hereunder shall be devoted to the purchase or acquisition of lands,
 5 lands under water, waters, or rights therein as required, to payment for
 6 personal service, for maintenance and operation, and for new
 7 construction and permanent betterments, and to all other proper expenses
 8 of the department of environmental conservation in the administration
 9 and enforcement of the provisions of articles eleven and thirteen of the
 10 environmental conservation law.

11 S 7. Subparagraph (i) of paragraph 3 of subdivision (a) of section 83
 12 of the state finance law, as amended by chapter 512 of the laws of 1994,
 13 is amended to read as follows:

14 (i) Moneys arising out of the application of article thirteen of the
 15 environmental conservation law, EXCEPT MONEYS BELONGING TO THE STATE
 16 RECEIVED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION FROM THE SALE
 17 OF RECREATIONAL MARINE FISHING LICENSES PURSUANT TO SECTION 13-0355 OF
 18 THE ENVIRONMENTAL CONSERVATION LAW, shall be deposited in a special
 19 account within the conservation fund, to be known as the marine
 20 resources account, and shall be available to the department of environ-
 21 mental conservation, after appropriation, for the care, management,
 22 protection and enlargement of marine fish and shellfish resources.

23 S 8. This act shall take effect October 1, 2009; provided, however,
 24 that effective immediately, any regulations necessary for the timely
 25 implementation of this act on its effective date are authorized to be
 26 promulgated before such date.

27 PART MM

28 Section 1. Section 5 of the public service law is amended by adding a
 29 new subdivision 7 to read as follows:

30 7. (A) THE COMMISSION MAY, AFTER NOTICE AND HEARING, FORBEAR FROM
 31 APPLYING THE PROVISIONS OF SUBDIVISION TWO OF SECTION NINETY-ONE AND
 32 SECTION NINETY-TWO, NINETY-NINE, ONE HUNDRED, ONE HUNDRED ONE OR ONE
 33 HUNDRED ONE-A OF THIS CHAPTER TO A TELEPHONE CORPORATION, TELEPHONE
 34 SERVICE, OR CLASS OF TELEPHONE CORPORATIONS OR TELEPHONE SERVICES AS
 35 DEFINED IN COMMISSION REGULATIONS, IN ANY GEOGRAPHIC MARKET UPON A
 36 DETERMINATION THAT:

37 (I) APPLICATION OF A PROVISION IS NOT NECESSARY TO ENSURE JUST AND
 38 REASONABLE RATES AND CHARGES AND RATES THAT ARE NOT UNJUSTLY OR UNREA-
 39 SONABLY DISCRIMINATORY;

40 (II) APPLICATION OF A PROVISION IS NOT NECESSARY FOR PROTECTION OF
 41 CONSUMERS; AND

42 (III) FORBEARANCE FROM APPLYING A PROVISION IS CONSISTENT WITH THE
 43 PUBLIC INTEREST, INCLUDING, BUT NOT LIMITED TO, PROMOTION OF COMPETITIVE
 44 MARKET CONDITIONS AND COMPETITION AMONG PROVIDERS OF TELEPHONE SERVICES.

45 (B) ANY TELEPHONE CORPORATION OR SUCH CLASS OF TELEPHONE CORPORATIONS
 46 MAY PETITION THE COMMISSION FOR EXERCISE OF THE AUTHORITY GRANTED UNDER
 47 THIS SUBDIVISION.

48 S 2. Subdivision 1 of section 23 of the public service law, as amended
 49 by chapter 310 of the laws of 1974, is amended to read as follows:

50 1. Every order of the commission shall be served upon every person or
 51 corporation to be affected thereby, either by personal delivery of a
 52 copy thereof; or BY ELECTRONIC MAIL, WITH THE CONSENT OF THE PERSON OR
 53 CORPORATION AFFECTED THEREBY; OR by mailing a copy thereof, in a sealed
 54 package with postage prepaid, to the person to be affected thereby or,

1 in the case of a corporation, to any officer or agent thereof upon whom
2 a summons may be served in accordance with the provisions of the civil
3 practice law and rules. The commission shall provide, upon request, a
4 certified copy thereof or a copy thereof bearing the seal of the commis-
5 sion. Within a time specified in the order of the commission every
6 person and corporation upon whom it is served must if so required in the
7 order notify the commission, in writing, whether the terms of the order
8 are accepted and will be obeyed and in the case of a corporation such
9 notification shall be signed and acknowledged by a person or officer
10 duly authorized by the corporation to execute such acceptance and agree-
11 ment. Every order of the commission shall take effect at a time therein
12 specified and shall continue in force either for a period which may be
13 designated therein or until changed or abrogated by the commission,
14 unless such order be unauthorized by this chapter or any other act or be
15 in violation of a provision of the constitution of the state or of the
16 United States.

17 S 3. Paragraph (d) of subdivision 5 of section 52 of the public
18 service law, as added by chapter 186 of the laws of 1995, is amended to
19 read as follows:

20 (d) when such determination follows a customer complaint regarding a
21 shared meter condition or a utility discovery of a shared meter condi-
22 tion that is not in response to an owner's request for a utility
23 inspection for a shared meter condition, with respect to utility service
24 billed after December first, nineteen hundred ninety-six, the utility
25 shall comply with the provisions of paragraphs (a), (b) and (c) of this
26 subdivision, and further bill the owner and refund to the shared meter
27 customer an estimated amount of charges for twelve months of all service
28 measured by the shared meter; provided, however, that this paragraph
29 shall not apply to a shared meter condition if (1) service measured
30 through the shared meter is minimal under commission rules adopted
31 pursuant to subdivision eight of this section, OR (2) THE BUILDING
32 CONTAINS NO MORE THAN THREE DWELLING UNITS. An owner so billed may
33 petition the commission or its designee for a determination that the
34 amount of such bill is excessive and that such bill and refund be
35 adjusted accordingly; provided, however, neither the adjusted bill nor
36 the adjusted refund shall be less than twenty-five percent of the total
37 amount of the original bill. The commission is authorized to make such a
38 determination and adjustment if it finds that a bill and refund of
39 twelve months' charges is unduly burdensome and unfair. In making such
40 determination the commission or its designee shall consider the total
41 amount of the bill and refund in relation to the shared area charges
42 over such twelve month period and any other equitable factors estab-
43 lished by the commission; and

44 S 4. Section 52 of the public service law is amended by adding a new
45 subdivision 13 to read as follows:

46 13. TWO-FAMILY DWELLINGS. WHERE SERVICE TO A TWO-FAMILY DWELLING IS
47 NOT SEPARATELY METERED, THE UTILITY SHALL NOT ACCEPT AN APPLICATION BY
48 AN OCCUPANT WHO IS NOT THE OWNER OF THE DWELLING TO HOLD THE ACCOUNT FOR
49 SERVICE TO THE ENTIRE DWELLING.

50 S 5. Paragraph (a) of subdivision 3 of section 34 of the public
51 service law, as added by chapter 713 of the laws of 1981, is amended to
52 read as follows:

53 (a) EXCEPT AS PROVIDED IN SUBDIVISION THIRTEEN OF SECTION FIFTY-TWO OF
54 THIS ARTICLE, that any occupant may prevent termination of service if
55 such occupant applies for and is eligible for such service;

1 S 6. Section 221 of the public service law, as added by chapter 83 of
2 the laws of 1995, is amended to read as follows:

3 S 221. Certificate of confirmation. 1. Except as provided in this
4 section, no person shall exercise a franchise, and no such franchise
5 shall be effective, [until the commission has confirmed such franchise.
6 A person wishing to exercise a franchise shall file with the commission
7 an application for a certificate of confirmation in such form and
8 containing such information and supportive documentation as the commis-
9 sion may require. The application shall be accompanied by proof of
10 service thereof upon the franchisor and by such fee as the commission
11 may set] UNLESS A COPY OF SUCH FRANCHISE HAS BEEN APPROVED BY THE MUNI-
12 CIPALITY, AND PROPERLY FILED WITH THE COMMISSION WITHIN THIRTY DAYS OF
13 MUNICIPAL APPROVAL. SUCH FRANCHISE SHALL BE SUBJECT, AT A MINIMUM, TO
14 THE FRANCHISING STANDARDS SET FORTH IN THIS ARTICLE AND THE RULES AND
15 REGULATIONS PROMULGATED THEREUNDER BY THE COMMISSION.

16 2. A FRANCHISE SHALL BE DEEMED CONFIRMED FORTY-FIVE DAYS AFTER THE
17 FRANCHISE IS FILED PURSUANT TO SUBDIVISION ONE OF THIS SECTION UNLESS
18 THE COMMISSION, OR ITS DESIGNEE, DETERMINES WITHIN SUCH FORTY-FIVE DAY
19 PERIOD THAT THE PUBLIC INTEREST REQUIRES THE COMMISSION'S REVIEW AND
20 WRITTEN ORDER.

21 3. The commission may hold a public hearing on any application for a
22 certificate of confirmation if it determines that such a hearing is in
23 the public interest. The commission shall fix the time and place for
24 such a hearing and cause notice thereof to be given to the applicant,
25 the chief executive officer of the municipality issuing the franchise
26 and such other persons as the commission may deem appropriate. Testimony
27 may be taken and evidence received at such a hearing pursuant to such
28 rules and procedures as the commission may establish.

29 [3. The commission shall issue a] 4. A certificate of confirmation of
30 the franchise [unless it finds that (a) the applicant, (b) the proposed
31 cable television system, or (c) the proposed franchise does not conform
32 to the standards established in the regulations promulgated by the
33 commission pursuant to subdivision two of section two hundred fifteen,
34 or that operation of the proposed cable television system by the appli-
35 cant under the proposed cable television system by the applicant under
36 the proposed franchise would be in violation of law, any regulation or
37 standard promulgated by the commission or the public interest] SHALL BE
38 DEEMED CONFIRMED FORTY-FIVE DAYS AFTER THE FRANCHISE IS FILED PURSUANT
39 TO SUBDIVISION ONE OF THIS SECTION UNLESS THE COMMISSION, OR ITS DESIG-
40 NEE, DETERMINES WITHIN SUCH FORTY-FIVE DAY PERIOD THAT THE PUBLIC INTER-
41 EST REQUIRES THE COMMISSION'S REVIEW AND WRITTEN ORDER.

42 [4.] 5. The commission may issue a certificate of confirmation contin-
43 gent upon compliance with standards, terms or conditions set by the
44 commission which it determines would not have been met by the applicant,
45 system or franchise as proposed.

46 [5.] 6. In the event the commission refuses to issue a certificate of
47 confirmation, it shall set forth in writing the reasons for its deci-
48 sion.

49 [6. Any cable television company which, pursuant to any existing fran-
50 chise, (i) was lawfully engaged in actual operations for (ii) had
51 commenced substantial construction (as such term is defined by the
52 commission) of a cable television system on January first, nineteen
53 hundred seventy-two may continue to exercise said franchise pursuant to
54 the terms thereof, provided such company files with the commission, on
55 or before July first, nineteen hundred seventy-three an application in
56 such form and containing such information and supporting documentation

1 as the commission may require. The commission shall issue a certificate
2 of confirmation to such a cable television company valid for five years
3 without further proceedings, which certificate may be renewed by the
4 commission on application for five year terms pursuant to the provisions
5 of section two hundred twenty-two.

6 7. Notwithstanding any other provisions of this article, any cable
7 television company engaged in actual and lawful nonfranchised cable
8 television operations on April first, nineteen hundred seventy-three,
9 that applied for a certificate of confirmation on or before September
10 first, nineteen hundred seventy-four and received a certificate, valid
11 for a five year period, may continue to operate within the limits of the
12 area in which it was actually rendering service on April first, nineteen
13 hundred seventy-three, as determined by the commission. Such a certif-
14 icate of confirmation may be renewed by the commission on application
15 for five year terms pursuant to the provisions of section two hundred
16 twenty-two of this article. Any such company which failed to file an
17 application pursuant to this section on or before September first, nine-
18 teen hundred seventy-four, shall thereafter be prohibited from continu-
19 ing operation of a nonfranchised cable television system, provided
20 however, that the commission may authorize such continued nonfranchised
21 operation in extraordinary circumstances for such periods as the commis-
22 sion may deem appropriate.

23 8. Nothing in this section shall be deemed to validate a franchise not
24 granted in accordance with law or affect any claims in litigation on
25 January first, nineteen hundred seventy-three. No confirmation under
26 this section shall preclude invalidation of any franchise illegally
27 obtained.

28 9.] 7. Confirmation by the commission and duties performed by the
29 commission with respect to its regulation of cable television providers
30 under this article shall not be deemed to constitute "supervision of the
31 state department of public service" for the purpose of the meaning of
32 such phrase as it is used in describing those utilities which are
33 subject to tax on a gross income basis under section one hundred eight-
34 y-six-a of the tax law or pursuant to section twenty-b of the general
35 city law and subdivision one of section [five hundred thirty] 5-530 of
36 the village law.

37 S 7. Section 222 of the public service law is REPEALED and a new
38 section 222 is added to read as follows:

39 S 222. RENEWAL OR AMENDMENT OF FRANCHISES. 1. EXCEPT AS PROVIDED IN
40 THIS SECTION, NO PERSON SHALL RENEW OR AMEND A FRANCHISE RENEWAL, AND NO
41 SUCH RENEWAL OR AMENDMENT SHALL BE EFFECTIVE, UNLESS A COPY OF SUCH
42 RENEWAL OR AMENDMENT HAS BEEN APPROVED BY THE MUNICIPALITY, AND PROPERLY
43 FILED WITH THE COMMISSION WITHIN THIRTY DAYS OF MUNICIPAL APPROVAL. SUCH
44 RENEWAL OR AMENDMENT SHALL BE SUBJECT, AT A MINIMUM, TO THE FRANCHISING
45 STANDARDS SET FORTH IN THIS ARTICLE AND THE RULES AND REGULATIONS
46 PROMULGATED THEREUNDER BY THE COMMISSION.

47 2. RENEWALS AND AMENDMENTS SHALL BE DEEMED GRANTED FORTY-FIVE DAYS
48 AFTER THE RENEWAL OR AMENDMENT IS FILED PURSUANT TO SUBDIVISION ONE OF
49 THIS SECTION UNLESS THE COMMISSION, OR ITS DESIGNEE, DETERMINES WITHIN
50 SUCH FORTY-FIVE DAY PERIOD THAT THE PUBLIC INTEREST REQUIRES THE COMMIS-
51 SION'S REVIEW AND WRITTEN ORDER.

52 S 8. The public service law is amended by adding a new section 222-a
53 to read as follows:

54 S 222-A. TRANSFER OF FRANCHISES. 1. NO TRANSFER OF ANY FRANCHISE, OR
55 ANY TRANSFER OF CONTROL OF A FRANCHISE OR CERTIFICATE OF CONFIRMATION OR
56 OF FACILITIES CONSTITUTING A SIGNIFICANT PART OF ANY CABLE TELEVISION

1 SYSTEM SHALL BE EFFECTIVE WITHOUT THE PRIOR APPROVAL OF THE COMMISSION.
2 SUCH APPROVAL SHALL BE REQUIRED IN ADDITION TO ANY MUNICIPAL APPROVAL
3 REQUIRED UNDER THE FRANCHISE OR BY LAW. FOR THE PURPOSES OF THIS
4 SECTION, A MERGER OR CONSOLIDATION OF TWO OR MORE CABLE TELEVISION
5 COMPANIES SHALL BE DEEMED TO BE A TRANSFER OF THE FRANCHISES OR CERTIF-
6 ICATES GRANTED TO SUCH COMPANIES.

7 2. A PERSON WISHING TO TRANSFER A FRANCHISE, OR TO TRANSFER CONTROL OF
8 A FRANCHISE OR OF A SUBSTANTIAL PART OF THE FACILITIES THEREOF SHALL
9 FILE WITH THE COMMISSION AN APPLICATION FOR APPROVAL OF SUCH CHANGE, IN
10 SUCH FORM AND CONTAINING SUCH INFORMATION AND SUPPORTING DOCUMENTS AS
11 THE COMMISSION MAY REQUIRE. THE APPLICATION SHALL BE ACCOMPANIED BY
12 PROOF OF SERVICE THEREOF UPON THE FRANCHISOR, IF ANY, AND BY SUCH FEE AS
13 THE COMMISSION MAY SET. THE COMMISSION MAY HOLD A PUBLIC HEARING ON ANY
14 SUCH APPLICATION.

15 3. THE COMMISSION SHALL APPROVE THE APPLICATION UNLESS IT FINDS THAT
16 THE APPLICANT, THE PROPOSED TRANSFEREE OR THE CABLE TELEVISION SYSTEM
17 DOES NOT CONFORM TO THE STANDARDS ESTABLISHED IN THE REGULATIONS PROMUL-
18 GATED BY THE COMMISSION PURSUANT TO THIS ARTICLE OR THAT APPROVAL WOULD
19 BE IN VIOLATION OF LAW OR A REGULATION OR STANDARD PROMULGATED BY THE
20 COMMISSION, OR WOULD NOT SERVE THE PUBLIC INTEREST, PROVIDED HOWEVER,
21 THAT A FAILURE TO CONFORM TO THE STANDARDS ESTABLISHED IN THE REGU-
22 LATIONS PROMULGATED BY THE COMMISSION SHALL NOT PRECLUDE APPROVAL OF ANY
23 SUCH APPLICATION IF THE COMMISSION FINDS THAT SUCH APPROVAL WOULD SERVE
24 THE PUBLIC INTEREST.

25 4. THE COMMISSION MAY APPROVE THE APPLICATION CONTINGENT UPON COMPLI-
26 ANCE WITH STANDARDS, TERMS OR CONDITIONS SET BY THE COMMISSION WHICH IT
27 DETERMINES WOULD NOT HAVE BEEN MET BY THE PROPOSED TRANSFER OF A FRAN-
28 CHISE.

29 5. IN THE EVENT THE COMMISSION REFUSES TO APPROVE THE APPLICATION, IT
30 SHALL SET FORTH IN WRITING THE REASONS FOR ITS DECISION.

31 6. APPROVAL OF A TRANSFER OF A FRANCHISE UNDER THIS SECTION SHALL NOT
32 PRECLUDE INVALIDATION OF A FRANCHISE ILLEGALLY OBTAINED.

33 S 9. This act shall take effect immediately; provided, however, that
34 sections six, seven and eight of this act shall apply to franchises
35 filed on or after such effective date.

36

PART NN

37 Section 1. The section heading and subdivisions 1 and 2 of section
38 18-a of the public service law, the section heading as amended by chap-
39 ter 446 of the laws of 1972, subdivision 1 as amended by chapter 83 of
40 the laws of 1995, subdivision 2 as amended by chapter 15 of the laws of
41 1983, and paragraph (d) of subdivision 2 as amended by section 1 of part
42 H1 of chapter 62 of the laws of 2003, are amended to read as follows:

43 [Cost] COSTS and expenses of the commission and department AND OTHER
44 STATE AGENCIES THAT PROVIDE SUPPORT SERVICES TO THE COMMISSION AND
45 DEPARTMENT AND UTILITY MANAGEMENT SERVICES FOR THE STATE; STATE UTILITY
46 SERVICE EXPENSES; and the assessment [thereof] OF SUCH COSTS AND
47 EXPENSES. 1. All costs and expenses of the department and commission
48 (HEREINAFTER, "DEPARTMENT EXPENSES") shall be paid pursuant to appropri-
49 ation [in the first instance from the state treasury,] on the certifi-
50 cation of the chairman of the department and upon the audit and warrant
51 of the comptroller. AN ADDITIONAL AMOUNT EQUAL TO THE SUM OF: (A) TWEN-
52 TY PERCENTUM OF THE DEPARTMENT EXPENSES, REPRESENTING THE DIRECT AND
53 INDIRECT COSTS AND EXPENSES OF OTHER STATE AGENCIES WHICH ARE INCURRED
54 FOR THE PURPOSES OF ADMINISTERING, FACILITATING OR SUPPORTING (I) POLI-

1 CIES AND PROGRAMS INTENDED TO REGULATE OR OVERSEE THE OPERATIONS OF
2 UTILITY COMPANIES UNDER THE COMMISSION'S JURISDICTION, AND (II) RATEMAK-
3 ING BY THE COMMISSION AND THE DEPARTMENT (HEREINAFTER, "DEPARTMENT
4 SUPPORT EXPENSES"); (B) THE DIRECT AND INDIRECT COSTS OF STATE AGENCIES
5 WHICH ARE INCURRED FOR PURPOSES OF STATE ENERGY PLANNING, PROCUREMENT,
6 MONITORING, MANAGEMENT, DISTRIBUTION AND EFFICIENCY ACTIVITIES AND
7 SERVICES (HEREINAFTER, "ENERGY MANAGEMENT EXPENSES"); AND (C) THE COSTS
8 AND EXPENSES OF UTILITY SERVICES FOR THE STATE (HEREINAFTER, "STATE
9 UTILITY SERVICE EXPENSES"), SHALL BE CERTIFIED BY THE DIRECTOR OF THE
10 BUDGET IN CONSULTATION WITH THE CHAIRMAN. The state treasury shall be
11 reimbursed [therefore] FOR ALL SUCH DEPARTMENT EXPENSES, DEPARTMENT
12 SUPPORT EXPENSES, ENERGY MANAGEMENT EXPENSES AND STATE UTILITY SERVICE
13 EXPENSES by payments to be made thereto from all moneys collected pursu-
14 ant to this chapter. The total of such costs and expenses shall be borne
15 by the public utility companies (including for the purposes of this
16 section municipalities other than municipalities as defined in section
17 eighty-nine-1 of this chapter), corporations (including the power
18 authority of the state of New York), and persons subject to the commis-
19 sion's regulation, INCLUDING FOR PURPOSES OF THIS SECTION ENTITIES
20 DEEMED ELIGIBLE BY THE DEPARTMENT TO SELL ELECTRICITY AND/OR NATURAL GAS
21 TO END-USE CUSTOMERS, to be assessed in the manner provided in subdivi-
22 sions two, three and four of this section and section two hundred seven-
23 teen of this chapter.

24 2. (a) The chairman of the department shall estimate prior to the
25 start of each state fiscal year the total costs and expenses, including
26 the compensation and expenses of the commission and the department,
27 their officers, agents and employees, and including the cost of retire-
28 ment contributions, social security, health and dental insurance, survi-
29 vor's benefits, workers' compensation, unemployment insurance and other
30 fringe benefits required to be paid by the state for the personnel of
31 the commission and the department, and including all other items of
32 maintenance and operation expenses, and all other direct and indirect
33 costs. Based on such [estimate] ESTIMATES, the chairman shall determine
34 the amount to be paid by each assessed public utility company and a bill
35 shall be rendered [therefor] to each such public utility company.

36 (b) The bill for each public utility company shall be rendered on or
37 before February first preceding each FISCAL year, and shall be for the
38 amount equal to the product of the aforesaid estimated [costs and]
39 DEPARTMENT expenses [of conducting the department's and commission's
40 total operations during], AND THE DEPARTMENT SUPPORT EXPENSES, ENERGY
41 MANAGEMENT EXPENSES AND STATE UTILITY SERVICE EXPENSES FOR the fiscal
42 year for which billing is being made multiplied by the proportion which
43 compares:

44 (1) the gross operating revenues, over and above [twenty-five] FIVE
45 HUNDRED thousand dollars, for that utility company derived from intra-
46 state utility operations in the last preceding calendar year, or other
47 twelve month period as determined by the chairman, to:

48 (2) the total of the gross operating revenues, derived from intrastate
49 utility operations for all utility companies in the state which revenues
50 are included under subparagraph (1) of [paragraph (b) of] this [subdivi-
51 sion] PARAGRAPH.

52 (c) The minimum assessment for any utility company whose gross reven-
53 ues from intrastate utility operations are in excess of [twenty-five]
54 FIVE HUNDRED thousand dollars in the preceding calendar year shall be
55 [ten] TWO HUNDRED dollars.

1 (d) The amount of such bill for fiscal years beginning on or after
2 April first, nineteen hundred eighty-three so rendered shall be paid by
3 such public utility company to the department on or before April first;
4 provided, however, that a utility company may elect to make partial
5 payments for such [costs and] DEPARTMENT EXPENSES, DEPARTMENT SUPPORT
6 EXPENSES, ENERGY MANAGEMENT EXPENSES AND STATE UTILITY SERVICE expenses
7 on March tenth of the preceding fiscal year and on September tenth of
8 such fiscal year. [Provided further, however, that for the fiscal year
9 beginning April two thousand three payment will be due March tenth, two
10 thousand three at twenty-five percentum; June tenth, two thousand three
11 at twenty-five percentum; and September tenth, two thousand three at
12 fifty percentum. Thereafter, each] EACH such partial payment shall be a
13 sum equal to fifty percentum of the estimate of [costs and] DEPARTMENT
14 EXPENSES, DEPARTMENT SUPPORT EXPENSES, ENERGY MANAGEMENT EXPENSES AND
15 STATE UTILITY SERVICE expenses to be assessed against such utility
16 company under the provisions of this subdivision and shall not be less
17 than [ten] TWO HUNDRED dollars.

18 (e) During the course of any state fiscal year, the chairman may
19 increase or decrease the estimate of [costs and] DEPARTMENT expenses [of
20 the department and the commission] , DEPARTMENT SUPPORT EXPENSES, ENERGY
21 MANAGEMENT EXPENSES AND STATE UTILITY SERVICE EXPENSES AND TO REFLECT
22 THE BUDGET ENACTED FOR THE FISCAL YEAR AND THE ACTUAL REPORTED REVENUES.
23 In such case, revised bills shall be sent to each public utility company
24 [which has elected to make partial payments], and such increase or
25 decrease shall be equally apportioned against the remaining payments for
26 such fiscal year.

27 (f) On or before October tenth of each year, the chairman [shall] MAY
28 compute [the actual costs and expenses of the department and the commis-
29 sion] ADJUSTMENTS OR OTHER CORRECTIONS AS NEEDED for the preceding state
30 fiscal year and, [after deducting the amounts recovered pursuant to
31 subdivisions three and four of this section, shall] MAY, on or before
32 October twentieth, send to each public utility company affected thereby
33 a statement setting forth the amount due and payable by, or the amount
34 standing to the credit of, such public utility company. Any amount owing
35 by any public utility company shall be paid not later than thirty days
36 following the date such statement is received. Any such amount standing
37 to the credit of any public utility company shall be refunded by the
38 commission [or, at the option of such utility company, shall be applied
39 as a credit against any succeeding payment due].

40 (g) The total amount which may be charged to any public utility compa-
41 ny under authority of this subdivision for any state fiscal year shall
42 not exceed [one-third of] one per centum of such public utility compa-
43 ny's gross operating revenues derived from intrastate utility operations
44 in the last preceding calendar year, or other twelve month period as
45 determined by the chairman; provided, however, that no corporation or
46 person that is subject to the jurisdiction of the commission only with
47 respect to safety, or the power authority of the state of New York,
48 shall be subject to the general assessment provided for under this
49 subdivision.

50 S 2. Subdivision 4-a of section 18-a of the public service law, as
51 amended by chapter 46 of the laws of 1983, is renumbered subdivision
52 4-b.

53 S 3. Section 18-a of the public service law is amended by adding a new
54 subdivision 6 to read as follows:

55 6.(A) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, AND
56 SUBJECT TO THE EXCEPTIONS PROVIDED FOR IN PARAGRAPH (B) OF THIS SUBDIVI-

1 SION, FOR STATE FISCAL YEARS BEGINNING ON APRIL FIRST, TWO THOUSAND
2 NINE, AN ANNUAL ASSESSMENT (HEREINAFTER "STATE ENERGY AND UTILITY
3 SERVICE CONSERVATION ASSESSMENT") IS HEREBY IMPOSED ON PUBLIC UTILITY
4 COMPANIES (INCLUDING FOR THE PURPOSES OF THIS SUBDIVISION MUNICIPALITIES
5 OTHER THAN MUNICIPALITIES AS DEFINED IN SECTION EIGHTY-NINE-L OF THIS
6 CHAPTER), CORPORATIONS (INCLUDING FOR PURPOSES OF THIS SUBDIVISION THE
7 LONG ISLAND POWER AUTHORITY), AND PERSONS SUBJECT TO THE COMMISSION'S
8 REGULATION, INCLUDING ENTITIES DEEMED ELIGIBLE BY THE DEPARTMENT TO SELL
9 ELECTRICITY AND/OR NATURAL GAS TO END-USE CUSTOMERS (HEREINAFTER SUCH
10 PUBLIC UTILITY COMPANIES, CORPORATIONS, AND PERSONS ARE REFERRED TO
11 COLLECTIVELY AS THE "UTILITY ENTITIES"), TO ENCOURAGE THE CONSERVATION
12 OF ENERGY AND OTHER RESOURCES PROVIDED THROUGH UTILITY ENTITIES TO BE
13 ASSESSED IN THE MANNER PROVIDED IN THIS SUBDIVISION.

14 (B) THE STATE ENERGY AND UTILITY SERVICE CONSERVATION ASSESSMENT SHALL
15 BE EQUAL TO TWO PERCENTUM OF THE UTILITY ENTITY'S GROSS OPERATING REVEN-
16 UES DERIVED FROM INTRASTATE UTILITY OPERATIONS IN THE LAST PRECEDING
17 CALENDAR YEAR, MINUS THE AMOUNT, IF ANY, THAT SUCH UTILITY ENTITY IS
18 ASSESSED PURSUANT TO SUBDIVISIONS ONE AND TWO OF THIS SECTION FOR THE
19 CORRESPONDING STATE FISCAL YEAR PERIOD. WITH RESPECT TO THE LONG ISLAND
20 POWER AUTHORITY, THE STATE ENERGY AND UTILITY SERVICE CONSERVATION
21 ASSESSMENT SHALL BE EQUAL TO ONE PERCENTUM OF SUCH AUTHORITY'S GROSS
22 OPERATING REVENUES DERIVED FROM INTRASTATE UTILITY OPERATIONS IN THE
23 LAST PRECEDING CALENDAR YEAR. NO CORPORATION OR PERSON SUBJECT TO THE
24 JURISDICTION OF THE COMMISSION ONLY WITH RESPECT TO SAFETY, OR THE POWER
25 AUTHORITY OF THE STATE OF NEW YORK, SHALL BE SUBJECT TO THE STATE ENERGY
26 AND UTILITY SERVICE CONSERVATION ASSESSMENT PROVIDED FOR UNDER THIS
27 SUBDIVISION. UTILITY ENTITIES WHOSE GROSS OPERATING REVENUES FROM INTRA-
28 STATE UTILITY OPERATIONS ARE FIVE HUNDRED THOUSAND DOLLARS OR LESS IN
29 THE PRECEDING CALENDAR YEAR SHALL NOT BE SUBJECT TO THE STATE ENERGY AND
30 UTILITY SERVICE CONSERVATION ASSESSMENT. THE MINIMUM STATE ENERGY AND
31 UTILITY SERVICE CONSERVATION ASSESSMENT TO BE BILLED TO ANY UTILITY
32 ENTITY WHOSE GROSS REVENUES FROM INTRASTATE UTILITY OPERATIONS ARE IN
33 EXCESS OF FIVE HUNDRED THOUSAND DOLLARS IN THE PRECEDING CALENDAR YEAR
34 SHALL BE TWO HUNDRED DOLLARS.

35 (C) THE CHAIRMAN OF THE DEPARTMENT SHALL DETERMINE PRIOR TO THE START
36 OF EACH STATE FISCAL YEAR THE AMOUNT OF THE STATE ENERGY AND UTILITY
37 SERVICE CONSERVATION ASSESSMENT FOR UTILITY ENTITIES FOR THE FISCAL
38 YEAR. BASED ON THAT DETERMINATION, A BILL SHALL BE RENDERED FOR EACH
39 UTILITY ENTITY ON OR BEFORE FEBRUARY FIRST PRECEDING EACH STATE FISCAL
40 YEAR FOR THE AMOUNT AS SET FORTH IN PARAGRAPH B OF THIS SUBDIVISION.

41 (D) EACH UTILITY ENTITY MUST PAY THE BILL RENDERED TO IT PURSUANT TO
42 PARAGRAPH (C) OF THIS SUBDIVISION AS FOLLOWS:

43 (I) THE AMOUNT OF SUCH BILL SHALL BE PAID BY SUCH PUBLIC UTILITY
44 COMPANY TO THE DEPARTMENT ON OR BEFORE APRIL FIRST; PROVIDED, HOWEVER,
45 THAT A UTILITY COMPANY MAY ELECT TO MAKE PARTIAL PAYMENTS FOR SUCH COSTS
46 AND EXPENSES ON MARCH TENTH OF THE PRECEDING FISCAL YEAR AND ON SEPTEM-
47 BER TENTH OF SUCH FISCAL YEAR. EACH SUCH PARTIAL PAYMENT SHALL BE A SUM
48 EQUAL TO FIFTY PERCENTUM OF THE ESTIMATE OF COSTS AND EXPENSES TO BE
49 ASSESSED AGAINST SUCH UTILITY COMPANY UNDER THE PROVISIONS OF THIS
50 SUBDIVISION AND SHALL NOT BE LESS THAN TWO HUNDRED DOLLARS.

51 (II) DURING THE COURSE OF ANY STATE FISCAL YEAR, THE CHAIRMAN MAY
52 ADJUST THE AMOUNT OF THE BILLS AS APPROPRIATE TO REFLECT, AMONG OTHER
53 THINGS, THE ACTUAL REPORTED REVENUES. IN SUCH CASE, REVISED BILLS SHALL
54 BE SENT TO EACH UTILITY ENTITY SUBJECT TO THE PROVISIONS OF THIS SUBDI-
55 VISION, AND SUCH INCREASE OR DECREASE SHALL BE EQUALLY APPORTIONED
56 AGAINST THE REMAINING PAYMENTS FOR SUCH FISCAL YEAR;

1 (E) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ALL STATE
2 ENERGY AND UTILITY SERVICE CONSERVATION ASSESSMENT MONIES COLLECTED AND
3 RECEIVED BY THE DEPARTMENT SHALL BE DEPOSITED TO THE CREDIT OF THE COMP-
4 TROLLER WITH SUCH RESPONSIBLE BANKS, BANKING HOUSES OR TRUST COMPANIES
5 AS MAY BE DESIGNATED BY THE COMPTROLLER. SUCH DEPOSITS SHALL BE KEPT
6 SEPARATE AND APART FROM ALL OTHER MONIES IN THE POSSESSION OF THE COMP-
7 TROLLER. THE COMPTROLLER SHALL REQUIRE ADEQUATE SECURITY FROM ALL SUCH
8 DEPOSITORIES. OF THE TOTAL AMOUNT COLLECTED, THE COMPTROLLER SHALL
9 RETAIN THE AMOUNT DETERMINED BY THE CHAIRMAN TO BE NECESSARY FOR REFUND
10 OF OVERPAYMENTS OUT OF WHICH THE COMPTROLLER MUST PAY ANY REFUNDS TO
11 WHICH A UTILITY ENTITY MAY BE ENTITLED PURSUANT TO PARAGRAPH (F) OF THIS
12 SUBDIVISION. AFTER RESERVING THE AMOUNT TO PAY REFUNDS, THE COMPTROLLER
13 SHALL, ON OR BEFORE THE TENTH DAY OF EACH MONTH, OR MORE FREQUENTLY AS
14 HE OR SHE MAY DEEM APPROPRIATE, PAY ALL STATE ENERGY AND UTILITY SERVICE
15 CONSERVATION ASSESSMENT MONIES COLLECTED AND RECEIVED UNDER THIS SUBDI-
16 VISION AND REMAINING TO THE COMPTROLLER'S CREDIT INTO THE STATE GENERAL
17 FUND.

18 (F) ON OR BEFORE OCTOBER TENTH OF EACH YEAR, THE CHAIRMAN MAY COMPUTE
19 ADJUSTMENTS OR OTHER CORRECTIONS AS NEEDED FOR THE PRECEDING STATE
20 FISCAL YEAR AND, SHALL, ON OR BEFORE OCTOBER TWENTIETH, SEND TO EACH
21 UTILITY ENTITY AFFECTED THEREBY, A STATEMENT SETTING FORTH THE AMOUNT
22 DUE AND PAYABLE BY, OR THE AMOUNT STANDING TO THE CREDIT OF, SUCH UTILI-
23 TY ENTITY. ANY AMOUNT OWING BY ANY UTILITY ENTITY SHALL BE PAID NOT
24 LATER THAN THIRTY DAYS FOLLOWING THE DATE SUCH STATEMENT IS RECEIVED.
25 ANY SUCH AMOUNT STANDING TO THE CREDIT OF ANY UTILITY ENTITY SHALL BE
26 REFUNDED BY THE CHAIRMAN.

27 (G) THE CHAIRMAN IS AUTHORIZED TO COORDINATE THE IMPLEMENTATION OF
28 THIS SUBDIVISION WITH THE OTHER SUBDIVISIONS OF THIS SECTION, INCLUDING
29 FOR PURPOSES OF, BUT NOT LIMITED TO, BILLING AND COLLECTION OF THE
30 ASSESSMENTS PROVIDED FOR UNDER THIS SECTION.

31 (H) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE STATE
32 ENERGY AND UTILITY SERVICE CONSERVATION ASSESSMENT PROVIDED FOR UNDER
33 THIS SUBDIVISION SHALL BE CHARGED AGAINST AND BE PAID BY THE UTILITY
34 ENTITY AND SHALL BE ADDED AS A SEPARATE ITEM TO BILLS RENDERED BY THE
35 UTILITY ENTITY TO CUSTOMERS OR OTHERS, AND SHALL CONSTITUTE A PART OF
36 THE OPERATING COSTS OF SUCH UTILITY ENTITY AND CALLED THE "STATE ENERGY
37 AND UTILITY SERVICE CONSERVATION ASSESSMENT".

38 S 4. Subdivisions 3, 4 and 5 of section 97-g of the state finance law,
39 subdivision 3 as amended by section 45 of part K of chapter 81 of the
40 laws of 2002, subdivision 4 as amended by chapter 577 of the laws of
41 1988 and subdivision 5 as added by chapter 710 of the laws of 1964, are
42 amended to read as follows:

43 3. Moneys of the fund shall be available to the commissioner of gener-
44 al services for the purchase of food, supplies and equipment for [state
45 institutions and other] state agencies, and for the purpose of furnish-
46 ing or providing centralized services to or for [state institutions and
47 other] state agencies; PROVIDED FURTHER THAT SUCH MONEYS SHALL BE AVAIL-
48 ABLE TO THE COMMISSIONER OF GENERAL SERVICES FOR PURPOSES PURSUANT TO
49 ITEMS (D) AND (F) OF SUBDIVISION FOUR OF THIS SECTION TO OR FOR PUBLIC
50 BENEFIT CORPORATIONS AND PUBLIC AUTHORITIES AND FOR PURPOSES PURSUANT TO
51 ITEM (I) OF SUBDIVISION FOUR OF THIS SECTION TO OR FOR PUBLIC EMPLOYEES
52 AND VISITORS, AND FOR PURPOSES PURSUANT TO ITEMS (J) AND (K) OF SUBDIVI-
53 SION FOUR OF THIS SECTION TO OR FOR ELIGIBLE RECIPIENTS. Beginning the
54 first day of April, two thousand two, moneys in such fund shall also be
55 transferred by the state comptroller to the revenue bond tax fund
56 account of the general debt service fund in amounts equal to those

1 required for payments to authorized issuers for revenue bonds issued
2 pursuant to article five-C of this chapter for the purpose of lease
3 purchases and installment purchases by or for state agencies and insti-
4 tutions for personal or real property purposes.

5 4. The term "centralized services" as used in this section shall mean
6 and include only (a) communications services, (b) mail, messenger and
7 reproduction services, (c) computer services, (d) [gasoline] FUEL and
8 automotive services, (e) renovation and maintenance services, (f)
9 purchases of electricity, RENEWABLE ENERGY, RENEWABLE ENERGY CREDITS OR
10 ATTRIBUTES, ENERGY-RELATED OR RESOURCE CONSERVATION PROJECTS, PROGRAMS
11 AND SERVICES (INCLUDING, BUT NOT LIMITED TO PROCUREMENT, PLANNING AND
12 MANAGEMENT SERVICES) from the power authority of the state of New York
13 AND OTHER SUPPLIERS, (g) real property management services, (h) building
14 design and construction services, (i) parking services TO PUBLIC EMPLOY-
15 EES AND VISITORS, (j) distribution of United States department of agri-
16 culture donated foods to eligible recipients, pursuant to all applicable
17 statutes and regulations, (k) distribution of federal surplus property
18 donations to all eligible recipients, pursuant to applicable statutes
19 and regulations and (l) payments and related services for lease
20 purchases and installment purchases by or for state agencies [and insti-
21 tutions] for personal property purposes financed through the issuance of
22 certificates of participation. The services defined in items (a)
23 [through (h)], (B), (C), (E), (G), (H) AND (L) of this subdivision
24 [shall] MAY be provided to state agencies [and institutions only]. THE
25 SERVICES DEFINED IN ITEMS (D) AND (F) OF THIS SUBDIVISION MAY BE
26 PROVIDED TO STATE AGENCIES, PUBLIC AUTHORITIES OR PUBLIC BENEFIT CORPO-
27 RATIONS. THE SERVICES DEFINED IN ITEM (I) OF THIS SUBDIVISION MAY BE
28 PROVIDED TO PUBLIC EMPLOYEES AND VISITORS. THE SERVICES PROVIDED IN
29 ITEMS (J) AND (K) OF THIS SUBDIVISION MAY BE PROVIDED TO ELIGIBLE RECIP-
30 IENTS AS DETERMINED BY THE COMMISSIONER OF GENERAL SERVICES RELATIVE TO
31 THE TYPE OF SERVICE PROVIDED. THE TERMS "PUBLIC AUTHORITIES" AND "PUBLIC
32 BENEFIT CORPORATIONS" AS USED IN THIS SECTION SHALL MEAN AND INCLUDE
33 ONLY THOSE PUBLIC AUTHORITIES AND PUBLIC BENEFIT CORPORATIONS THE HEADS
34 OF WHICH ARE APPOINTED BY THE GOVERNOR OR WHERE THE MAJORITY OF THE
35 BOARD MEMBERS ARE APPOINTED BY THE GOVERNOR OR SERVE AS MEMBERS BY
36 VIRTUE OF HOLDING A CIVIL OFFICE OF THE STATE. ALL STATE AGENCIES,
37 PUBLIC AUTHORITIES OR PUBLIC BENEFIT CORPORATIONS ARE HEREBY AUTHORIZED
38 TO ENTER INTO AND DO ALL THINGS NECESSARY TO PERFORM A CONTRACT OR OTHER
39 AGREEMENT WITH THE COMMISSIONER OF GENERAL SERVICES FOR SUCH CENTRALIZED
40 SERVICES.

41 5. The amount expended from such fund for the [above-stated] purposes
42 SET FORTH IN THIS SECTION shall be charged against the state [institu-
43 tion or] agency receiving such food, supplies, equipment and services OR
44 PUBLIC BENEFIT CORPORATIONS OR PUBLIC AUTHORITIES RECEIVING SUCH FUEL,
45 AUTOMOTIVE SERVICES, ELECTRICITY OR GREEN ATTRIBUTES, OR EFFICIENCY AND
46 RESOURCE CONSERVATION SERVICES, OR PUBLIC EMPLOYEES AND VISITORS FOR
47 PARKING, OR ELIGIBLE RECIPIENTS FOR DONATED FOODS OR FEDERAL SURPLUS
48 PROPERTY, and all payments received therefor shall be credited to such
49 fund.

50 S 5. This act shall take effect immediately; provided, however, that
51 section three of this act shall take effect March 1, 2009 and shall
52 expire and be deemed repealed March 31, 2012; and provided, further,
53 that if section three of this act shall become law after March 1, 2009,
54 it shall take effect immediately and be deemed to have been in full
55 force and effect on and after March 1, 2009.

1

PART 00

2 Section 1. Subdivision (h) of section 303 of the vehicle and traffic
3 law, as amended by chapter 608 of the laws of 1993, is amended to read
4 as follows:

5 (h) The commissioner, or any person duly deputized, in addition to or
6 in lieu of revoking or suspending a license to operate an official
7 inspection station or a certificate to inspect vehicles, may by order
8 require the licensee or certified inspector to pay to the people of this
9 state a penalty in a sum OF not [exceeding] LESS THAN three hundred and
10 fifty dollars NOR MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS for each
11 violation THAT IS A FIRST INCIDENT; A SUM OF NOT LESS THAN FIVE HUNDRED
12 DOLLARS NOR MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS FOR EACH
13 VIOLATION THAT IS A SECOND INCIDENT, BOTH OF WHICH INCIDENTS WERE
14 COMMITTED WITHIN A TEN YEAR PERIOD; A SUM OF NOT LESS THAN ONE THOUSAND
15 DOLLARS NOR MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS FOR EACH
16 VIOLATION THAT IS A THIRD OR SUBSEQUENT INCIDENT ALL OF WHICH INCIDENTS
17 WERE COMMITTED WITHIN A TEN YEAR PERIOD, and upon the failure of such
18 licensee to pay such penalty within twenty days after the mailing of
19 such order, postage prepaid, registered or certified, and addressed to
20 the last known place of business of such licensee or certified inspec-
21 tor, unless such order is stayed by a court of competent jurisdiction or
22 in accordance with the provisions of Article three-A of this chapter,
23 the commissioner may revoke the license of such licensee or the certif-
24 icate of such certified inspector or may suspend the same for such peri-
25 od as may be determined. Civil penalties assessed under this subdivi-
26 sion shall be paid to the commissioner for deposit into the state
27 treasury, and unpaid civil penalties may be recovered by the commission-
28 er in a civil action in the name of the commissioner. In addition, as an
29 alternative to such civil action and provided that no proceeding for
30 judicial review shall then be pending and the time for initiation of
31 such proceeding shall have expired, the commissioner may file with the
32 county clerk of the county in which the registrant is located or the
33 certified inspector resides a final order of the commissioner containing
34 the amount of the penalty assessed. The filing of such final order shall
35 have the full force and effect of a judgment duly docketed in the office
36 of such clerk and may be enforced in the same manner and with the same
37 effect as that provided by law in respect to executions issued against
38 property upon judgments of a court of record.

39 S 2. Paragraph (b) of subdivision 2 of section 398-e of the vehicle
40 and traffic law, as added by chapter 634 of the laws of 1980, is amended
41 to read as follows:

42 (b) Such penalty shall be in a sum OF not [exceeding] LESS THAN three
43 hundred fifty dollars NOR MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS
44 for each violation THAT IS A FIRST INCIDENT; A SUM OF NOT LESS THAN FIVE
45 HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS FOR EACH
46 VIOLATION THAT IS A SECOND INCIDENT, BOTH OF WHICH INCIDENTS WERE
47 COMMITTED WITHIN A TEN YEAR PERIOD; A SUM OF NOT LESS THAN ONE THOUSAND
48 DOLLARS NOR MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS FOR EACH
49 VIOLATION THAT IS A THIRD OR SUBSEQUENT INCIDENT ALL OF WHICH INCIDENTS
50 WERE COMMITTED WITHIN A TEN YEAR PERIOD, except that if a finding of
51 financial loss has been made pursuant to subdivision three of this
52 section, the amount of such penalty may be increased by the amount of
53 financial loss so found.

54 S 3. Subdivision 12 of section 415 of the vehicle and traffic law, as
55 amended by chapter 7 of the laws of 2000, is amended to read as follows:

1 12. The commissioner, or any person deputized by him, in addition to
 2 or in lieu of revoking or suspending the certificate of registration of
 3 a registrant in accordance with the provisions of this article, may in
 4 any one proceeding by order require the registrant to pay to the people
 5 of this state a penalty in a sum OF not [exceeding] LESS THAN THREE
 6 HUNDRED FIFTY DOLLARS NOR MORE THAN one thousand FIVE HUNDRED dollars
 7 for each violation THAT IS A FIRST INCIDENT; A SUM OF NOT LESS THAN FIVE
 8 HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS FOR EACH
 9 VIOLATION THAT IS A SECOND INCIDENT, BOTH OF WHICH INCIDENTS WERE
 10 COMMITTED WITHIN A TEN YEAR PERIOD; A SUM OF NOT LESS THAN ONE THOUSAND
 11 DOLLARS NOR MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS FOR EACH
 12 VIOLATION THAT IS A THIRD OR SUBSEQUENT INCIDENT ALL OF WHICH INCIDENTS
 13 WERE COMMITTED WITHIN A TEN YEAR PERIOD, except that if a finding of
 14 financial loss has been made pursuant to subdivision fourteen of this
 15 section, the amount of such penalty may be increased by the amount of
 16 financial loss so found, and upon the failure of such registrant to pay
 17 such penalty within twenty days after the mailing of such order, postage
 18 prepaid, registered or certified, and addressed to the last known place
 19 of business of such registrant, unless such order is stayed by an order
 20 of a court of competent jurisdiction, the commissioner may revoke the
 21 certificate of registration of such registrant or may suspend the same
 22 for such period as he may determine. Civil penalties assessed under this
 23 subdivision shall be paid to the commissioner for deposit into the state
 24 treasury, and unpaid civil penalties may be recovered by the commission-
 25 er in a civil action in the name of the commissioner.

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

28 PART PP

29 Section 1. Paragraph (h) of subdivision 2 of section 503 of the vehi-
 30 cle and traffic law, as amended by chapter 196 of the laws of 1996, is
 31 amended to read as follows:

32 (h) An applicant whose driver's license has been revoked pursuant to
 33 (i) section five hundred ten of this title, (ii) section eleven hundred
 34 ninety-three of this chapter, and (iii) section eleven hundred ninety-
 35 four of this chapter, shall, upon application for issuance of a driver's
 36 license, pay to the commissioner a fee of [fifty] ONE HUNDRED dollars[;
 37 provided, however, 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 2. Paragraph (j) of subdivision 2 of section 503 of the vehicle and
 50 traffic law, as amended by chapter 196 of the laws of 1996, is amended
 51 to read as follows:

52 (j) Whenever a license issued pursuant to this article, or a privilege
 53 of operating a motor vehicle or of obtaining such a license, has been
 54 suspended, such suspension shall remain in effect until a termination of

1 a suspension fee of [twenty-five] FIFTY dollars is paid to the commis-
 2 sioner; provided, however, when the basis for the suspension is a find-
 3 ing of driving after having consumed alcohol pursuant to the provisions
 4 of section eleven hundred ninety-two-a of this chapter, the fee to be
 5 paid to the commissioner shall be [one] TWO hundred dollars. The
 6 provisions of this paragraph shall not apply to a temporary suspension
 7 pending a hearing, prosecution or investigation, nor to an indefinite
 8 suspension which is issued because of the failure of the person
 9 suspended to perform an act, which suspension will be terminated by the
 10 performance of the act.

11 S 3. Subparagraph (i) of paragraph (j-1) of subdivision 2 of section
 12 503 of the vehicle and traffic law, as added by section 8 of part J of
 13 chapter 62 of the laws of 2003, is amended to read as follows:

14 (i) When a license issued pursuant to this article, or a privilege of
 15 operating a motor vehicle or of obtaining such a license, has been
 16 suspended based upon a failure to answer an appearance ticket or a
 17 summons or failure to pay a fine, penalty or mandatory surcharge, pursu-
 18 ant to subdivision three of section two hundred twenty-six, subdivision
 19 four of section two hundred twenty-seven, subdivision four-a of section
 20 five hundred ten or subdivision five-a of section eighteen hundred nine
 21 of this chapter, such suspension shall remain in effect until a termi-
 22 nation of a suspension fee of [thirty-five] SEVENTY dollars is paid to
 23 the court or tribunal that initiated the suspension of such license or
 24 privilege. In no event may the aggregate of the fees imposed by an indi-
 25 vidual court pursuant to this paragraph for the termination of all
 26 suspensions that may be terminated as a result of a person's answers,
 27 appearances or payments made in such cases pending before such individ-
 28 ual court exceed [two] FOUR hundred dollars. For the purposes of this
 29 paragraph, the various locations of the administrative tribunal estab-
 30 lished under article two-A of this chapter shall be considered an indi-
 31 vidual court.

32 S 4. Paragraph (j-1) of subdivision 2 of section 503 of the vehicle
 33 and traffic law is amended by adding a new subparagraph (iv) to read as
 34 follows:

35 (IV) NOTWITHSTANDING ANY OTHER PROVISION IN THIS PARAGRAPH, FIFTY
 36 PERCENT OF ALL FEES COLLECTED PURSUANT TO THIS PARAGRAPH SHALL BE DEPOS-
 37 ITED TO THE CREDIT OF THE GENERAL FUND.

38 S 5. This act shall take effect on the ninetieth day after it shall
 39 have become a law, provided that section one of this act shall only
 40 apply to revocations issued on or after that date, and provided that
 41 sections two and three of this act shall apply only to suspensions
 42 issued on or after such date.

43 PART QQ

44 Section 1. Subdivision 3 of section 99-h of the state finance law, as
 45 amended by chapter 747 of the laws of 2006, is amended to read as
 46 follows:

47 3. Moneys of the account, following appropriation by the legislature,
 48 shall be available for purposes including but not limited to: (a)
 49 reimbursements or payments to municipal governments that host tribal
 50 casinos pursuant to a tribal-state compact for costs incurred in
 51 connection with services provided to such casinos or arising as a result
 52 thereof, for economic development opportunities and job expansion
 53 programs authorized by the executive law; provided, however, that for
 54 any gaming facility located in the [county of Erie] CITY OF BUFFALO, the

1 [municipal governments hosting the facility] CITY OF BUFFALO shall
 2 [collectively] receive a minimum of twenty-five percent of the negoti-
 3 ated percentage of the net drop from electronic gaming devices the state
 4 receives pursuant to the compact, and provided further that for any
 5 gaming facility located in the city of Niagara Falls, county of Niagara
 6 a minimum of twenty-five percent of the negotiated percentage of the net
 7 drop from electronic gaming devices the state receives pursuant to the
 8 compact shall be distributed in accordance with subdivision four of this
 9 section, and provided further that for any gaming facility located in
 10 the county or counties of Cattaraugus, Chautauqua or Allegany, the
 11 municipal governments of the state hosting the facility shall collec-
 12 tively receive a minimum of twenty-five percent of the negotiated
 13 percentage of the net drop from electronic gaming devices the state
 14 receives pursuant to the compact; and provided further that pursuant to
 15 chapter five hundred ninety of the laws of two thousand four, a minimum
 16 of twenty-five percent of the revenues received by the state pursuant to
 17 the state's compact with the St. Regis Mohawk tribe shall be made avail-
 18 able to the counties of Franklin and St. Lawrence, and affected towns in
 19 such counties. Each such county and its affected towns shall receive
 20 fifty percent of the moneys made available by the state; and (b) support
 21 and services of treatment programs for persons suffering from gambling
 22 addictions. Moneys not appropriated for such purposes shall be trans-
 23 ferred to the general fund for the support of government during the
 24 fiscal year in which they are received.

25 S 2. This act shall take effect immediately and shall be deemed to
 26 have been in full force and effect on and after March 1, 2009; provided,
 27 however that the amendments to subdivision 3 of section 99-h of the
 28 state finance law made by section one of this act shall not affect the
 29 expiration of such section and shall be deemed to expire therewith.

30 PART RR

31 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
 32 executive law relating to permitting the secretary of state to provide
 33 special handling for all documents filed or issued by the division of
 34 corporations and to permit additional levels of such expedited service,
 35 as amended by section 1 of part Q of chapter 59 of the laws of 2008, is
 36 amended to read as follows:

37 S 2. This act shall take effect immediately, provided however, that
 38 section one of this act shall be deemed to have been in full force and
 39 effect on and after April 1, 2003 and shall expire March 31, [2009]
 40 2010.

41 S 2. This act shall take effect immediately and shall be deemed to
 42 have been in full force and effect on and after March 1, 2009.

43 PART SS

44 Section 1. Section 27-1001 of the environmental conservation law, as
 45 added by chapter 200 of the laws of 1982, is amended to read as follows:
 46 S 27-1001. Legislative findings.

47 The legislature hereby finds that litter composed of discarded [soft-
 48 drink, beer and ale bottles and cans] BEVERAGE CONTAINERS is a growing
 49 problem of state concern and a direct threat to the health and safety of
 50 the citizens of this state. Discarded beverage [bottles and cans]
 51 CONTAINERS create a hazard to vehicular traffic, a source of physical
 52 injury to pedestrians[,] AND farm animals [and], A HAZARD TO FARM AND

1 OTHER machinery and an unsightly accumulation of litter which must be
2 disposed of at increasing public expense. Beverage [bottles and cans]
3 CONTAINERS also create an unnecessary addition to the state's and muni-
4 cipalities' already overburdened solid waste and refuse disposal
5 systems. Unsegregated disposal of such [bottles and cans] CONTAINERS
6 creates an impediment to the efficient operation of resource recovery
7 plants. Further, the legislature finds that the uninhibited discard of
8 beverage containers constitutes a waste of both mineral and energy
9 resources. The legislature hereby finds that requiring a deposit on all
10 beverage containers, along with certain other facilitating measures,
11 will provide a necessary incentive for the economically efficient and
12 environmentally benign collection and recycling of such containers.

13 S 2. Subdivisions 1 and 2 of section 27-1003 of the environmental
14 conservation law, subdivision 1 as amended by chapter 778 of the laws of
15 1988 and subdivision 2 as amended by chapter 546 of the laws of 1986,
16 are amended to read as follows:

17 1. "Beverage" means [carbonated soft drinks, mineral water, soda
18 water, beer, other malt beverages and a wine product as defined in
19 subdivision thirty-six-a of section three of the alcoholic beverage
20 control law. "Malt beverages" means any beverage obtained by the alco-
21 holic fermentation or infusion or decoction of barley, malt, hops, or
22 other wholesome grain or cereal and water including, but not limited to
23 ale, stout or malt liquor.] ALL CARBONATED AND NON-CARBONATED DRINKS IN
24 LIQUID FORM AND INTENDED FOR INTERNAL HUMAN CONSUMPTION. THE TERM
25 "BEVERAGE" SHALL NOT INCLUDE:

26 A. MILK AND DAIRY DERIVED PRODUCTS. "MILK" MEANS WHOLE MILK, SKIM
27 MILK, LOW-FAT MILK, CREAM, CULTURED MILK, YOGURT OR ANY COMBINATION OF
28 THOSE PRODUCTS. THE TERM "DAIRY DERIVED PRODUCTS" INCLUDES ANY PRODUCT
29 OF WHICH MORE THAN FIFTY PERCENT OF THE INGREDIENTS ARE MILK, MILK FAT,
30 CULTURED MILK OR YOGURT;

31 B. RICE MILK, SOY MILK, NUT MILK OR OTHER MILK SUBSTITUTE;

32 C. INFANT FORMULA;

33 D. ALCOHOLIC BEVERAGES OTHER THAN BEER, OTHER MALT BEVERAGES AND WINE
34 PRODUCTS AS DEFINED IN SUBDIVISION THIRTY-SIX-A OF SECTION THREE OF THE
35 ALCOHOLIC BEVERAGE CONTROL LAW. "MALT BEVERAGES" MEANS ANY BEVERAGE
36 OBTAINED BY THE ALCOHOLIC FERMENTATION OR INFUSION OR DECOCTION OF
37 BARLEY, MALT, HOPS, OR OTHER WHOLESOME GRAIN OR CEREAL AND WATER INCLUD-
38 ING, BUT NOT LIMITED TO ALE, STOUT OR MALT LIQUOR;

39 E. A LIQUID THAT IS A SYRUP, IN A CONCENTRATED FORM, OR TYPICALLY
40 ADDED AT LESS THAN FIVE PERCENT AS A MINOR FLAVORING INGREDIENT IN FOOD
41 OR DRINK, SUCH AS EXTRACTS, COOKING ADDITIVES, SAUCES OR CONDIMENTS;

42 F. A LIQUID THAT IS A MEDICAL PRESCRIPTION OR OVER-THE-COUNTER DRUG
43 REGULATED BY THE FOOD AND DRUG ADMINISTRATION AND CONSUMED FOR MEDICINAL
44 PURPOSES ONLY;

45 G. A LIQUID THAT IS (I) A DIETARY SUPPLEMENT AS DEFINED BY THE FOOD
46 AND DRUG ADMINISTRATION EXCEPT ONE THAT IS DESIGNED, MARKETED AND/OR
47 INTENDED TO BE CONSUMED AS A BEVERAGE SUCH AS A SPORTS OR HYDRATION
48 DRINK, OR (II) DESIGNED, MARKETED AND/OR INTENDED TO BE CONSUMED AS A
49 MEAL OR MEAL SUBSTITUTE AS PART OF A WEIGHT LOSS PROGRAM, SUCH AS A DIET
50 SHAKE;

51 H. PRODUCTS WHICH TRADITIONALLY ARE FROZEN AT THE TIME OF SALE;

52 I. PRODUCTS DESIGNED TO BE CONSUMED IN A FROZEN STATE;

53 J. INSTANT DRINK POWDERS; AND

54 K. SEAFOOD, MEAT OR VEGETABLE BROTHS, OR SOUPS.

55 2. "Beverage container" means the individual, separate, sealed glass,
56 metal, aluminum, steel or plastic bottle, can or jar used for containing

1 LESS THAN one gallon or [3.8] 3.78 liters [or less] at the time of sale
2 OR OFFER FOR SALE of a beverage intended for use or consumption in this
3 state. Beverage containers sold or OFFERED FOR SALE OR distributed
4 aboard aircraft or ships shall be considered as intended for use or
5 consumption outside this state.

6 S 3. Subdivisions 6 and 9 of section 27-1003 of the environmental
7 conservation law, as added by chapter 200 of the laws of 1982, are
8 amended and four new subdivisions 2-a, 5-a, 12 and 13 are added to read
9 as follows:

10 2-A. "BOTTLER" MEANS A PERSON, FIRM OR CORPORATION WHO:

11 A. BOTTLES, CANS OR OTHERWISE PACKAGES BEVERAGES IN BEVERAGE CONTAIN-
12 ERS EXCEPT THAT IF SUCH PACKAGING IS FOR A DISTRIBUTOR HAVING THE RIGHT
13 TO BOTTLE, CAN OR OTHERWISE PACKAGE THE SAME BRAND OF BEVERAGE, THEN
14 SUCH DISTRIBUTOR SHALL BE THE BOTTLER; OR

15 B. IMPORTS FILLED BEVERAGE CONTAINERS INTO THE UNITED STATES.

16 5-A. A "DEPOSIT INITIATOR" FOR EACH BEVERAGE CONTAINER FOR WHICH A
17 REFUND VALUE IS ESTABLISHED UNDER SECTION 27-1005 OF THIS TITLE MEANS:

18 A. THE BOTTLER OF THE BEVERAGE IN SUCH CONTAINER;

19 B. THE DISTRIBUTOR OF SUCH CONTAINER IF SUCH DISTRIBUTOR'S PURCHASE OF
20 SUCH CONTAINER WAS NOT, DIRECTLY OR INDIRECTLY, FROM A REGISTERED DEPOS-
21 IT INITIATOR;

22 C. A DEALER OF SUCH CONTAINER WHO SELLS OR OFFERS FOR SALE SUCH
23 CONTAINER IN THIS STATE, WHOSE PURCHASE OF SUCH CONTAINER WAS NOT,
24 DIRECTLY OR INDIRECTLY, FROM A REGISTERED DEPOSIT INITIATOR; OR

25 D. AN AGENT ACTING ON BEHALF OF A REGISTERED DEPOSIT INITIATOR.

26 6. "Distributor" means any person, firm or corporation which
27 [bottles, cans or otherwise fills or packages beverage containers, or
28 which] engages in the sale OR OFFER FOR SALE of [such] BEVERAGES IN
29 BEVERAGE containers to a dealer.

30 9. "Redemption center" means any [establishment offering to pay the
31 refund value of a beverage container] PERSON OFFERING TO PAY THE REFUND
32 VALUE OF AN EMPTY BEVERAGE CONTAINER TO A REDEEMER, OR ANY PERSON WHO
33 CONTRACTS WITH ONE OR MORE DEALERS OR DISTRIBUTORS TO COLLECT, SORT AND
34 OBTAIN THE REFUND VALUE AND HANDLING FEE OF EMPTY BEVERAGE CONTAINERS
35 FOR, OR ON BEHALF OF, SUCH DEALER OR DISTRIBUTOR under the provisions of
36 section 27-1013 of this title.

37 12. "REVERSE VENDING MACHINE" MEANS AN AUTOMATED DEVICE THAT USES A
38 LASER SCANNER, MICROPROCESSOR, OR OTHER TECHNOLOGY TO ACCURATELY RECOG-
39 NIZE THE UNIVERSAL PRODUCT CODE (UPC) ON CONTAINERS TO DETERMINE IF THE
40 CONTAINER IS REDEEMABLE AND ACCUMULATES INFORMATION REGARDING CONTAINERS
41 REDEEMED, INCLUDING THE NUMBER OF SUCH CONTAINERS REDEEMED, THEREBY
42 ENABLING THE REVERSE VENDING MACHINE TO ACCEPT CONTAINERS FROM REDEEMERS
43 AND TO ISSUE A SCRIP OR RECEIPT FOR THEIR REFUND VALUE.

44 13. "UNIVERSAL PRODUCT CODE OR UPC CODE" MEANS A STANDARD FOR ENCODING
45 A SET OF LINES AND SPACES THAT CAN BE SCANNED AND INTERPRETED INTO
46 NUMBERS TO IDENTIFY A PRODUCT. UNIVERSAL PRODUCT CODE MAY ALSO MEAN ANY
47 ACCEPTED INDUSTRY BARCODE WHICH REPLACES THE UPC CODE INCLUDING BUT NOT
48 LIMITED TO UNIVERSAL PRODUCT CODE (UPC), EAN AND OTHER CODES THAT MAY BE
49 USED TO IDENTIFY A PRODUCT.

50 S 4. Sections 27-1005 and 27-1007 of the environmental conservation
51 law are REPEALED and two new sections 27-1005 and 27-1007 are added to
52 read as follows:

53 S 27-1005. REFUND VALUE.

54 NO PERSON SHALL SELL OR OFFER FOR SALE A BEVERAGE CONTAINER IN THIS
55 STATE UNLESS THE DEPOSIT ON SUCH BEVERAGE CONTAINER IS OR HAS BEEN
56 COLLECTED BY A REGISTERED DEPOSIT INITIATOR AND UNLESS SUCH CONTAINER

1 HAS A REFUND VALUE OF NOT LESS THAN FIVE CENTS WHICH IS CLEARLY INDI-
2 CATED THEREON AS PROVIDED IN SECTION 27-1011 OF THIS TITLE.

3 S 27-1007. MANDATORY ACCEPTANCE.

4 EXCEPT AS PROVIDED IN SECTION 27-1009 OF THIS TITLE:

5 1. A DEALER SHALL ACCEPT AT HIS OR HER PLACE OF BUSINESS FROM A
6 REDEEMER ANY EMPTY BEVERAGE CONTAINERS OF THE DESIGN, SHAPE, SIZE,
7 COLOR, COMPOSITION AND BRAND SOLD OR OFFERED FOR SALE BY THE DEALER, AND
8 SHALL PAY TO THE REDEEMER THE REFUND VALUE OF EACH SUCH BEVERAGE
9 CONTAINER AS ESTABLISHED IN SECTION 27-1005 OF THIS TITLE. REDEMPTIONS
10 OF REFUND VALUE MUST BE IN LEGAL TENDER, OR A SCRIP OR RECEIPT FROM A
11 REVERSE VENDING MACHINE, PROVIDED THAT THE SCRIP OR RECEIPT CAN BE
12 EXCHANGED FOR LEGAL TENDER FOR A PERIOD OF NOT LESS THAN SIXTY DAYS
13 WITHOUT REQUIRING THE PURCHASE OF OTHER GOODS. THE USE OR PRESENCE OF A
14 REVERSE VENDING MACHINE SHALL NOT RELIEVE A DEALER OF ANY OBLIGATIONS
15 IMPOSED PURSUANT TO THIS SECTION. IF A DEALER UTILIZES A REVERSE VEND-
16 ING MACHINE TO REDEEM CONTAINERS, THE DEALER SHALL PROVIDE REDEMPTION OF
17 BEVERAGE CONTAINERS WHEN THE REVERSE VENDING MACHINE IS FULL, BROKEN,
18 UNDER REPAIR OR DOES NOT ACCEPT A TYPE OF BEVERAGE CONTAINER SOLD OR
19 OFFERED FOR SALE BY SUCH DEALER AND MAY NOT LIMIT THE HOURS OR DAYS OF
20 REDEMPTION EXCEPT AS PROVIDED BY SUBDIVISION THREE OF THIS SECTION. A
21 DEALER WHOSE PLACE OF BUSINESS IS AT LEAST FIFTY THOUSAND SQUARE FEET
22 WHICH DOES NOT UTILIZE REVERSE VENDING MACHINES TO PROCESS EMPTY BEVER-
23 AGE CONTAINERS FOR REDEMPTION SHALL: (A) ESTABLISH AND MAINTAIN A DEDI-
24 CATED AREA WITHIN SUCH BUSINESS TO ACCEPT BEVERAGE CONTAINERS FOR
25 REDEMPTION; (B) ADEQUATELY STAFF SUCH AREA TO FACILITATE EFFICIENT
26 ACCEPTANCE AND PROCESSING OF SUCH CONTAINERS DURING BUSINESS HOURS; AND
27 (C) POST ONE OR MORE CONSPICUOUS SIGNS CONFORMING TO THE SIZE AND COLOR
28 REQUIREMENTS DESCRIBED IN SUBDIVISION TWO OF THIS SECTION AT EACH PUBLIC
29 ENTRANCE TO THE BUSINESS WHICH DESCRIBES WHERE IN THE BUSINESS THE
30 REDEMPTION AREA IS LOCATED. THE COMMISSIONER MAY ESTABLISH IN RULES AND
31 REGULATIONS ADDITIONAL STANDARDS FOR THE EFFICIENT PROCESSING OF BEVER-
32 AGE CONTAINERS BY SUCH DEALERS. ON ANY DAY THAT A DEALER IS OPEN FOR
33 LESS THAN TWENTY-FOUR HOURS, THE DEALER MAY RESTRICT OR REFUSE THE
34 PAYMENT OF REFUND VALUES DURING THE FIRST AND LAST HOUR THE DEALER IS
35 OPEN FOR BUSINESS.

36 2. A DEALER SHALL POST A CONSPICUOUS SIGN, AT THE POINT OF SALE THAT
37 STATES:

38 "NEW YORK BOTTLE BILL OF RIGHTS

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

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

43 THE RIGHT TO RETURN YOUR EMPTIES FOR REFUND TO ANY DEALER WHO SELLS
44 THE SAME BRAND, TYPE AND SIZE, WHETHER YOU BOUGHT THE BEVERAGE FROM THE
45 DEALER OR NOT. IT IS ILLEGAL TO RETURN CONTAINERS FOR REFUND THAT WERE
46 PURCHASED OUTSIDE OF NEW YORK STATE.

47 THE RIGHT TO GET YOUR DEPOSIT REFUND IN CASH, WITHOUT PROOF OF
48 PURCHASE.

49 THE RIGHT TO RETURN YOUR EMPTIES ANY DAY, ANY HOUR, EXCEPT FOR THE
50 FIRST AND LAST HOUR OF THE DEALER'S BUSINESS DAY (EMPTY CONTAINERS MAY
51 BE REDEEMED AT ANY TIME IN 24-HOUR STORES).

52 THE RIGHT TO RETURN YOUR CONTAINERS IF THEY ARE EMPTY AND INTACT.
53 WASHING CONTAINERS IS NOT REQUIRED BY LAW, BUT IS STRONGLY RECOMMENDED
54 TO MAINTAIN SANITARY CONDITIONS.

1 THE NEW YORK STATE RETURNABLE CONTAINER ACT CAN BE ENFORCED BY THE NEW
2 YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (NYSDEC), THE NEW
3 YORK STATE DEPARTMENT OF TAXATION AND FINANCE, THE NEW YORK STATE ATTOR-
4 NEY GENERAL AND/OR BY YOUR LOCAL GOVERNMENT."

5 SUCH SIGN MUST BE NO LESS THAN EIGHT INCHES BY TEN INCHES IN SIZE AND
6 HAVE LETTERING A MINIMUM OF ONE QUARTER INCH HIGH, AND OF A COLOR WHICH
7 CONTRASTS WITH THE BACKGROUND. THE DEPARTMENT SHALL MAINTAIN A TOLL
8 FREE TELEPHONE NUMBER FOR A "BOTTLE BILL COMPLAINT LINE" THAT SHALL BE
9 AVAILABLE FROM 9:00 A.M. TO 5:00 P.M. EACH BUSINESS DAY TO RECEIVE
10 REPORTS OF VIOLATIONS OF THIS TITLE. THE TELEPHONE NUMBER SHALL BE LIST-
11 ED ON ANY SIGN REQUIRED BY THIS SECTION.

12 3. ON OR AFTER JUNE FIRST, TWO THOUSAND NINE, IN A CITY WITH A POPU-
13 LATION GREATER THAN ONE MILLION, A DEALER MAY LIMIT THE NUMBER OF EMPTY
14 BEVERAGE CONTAINERS TO BE ACCEPTED FOR REDEMPTION AT THE DEALER'S PLACE
15 OF BUSINESS TO NO LESS THAN SEVENTY-TWO CONTAINERS PER VISIT, PER
16 REDEEMER, PER DAY, PROVIDED THAT:

17 (A) THE DEALER HAS A WRITTEN AGREEMENT WITH A REDEMPTION CENTER, BE IT
18 EITHER AT A FIXED PHYSICAL LOCATION WITHIN THE SAME COUNTY AND WITHIN
19 ONE-HALF MILE OF THE DEALER'S PLACE OF BUSINESS, OR A MOBILE REDEMPTION
20 CENTER, OPERATED BY A REDEMPTION CENTER, THAT IS LOCATED WITHIN
21 ONE-QUARTER MILE OF THE DEALER'S PLACE OF BUSINESS. THE REDEMPTION
22 CENTER MUST HAVE A WRITTEN AGREEMENT WITH THE DEALER TO ACCEPT CONTAIN-
23 ERS ON BEHALF OF THE DEALER; AND THE REDEMPTION CENTER'S HOURS OF OPERA-
24 TION MUST COVER AT LEAST 9:00 A.M. THROUGH 7:00 P.M. DAILY OR IN THE
25 CASE OF A MOBILE REDEMPTION CENTER, THE HOURS OF OPERATION MUST COVER AT
26 LEAST FOUR CONSECUTIVE HOURS BETWEEN 8:00 A.M. AND 8:00 P.M. DAILY. THE
27 DEALER MUST POST A CONSPICUOUS, PERMANENT SIGN, MEETING THE SIZE AND
28 COLOR SPECIFICATIONS SET FORTH IN SUBDIVISION TWO OF THIS SECTION, OPEN
29 TO PUBLIC VIEW, IDENTIFYING THE LOCATION AND HOURS OF OPERATION OF THE
30 AFFILIATED REDEMPTION CENTER OR MOBILE REDEMPTION CENTER; OR

31 (B) THE DEALER PROVIDES, AT A MINIMUM, A CONSECUTIVE TWO HOUR PERIOD
32 BETWEEN 7:00 A.M. AND 7:00 P.M. DAILY WHEREBY THE DEALER WILL ACCEPT UP
33 TO TWO HUNDRED FORTY CONTAINERS, PER REDEEMER, PER DAY, AND POSTS A
34 CONSPICUOUS, PERMANENT SIGN, MEETING THE SIZE AND COLOR SPECIFICATIONS
35 SET FORTH IN SUBDIVISION TWO OF THIS SECTION, OPEN TO PUBLIC VIEW, IDEN-
36 TIFYING THOSE HOURS. THE DEALER MAY NOT CHANGE THE HOURS OF REDEMPTION
37 WITHOUT FIRST POSTING A THIRTY DAY NOTICE; OR

38 (C) THE DEALER'S PRIMARY BUSINESS IS THE SALE OF FOOD OR BEVERAGES FOR
39 CONSUMPTION OFF-PREMISES, AND THE DEALER'S PLACE OF BUSINESS IS LESS
40 THAN TEN THOUSAND SQUARE FEET IN SIZE.

41 4. A DEPOSIT INITIATOR SHALL ACCEPT FROM A DEALER OR OPERATOR OF A
42 REDEMPTION CENTER ANY EMPTY BEVERAGE CONTAINER OF THE DESIGN, SHAPE,
43 SIZE, COLOR, COMPOSITION AND BRAND SOLD OR OFFERED FOR SALE BY THE
44 DEPOSIT INITIATOR, AND SHALL PAY THE DEALER OR OPERATOR OF A REDEMPTION
45 CENTER THE REFUND VALUE OF EACH SUCH BEVERAGE CONTAINER AS ESTABLISHED
46 BY SECTION 27-1005 OF THIS TITLE. A DEPOSIT INITIATOR SHALL ACCEPT AND
47 REDEEM ALL SUCH EMPTY BEVERAGE CONTAINERS FROM A DEALER OR REDEMPTION
48 CENTER WITHOUT LIMITATION ON QUANTITY.

49 5. A DEPOSIT INITIATOR'S OR DISTRIBUTOR'S FAILURE TO PICK UP EMPTY
50 BEVERAGE CONTAINERS, INCLUDING CONTAINERS PROCESSED IN A REVERSE VENDING
51 MACHINE, FROM A REDEMPTION CENTER, DEALER OR THE OPERATOR OF A REVERSE
52 VENDING MACHINE, SHALL BE A VIOLATION OF THIS TITLE.

53 6. IN ADDITION TO THE REFUND VALUE OF A BEVERAGE CONTAINER AS ESTAB-
54 LISHED BY SECTION 27-1005 OF THIS TITLE, A DEPOSIT INITIATOR SHALL PAY
55 TO ANY DEALER, OR OPERATOR OF A REDEMPTION CENTER, OR DISTRIBUTOR A
56 HANDLING FEE OF THREE AND ONE-HALF CENTS FOR EACH BEVERAGE CONTAINER

1 ACCEPTED BY THE DEPOSIT INITIATOR FROM SUCH DEALER, OPERATOR OF A
2 REDEMPTION CENTER OR DISTRIBUTOR. PAYMENT OF THE HANDLING FEE SHALL BE
3 AS COMPENSATION FOR COLLECTING, SORTING AND PACKAGING OF EMPTY BEVERAGE
4 CONTAINERS FOR TRANSPORT BACK TO THE DEPOSIT INITIATOR OR ITS DESIGNEE.
5 PAYMENT OF THE HANDLING FEE MAY NOT BE CONDITIONED ON THE PURCHASE OF
6 ANY GOODS OR SERVICES, NOR MAY SUCH PAYMENT BE MADE OUT OF THE REFUND
7 VALUE ACCOUNT ESTABLISHED PURSUANT TO SECTION 27-1012 OF THIS TITLE. A
8 DISTRIBUTOR WHO DOES NOT INITIATE DEPOSITS ON A TYPE OF BEVERAGE
9 CONTAINER IS CONSIDERED A DEALER ONLY FOR THE PURPOSE OF RECEIVING A
10 HANDLING FEE FROM A DEPOSIT INITIATOR.

11 7. A DEPOSIT INITIATOR ON A BRAND SHALL ACCEPT FROM A DISTRIBUTOR WHO
12 DOES NOT INITIATE DEPOSITS ON THAT BRAND ANY EMPTY BEVERAGE CONTAINERS
13 OF THAT BRAND AND SHALL PAY THE DISTRIBUTOR THE REFUND VALUE OF EACH
14 SUCH BEVERAGE CONTAINER, AS ESTABLISHED BY SECTION 27-1005 OF THIS
15 TITLE. IN ADDITION, THE DEPOSIT INITIATOR SHALL PAY TO SUCH DISTRIBUTOR
16 FOR EACH SUCH BEVERAGE CONTAINER THE HANDLING FEE ESTABLISHED UNDER
17 SUBDIVISION SIX OF THIS SECTION. WITHOUT LIMITING THE RIGHTS OF THE
18 DEPARTMENT OR ANY PERSON, FIRM OR CORPORATION UNDER THIS SUBDIVISION OR
19 ANY OTHER PROVISION OF THIS SECTION, A DISTRIBUTOR, A DEALER OR AN OPER-
20 ATOR OF A REDEMPTION CENTER SHALL HAVE A CIVIL RIGHT OF ACTION TO
21 ENFORCE THIS SUBDIVISION, INCLUDING, UPON THREE DAYS NOTICE, THE RIGHT
22 TO APPLY FOR TEMPORARY AND PRELIMINARY INJUNCTIVE RELIEF AGAINST CONTIN-
23 UING VIOLATIONS, AND UNTIL ARRANGEMENTS FOR COLLECTION AND RETURN OF
24 EMPTY CONTAINERS OR REIMBURSEMENT OF THE REDEEMING DISTRIBUTOR FOR SUCH
25 DEPOSITS AND HANDLING FEES ARE MADE.

26 8. IT SHALL BE THE RESPONSIBILITY OF THE DEPOSIT INITIATOR OR
27 DISTRIBUTOR TO PROVIDE TO A DEALER OR REDEMPTION CENTER A SUFFICIENT
28 NUMBER OF BAGS, CARTONS, OR OTHER SUITABLE CONTAINERS, AT NO COST, FOR
29 THE PACKAGING, HANDLING AND PICKUP OF EMPTY BEVERAGE CONTAINERS THAT ARE
30 NOT REDEEMED THROUGH A REVERSE VENDING MACHINE. THE BAGS, CARTONS, OR
31 CONTAINERS MUST BE PROVIDED BY THE DEPOSIT INITIATOR OR DISTRIBUTOR ON A
32 SCHEDULE THAT ALLOWS THE DEALER OR REDEMPTION CENTER SUFFICIENT TIME TO
33 SORT THE EMPTY BEVERAGE CONTAINERS PRIOR TO PICK UP BY THE DEPOSIT
34 INITIATOR OR DISTRIBUTOR. IN ADDITION:

35 (A) WHEN PICKING UP EMPTY BEVERAGE CONTAINERS, A DEPOSIT INITIATOR OR
36 DISTRIBUTOR SHALL NOT REQUIRE A DEALER OR REDEMPTION CENTER TO LOAD
37 THEIR OWN BAGS, CARTONS OR CONTAINERS ONTO OR INTO THE DEPOSIT INITI-
38 ATOR'S OR DISTRIBUTOR'S VEHICLE OR VEHICLES OR PROVIDE THE STAFF OR
39 EQUIPMENT NEEDED TO DO SO.

40 (B) A DEPOSIT INITIATOR OR DISTRIBUTOR SHALL NOT REQUIRE EMPTY
41 CONTAINERS TO BE COUNTED AT A LOCATION OTHER THAN THE REDEMPTION CENTER
42 OR DEALER'S PLACE OF BUSINESS. THE DEALER OR REDEMPTION CENTER SHALL
43 HAVE THE RIGHT TO BE PRESENT AT THE COUNT.

44 (C) A DEPOSIT INITIATOR OR DISTRIBUTOR SHALL PICK UP EMPTY BEVERAGE
45 CONTAINERS FROM THE DEALER OR REDEMPTION CENTER AT REASONABLE TIMES AND
46 INTERVALS AS DETERMINED IN RULES OR REGULATIONS PROMULGATED BY THE
47 DEPARTMENT.

48 9. NO PERSON SHALL RETURN OR ASSIST ANOTHER TO RETURN TO A DEALER OR
49 REDEMPTION CENTER AN EMPTY BEVERAGE CONTAINER FOR ITS REFUND VALUE IF
50 SUCH CONTAINER HAD PREVIOUSLY BEEN ACCEPTED FOR REDEMPTION BY A DEALER,
51 REDEMPTION CENTER, OR DEPOSIT INITIATOR WHO INITIATES DEPOSITS ON BEVER-
52 AGE CONTAINERS OF THE SAME BRAND.

53 10. A REDEEMER, DEALER, DISTRIBUTOR OR REDEMPTION CENTER SHALL NOT
54 KNOWINGLY REDEEM AN EMPTY BEVERAGE CONTAINER ON WHICH A DEPOSIT WAS
55 NEVER PAID.

1 11. NOTWITHSTANDING THE PROVISIONS OF SECTION 27-1009 OF THIS TITLE, A
2 DEPOSIT INITIATOR OR DISTRIBUTOR SHALL ACCEPT AND REDEEM BEVERAGE
3 CONTAINERS AS PROVIDED IN THIS TITLE, IF THE DEALER OR OPERATOR OF A
4 REDEMPTION CENTER SHALL HAVE ACCEPTED AND PAID THE REFUND VALUE OF SUCH
5 BEVERAGE CONTAINERS.

6 S 5. Section 27-1009 of the environmental conservation law, as added
7 by chapter 200 of the laws of 1982, is amended to read as follows:

8 S 27-1009. Refusal of acceptance.

9 1. A dealer or operator of a redemption center may refuse to accept
10 from a redeemer, and a [distributor] DEPOSIT INITIATOR may refuse to
11 accept from a dealer or operator of a redemption center any empty bever-
12 age container which does not state thereon a refund value as established
13 by section 27-1005 and provided by section 27-1011 of this title.

14 2. A dealer or operator of a redemption center may also refuse to
15 accept any broken bottle, corroded or dismembered can, or any beverage
16 container which contains a significant amount of foreign material, as
17 determined in rules and regulations to be promulgated by the commission-
18 er. [Notwithstanding the provisions of this subdivision, a distributor
19 shall accept beverage containers as provided in subdivision two of
20 section 27-1007 of this title, if the dealer shall have accepted and
21 paid the refund value of such beverage containers.]

22 S 6. Subdivision 2 of section 27-1011 of the environmental conserva-
23 tion law is REPEALED.

24 S 7. Subdivisions 3 and 4 of section 27-1011 of the environmental
25 conservation law, subdivision 3 as amended by chapter 834 of the laws of
26 1984 and subdivision 4 as amended by chapter 149 of the laws of 1983,
27 are amended to read as follows:

28 [3.] 2. No DEPOSIT INITIATOR, distributor or dealer shall sell or
29 offer for sale, at wholesale or retail in this state, any metal beverage
30 container designed and constructed with a part of the container which is
31 detachable in opening the container unless such detachable part will
32 decompose by photodegradation or biodegradation.

33 [4.] 3. No DEPOSIT INITIATOR, distributor or dealer shall sell or
34 offer for sale in this state beverage containers connected to each other
35 by a separate holding device constructed of plastic which does not
36 decompose by photodegradation or biodegradation.

37 S 8. The environmental conservation law is amended by adding a new
38 section 27-1012 to read as follows:

39 S 27-1012. DEPOSIT AND DISPOSITION OF REFUND VALUES; REGISTRATION.

40 1. EACH DEPOSIT INITIATOR SHALL DEPOSIT IN A REFUND VALUE ACCOUNT AN
41 AMOUNT EQUAL TO THE REFUND VALUE INITIATED UNDER SECTION 27-1005 OF THIS
42 TITLE WHICH IS RECEIVED WITH RESPECT TO EACH BEVERAGE CONTAINER SOLD BY
43 SUCH DEPOSIT INITIATOR. SUCH DEPOSIT INITIATOR SHALL HOLD SUCH AMOUNTS
44 IN TRUST FOR THE STATE. A REFUND VALUE ACCOUNT SHALL BE AN
45 INTEREST-BEARING ACCOUNT ESTABLISHED IN A BANKING INSTITUTION LOCATED IN
46 THIS STATE, THE DEPOSITS IN WHICH ARE INSURED BY AN AGENCY OF THE FEDER-
47 AL GOVERNMENT. DEPOSITS OF SUCH AMOUNTS SHALL BE MADE NOT LESS FREQUENT-
48 LY THAN EVERY FIVE BUSINESS DAYS. ALL INTEREST, DIVIDENDS AND RETURNS
49 EARNED ON THE ACCOUNT SHALL BE PAID DIRECTLY INTO SAID ACCOUNT. SUCH
50 MONIES SHALL BE KEPT SEPARATE AND APART FROM ALL OTHER MONEYS IN THE
51 POSSESSION OF THE DEPOSIT INITIATOR. THE COMMISSIONER OF TAXATION AND
52 FINANCE MAY SPECIFY A SYSTEM OF ACCOUNTS AND RECORDS TO BE MAINTAINED
53 WITH RESPECT TO ACCOUNTS ESTABLISHED UNDER THIS SUBDIVISION.

54 2. PAYMENTS OF REFUND VALUES PURSUANT TO SECTION 27-1007 OF THIS TITLE
55 SHALL BE PAID FROM EACH DEPOSIT INITIATOR'S REFUND VALUE ACCOUNT. NO

1 OTHER PAYMENT OR WITHDRAWAL FROM SUCH ACCOUNT MAY BE MADE EXCEPT AS
2 PRESCRIBED BY THIS SECTION.

3 3. EACH DEPOSIT INITIATOR SHALL FILE QUARTERLY REPORTS WITH THE
4 COMMISSIONER OF TAXATION AND FINANCE ON A FORM AND IN THE MANNER
5 PRESCRIBED BY SUCH COMMISSIONER. THE COMMISSIONER OF TAXATION AND
6 FINANCE MAY REQUIRE SUCH REPORTS TO BE FILED ELECTRONICALLY. THE QUAR-
7 TERLY REPORTS REQUIRED BY THIS SUBDIVISION SHALL BE FILED FOR THE QUAR-
8 TERLY PERIODS ENDING ON THE LAST DAY OF MAY, AUGUST, NOVEMBER AND FEBRU-
9 ARY OF EACH YEAR, AND EACH SUCH REPORT SHALL BE FILED WITHIN TWENTY DAYS
10 AFTER THE END OF THE QUARTERLY PERIOD COVERED THEREBY. EACH SUCH REPORT
11 SHALL INCLUDE ALL INFORMATION SUCH COMMISSIONER SHALL DETERMINE APPRO-
12 PRIATE, SUCH AS THE FOLLOWING INFORMATION:

13 A. THE BALANCE IN THE REFUND VALUE ACCOUNT AT THE BEGINNING OF THE
14 QUARTER FOR WHICH THE REPORT IS PREPARED;

15 B. ALL SUCH DEPOSITS CREDITED TO SUCH ACCOUNT AND ALL INTEREST, DIVI-
16 DENDS OR RETURNS RECEIVED ON SUCH ACCOUNT, DURING SUCH QUARTER;

17 C. ALL WITHDRAWALS FROM SUCH ACCOUNT DURING SUCH QUARTER, INCLUDING
18 ALL REIMBURSEMENTS PAID PURSUANT TO SUBDIVISION TWO OF THIS SECTION, ALL
19 SERVICE CHARGES ON THE ACCOUNT, AND ALL PAYMENTS MADE PURSUANT TO SUBDI-
20 VISION FOUR OF THIS SECTION; AND

21 D. THE BALANCE IN SUCH ACCOUNT AT THE CLOSE OF SUCH QUARTER.

22 4. A. QUARTERLY PAYMENTS. AN AMOUNT EQUAL TO THE BALANCE OUTSTANDING
23 IN THE REFUND VALUE ACCOUNT AT THE CLOSE OF EACH QUARTER SHALL BE PAID
24 TO THE COMMISSIONER OF TAXATION AND FINANCE AT THE TIME THE REPORT
25 PROVIDED FOR IN SUBDIVISION THREE OF THIS SECTION IS REQUIRED TO BE
26 FILED. IF THE PROVISIONS OF THIS SECTION WITH RESPECT TO SUCH ACCOUNT
27 HAVE NOT BEEN FULLY COMPLIED WITH, EACH DEPOSIT INITIATOR SHALL PAY TO
28 SUCH COMMISSIONER AT SUCH TIME, IN LIEU OF THE AMOUNT DESCRIBED IN THE
29 PRECEDING SENTENCE, AN AMOUNT EQUAL TO THE BALANCE WHICH WOULD HAVE BEEN
30 OUTSTANDING ON SUCH DATE HAD SUCH PROVISIONS BEEN FULLY COMPLIED WITH.
31 THE COMMISSIONER OF TAXATION AND FINANCE MAY REQUIRE THAT THE PAYMENTS
32 BE MADE ELECTRONICALLY.

33 B. REFUND VALUE ACCOUNT SHORTFALL. IN THE EVENT A DEPOSIT INITIATOR
34 PAYS OUT MORE IN REFUND VALUES THAN IT COLLECTS IN DEPOSITS OF REFUND
35 VALUES DURING THE COURSE OF A QUARTERLY PERIOD AS DESCRIBED IN SUBDIVI-
36 SION THREE OF THIS SECTION, THE DEPOSIT INITIATOR MAY APPLY TO THE
37 COMMISSIONER OF TAXATION AND FINANCE FOR A REFUND OF THE AMOUNT OF SUCH
38 EXCESS PAYMENT OF REFUND VALUES FROM SOURCES OTHER THAN THE REFUND VALUE
39 ACCOUNT, IN THE MANNER AS PROVIDED BY THE COMMISSIONER OF TAXATION AND
40 FINANCE.

41 C. FINAL REPORT. A DEPOSIT INITIATOR WHO CEASES TO DO BUSINESS IN THIS
42 STATE AS A DEPOSIT INITIATOR SHALL FILE A FINAL REPORT AND REMIT PAYMENT
43 OF ALL AMOUNTS IN THE REFUND VALUE ACCOUNT AS OF THE CLOSE OF THE DEPOS-
44 IT INITIATOR'S LAST DAY OF BUSINESS. THE COMMISSIONER MAY REQUIRE THAT
45 THE PAYMENTS BE MADE ELECTRONICALLY. THE DEPOSIT INITIATOR SHALL INDI-
46 CATE ON THE REPORT THAT IT IS A "FINAL REPORT". THE FINAL REPORT IS DUE
47 TO BE FILED WITH PAYMENT TWENTY DAYS AFTER THE CLOSE OF THE QUARTERLY
48 PERIOD IN WHICH THE DEPOSIT INITIATOR CEASES TO DO BUSINESS. IN THE
49 EVENT THE DEPOSIT INITIATOR PAYS OUT MORE IN REFUND VALUES THAN IT
50 COLLECTS IN SUCH FINAL QUARTERLY PERIOD, THE DEPOSIT INITIATOR MAY APPLY
51 TO THE COMMISSIONER OF TAXATION AND FINANCE FOR A REFUND OF THE AMOUNT
52 OF SUCH EXCESS PAYMENT OF REFUND VALUES FROM SOURCES OTHER THAN THE
53 REFUND VALUE ACCOUNT, IN THE MANNER AS PROVIDED BY THE COMMISSIONER OF
54 TAXATION AND FINANCE.

55 5. ALL MONEYS COLLECTED OR RECEIVED BY THE DEPARTMENT OF TAXATION AND
56 FINANCE PURSUANT TO THIS TITLE, AFTER DEDUCTION OF THE AMOUNT THE

1 COMMISSIONER OF TAXATION AND FINANCE DETERMINES IS NECESSARY TO COVER
2 REASONABLE COSTS INCURRED BY THE DEPARTMENT OF TAXATION AND FINANCE TO
3 IMPLEMENT, ADMINISTER AND ENFORCE THE PROVISIONS OF THIS TITLE, SHALL BE
4 DEPOSITED TO THE CREDIT OF THE COMPTROLLER WITH SUCH RESPONSIBLE BANKS,
5 BANKING HOUSES OR TRUST COMPANIES AS MAY BE DESIGNATED BY THE COMP-
6 TROLLER. SUCH DEPOSITS SHALL BE KEPT SEPARATE AND APART FROM ALL OTHER
7 MONEYS IN THE POSSESSION OF THE COMPTROLLER. THE COMPTROLLER SHALL
8 REQUIRE ADEQUATE SECURITY FROM ALL SUCH DEPOSITORIES. OF THE TOTAL
9 REVENUE COLLECTED, THE COMPTROLLER SHALL RETAIN THE AMOUNT DETERMINED BY
10 THE COMMISSIONER OF TAXATION AND FINANCE TO BE NECESSARY FOR REFUNDS OUT
11 OF WHICH THE COMPTROLLER MUST PAY ANY REFUNDS TO WHICH A DEPOSIT INITI-
12 ATOR MAY BE ENTITLED. AFTER RESERVING THE AMOUNT TO PAY REFUNDS, THE
13 COMPTROLLER MUST, BY THE TENTH DAY OF EACH MONTH, PAY INTO THE ENVIRON-
14 MENTAL PROTECTION FUND THE REVENUE DEPOSITED UNDER THIS SUBDIVISION
15 DURING THE PRECEDING CALENDAR MONTH AND REMAINING TO THE COMPTROLLER'S
16 CREDIT ON THE LAST DAY OF THAT PRECEDING MONTH.

17 6. THE COMMISSIONER AND THE COMMISSIONER OF TAXATION AND FINANCE SHALL
18 PROMULGATE, AND SHALL CONSULT EACH OTHER IN PROMULGATING, SUCH RULES AND
19 REGULATIONS AS MAY BE NECESSARY TO EFFECTUATE THE PURPOSES OF THIS
20 TITLE. THE COMMISSIONER AND THE COMMISSIONER OF TAXATION AND FINANCE
21 SHALL PROVIDE ALL NECESSARY AID AND ASSISTANCE TO EACH OTHER, INCLUDING
22 THE SHARING OF ANY INFORMATION THAT IS NECESSARY TO THEIR RESPECTIVE
23 ADMINISTRATION AND ENFORCEMENT RESPONSIBILITIES PURSUANT TO THE
24 PROVISIONS OF THIS TITLE.

25 7. A. ANY PERSON WHO IS A DEPOSIT INITIATOR UNDER THIS TITLE ON MARCH
26 FIRST, TWO THOUSAND NINE, MUST APPLY BY MAY FIRST, TWO THOUSAND NINE TO
27 THE COMMISSIONER OF TAXATION AND FINANCE FOR REGISTRATION AS A DEPOSIT
28 INITIATOR. ANY PERSON WHO BECOMES A DEPOSIT INITIATOR AFTER MARCH
29 FIRST, TWO THOUSAND NINE SHALL APPLY FOR REGISTRATION PRIOR TO COLLECT-
30 ING ANY DEPOSITS AS SUCH A DEPOSIT INITIATOR. SUCH APPLICATION SHALL BE
31 IN A FORM PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE AND
32 SHALL REQUIRE SUCH INFORMATION DEEMED TO BE NECESSARY FOR PROPER ADMIN-
33 ISTRATION OF THIS TITLE. THE COMMISSIONER OF TAXATION AND FINANCE MAY
34 REQUIRE THAT APPLICATIONS FOR REGISTRATION MUST BE SUBMITTED ELECTRON-
35 ICALLY. THE COMMISSIONER OF TAXATION AND FINANCE SHALL ELECTRONICALLY
36 ISSUE A DEPOSIT INITIATOR REGISTRATION CERTIFICATE IN A FORM PRESCRIBED
37 BY THE COMMISSIONER OF TAXATION AND FINANCE WITHIN FIFTEEN DAYS OF
38 RECEIPT OF SUCH APPLICATION OR MAY TAKE AN ADDITIONAL TEN DAYS IF THE
39 COMMISSIONER OF TAXATION AND FINANCE DEEMS IT NECESSARY TO CONSULT WITH
40 THE COMMISSIONER BEFORE ISSUING SUCH REGISTRATION CERTIFICATE. A REGIS-
41 TRATION CERTIFICATE ISSUED PURSUANT TO THIS SUBDIVISION MAY BE ISSUED
42 FOR A SPECIFIED TERM OF NOT LESS THAN THREE YEARS AND SHALL BE SUBJECT
43 TO RENEWAL IN ACCORDANCE WITH PROCEDURES SPECIFIED BY THE COMMISSIONER
44 OF TAXATION AND FINANCE. THE COMMISSIONER OF TAXATION AND FINANCE SHALL
45 FURNISH TO THE COMMISSIONER A COMPLETE LIST OF REGISTERED DEPOSIT INITI-
46 ATORS AND SHALL CONTINUALLY UPDATE SUCH LIST AS WARRANTED. THE COMMIS-
47 SIONER SHALL SHARE ANY INFORMATION WITH THE COMMISSIONER OF TAXATION AND
48 FINANCE THAT IS NECESSARY FOR THE ADMINISTRATION OF THIS SUBDIVISION.

49 B. THE COMMISSIONER OF TAXATION AND FINANCE SHALL HAVE THE AUTHORITY
50 TO REVOKE OR REFUSE TO RENEW ANY REGISTRATION ISSUED PURSUANT TO THIS
51 SUBDIVISION WHEN IT HAS BEEN DETERMINED BY THE COMMISSIONER OF TAXATION
52 AND FINANCE OR SUCH COMMISSIONER HAS BEEN INFORMED BY THE COMMISSIONER
53 THAT ANY OF THE PROVISIONS OF THIS TITLE OR RULES AND REGULATIONS
54 PROMULGATED THEREUNDER HAVE BEEN VIOLATED. SUCH VIOLATIONS SHALL
55 INCLUDE, BUT NOT BE LIMITED TO, THE FAILURE TO FILE QUARTERLY REPORTS,
56 THE FAILURE TO MAKE PAYMENTS PURSUANT TO THIS SUBDIVISION, THE PROVIDING

1 OF FALSE OR FRAUDULENT INFORMATION TO EITHER THE DEPARTMENT OF TAXATION
2 AND FINANCE OR THE DEPARTMENT, OR KNOWINGLY AIDING OR ABETTING ANOTHER
3 PERSON IN VIOLATING ANY OF THE PROVISIONS OF THIS TITLE. A NOTICE OF
4 PROPOSED REVOCATION OR NON-RENEWAL SHALL BE GIVEN TO THE DEPOSIT INITI-
5 ATOR IN THE MANNER PRESCRIBED FOR A NOTICE OF DEFICIENCY OF TAX AND ALL
6 THE PROVISIONS APPLICABLE TO A NOTICE OF DEFICIENCY UNDER ARTICLE TWEN-
7 TY-SEVEN OF THE TAX LAW SHALL APPLY TO A NOTICE ISSUED PURSUANT TO THIS
8 PARAGRAPH, INsofar AS SUCH PROVISIONS CAN BE MADE APPLICABLE TO A NOTICE
9 AUTHORIZED BY THIS PARAGRAPH, WITH SUCH MODIFICATIONS AS MAY BE NECES-
10 SARY IN ORDER TO ADAPT THE LANGUAGE OF SUCH PROVISIONS TO THE NOTICE
11 AUTHORIZED BY THIS PARAGRAPH. ALL SUCH NOTICES ISSUED BY THE COMMISSION-
12 ER OF TAXATION AND FINANCE PURSUANT TO THIS PARAGRAPH SHALL CONTAIN A
13 STATEMENT ADVISING THE DEPOSIT INITIATOR THAT THE REVOCATION OR NON-RE-
14 NEWAL OF REGISTRATION MAY BE CHALLENGED THROUGH A HEARING PROCESS AND
15 THE PETITION FOR SUCH A CHALLENGE MUST BE FILED WITH THE COMMISSIONER OF
16 TAXATION AND FINANCE WITHIN NINETY DAYS AFTER SUCH NOTICE IS ISSUED. A
17 DEPOSIT INITIATOR WHOSE REGISTRATION HAS BEEN SO REVOKED OR NOT RENEWED
18 SHALL CEASE TO DO BUSINESS AS A DEPOSIT INITIATOR IN THIS STATE, UNTIL
19 THIS TITLE HAS BEEN COMPLIED WITH AND A NEW REGISTRATION HAS BEEN
20 ISSUED. ANY DEPOSIT INITIATOR WHOSE REGISTRATION HAS BEEN SO REVOKED MAY
21 NOT APPLY FOR REGISTRATION FOR TWO YEARS FROM THE DATE SUCH REVOCATION
22 TAKES EFFECT.

23 8. THE COMMISSIONER OF TAXATION AND FINANCE MAY REQUIRE THE MAINTEN-
24 NANCE OF SUCH ACCOUNTS, RECORDS OR DOCUMENTS RELATING TO THE SALE OF
25 BEVERAGE CONTAINERS, BY ANY BOTTLER, DISTRIBUTOR, DEALER OR REDEMPTION
26 CENTER AS SUCH COMMISSIONER MAY DEEM APPROPRIATE FOR THE ADMINISTRATION
27 OF THIS SECTION. SUCH COMMISSIONER MAY MAKE EXAMINATIONS, INCLUDING THE
28 CONDUCT OF FACILITY INSPECTIONS DURING REGULAR BUSINESS HOURS, WITH
29 RESPECT TO THE ACCOUNTS, RECORDS OR DOCUMENTS REQUIRED TO BE MAINTAINED
30 UNDER THIS SUBDIVISION. SUCH ACCOUNTS, RECORDS AND DOCUMENTS SHALL BE
31 PRESERVED FOR A PERIOD OF THREE YEARS, EXCEPT THAT SUCH COMMISSIONER MAY
32 CONSENT TO THEIR DESTRUCTION WITHIN THAT PERIOD OR MAY REQUIRE THAT THEY
33 BE KEPT LONGER. SUCH ACCOUNTS, RECORDS AND DOCUMENTS MAY BE KEPT WITHIN
34 THE MEANING OF THIS SUBDIVISION WHEN REPRODUCED BY ANY PHOTOGRAPHIC,
35 PHOTOSTATIC, MICROFILM, MICRO-CARD, MINIATURE PHOTOGRAPHIC OR OTHER
36 PROCESS WHICH ACTUALLY REPRODUCES THE ORIGINAL ACCOUNTS, RECORDS OR
37 DOCUMENTS.

38 9. A. ANY PERSON REQUIRED TO BE REGISTERED UNDER THIS SECTION WHO,
39 WITHOUT BEING SO REGISTERED, SELLS OR OFFERS FOR SALE BEVERAGE CONTAIN-
40 ERS IN THIS STATE, IN ADDITION TO ANY OTHER PENALTY IMPOSED BY THIS
41 TITLE, SHALL BE SUBJECT TO A PENALTY TO BE ASSESSED BY THE COMMISSIONER
42 OF TAXATION AND FINANCE IN AN AMOUNT NOT TO EXCEED FIVE HUNDRED DOLLARS
43 FOR THE FIRST DAY ON WHICH SUCH SALES OR OFFERS FOR SALE ARE MADE, PLUS
44 AN AMOUNT NOT TO EXCEED FIVE HUNDRED DOLLARS FOR EACH SUBSEQUENT DAY ON
45 WHICH SUCH SALES OR OFFERS FOR SALE ARE MADE, NOT TO EXCEED TWENTY-FIVE
46 THOUSAND DOLLARS IN THE AGGREGATE.

47 B. ANY DEPOSIT INITIATOR WHO FAILS TO MAINTAIN ACCOUNTS OR RECORDS
48 PURSUANT TO THIS SECTION, UNLESS IT IS SHOWN THAT SUCH FAILURE WAS DUE
49 TO REASONABLE CAUSE AND NOT DUE TO NEGLIGENCE OR WILLFUL NEGLECT, IN
50 ADDITION TO ANY OTHER PENALTY IMPOSED BY THIS TITLE, SHALL BE SUBJECT TO
51 A PENALTY TO BE ASSESSED BY THE COMMISSIONER OF TAXATION AND FINANCE OF
52 NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH QUARTER DURING WHICH SUCH
53 FAILURE OCCURRED, AND AN ADDITIONAL PENALTY OF NOT MORE THAN ONE THOU-
54 SAND DOLLARS FOR EACH QUARTER SUCH FAILURE CONTINUES.

55 10. THE PROVISIONS OF ARTICLE TWENTY-SEVEN OF THE TAX LAW SHALL APPLY
56 TO THE PROVISIONS OF THIS TITLE FOR WHICH THE COMMISSIONER OF TAXATION

1 AND FINANCE IS RESPONSIBLE, INCLUDING COLLECTION OF REFUND VALUE
2 AMOUNTS, IN THE SAME MANNER AND WITH THE SAME FORCE AND EFFECT AS IF THE
3 LANGUAGE OF SUCH ARTICLE HAD BEEN INCORPORATED IN FULL INTO THIS SECTION
4 EXCEPT TO THE EXTENT THAT ANY PROVISION OF SUCH ARTICLE IS EITHER INCON-
5 SISTENT WITH A PROVISION OF THIS SECTION OR IS NOT RELEVANT TO THIS
6 SECTION AS DETERMINED BY THE COMMISSIONER OF TAXATION AND FINANCE.
7 FURTHERMORE, FOR PURPOSES OF APPLYING THE PROVISIONS OF ARTICLE TWENTY-
8 SEVEN OF THE TAX LAW, WHERE THE TERMS "TAX" AND "TAXES" APPEAR IN SUCH
9 ARTICLE, SUCH TERMS SHALL BE CONSTRUED TO MEAN "REFUND VALUE" OR
10 "BALANCE IN THE REFUND VALUE ACCOUNT".

11 11. IF ANY DEPOSIT INITIATOR FAILS OR REFUSES TO FILE A REPORT OR
12 FURNISH ANY INFORMATION REQUESTED IN WRITING BY THE DEPARTMENT OF TAXA-
13 TION AND FINANCE OR THE DEPARTMENT, THE DEPARTMENT OF TAXATION AND
14 FINANCE WITH THE ASSISTANCE OF THE DEPARTMENT MAY, FROM ANY INFORMATION
15 IN ITS POSSESSION, MAKE AN ESTIMATE OF THE DEFICIENCY AND COLLECT SUCH
16 DEFICIENCY FROM SUCH DEPOSIT INITIATOR.

17 S 9. Section 27-1013 of the environmental conservation law, as amended
18 by chapter 149 of the laws of 1983, is amended to read as follows:
19 S 27-1013. Redemption centers.

20 The commissioner is hereby empowered to promulgate rules and regu-
21 lations governing (1) the circumstances in which dealers and distribu-
22 tors, individually or collectively, are required to accept the return of
23 empty beverage containers, and make payment therefor; (2) the sorting of
24 the containers which a DEPOSIT INITIATOR OR distributor may require of
25 dealers and redemption centers; (3) the [pick up] COLLECTION of returned
26 beverage containers by DEPOSIT INITIATORS OR distributors, including the
27 party to whom such expense is to be charged, the frequency of such pick
28 ups and the payment for refunds and handling fees thereon; (4) the right
29 of dealers to restrict or limit the number of containers redeemed, the
30 rules for redemption at the dealers' place of business, and the redemp-
31 tion of containers from a beverage for which sales have been discontin-
32 ued, and to issue permits to persons, firms or corporations which estab-
33 lish redemption centers, subject to applicable provisions of local and
34 state laws, at which redeemers and dealers may return empty beverage
35 containers and receive payment of the refund value of such beverage
36 containers. No dealer or distributor, as defined in section 27-1003 OF
37 THIS TITLE, shall be required to obtain a permit to operate a redemption
38 center at the same location as the dealer's or distributor's place of
39 business. Operators of such redemption centers shall receive payment of
40 the refund value of each beverage container from the appropriate
41 [manufacturer] DEPOSIT INITIATOR or distributor as provided under
42 [sections] SECTION 27-1007 [and 27-1009] of this title.

43 S 10. Section 27-1014 of the environmental conservation law, as added
44 by chapter 149 of the laws of 1983, is amended to read as follows:
45 S 27-1014. [Limitation on] AUTHORITY TO PROMULGATE rules and regu-
46 lations.

47 In addition to the authority of the commissioner, under sections
48 27-1009 and 27-1013 of this title, the commissioner shall [only have the
49 power to promulgate rules and regulations governing the initiation of
50 deposits, sale of beverages in containers through vending machines and
51 for on-premises consumption, record keeping, refunding for refillable
52 beverage containers, embossing, imprinting or labeling of refund values
53 and enforcement of the provisions of this section and sections 27-1009
54 and 27-1013 of this title] HAVE THE POWER TO PROMULGATE RULES AND REGU-
55 LATIONS necessary and appropriate [to] FOR the [implementation] ADMINIS-
56 TRATION of this title.

1 S 11. Section 27-1015 of the environmental conservation law, as added
2 by chapter 200 of the laws of 1982, subdivision 1 as designated and
3 subdivision 2 as added by chapter 149 of the laws of 1983, is amended to
4 read as follows:

5 S 27-1015. Violations.

6 1. A violation of this title, EXCEPT AS PROVIDED IN SUBDIVISION FOUR
7 OF THIS SECTION AND SECTION 27-1012 OF THIS TITLE, shall be a public
8 nuisance. In addition, EXCEPT AS PROVIDED IN SUBDIVISIONS TWO AND FOUR
9 OF THIS SECTION AND SECTION 27-1012 OF THIS TITLE, any person who shall
10 violate any provision of this title shall be liable TO THE STATE OF NEW
11 YORK for a civil penalty of not more than five hundred dollars, and an
12 additional civil penalty of not more than five hundred dollars for each
13 day during which each such violation continues. Any civil penalty may be
14 assessed following a hearing or opportunity to be heard.

15 2. ANY DISTRIBUTOR OR DEPOSIT INITIATOR WHO VIOLATES ANY PROVISION OF
16 THIS TITLE, EXCEPT AS PROVIDED IN SECTION 27-1012 OF THIS TITLE, SHALL
17 BE LIABLE TO THE STATE OF NEW YORK FOR A CIVIL PENALTY OF NOT MORE THAN
18 ONE THOUSAND DOLLARS, AND AN ADDITIONAL CIVIL PENALTY OF NOT MORE THAN
19 ONE THOUSAND DOLLARS FOR EACH DAY DURING WHICH EACH SUCH VIOLATION
20 CONTINUES. ANY CIVIL PENALTY MAY BE ASSESSED FOLLOWING A HEARING OR
21 OPPORTUNITY TO BE HEARD.

22 3. It shall be unlawful for a distributor OR DEPOSIT INITIATOR, acting
23 alone or aided by another, to return ANY empty beverage [containers]
24 CONTAINER to a dealer or redemption center for [their] ITS refund value
25 if the distributor OR DEPOSIT INITIATOR had previously accepted such
26 beverage [containers] CONTAINER from any dealer or operator of a redemp-
27 tion center. A violation of this subdivision shall be a misdemeanor
28 punishable by a fine of not less than five hundred dollars nor more than
29 one thousand dollars and an amount equal to two times the amount of
30 money received as a result of such violation.

31 4. ANY PERSON WHO WILFULLY TENDERS TO A DEALER, DISTRIBUTOR, REDEMP-
32 TION CENTER OR BOTTLER MORE THAN FORTY-EIGHT EMPTY BEVERAGE CONTAINERS
33 THAT SUCH PERSON KNOWS OR REASONABLY SHOULD KNOW WERE NOT ORIGINALLY
34 SOLD IN THIS STATE AS FILLED BEVERAGE CONTAINERS MAY BE ASSESSED BY THE
35 DEPARTMENT A CIVIL PENALTY OF UP TO ONE HUNDRED DOLLARS FOR EACH
36 CONTAINER OR UP TO TWENTY-FIVE THOUSAND DOLLARS FOR EACH SUCH TENDER OF
37 CONTAINERS. AT EACH LOCATION WHERE A PERSON TENDERS CONTAINERS FOR
38 REDEMPTION, DEALERS AND REDEMPTION CENTERS MUST CONSPICUOUSLY DISPLAY A
39 SIGN IN LETTERS THAT ARE AT LEAST ONE INCH IN HEIGHT WITH THE FOLLOWING
40 INFORMATION: "WARNING: PERSONS TENDERING CONTAINERS FOR REDEMPTION THAT
41 WERE NOT ORIGINALLY PURCHASED IN THIS STATE MAY BE SUBJECT TO A CIVIL
42 PENALTY OF UP TO ONE HUNDRED DOLLARS PER CONTAINER OR UP TO TWENTY-FIVE
43 THOUSAND DOLLARS FOR EACH SUCH TENDER OF CONTAINERS." ANY CIVIL PENALTY
44 MAY BE ASSESSED FOLLOWING A HEARING OR OPPORTUNITY TO BE HEARD.

45 5. THE DEPARTMENT, THE DEPARTMENT OF TAXATION AND FINANCE AND THE
46 ATTORNEY GENERAL ARE HEREBY AUTHORIZED TO ENFORCE THE PROVISIONS OF THIS
47 TITLE. IN ADDITION, THE COMMISSIONER MAY, CONSISTENT WITH PARAGRAPH P
48 OF SUBDIVISION 2 OF SECTION 3-0301 OF THIS CHAPTER, DELEGATE TO LOCAL
49 GOVERNMENTS AND ENVIRONMENTAL AGENCIES THEREOF APPROPRIATE FUNCTIONS OF
50 THE DEPARTMENT UNDER THIS TITLE TO ASSIST THE DEPARTMENT IN IMPLEMENTING
51 AND MONITORING COMPLIANCE WITH THE REQUIREMENTS OF THIS TITLE.

52 S 12. The environmental conservation law is amended by adding a new
53 section 27-1016 to read as follows:

54 S 27-1016. PUBLIC EDUCATION.

55 WITHIN THE LIMITS OF APPROPRIATIONS THEREFOR, THE COMMISSIONER SHALL
56 ESTABLISH A PUBLIC EDUCATION PROGRAM TO DISSEMINATE INFORMATION REGARD-

1 ING IMPLEMENTATION OF THIS TITLE. SUCH INFORMATION SHALL INCLUDE, BUT
2 NOT BE LIMITED TO, PUBLICATION OF THE NEW YORK BOTTLE BILL OF RIGHTS AS
3 SPECIFIED IN SUBDIVISION TWO OF SECTION 27-1007 OF THIS TITLE; PUBLICA-
4 TION OF INFORMATION SPECIFYING THE PROCEDURES NECESSARY TO ESTABLISH A
5 REDEMPTION CENTER AS PROVIDED IN SECTION 27-1013 OF THIS TITLE, INCLUD-
6 ING INFORMATION REGARDING FINANCIAL ASSISTANCE AVAILABLE FOR THE ESTAB-
7 LISHMENT OF REDEMPTION CENTERS AS PROVIDED IN SECTION 27-1018 OF THIS
8 TITLE; PUBLICATION OF INFORMATION DELINEATING THE RELEVANT RIGHTS AND
9 RESPONSIBILITIES OF DEPOSIT INITIATORS, DISTRIBUTORS, DEALERS, REDEMP-
10 TION CENTERS AND REDEEMERS UNDER THE PROVISIONS OF THIS TITLE; PUBLICA-
11 TION OF INFORMATION REGARDING THE REQUIREMENT THAT DEPOSIT INITIATORS
12 REGISTER WITH THE DEPARTMENT OF TAXATION AND FINANCE; AND PUBLICATION OF
13 INFORMATION ON THE GENERAL BENEFITS OF RECYCLING.

14 S 13. Section 27-1017 of the environmental conservation law, as added
15 by chapter 200 of the laws of 1982, is amended to read as follows:

16 S 27-1017. Local beverage container laws.

17 The provisions of this title shall not be construed so as to limit in
18 any way the authority [of] political subdivisions of the state HAD to
19 enact, implement and enforce local beverage container control laws prior
20 to but not after the effective date of [this title] THE NEW YORK STATE
21 RETURNABLE CONTAINER ACT. NOTHING IN THIS SECTION SHALL LIMIT THE
22 AUTHORITY OF POLITICAL SUBDIVISIONS OF THE STATE TO ENFORCE THE
23 PROVISIONS OF THIS TITLE THAT PERTAIN TO THE OBLIGATIONS AND RESPONSI-
24 BILITIES OF SUCH POLITICAL SUBDIVISION.

25 S 14. The environmental conservation law is amended by adding a new
26 section 27-1018 to read as follows:

27 S 27-1018. BEVERAGE CONTAINER ASSISTANCE PROGRAM.

28 NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WITHIN THE
29 LIMITS OF APPROPRIATIONS THEREFOR, THE COMMISSIONER SHALL MAKE STATE
30 ASSISTANCE PAYMENTS TO MUNICIPALITIES AND NOT-FOR-PROFIT ORGANIZATIONS
31 FOR THE COST OF REVERSE VENDING MACHINES AND GRANTS NOT TO EXCEED FIFTY
32 PERCENT OF THE COSTS OF EQUIPMENT, AND/OR THE ACQUISITION AND/OR REHA-
33 BILITATION OF REAL PROPERTY OR STRUCTURES RELATED TO THE COLLECTING,
34 SORTING, AND PACKAGING OF EMPTY BEVERAGE CONTAINERS SUBJECT TO THE
35 PROVISIONS OF THIS TITLE. SUCH PAYMENTS SHALL INCLUDE COSTS RELATED TO
36 THE ESTABLISHMENT OF REDEMPTION CENTERS, INCLUDING MOBILE REDEMPTION
37 CENTERS. FOR THE PURPOSES OF THIS SECTION, MUNICIPALITIES AND
38 NOT-FOR-PROFIT ORGANIZATIONS SHALL HAVE THE MEANING AS DEFINED IN
39 SECTION 54-0101 OF THIS CHAPTER.

40 S 15. Paragraph h of subdivision 1 of section 261 of the economic
41 development law, as amended by chapter 471 of the laws of 1998, is
42 amended to read as follows:

43 h. "Eligible project" shall mean actions taken by or on behalf of a
44 New York business involving the acquisition, construction, alteration,
45 repair or improvement of a building, fixtures, machinery or equipment,
46 provided that such project results in:

47 (i) source reduction or material substitution, provided that the
48 substitution of one hazardous substance, product or nonproduct output
49 for another does not result in the creation of a new risk,

50 (ii) in-process recycling,

51 (iii) recycling or reuse of non-hazardous solid wastes,

52 (iv) increased energy efficiency,

53 (v) conservation of the use of water or other natural resources
54 improvements in process economics,

1 (vi) elimination of the purchase of materials, the production of which
2 for the use of said firm would result in more waste or resource consump-
3 tion, or

4 (vii) other practices or technologies that reduce the use of hazardous
5 materials or otherwise improve air or water quality.

6 THE TERM "ELIGIBLE PROJECT" SHALL ALSO INCLUDE ACTIONS TAKEN BY OR ON
7 BEHALF OF A NEW YORK BUSINESS TO SUPPORT COSTS OF EQUIPMENT, AND/OR THE
8 ACQUISITION AND/OR REHABILITATION OF REAL PROPERTY OR STRUCTURES RELATED
9 TO THE COLLECTING, SORTING, AND PACKAGING OF EMPTY BEVERAGE CONTAINERS
10 AS SUCH TERMS ARE DEFINED IN TITLE TEN OF ARTICLE TWENTY-SEVEN OF THE
11 ENVIRONMENTAL CONSERVATION LAW.

12 The term "eligible project" shall not include end of pipe pollution
13 control technologies or practices where such controls or practices are
14 designed primarily to achieve compliance with the environmental conser-
15 vation law or regulations promulgated pursuant thereto, or energy recov-
16 ery or incineration, or out-of-process recycling or reuse of hazardous
17 waste or hazardous substances.

18 S 16. Subdivision 3 of section 92-s of the state finance law, as
19 amended by chapter 145 of the laws of 2004, is amended to read as
20 follows:

21 3. Such fund shall consist of the amount of revenue collected within
22 the state from the amount of revenue, interest and penalties deposited
23 pursuant to section fourteen hundred twenty-one of the tax law, the
24 amount of fees and penalties received from easements or leases pursuant
25 to subdivision fourteen of section seventy-five of the public lands law
26 and the money received as annual service charges pursuant to section
27 four hundred four-1 of the vehicle and traffic law, all moneys required
28 to be deposited therein from the contingency reserve fund pursuant to
29 section two hundred ninety-four of chapter fifty-seven of the laws of
30 nineteen hundred ninety-three, all moneys required to be deposited
31 pursuant to section thirteen of chapter six hundred ten of the laws of
32 nineteen hundred ninety-three, repayments of loans made pursuant to
33 section 54-0511 of the environmental conservation law, all moneys to be
34 deposited from the Northville settlement pursuant to section one hundred
35 twenty-four of chapter three hundred nine of the laws of nineteen
36 hundred ninety-six, provided however, that such moneys shall only be
37 used for the cost of the purchase of private lands in the core area of
38 the central Suffolk pine barrens pursuant to a consent order with the
39 Northville industries signed on October thirteenth, nineteen hundred
40 ninety-four and the related resource restoration and replacement plan,
41 the amount of penalties required to be deposited therein by section
42 71-2724 of the environmental conservation law, THE AMOUNT OF REVENUE,
43 INTEREST AND PENALTIES RELATED TO UNCLAIMED DEPOSITS ON BEVERAGE
44 CONTAINERS DEPOSITED PURSUANT TO TITLE TEN OF ARTICLE TWENTY-SEVEN OF
45 THE ENVIRONMENTAL CONSERVATION LAW and all other moneys credited or
46 transferred thereto from any other fund or source pursuant to law. All
47 such revenue shall be initially deposited into the environmental
48 protection fund, for application as provided in subdivision five of this
49 section.

50 S 17. This act shall take effect immediately, provided however, that:

51 1. sections two, three and eight of this act shall take effect March
52 1, 2009;

53 2. sections four, five, six, seven, nine, eleven and thirteen of this
54 act shall take effect May 1, 2009; and

55 3. the requirements to make deposits, file reports and make with-
56 drawals and payments under section 27-1012 of the environmental conser-

1 vation law, as added by section eight of this act, with respect to
2 containers defined as beverage containers prior to March 1, 2009, shall
3 first apply to the period beginning on March 1, 2009 and ending May 31,
4 2009, and with respect to all other beverage containers shall first
5 apply to the period beginning on May 1, 2009 and ending May 31, 2009,
6 provided that such other beverage containers will not be required to
7 have a refund value as required under section 27-1005 of the environ-
8 mental conservation law until May 1, 2009. However, no refunds shall be
9 paid prior to the due date for reports beginning on September 1, 2009.

10 PART TT

11 Section 1. Section 3.09 of the parks, recreation and historic preser-
12 vation law is amended by adding a new subdivision 19-a to read as
13 follows:

14 19-A. PRIOR TO OFFERING FOR SALE TO THE PUBLIC ANY MERCHANDISE, GOODS,
15 COMMODITIES OR FOOD SERVICE AT PARKS, RECREATION FACILITIES, HISTORIC
16 SITES OR OTHER FACILITIES UNDER THE JURISDICTION OF THE OFFICE, MAKE A
17 WRITTEN FINDING THAT THE PRIVATE SECTOR IS UNABLE OR UNWILLING TO
18 PROVIDE SUCH MERCHANDISE, GOODS, COMMODITIES OR FOOD SERVICE UNDER
19 AGREEMENT WITH THE OFFICE AND UNDER SUCH TERMS AND CONDITIONS AS THE
20 COMMISSIONER DETERMINES ARE FAIR AND REASONABLE TO THE STATE AND NECES-
21 SARY TO SERVE THE PUBLIC INTEREST. ANY PROCEEDS REALIZED FROM THE SALE
22 OF SUCH MERCHANDISE, GOODS, COMMODITIES OR FOOD SERVICE SHALL BE DEPOS-
23 ITED IN THE PATRON SERVICES ACCOUNT OF THE MISCELLANEOUS SPECIAL REVENUE
24 FUND AND SHALL BE USED BY THE OFFICE TO DEFRAY THE COST OF OPERATING AND
25 MAINTAINING SUCH PARKS, RECREATION FACILITIES AND HISTORIC SITES.

26 S 2. This act shall take effect on the one hundred twentieth day after
27 it shall have become a law.

28 PART UU

29 Section 1. The public authorities law is amended by adding a new
30 section 2975-a to read as follows:

31 S 2975-A. RECOVERY OF STATE GOVERNMENTAL COSTS FROM INDUSTRIAL DEVEL-
32 OPMENT AGENCIES. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
33 CONTRARY, INDUSTRIAL DEVELOPMENT AGENCIES OR AUTHORITIES CREATED PURSU-
34 ANT TO TITLE ONE OF ARTICLE EIGHTEEN-A OF THE GENERAL MUNICIPAL LAW OR
35 ANY OTHER PROVISION OF LAW SHALL REIMBURSE TO NEW YORK STATE AN ALLOCA-
36 BLE SHARE OF STATE GOVERNMENTAL COSTS ATTRIBUTABLE TO THE PROVISION OF
37 SERVICES TO INDUSTRIAL DEVELOPMENT AGENCIES, AS DETERMINED HEREIN. THE
38 PAYMENT OF SUCH COSTS BY INDUSTRIAL DEVELOPMENT AGENCIES OR AUTHORITIES
39 IS A VALID AND PROPER PURPOSE FOR WHICH AVAILABLE AGENCY OR AUTHORITY
40 FUNDS MAY BE APPLIED.

41 2. ON NOVEMBER FIRST OF EACH YEAR, THE DIRECTOR OF THE BUDGET SHALL
42 DETERMINE THE AMOUNT OWED UNDER THIS SECTION BY EACH INDUSTRIAL DEVELOP-
43 MENT AGENCY OR AUTHORITY. THE AGGREGATE AMOUNT ASSESSED UNDER THIS
44 SECTION IN ANY GIVEN STATE FISCAL YEAR MAY NOT EXCEED FIVE MILLION
45 DOLLARS.

46 3. THE STATE TREASURER SHALL IMPOSE AND COLLECT SUCH ASSESSMENTS,
47 WHICH SHALL BE PAID NO LATER THAN MARCH THIRTY-FIRST FOLLOWING THE IMPO-
48 SITION OF THE ASSESSMENTS, AND PAY THE SAME INTO THE STATE TREASURY TO
49 THE CREDIT OF THE GENERAL FUND.

50 4. ON OR BEFORE JUNE FIRST, TWO THOUSAND NINE, AND ANNUALLY ON OR
51 BEFORE JUNE FIRST, THE DIRECTOR OF THE BUDGET SHALL REPORT TO THE
52 RESPECTIVE CHAIRPERSONS OF THE ASSEMBLY WAYS AND MEANS COMMITTEE AND

1 SENATE FINANCE COMMITTEE THE AMOUNT OF COST RECOVERY OBTAINED PURSUANT
2 TO THIS TITLE FOR THE STATE FISCAL YEAR ENDING ON THE PRECEDING MARCH
3 THIRTY-FIRST.

4 S 2. This act shall take effect immediately and shall be deemed to
5 have been in full force and effect on and after March 1, 2009.

6 PART VV

7 Section 1. Subdivision (a) of section 3010 of the tax law, as added by
8 chapter 770 of the laws of 1992, is amended to read as follows:

9 (a) (1) Authorization of agreements. The commissioner is authorized to
10 enter into written agreements with any taxpayer under which such taxpay-
11 er is allowed to satisfy liability for payment of any tax (including any
12 interest, penalty or addition to tax) in installment payments if the
13 commissioner determines that such agreement will facilitate collection
14 of such liability.

15 (2) A TAXPAYER ENTERING INTO AN INSTALLMENT PAYMENT AGREEMENT PURSUANT
16 TO PARAGRAPH ONE OF THIS SUBDIVISION MUST PAY A FEE TO THE COMMISSIONER
17 OF SEVENTY-FIVE DOLLARS. IF THE INSTALLMENT PAYMENT AGREEMENT COVERS
18 MORE THAN ONE TAX TYPE, THE FEE WILL ALSO BE SEVENTY-FIVE DOLLARS.

19 (3) THE FEE IMPOSED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION MUST
20 BE PAID UPON NOTICE AND DEMAND, AND WILL BE ASSESSED, COLLECTED AND PAID
21 IN THE SAME MANNER AS THE TAX TO WHICH THE AGREEMENT RELATES. IF THE
22 INSTALLMENT PAYMENT AGREEMENT COVERS MORE THAN ONE TAX TYPE, THE FEE
23 MUST BE PAID UPON NOTICE AND DEMAND, AND WILL BE ASSESSED, COLLECTED AND
24 PAID IN THE SAME MANNER AS THE TAX FOR WHICH THE TAXPAYER HAS THE LARG-
25 EST LIABILITY.

26 (4) ALL FEES COLLECTED BY THE COMMISSIONER PURSUANT TO THIS SUBDIVI-
27 SION MUST BE DEPOSITED MONTHLY, TO THE CREDIT OF THE GENERAL FUND OF THE
28 STATE. THE COMMISSIONER WILL MAINTAIN A SYSTEM OF ACCOUNTS SHOWING THE
29 AMOUNT OF MONEY COLLECTED FROM THE FEE IMPOSED BY PARAGRAPH TWO OF THIS
30 SUBDIVISION.

31 S 2. Subdivision (c) of section 3010 of the tax law is relettered
32 subdivision (d), and a new subdivision (c) is added to read as follows:

33 (C) (1) IF THE COMMISSIONER HAS TERMINATED, ALTERED OR MODIFIED A
34 TAXPAYER'S INSTALLMENT PAYMENT AGREEMENT PURSUANT TO PARAGRAPH TWO,
35 THREE OR FOUR OF SUBDIVISION (B) OF THIS SECTION, AND THE COMMISSIONER
36 AND THE TAXPAYER AGREE TO THE ALTERATION OR MODIFICATION, OR TO REIN-
37 STATEMENT OF THE AGREEMENT, AS THE CASE MAY BE, THE TAXPAYER MUST PAY A
38 FEE TO THE COMMISSIONER OF SEVENTY-FIVE DOLLARS. IF THE ALTERED, MODI-
39 FIED OR REINSTATED INSTALLMENT PAYMENT AGREEMENT, AS APPLICABLE, COVERS
40 MORE THAN ONE TAX TYPE, THE FEE WILL ALSO BE SEVENTY-FIVE DOLLARS.

41 (2) THE FEE IMPOSED PURSUANT TO PARAGRAPH ONE OF THIS SUBDIVISION MUST
42 BE PAID UPON NOTICE AND DEMAND, AND WILL BE ASSESSED, COLLECTED AND PAID
43 IN THE SAME MANNER AS THE TAX TO WHICH THE AGREEMENT RELATES. IF THE
44 ALTERED, MODIFIED OR REINSTATED INSTALLMENT PAYMENT AGREEMENT, AS APPLI-
45 CABLE, COVERS MORE THAN ONE TAX TYPE, THE FEE MUST BE PAID UPON NOTICE
46 AND DEMAND, AND WILL BE ASSESSED, COLLECTED AND PAID IN THE SAME MANNER
47 AS THE TAX FOR WHICH THE TAXPAYER HAS THE LARGEST LIABILITY.

48 (3) ALL FEES COLLECTED BY THE COMMISSIONER PURSUANT TO THIS SUBDIVI-
49 SION MUST BE DEPOSITED MONTHLY, TO THE CREDIT OF THE GENERAL FUND OF THE
50 STATE. THE COMMISSIONER WILL MAINTAIN A SYSTEM OF ACCOUNTS SHOWING THE
51 AMOUNT OF MONEY COLLECTED FROM THE FEE IMPOSED BY PARAGRAPH ONE OF THIS
52 SUBDIVISION.

53 S 3. The tax law is amended by adding a new section 30 to read as
54 follows:

1 S 30. BAD CHECK OR FAILED ELECTRONIC FUNDS WITHDRAWAL FEE. IF, IN
2 PAYMENT OF ANY AMOUNT DUE UNDER A TAX, FEE, SPECIAL ASSESSMENT OR OTHER
3 IMPOSITION ADMINISTERED BY THE COMMISSIONER, A PERSON TENDERS A CHECK OR
4 MONEY ORDER TO THE DEPARTMENT, OR THE DEPARTMENT, WITH THE CONSENT OF A
5 PERSON, ORIGINATES AN ELECTRONIC FUNDS WITHDRAWAL AGAINST THE DESIGNATED
6 BANK ACCOUNT, AND THE CHECK, MONEY ORDER OR ELECTRONIC FUNDS WITHDRAWAL,
7 AS APPLICABLE, IS RETURNED WITHOUT PAYMENT, THE PERSON MUST PAY A FEE TO
8 THE COMMISSIONER OF FIFTY DOLLARS; PROVIDED, HOWEVER, THAT IN THE CASE
9 OF AN ELECTRONIC FUNDS WITHDRAWAL, THE FEE WILL NOT BE PAID IF THE
10 REASON FOR RETURN OF THE PAYMENT IS ATTRIBUTABLE TO ERROR OF THE DEPART-
11 MENT OR ITS ORIGINATING DEPOSITORY FINANCIAL INSTITUTION. THE FEE MUST
12 BE PAID UPON NOTICE AND DEMAND, AND WILL BE ASSESSED, COLLECTED AND PAID
13 IN THE SAME MANNER AS THE TAX, FEE, SPECIAL ASSESSMENT OR OTHER IMPOSI-
14 TION TO WHICH THE PAYMENT RELATES. ALL FEES COLLECTED BY THE COMMISSION-
15 ER PURSUANT TO THIS SUBDIVISION MUST BE DEPOSITED MONTHLY, TO THE CREDIT
16 OF THE GENERAL FUND OF THE STATE. THE COMMISSIONER WILL MAINTAIN A
17 SYSTEM OF ACCOUNTS SHOWING THE AMOUNT OF MONEY COLLECTED FROM THE FEE
18 IMPOSED BY THIS SECTION.

19 S 4. Paragraph 10 of subsection (g) of section 658 of the tax law, as
20 added by section 1 of part Q of chapter 61 of the laws of 2005, is
21 amended to read as follows:

22 (10) Mandatory electronic filing by certain tax return preparers;
23 IMPOSITION OF FEE FOR PAPER FILING. (A)(i) If a tax return preparer
24 prepared more than two hundred original returns during the calendar year
25 beginning on January first, two thousand five, and if, in the calendar
26 year beginning on January first, two thousand six, such tax return
27 preparer prepares one or more authorized returns using tax software,
28 then, for such calendar year two thousand six and for each subsequent
29 calendar year thereafter, all authorized returns prepared by such tax
30 return preparer shall be filed electronically, in accordance with
31 instructions prescribed by the commissioner.

32 (ii) If a tax return preparer prepared more than one hundred original
33 [returns] TAX DOCUMENTS during any calendar year beginning on or after
34 January first, two thousand [six] NINE, and if, in any succeeding calen-
35 dar year such tax return preparer prepares one or more authorized
36 [returns] TAX DOCUMENTS using tax software, then, for such succeeding
37 calendar year and for each subsequent calendar year thereafter, all
38 authorized [returns] TAX DOCUMENTS prepared by such tax return preparer
39 [shall] MUST be filed electronically, in accordance with instructions
40 prescribed by the commissioner.

41 (B) (I) IF AN INDIVIDUAL HAS NEW YORK ADJUSTED GROSS INCOME FOR A
42 TAXABLE YEAR IN EXCESS OF FIFTEEN THOUSAND DOLLARS, OR A HUSBAND AND
43 WIFE FILING JOINTLY HAVE NEW YORK ADJUSTED GROSS INCOME IN EXCESS OF
44 THIRTY THOUSAND DOLLARS FOR A TAXABLE YEAR, AND THE INDIVIDUAL OR
45 HUSBAND AND WIFE, AS THE CASE MAY BE, FAILS TO FILE ANY AUTHORIZED TAX
46 DOCUMENT FOR THE TAXABLE YEAR ELECTRONICALLY USING TAX SOFTWARE, THEN
47 THE INDIVIDUAL OR HUSBAND AND WIFE, AS THE CASE MAY BE, MUST PAY A PAPER
48 FILING FEE TO THE COMMISSIONER OF TEN DOLLARS FOR EACH AUTHORIZED TAX
49 DOCUMENT NOT FILED ELECTRONICALLY.

50 (II) IF AN INDIVIDUAL OR A HUSBAND AND WIFE, AS THE CASE MAY BE,
51 DESCRIBED IN CLAUSE (I) OF THIS SUBPARAGRAPH FAIL TO FILE AN AUTHORIZED
52 TAX DOCUMENT ELECTRONICALLY USING TAX SOFTWARE, AND THE AUTHORIZED TAX
53 DOCUMENT SHOWS TAX DUE, THEN THE PAPER FILING FEE IMPOSED PURSUANT TO
54 CLAUSE (I) OF THIS SUBPARAGRAPH MUST BE ADDED TO THE TAX DUE. IF AN
55 INDIVIDUAL OR A HUSBAND AND WIFE, AS THE CASE MAY BE, DESCRIBED IN
56 CLAUSE (I) OF THIS SUBPARAGRAPH, FAIL TO FILE AN AUTHORIZED TAX DOCUMENT

1 ELECTRONICALLY USING TAX SOFTWARE, AND THE AUTHORIZED TAX DOCUMENT SHOWS
2 AN OVERPAYMENT, THEN THE PAPER FILING FEE IMPOSED PURSUANT TO CLAUSE (I)
3 OF THIS SUBPARAGRAPH MUST BE SUBTRACTED FROM THE OVERPAYMENT, FOLLOWING
4 CREDIT OR OFFSET OF THE OVERPAYMENT AS SPECIFIED IN SUBSECTION (A) OF
5 SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, IF APPLICABLE.

6 (C) For purposes of this paragraph:

7 (i) "Electronic" means computer technology[; provided, however, that
8 the commissioner may, in instructions, provide that use of barcode tech-
9 nology will also satisfy the mandatory electronic filing requirements of
10 this section].

11 (ii) "Authorized [return] TAX DOCUMENT" means [any] A return OR ANY
12 OTHER DOCUMENT required OR PERMITTED TO BE FILED under this article OR
13 PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A OR THIRTY-B OF
14 THIS CHAPTER which the commissioner has authorized to be filed electron-
15 ically.

16 (iii) "Original [return] TAX DOCUMENT" means a [return] TAX DOCUMENT
17 required under this article that is filed, without regard to extensions,
18 during the calendar year for which [that return] SUCH TAX DOCUMENT is
19 required OR PERMITTED to be filed.

20 (iv) "Tax software" means any computer software program intended for
21 tax return preparation purposes. FOR PURPOSES OF THIS SECTION, THE TERM
22 "TAX SOFTWARE" INCLUDES, BUT IS NOT LIMITED TO, AN OFF-THE-SHELF SOFT-
23 WARE PROGRAM LOADED ONTO A TAX RETURN PREPARER'S OR TAXPAYER'S COMPUTER,
24 AN ONLINE TAX PREPARATION, OR A TAX PREPARATION APPLICATION HOSTED BY
25 THE DEPARTMENT.

26 (V) "TAX" MEANS A TAX IMPOSED PURSUANT TO THIS ARTICLE, OR PURSUANT TO
27 THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A OR THIRTY-B OF THIS CHAPTER,
28 WHICH IS ADMINISTERED BY THE COMMISSIONER.

29 (VI) "TAX DOCUMENT" MEANS A RETURN, REPORT OR ANY OTHER DOCUMENT
30 REQUIRED OR PERMITTED TO BE FILED UNDER THIS ARTICLE, OR PURSUANT TO THE
31 AUTHORITY OF ARTICLE THIRTY, THIRTY-A OR THIRTY-B OF THIS CHAPTER.

32 S 5. The tax law is amended by adding a new section 31 to read as
33 follows:

34 S 31. TAX RETURN PREPARERS AND SOFTWARE COMPANIES NOT TO CHARGE SEPA-
35 RATELY FOR NEW YORK E-FILE SERVICES. (A) FOR PURPOSES OF THIS SECTION,
36 THE FOLLOWING TERMS HAVE THE SPECIFIED MEANINGS:

37 (1) "AUTHORIZED TAX DOCUMENT" MEANS A TAX DOCUMENT WHICH THE COMMIS-
38 SIONER HAS AUTHORIZED TO BE FILED ELECTRONICALLY.

39 (2) "ELECTRONIC" MEANS COMPUTER TECHNOLOGY.

40 (3) "SOFTWARE COMPANY" MEANS A DEVELOPER OF TAX SOFTWARE.

41 (4) "TAX" MEANS ANY TAX OR OTHER MATTER ADMINISTERED BY THE COMMIS-
42 SIONER PURSUANT TO THIS CHAPTER OR ANY OTHER PROVISION OF LAW.

43 (5) "TAX DOCUMENT" MEANS A RETURN, REPORT OR ANY OTHER DOCUMENT RELAT-
44 ING TO A TAX OR OTHER MATTER ADMINISTERED BY THE COMMISSIONER.

45 (6) "TAX RETURN PREPARER" MEANS ANY PERSON WHO PREPARES FOR COMPEN-
46 SATION, OR WHO EMPLOYS OR ENGAGES ONE OR MORE PERSONS TO PREPARE FOR
47 COMPENSATION, ANY AUTHORIZED TAX DOCUMENT. FOR PURPOSES OF THIS SECTION,
48 THE TERM "TAX RETURN PREPARER" ALSO INCLUDES A PAYROLL SERVICE.

49 (7) "TAX SOFTWARE" MEANS ANY COMPUTER SOFTWARE PROGRAM INTENDED FOR
50 TAX RETURN PREPARATION PURPOSES. FOR PURPOSES OF THIS SECTION, THE TERM
51 "TAX SOFTWARE" INCLUDES, BUT IS NOT LIMITED TO, AN OFF-THE-SHELF SOFT-
52 WARE PROGRAM LOADED ONTO A TAX RETURN PREPARER'S OR TAXPAYER'S COMPUTER,
53 OR AN ONLINE TAX PREPARATION APPLICATION.

54 (B) IT IS UNLAWFUL FOR A TAX RETURN PREPARER OR A SOFTWARE COMPANY TO
55 CHARGE A SEPARATE FEE FOR THE ELECTRONIC FILING OF AUTHORIZED TAX DOCU-
56 MENTS. IT IS ALSO UNLAWFUL FOR A SOFTWARE COMPANY TO OFFER A VERSION OF

1 ITS TAX SOFTWARE THAT CHARGES A SEPARATE FEE FOR THE ELECTRONIC FILING
2 OF AUTHORIZED TAX DOCUMENTS AND ONE VERSION OF THE SAME TAX SOFTWARE
3 THAT DOES NOT.

4 (C) ANY TAX RETURN PREPARER OR SOFTWARE COMPANY VIOLATING THIS SECTION
5 WILL BE LIABLE FOR A CIVIL PENALTY OF FIVE HUNDRED DOLLARS FOR THE FIRST
6 VIOLATION AND ONE THOUSAND DOLLARS FOR EACH SUCCEEDING VIOLATION. THE
7 CIVIL PENALTIES IMPOSED BY THIS SECTION MUST BE PAID TO THE COMMISSIONER
8 UPON NOTICE AND DEMAND, AND WILL BE ASSESSED, COLLECTED AND PAID IN THE
9 SAME MANNER AS TAXES UNDER ARTICLE TWENTY-SEVEN OF THIS CHAPTER.

10 S 6. The tax law is amended by adding a new section 32 to read as
11 follows:

12 S 32. REGISTRATION OF TAX RETURN PREPARERS. (A) FOR PURPOSES OF THIS
13 SECTION, THE FOLLOWING TERMS HAVE THE SPECIFIED MEANINGS:

14 (1) "ATTORNEY" MEANS AN ATTORNEY ADMITTED TO PRACTICE LAW IN NEW YORK
15 STATE OR ONE OR MORE OF THE OTHER STATES OR JURISDICTIONS OF THE UNITED
16 STATES.

17 (2) "CERTIFIED PUBLIC ACCOUNTANT" MEANS AN ACCOUNTANT LICENSED PURSU-
18 ANT TO SECTION SEVEN THOUSAND FOUR HUNDRED FOUR OF THE EDUCATION LAW OR
19 A SIMILAR LAW OF ONE OR MORE OF THE OTHER STATES OR JURISDICTIONS OF THE
20 UNITED STATES.

21 (3) "COMMERCIAL TAX RETURN PREPARER" MEANS A TAX RETURN PREPARER WHO:
22 (A) PREPARED TEN OR MORE RETURNS IN THE PRECEDING CALENDAR YEAR AND WILL
23 PREPARE AT LEAST ONE RETURN DURING THE CURRENT CALENDAR YEAR; OR (B)
24 PREPARED FEWER THAN TEN RETURNS IN THE PRECEDING CALENDAR YEAR BUT WILL
25 PREPARE TEN OR MORE RETURNS FOR THE CURRENT CALENDAR YEAR.

26 (4) "COMMERCIAL TAX RETURN PREPARATION BUSINESS" MEANS AN ENTITY THAT
27 EMPLOYS INDIVIDUALS WHO PREPARE TAX RETURNS AND THAT MEETS THE THRESH-
28 OLDS DESCRIBED IN PARAGRAPH THREE OF THIS SUBDIVISION.

29 (5) "ELECTRONIC" MEANS COMPUTER TECHNOLOGY.

30 (6) "ENROLLED AGENT" MEANS AN AGENT ENROLLED TO PRACTICE BEFORE THE
31 INTERNAL REVENUE SERVICE PURSUANT TO SECTION 10.4 OF SUBPART A OF PART
32 TEN OF TITLE THIRTY-ONE OF THE CODE OF FEDERAL REGULATIONS.

33 (7) "PUBLIC ACCOUNTANT" MEANS AN ACCOUNTANT LICENSED PURSUANT TO
34 SECTION SEVENTY-FOUR HUNDRED FIVE OF THE EDUCATION LAW OR A SIMILAR LAW
35 OF ONE OR MORE OF THE OTHER STATES OR JURISDICTIONS OF THE UNITED
36 STATES.

37 (8) "RETURN" MEANS A RETURN OR REPORT RELATING TO A TAX ADMINISTERED
38 BY THE COMMISSIONER.

39 (9) "TAX" MEANS ANY TAX, FEE, SPECIAL ASSESSMENT OR OTHER IMPOSITION
40 ADMINISTERED BY THE COMMISSIONER.

41 (10) "TAX RETURN PREPARER" MEANS AN INDIVIDUAL WHO PREPARES A SUBSTAN-
42 TIAL PORTION OF ANY RETURN FOR COMPENSATION. THIS INCLUDES, BUT IS NOT
43 LIMITED TO, ATTORNEYS, PUBLIC ACCOUNTANTS, CERTIFIED PUBLIC ACCOUNTANTS,
44 AND ENROLLED AGENTS PREPARING ANY RETURN FOR COMPENSATION. EMPLOYEES OF
45 A TAX RETURN PREPARER OR A COMMERCIAL TAX RETURN PREPARATION BUSINESS
46 WHO PREPARE RETURNS FOR CLIENTS OF THAT PREPARER OR PREPARATION BUSI-
47 NESS, AS APPLICABLE, AND PARTNERS WHO PREPARE RETURNS FOR CLIENTS OF A
48 PARTNERSHIP ENGAGED IN A COMMERCIAL TAX RETURN PREPARATION BUSINESS, ARE
49 ALL "TAX RETURN PREPARERS" FOR PURPOSES OF THIS SECTION. EXCLUDED FROM
50 THE DEFINITION OF "TAX RETURN PREPARER" ARE VOLUNTEER TAX PREPARERS,
51 EMPLOYEES OF A BUSINESS OR PARTNERS IN A PARTNERSHIP WHOSE JOB RESPONSI-
52 BILITIES INCLUDE PREPARATION OF ONLY THE BUSINESS' OR PARTNERSHIP'S
53 RETURNS, AND EMPLOYEES OF A TAX RETURN PREPARER OR A COMMERCIAL TAX
54 RETURN PREPARATION BUSINESS WHO PROVIDE CLERICAL OR OTHER COMPARABLE
55 SERVICES.

1 (B)(1) EACH TAX RETURN PREPARER WHO WILL PREPARE AT LEAST ONE RETURN
2 IN A CALENDAR YEAR MUST REGISTER ELECTRONICALLY WITH THE DEPARTMENT FOR
3 THAT CALENDAR YEAR, IN ACCORDANCE WITH INSTRUCTIONS PRESCRIBED BY THE
4 COMMISSIONER.

5 (2)(A) UPON COMPLETION OF THE REGISTRATION PROCESS, EACH TAX RETURN
6 PREPARER WILL BE ISSUED A TAX PREPARER REGISTRATION CERTIFICATE.

7 (B) EACH TAX RETURN PREPARER WILL ALSO BE ASSIGNED A UNIQUE IDENTIFI-
8 CATION NUMBER BY THE DEPARTMENT, WHICH MUST BE USED BY THE TAX RETURN
9 PREPARER ON EACH RETURN WHICH THE TAX RETURN PREPARER IS REQUIRED TO
10 SIGN.

11 (C) IF A TAX RETURN PREPARER IS AN EMPLOYEE OR PROSPECTIVE EMPLOYEE OF
12 A TAX RETURN PREPARER OR A COMMERCIAL TAX RETURN PREPARATION BUSINESS,
13 AS APPLICABLE, THE TAX RETURN PREPARER OR COMMERCIAL TAX RETURN PREPARA-
14 TION BUSINESS MUST ENSURE THAT THE EMPLOYEE OR PROSPECTIVE EMPLOYEE, AS
15 APPLICABLE, IS PROPERLY REGISTERED WITH THE DEPARTMENT AND POSSESSES A
16 VALID TAX PREPARER REGISTRATION CERTIFICATE.

17 (3) EACH REGISTERED TAX RETURN PREPARER MUST ELECTRONICALLY RE-REGIS-
18 TER WITH THE DEPARTMENT ANNUALLY, IN ACCORDANCE WITH INSTRUCTIONS
19 PRESCRIBED BY THE COMMISSIONER. IF, AT ANY TIME DURING THE YEAR FOLLOW-
20 ING REGISTRATION OR RE-REGISTRATION, AS APPLICABLE, ANY INFORMATION
21 PROVIDED BY THE TAX RETURN PREPARER UPON REGISTRATION OR RE-REGISTRATION
22 IS NO LONGER CORRECT, THE TAX RETURN PREPARER MUST UPDATE HIS/HER INFOR-
23 MATION IN ACCORDANCE WITH INSTRUCTIONS PRESCRIBED BY THE COMMISSIONER.

24 (4) EACH TAX RETURN PREPARER PREPARING ANY RETURN MUST SIGN THE DOCU-
25 MENT AND INCLUDE THE UNIQUE IDENTIFICATION NUMBER SPECIFIED IN PARAGRAPH
26 TWO OF THIS SUBDIVISION, IN ACCORDANCE WITH INSTRUCTIONS PRESCRIBED BY
27 THE COMMISSIONER.

28 (C)(1) EACH COMMERCIAL TAX RETURN PREPARER MUST ELECTRONICALLY PAY AN
29 ANNUAL FEE OF ONE HUNDRED DOLLARS TO THE DEPARTMENT, IN ACCORDANCE WITH
30 INSTRUCTIONS PRESCRIBED BY THE COMMISSIONER. REGISTRATION OF A COMMER-
31 CIAL TAX RETURN PREPARER IS NOT COMPLETE UNTIL PAYMENT OF THE FEE IS
32 MADE.

33 (2) ALL FEES RECEIVED BY THE COMMISSIONER PURSUANT TO THIS SUBDIVI-
34 SION, REDUCED BY THOSE AMOUNTS THE COMMISSIONER DETERMINES ARE NECESSARY
35 TO COVER ADMINISTRATIVE COSTS TO ADMINISTER THE REGISTRATION PROGRAM
36 PRESCRIBED BY THIS SECTION AND THE COSTS OF ANY REIMBURSEMENTS TO
37 COMMERCIAL TAX RETURN PREPARERS THAT MAY BE REQUIRED DUE TO DUPLICATIVE
38 FEE PAYMENTS UNDER THIS SUBDIVISION, MUST BE DEPOSITED MONTHLY TO THE
39 CREDIT OF THE GENERAL FUND OF THE STATE. THE COMMISSIONER WILL MAINTAIN
40 A SYSTEM OF ACCOUNTS SHOWING THE AMOUNT OF MONEY COLLECTED AND DISBURSED
41 FROM THE FEE IMPOSED BY THIS SUBDIVISION.

42 (D) THE ISSUANCE OF A TAX PREPARER REGISTRATION CERTIFICATE TO PROVIDE
43 TAX PREPARATION SERVICES IS NOT, AND MUST NOT BE ADVERTISED AS, AN
44 ENDORSEMENT BY THE DEPARTMENT OF THE TAX RETURN PREPARER, HIS OR HER
45 QUALIFICATIONS OR THE SERVICES RENDERED BY HIM OR HER.

46 (E) A TAX RETURN PREPARER WHO HAS NOT REGISTERED WITH THE DEPARTMENT,
47 OR A COMMERCIAL TAX RETURN PREPARER WHO HAS NOT PAID THE REQUIRED REGIS-
48 TRATION FEE, WILL NOT BE ALLOWED TO REPRESENT HIS OR HER CLIENTS BEFORE
49 THE DIVISION OF TAXATION OR THE DIVISION OF TAX APPEALS. THIS SANCTION
50 IS IN ADDITION TO ANY PENALTIES WHICH MAY BE IMPOSED PURSUANT TO SUBDI-
51 VISION (F) OF THIS SECTION.

52 (F)(1) IF A TAX RETURN PREPARER IS REQUIRED TO REGISTER OR RE-REGISTER
53 WITH THE DEPARTMENT PURSUANT TO PARAGRAPH ONE OR THREE OF SUBDIVISION
54 (B) OF THIS SECTION, AS APPLICABLE, AND FAILS TO DO SO IN ACCORDANCE
55 WITH THE TERMS OF THIS SECTION, THEN THE TAX RETURN PREPARER MUST PAY A
56 PENALTY OF TWO HUNDRED FIFTY DOLLARS. PROVIDED, HOWEVER, THAT IF THE TAX

1 RETURN PREPARER COMPLIES WITH THE REGISTRATION REQUIREMENTS OF THIS
2 SECTION WITHIN NINETY CALENDAR DAYS AFTER NOTIFICATION OF ASSESSMENT OF
3 THIS PENALTY IS SENT BY THE DEPARTMENT, THEN THIS PENALTY MUST BE
4 ABATED. IF THE TAX RETURN PREPARER CONTINUES TO FAIL TO REGISTER OR
5 RE-REGISTER AFTER THE NINETY CALENDAR DAY PERIOD, THE TAX RETURN PREPAR-
6 ER MUST PAY AN ADDITIONAL PENALTY OF FIVE HUNDRED DOLLARS IF THE FAILURE
7 IS FOR NOT MORE THAN ONE MONTH, WITH AN ADDITIONAL FIVE HUNDRED DOLLARS
8 FOR EACH ADDITIONAL MONTH OR FRACTION THEREOF DURING WHICH THE FAILURE
9 CONTINUES. ONCE THE NINETY CALENDAR DAYS SPECIFIED IN THIS PARAGRAPH
10 HAVE EXPIRED, THE PENALTY CAN BE WAIVED ONLY FOR GOOD CAUSE SHOWN BY THE
11 TAX RETURN PREPARER.

12 (2) IF A COMMERCIAL TAX RETURN PREPARER FAILS TO PAY THE FEE AS
13 REQUIRED IN PARAGRAPH ONE OF SUBDIVISION (C) OF THIS SECTION, FOR A
14 CALENDAR YEAR, THEN THE COMMERCIAL TAX RETURN PREPARER MUST PAY A PENAL-
15 TY OF FIFTY DOLLARS FOR EACH RETURN THE COMMERCIAL TAX RETURN PREPARER
16 HAS FILED WITH THE DEPARTMENT IN THAT CALENDAR YEAR. PROVIDED HOWEVER,
17 THAT IF THE COMMERCIAL TAX RETURN PREPARER COMPLIES WITH THE PAYMENT
18 REQUIREMENTS OF PARAGRAPH 1 OF SUBDIVISION (C) OF THIS SECTION, WITHIN
19 NINETY CALENDAR DAYS AFTER NOTIFICATION OF THE ASSESSMENT OF THIS PENAL-
20 TY IS SENT BY THE DEPARTMENT, THEN THIS PENALTY MUST BE ABATED. THE
21 MAXIMUM PENALTY THAT MAY BE IMPOSED UNDER THIS PARAGRAPH ON ANY COMMER-
22 CIAL TAX RETURN PREPARER DURING ANY CALENDAR YEAR MUST NOT EXCEED FIVE
23 THOUSAND DOLLARS. ONCE THE NINETY CALENDAR DAYS SPECIFIED IN THIS PARA-
24 GRAPH HAVE EXPIRED, THE PENALTY CAN BE WAIVED ONLY FOR GOOD CAUSE SHOWN
25 BY THE COMMERCIAL TAX RETURN PREPARER.

26 (3) IF A TAX RETURN PREPARER FAILS TO SIGN HIS OR HER NAME TO ANY
27 RETURN THAT REQUIRES THE TAX RETURN PREPARER'S SIGNATURE, THEN THE TAX
28 RETURN PREPARER MUST PAY A PENALTY IN THE AMOUNT OF TWO HUNDRED FIFTY
29 DOLLARS FOR EACH FAILURE TO SO SIGN. PROVIDED, HOWEVER, THAT THIS PENAL-
30 TY CAN BE WAIVED ONLY FOR GOOD CAUSE SHOWN BY THE TAX RETURN PREPARER.
31 THE MAXIMUM PENALTY IMPOSED UNDER THIS PARAGRAPH ON ANY TAX RETURN
32 PREPARER WITH RESPECT TO RETURNS FILED DURING ANY CALENDAR YEAR BY THE
33 TAX RETURN PREPARER MUST NOT EXCEED TEN THOUSAND DOLLARS. PROVIDED,
34 HOWEVER, THAT IF A TAX RETURN PREPARER HAS BEEN PENALIZED UNDER THIS
35 PARAGRAPH FOR A PRECEDING CALENDAR YEAR AND AGAIN FAILS TO SIGN HIS OR
36 HER NAME ON ANY RETURN THAT REQUIRES THE TAX RETURN PREPARER'S SIGNATURE
37 DURING A SUBSEQUENT CALENDAR YEAR, THEN THE PENALTY UNDER THIS PARAGRAPH
38 FOR EACH FAILURE WILL BE FIVE HUNDRED DOLLARS, AND NO ANNUAL CAP WILL
39 APPLY.

40 (4) IF A TAX RETURN PREPARER FAILS TO INCLUDE THE UNIQUE IDENTIFYING
41 NUMBER ASSIGNED BY THE DEPARTMENT PURSUANT TO SUBPARAGRAPH (B) OF PARA-
42 GRAPH TWO OF SUBDIVISION (B) OF THIS SECTION ON ANY RETURN THAT REQUIRES
43 HIS OR HER SIGNATURE, THEN THE TAX RETURN PREPARER MUST PAY A PENALTY OF
44 ONE HUNDRED DOLLARS FOR EACH FAILURE TO INCLUDE HIS OR HER UNIQUE IDEN-
45 TIFYING NUMBER. PROVIDED, HOWEVER, THAT THIS PENALTY CAN BE WAIVED ONLY
46 FOR GOOD CAUSE SHOWN BY THE TAX RETURN PREPARER. THE MAXIMUM PENALTY
47 IMPOSED UNDER THIS PARAGRAPH ON ANY TAX RETURN PREPARER WITH RESPECT TO
48 RETURNS FILED DURING ANY CALENDAR YEAR MUST NOT EXCEED TWO THOUSAND FIVE
49 HUNDRED DOLLARS; PROVIDED, HOWEVER, THAT IF A TAX RETURN PREPARER HAS
50 BEEN PENALIZED UNDER THIS PARAGRAPH FOR A PRECEDING CALENDAR YEAR AND
51 AGAIN FAILS TO INCLUDE THE UNIQUE IDENTIFYING NUMBER ON ONE OR MORE
52 RETURNS DURING A SUBSEQUENT CALENDAR YEAR, THEN THE PENALTY UNDER THIS
53 PARAGRAPH FOR EACH FAILURE WILL BE TWO HUNDRED FIFTY DOLLARS, AND NO
54 ANNUAL CAP WILL APPLY.

55 (5) IF A TAX RETURN PREPARER OR A COMMERCIAL TAX RETURN PREPARATION
56 BUSINESS EMPLOYS AN INDIVIDUAL TO PREPARE TAX RETURNS WHO IS NOT REGIS-

1 TERED WITH THE DEPARTMENT AND DOES NOT POSSESS A VALID TAX PREPARER
2 REGISTRATION CERTIFICATE, THEN THE TAX RETURN PREPARER, OR COMMERCIAL
3 TAX RETURN PREPARATION BUSINESS, AS APPLICABLE, WILL BE SUBJECT TO A
4 PENALTY OF FIVE HUNDRED DOLLARS PER OCCURRENCE. THIS PENALTY CAN BE
5 WAIVED ONLY FOR GOOD CAUSE SHOWN.

6 (6) THE PENALTIES PROVIDED FOR BY THIS SUBDIVISION MUST BE PAID UPON
7 NOTICE AND DEMAND AND WILL BE ASSESSED, COLLECTED AND PAID IN THE SAME
8 MANNER AS TAXES UNDER ARTICLE TWENTY-SEVEN OF THIS CHAPTER.

9 (G) THE PROVISIONS OF THIS SECTION WILL APPLY EXCLUSIVELY TO THE
10 REGISTRATION OF TAX RETURN PREPARERS WITH THE DEPARTMENT, PAYMENT OF THE
11 REGISTRATION FEE IF REQUIRED BY COMMERCIAL TAX RETURN PREPARERS, THE
12 SIGNING OF RETURNS AND USE OF THE UNIQUE IDENTIFICATION NUMBERS ASSIGNED
13 BY THE DEPARTMENT UPON REGISTRATION. OTHER PROVISIONS OF THIS CHAPTER OR
14 ANY OTHER PROVISION OF LAW PRESCRIBING ADDITIONAL REQUIREMENTS APPLICA-
15 BLE TO TAX RETURN PREPARERS WILL NOT BE AFFECTED BY THE PROVISIONS OF
16 THIS SECTION EXCEPT AS SET FORTH EXPRESSLY HEREIN, AND WILL REMAIN IN
17 FULL FORCE AND EFFECT.

18 S 7. Paragraphs 1 and 2 of subsection (u) of section 685 of the tax
19 law are REPEALED.

20 S 8. Subdivision (e) of section 372 of the general business law, as
21 added by chapter 432 of the laws of 2008, is amended to read as follows:

22 (e) Any person, partnership, corporation or other business entity who
23 violates any provision of this section or any of the regulations promul-
24 gated pursuant to this section shall be liable for a civil penalty of
25 not less than two hundred fifty dollars nor more than five hundred
26 dollars for the first violation and for each succeeding violation a
27 civil penalty of not less than five hundred dollars nor more than seven
28 hundred fifty dollars. THE PENALTIES PROVIDED FOR BY THIS SUBDIVISION
29 MUST BE PAID UPON NOTICE AND DEMAND AND WILL BE ASSESSED, COLLECTED AND
30 PAID IN THE SAME MANNER AS TAXES UNDER ARTICLE TWENTY-SEVEN OF THE TAX
31 LAW.

32 S 9. The commissioner of taxation and finance shall convene a task
33 force consisting of representatives from the department of taxation and
34 finance, the state education department, the department of state, the
35 consumer protection board, the banking department, the office of tempo-
36 rary and disability assistance, the New York state bar, the New York
37 state association of certified public accountants, enrolled agents with
38 the internal revenue service, and other representatives of the tax
39 return preparation industry in order to prepare a report addressing the
40 following issues: determining the appropriate scope of the program for
41 regulating tax return preparers and commercial tax return preparers;
42 setting appropriate qualifications, including, but not limited to, mini-
43 mum educational qualifications and continuing educational requirements
44 for tax return preparers; and considering any other matters the task
45 force determines to be necessary or appropriate. The report required by
46 this section will be submitted to the commissioner of taxation and
47 finance and the governor, no later than March 31, 2012. The commissioner
48 of taxation and finance may promulgate regulations to implement any of
49 the recommendations made by the task force.

50 S 10. This act will take effect immediately, provided, however, that
51 section four of this act shall apply to authorized tax documents
52 required to be filed for tax years beginning on or after January 1,
53 2009, and section six of this act shall apply to tax return preparers
54 filing returns on or after December 31, 2009; and section eight of this
55 act shall take effect on the same date as chapter 432 of the laws of
56 2008, takes effect.

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

10 S 3. This act shall take effect immediately provided, however, that
11 the applicable effective date of Parts A through VV of this act shall be
12 as specifically set forth in the last section of such Parts.