

9709--B

I N A S S E M B L Y

January 19, 2010

A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to authorize funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2010-2011 (Part A); Intentionally omitted (Part B); to amend the environmental conservation law, in relation to the diesel emissions reduction act (Part C); Intentionally omitted (Part D); 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 E); Intentionally omitted (Part F); Intentionally omitted (Part G); Intentionally omitted (Part H); Intentionally omitted (Part I); Intentionally omitted (Part J); Intentionally omitted (Part K); Intentionally omitted (Part L); to amend chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to New York state higher education matching grant program for independent colleges, in relation to the effectiveness thereof (Part M); to amend the New York state urban development corporation act, in relation to creating a small business revolving loan fund (Part N); to amend the New York state urban development corporation act, in relation to creating the new technology seed investment fund (Part O); 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 P); Intentionally omitted (Part Q); Intentionally omitted (Part R); to amend the state finance law, in relation to the transfer of tribal compact revenue to the general fund (Part S); to amend the agriculture and markets law, the general municipal law and the state finance law, in relation to the licensing, identification and control of dogs; to amend the agriculture and markets law and the administrative code of the city of New York, in relation to establishing a New York city animal population control program and an animal population

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

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control fund; to amend chapter 115 of the laws of 1894 relating to the better protection of lost and strayed animals and for securing the rights of owners thereof, in relation to licensing fees; and to repeal certain provisions of the agriculture and markets law relating thereto (Part T); Intentionally omitted (Part U); to authorize the department of health to finance certain activities with revenues generated from an assessment on cable television companies (Part V); Intentionally omitted (Part W); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending such provisions (Part X); 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 Y); Intentionally omitted (Part Z); to amend the public authorities law, in relation to including the New York city housing development corporation under the state bond issuance charge (Part AA); 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 BB); 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 CC); to amend the environmental conservation law and the state finance law, in relation to waste tire management and recycling fees (Part DD); Intentionally omitted (Part EE); to amend the tax law, in relation to real estate transfer tax revenue deposits into the environmental protection fund (Part FF); Intentionally omitted (Part GG); Intentionally omitted (Part HH); Intentionally omitted (Part II); to amend the public authorities law, in relation to the purposes and powers of the Genesee Valley Regional Market Authority (Part JJ); Intentionally omitted (Part KK); to amend the economic development law, the executive law and the state administrative procedure act, in relation to the governor's influence on the regulatory process (Part LL); directing the director of the division of the lottery and the chairman of the racing and wagering board to coordinate and centralize administrative functions (Part MM); to amend the environmental conservation law, in relation to the recycling, reuse and safe handling of electronic equipment sold in the state of New York (Part NN); to amend the environmental conservation law and the state finance law, in relation to hazardous waste program surcharges (Part OO); to amend the public authorities law, in relation to placing certain duties and responsibilities of the New York environmental facilities corporation under the guidance and support of the department of environmental conservation, and to amend the executive law, the public authorities law, the state finance law, the environmental conservation law, the banking law, the local finance law and the general municipal law, in relation to the dissolution of the environmental facilities corporation and the transfer of its functions and powers to the department of environmental conservation (Part PP); to amend the banking law, the insurance law and the executive law, in relation to the creation of a department of financial services, and to the abolition of the banking department and the department of insurance and the transfer of the functions, powers and duties of such department to the department of financial

services (Part QQ); and creating a temporary task force for the creation of an authority for energy and economic development and providing for the repeal of such provisions upon expiration thereof (Part RR)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2010-2011
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through RR. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, including
7 the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. The sum of four hundred two million seven hundred ninety-
14 seven thousand dollars (\$402,797,000), or so much thereof as shall be
15 necessary, and in addition to amounts previously appropriated by law, is
16 hereby made available, in accordance with subdivision 1 of section 380
17 of the public authorities law as amended, according to the following
18 schedule. Payments pursuant to subdivision (a) of this section shall be
19 made available as moneys become available for such payments. Payments
20 pursuant to subdivisions (b) and (c) of this section shall be made
21 available on the fifteenth day of June, September, December and March or
22 as soon thereafter as moneys become available for such payments. No
23 moneys of the state in the state treasury or any of its funds shall be
24 available for payments pursuant to this section:

25 SCHEDULE

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

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

40 State Fiscal Year	Amount
41 2010-11	\$39,700,000

42 (b) Three hundred four million three hundred thousand dollars
43 (\$304,300,000) to counties, cities, towns and villages for reimbursement
44 of eligible costs of local highway and bridge projects pursuant to
45 sections 16 and 16-a of chapter 329 of the laws of 1991, as added by

1 section 9 of chapter 330 of the laws of 1991, as amended. For the
2 purposes of computing allocations to municipalities, the amount distrib-
3 uted pursuant to section 16 of chapter 329 of the laws of 1991 shall be
4 deemed to be \$121,520,000. The amount distributed pursuant to section
5 16-a of chapter 329 of the laws of 1991 shall be deemed to be
6 \$182,780,000. Notwithstanding the provisions of any general or special
7 law, the amounts deemed distributed in accordance with section 16 of
8 chapter 329 of the laws of 1991 shall be adjusted so that such amounts
9 will not be less than 83.807 percent of the "funding level" as defined
10 in subdivision 5 of section 10-c of the highway law for each such muni-
11 cipality. In order to achieve the objectives of section 16 of chapter
12 329 of the laws of 1991, to the extent necessary, the amounts in excess
13 of 83.807 percent of the funding level to be deemed distributed to each
14 municipality under this subdivision shall be reduced in equal propor-
15 tion.

16 (c) Fifty-eight million seven hundred ninety-seven thousand dollars
17 (\$58,797,000) to municipalities for reimbursement of eligible costs of
18 local highway and bridge projects pursuant to sections 16 and 16-a of
19 chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of
20 the laws of 1991, as amended. For the purposes of computing allocations
21 to municipalities, the amount distributed pursuant to section 16 of
22 chapter 329 of the laws of 1991 shall be deemed to be \$23,480,000. The
23 amount distributed pursuant to section 16-a of chapter 329 of the laws
24 of 1991 shall be deemed to be \$35,317,000. Notwithstanding the
25 provisions of any general or special law, the amounts deemed distributed
26 in accordance with section 16 of chapter 329 of the laws of 1991 shall
27 be adjusted so that such amounts will not be less than 16.193 percent of
28 the "funding level" as defined in subdivision 5 of section 10-c of the
29 highway law for each such municipality. In order to achieve the objec-
30 tives of section 16 of chapter 329 of the laws of 1991, to the extent
31 necessary, the amounts in excess of 16.193 percent of the funding level
32 to be deemed distributed to each municipality under this subdivision
33 shall be reduced in equal proportion. To the extent that the total of
34 remaining payment allocations calculated herein varies from \$58,797,000,
35 the payment amounts to each locality shall be adjusted by a uniform
36 percentage so that the total payments equal \$58,797,000.

37 The program authorized pursuant to sections 16 and 16-a of chapter 329
38 of the laws of 1991, as added by section 9 of chapter 330 of the laws of
39 1991, as amended, shall additionally make payments for reimbursement
40 according to the following schedule:

41	State Fiscal Year	Amount
42	2010-11	\$363,097,000

43 S 2. This act shall take effect immediately.

44 PART B

45 Intentionally omitted.

46 PART C

47 Section 1. Subdivisions 5, 6 and 7 of section 19-0323 of the environ-
48 mental conservation law are renumbered subdivisions 6, 7 and 8 and a new
49 subdivision 5 is added to read as follows:

50 5. THE DEPARTMENT MAY ISSUE A WAIVER FOR ANY DIESEL POWERED HEAVY DUTY
51 VEHICLE ENGINE THAT IS OWNED BY, OPERATED BY OR ON BEHALF OF OR LEASED
52 BY A STATE AGENCY, OR A STATE OR REGIONAL PUBLIC AUTHORITY, PROVIDED

1 THAT SUCH VEHICLE ENGINE WILL CEASE TO BE USED IN THE STATE ON OR BEFORE
2 DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN.

3 S 2. This act shall take effect immediately.

4 PART D

5 Intentionally omitted.

6 PART E

7 Section 1. Section 2 of chapter 279 of the laws of 1998, amending the
8 transportation law relating to enabling the commissioner of transporta-
9 tion to establish a single audit pilot program, as amended by section 1
10 of part A of chapter 59 of the laws of 2009, is amended to read as
11 follows:

12 S 2. This act shall take effect on December 31, 1998, except that the
13 commissioner of transportation is immediately authorized to promulgate
14 rules and regulations necessary for the implementation of this act and
15 shall expire December 31, [2010] 2011 when upon such date the provisions
16 of this act shall be deemed repealed.

17 S 2. This act shall take effect immediately.

18 PART F

19 Intentionally omitted.

20 PART G

21 Intentionally omitted.

22 PART H

23 Intentionally omitted.

24 PART I

25 Intentionally omitted.

26 PART J

27 Intentionally omitted.

28 PART K

29 Intentionally omitted.

30 PART L

31 Intentionally omitted.

32 PART M

33 Section 1. Paragraph (a) of subdivision 1 of section 1 of part U of
34 chapter 57 of the laws of 2005 amending the labor law and other laws
35 implementing the state fiscal plan for the 2005-2006 state fiscal year,
36 relating to the New York state higher education capital matching grant

1 program for independent colleges, as added by section 1 of part D of
2 chapter 63 of the laws of 2005, is amended to read as follows:

3 (a) The New York state higher education capital matching grant board
4 is hereby created to have and exercise the powers, duties and preroga-
5 tives provided by the provisions of this section and any other provision
6 of law. The board shall remain in existence during the period of the New
7 York state higher education capital matching grant program from the
8 effective date of this section through March 31, [2010] 2011, or the
9 date on which the last of the funds available for grants under this
10 section shall have been disbursed, whichever is earlier; provided,
11 however, that the termination of the existence of the board shall not
12 effect the power and authority of the dormitory authority to perform its
13 obligations with respect to any bonds, notes, or other indebtedness
14 issued or incurred pursuant to authority granted in this section.

15 S 2. Paragraph (h) of subdivision 4 of section 1 of part U of chapter
16 57 of the laws of 2005 amending the labor law and other laws implement-
17 ing the state fiscal plan for the 2005-2006 state fiscal year, relating
18 to New York state higher education matching grant program for independ-
19 ent colleges, as added by section 1 of part D of chapter 63 of the laws
20 of 2005, is amended to read as follows:

21 (h) If a college [does] DID not apply for a POTENTIAL grant by March
22 31, 2009, funds associated with such potential grant shall be awarded,
23 on a competitive basis, to other colleges, ACCORDING TO THE PRIORITIES
24 SET FORTH BELOW. Colleges shall be eligible to apply for unutilized
25 grants. IN SUCH CASES, THE FOLLOWING PRIORITIES SHALL APPLY: FIRST,
26 PRIORITY SHALL BE GIVEN TO OTHERWISE ELIGIBLE COLLEGES THAT EITHER WERE,
27 OR WOULD HAVE BEEN, DEEMED INELIGIBLE FOR THE PROGRAM PRIOR TO MARCH 31,
28 2009, DUE TO MISSED DEADLINES, INSUFFICIENT MATCHING FUNDS, LACK OF
29 ACCREDITATION OR OTHER DISQUALIFYING REASONS; AND SECOND, AFTER THE
30 BOARD HAS ACTED UPON ALL SUCH FIRST-PRIORITY APPLICATIONS FOR UNUSED
31 FUNDS, IF ANY SUCH FUNDS REMAIN, THOSE FUNDS SHALL BE AVAILABLE FOR
32 DISTRIBUTION TO ELIGIBLE COLLEGES THAT ARE LOCATED WITHIN THE SAME
33 REGENTS OF THE STATE OF NEW YORK REGION FOR WHICH SUCH FUNDS WERE
34 ORIGINALLY ALLOCATED. The dormitory authority shall develop a request
35 for proposals and application process, in consultation with the board,
36 for such grants and shall develop criteria, subject to review by the
37 board, for the awarding of such grants. Such criteria shall incorporate
38 the matching criteria contained in paragraph (c) of this subdivision,
39 and the application criteria set forth in paragraph (e) of this subdivi-
40 sion. The dormitory authority shall require all applications in response
41 to the request for proposals to be submitted by September 1, [2009]
42 2010, and the board shall act on each application for such matching
43 grants by November 1, [2009] 2010.

44 S 3. Subclause (A) of clause (ii) of paragraph (j) of subdivision 4 of
45 section 1 of part U of chapter 57 of the laws of 2005 amending the labor
46 law and other laws implementing the state fiscal plan for the 2005-2006
47 state fiscal year, relating to New York state higher education matching
48 grant program for independent colleges, as added by section 1 of part D
49 of chapter 63 of the laws of 2005, is amended to read as follows:

50 (A) Notwithstanding the provision of any general or special law to the
51 contrary, and subject to the provisions of chapter 59 of the laws of
52 2000 and to the making of annual appropriations therefor by the legisla-
53 ture, in order to assist the dormitory authority in providing such high-
54 er education capital matching grants, the director of the budget is
55 authorized in any state fiscal year commencing April 1, 2005 or any
56 state fiscal year thereafter for a period ending on March 31, [2010]

2011, to enter into one or more service contracts, none of which shall exceed 30 years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

S 4. Paragraph (b) of subdivision 7 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to New York state higher education matching grant program for independent colleges, as added by section 1 of part D of chapter 63 of the laws of 2005, is amended to read as follows:

(b) Any eligible institution receiving a grant pursuant to this article shall report to the dormitory authority no later than June 1, [2008] 2011, on the use of funding received and its programmatic and economic impact. The dormitory authority shall submit a report no later than November 1, [2008] 2011 to the board, the governor, the director of the budget, the temporary president of the senate, and the speaker of the assembly on the aggregate impact of the higher education capital matching grant program. Such report shall provide information on the progress and economic impact of [each] SUCH project.

S 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART N

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

S 16-T. SMALL BUSINESS REVOLVING LOAN FUND. 1. THE SMALL BUSINESS REVOLVING LOAN FUND PROGRAM IS HEREBY CREATED. THE CORPORATION IS AUTHORIZED, WITHIN AVAILABLE APPROPRIATIONS, TO PROVIDE GRANTS TO LOCAL COMMUNITY BASED LENDING ORGANIZATIONS, INCLUDING COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS (CDFIS), SMALL BUSINESS LENDING CONSORTIA, CERTIFIED DEVELOPMENT COMPANIES, PROVIDERS OF UNITED STATES DEPARTMENT OF AGRICULTURE BUSINESS AND INDUSTRIAL GUARANTEED LOANS, UNITED STATES SMALL BUSINESS ADMINISTRATION LOAN PROVIDERS, CREDIT UNIONS AND COMMUNITY BANKS, IN ORDER TO PROVIDE FUNDING FOR THOSE LENDING ORGANIZATIONS' LOANS TO SMALL BUSINESSES, LOCATED WITHIN NEW YORK STATE, THAT GENERATE ECONOMIC GROWTH AND JOB CREATION WITHIN NEW YORK STATE BUT THAT ARE UNABLE TO OBTAIN ADEQUATE CREDIT OR ADEQUATE TERMS FOR SUCH CREDIT. AS USED IN THIS SECTION "SMALL BUSINESS" MEANS A BUSINESS THAT IS RESIDENT IN NEW YORK STATE, INDEPENDENTLY OWNED AND OPERATED, NOT DOMINANT IN ITS FIELD, AND EMPLOYS ONE HUNDRED OR FEWER PERSONS.

2. THE CORPORATION SHALL IDENTIFY ELIGIBLE LENDING ORGANIZATIONS THROUGH ONE OR MORE COMPETITIVE STATEWIDE OR LOCAL SOLICITATIONS. UPON THE AWARDED OF PROGRAM FUNDS THE CORPORATION SHALL CREATE ADMINISTRATIVE TRUST FUND ACCOUNTS FOR EACH LENDING ORGANIZATION. IN ORDER FOR A LENDING ORGANIZATION TO BE ELIGIBLE TO RECEIVE PROGRAM FUNDS, IT MUST HAVE ESTABLISHED SUFFICIENT EXPERTISE TO ANALYZE SMALL BUSINESS APPLICATIONS FOR PROGRAM LOANS, EVALUATE THE CREDITWORTHINESS OF SMALL BUSINESSES, AND REGULARLY MONITOR PROGRAM LOANS. THE LENDING ORGANIZATION SHALL REVIEW EVERY PROGRAM LOAN APPLICATION IN ORDER TO DETERMINE, AMONG OTHER THINGS, THE FEASIBILITY OF THE PROPOSED USE OF THE REQUESTED FINANCING BY THE SMALL BUSINESS APPLICANT, THE LIKELIHOOD OF REPAYMENT AND THE POTENTIAL THAT THE LOAN WILL GENERATE ECONOMIC DEVELOPMENT AND JOBS WITHIN NEW YORK STATE.

3. PROGRAM LOANS TO SMALL BUSINESSES SHALL BE USED FOR THE CREATION AND RETENTION OF JOBS, AS DEFINED BY THE CORPORATION, INCLUDING: (A)

1 WORKING CAPITAL; (B) THE ACQUISITION AND/OR IMPROVEMENT OF REAL PROPER-
2 TY; (C) THE ACQUISITION OF MACHINERY AND EQUIPMENT, PROPERTY OR IMPROVE-
3 MENT; OR (D) THE REFINANCING OF DEBT OBLIGATIONS. THIS LOAN SHALL HAVE
4 A PRINCIPAL AMOUNT THAT IS NO MORE THAN ONE HUNDRED TWENTY-FIVE THOUSAND
5 DOLLARS.

6 4. PROGRAM FUNDS SHALL NOT BE USED FOR: (A) PROJECTS OF NEWSPAPERS,
7 BROADCASTING OR OTHER NEWS MEDIA; MEDICAL FACILITIES, LIBRARIES, COMMU-
8 NITY OR CIVIC CENTERS; OR PUBLIC INFRASTRUCTURE IMPROVEMENTS; OR (B)
9 PROVIDING FUNDS, DIRECTLY OR INDIRECTLY, FOR PAYMENT, DISTRIBUTION, OR
10 AS A LOAN, TO OWNERS, MEMBERS, PARTNERS OR SHAREHOLDERS OF THE APPLICANT
11 BUSINESS, EXCEPT AS ORDINARY INCOME FOR SERVICES RENDERED.

12 5. WITH RESPECT TO THIS PROGRAM LOAN, THE LENDING ORGANIZATION MAY
13 CHARGE REASONABLE APPLICATION FEES.

14 6. PROGRAM FUNDS SHALL BE DISBURSED TO A LENDING ORGANIZATION BY THE
15 CORPORATION IN THE FORM OF GRANTS PURSUANT TO THE REQUESTS FOR
16 PROPOSALS. THE TERM OF THE LOAN SHALL COMMENCE UPON DISBURSEMENT OF THE
17 PROGRAM FUNDS BY THE CORPORATION TO THE LENDING ORGANIZATION.

18 7. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION, THE
19 CORPORATION SHALL PROVIDE AT LEAST ONE MILLION FIVE HUNDRED THOUSAND
20 DOLLARS IN GRANTS PURSUANT TO THIS SECTION TO LENDING ORGANIZATIONS FOR
21 THE PURPOSE OF MAKING LOANS TO SMALL BUSINESS LOCATED IN NIAGARA COUNTY.

22 8. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION, THE
23 CORPORATION SHALL PROVIDE AT LEAST ONE MILLION FIVE HUNDRED THOUSAND
24 DOLLARS IN GRANTS PURSUANT TO THIS SECTION TO LENDING ORGANIZATIONS FOR
25 THE PURPOSE OF MAKING LOANS TO SMALL BUSINESS LOCATED IN ST. LAWRENCE
26 COUNTY.

27 9. (A) (I) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE
28 CORPORATION MAY ESTABLISH AN ADMINISTRATIVE EXPENSES TRUST FUND ACCOUNT
29 FOR THE BENEFIT OF EACH LENDING ORGANIZATION SELECTED TO ADMINISTER A
30 SMALL BUSINESS REVOLVING TRUST FUND ACCOUNT. THE INITIAL DEPOSIT OF
31 FUNDS TO AN ADMINISTRATIVE EXPENSES TRUST FUND ACCOUNT SHALL BE AN
32 AMOUNT DETERMINED BY THE CORPORATION BUT SHALL NOT EXCEED ONE HUNDRED
33 TWENTY-FIVE THOUSAND DOLLARS.

34 (II) A LENDING ORGANIZATION SELECTED TO ADMINISTER A SMALL BUSINESS
35 REVOLVING TRUST FUND ACCOUNT MAY USE THE FUNDS IN THE ADMINISTRATIVE
36 EXPENSES TRUST FUND ACCOUNT FOR COSTS INCURRED BY IT IN THE START UP AND
37 ADMINISTRATION OF THE FINANCIAL ASSISTANCE PROGRAM AUTHORIZED PURSUANT
38 TO THIS SUBDIVISION.

39 (III) THE CORPORATION SHALL DEPOSIT INTO EACH ADMINISTRATIVE EXPENSES
40 TRUST FUND ACCOUNT:

41 (A) ALL INCOME EARNED FROM THE MONEYS ON DEPOSIT IN THE CORRESPONDING
42 SMALL BUSINESS REVOLVING TRUST FUND ACCOUNT DURING THE FIRST YEAR OF THE
43 LENDING ORGANIZATION'S ADMINISTRATION OF SAID ACCOUNT; AND

44 (B) BEGINNING WITH ITS SECOND YEAR IN ADMINISTERING A SMALL BUSINESS
45 REVOLVING TRUST FUND ACCOUNT, SAID AMOUNTS MAY BE USED FOR COSTS
46 INCURRED BY THE LENDING ORGANIZATION IN ADMINISTERING THE SMALL BUSINESS
47 REVOLVING TRUST FUND ACCOUNT; AND

48 (C) REPAYMENTS OF INTEREST ON LOANS MADE FROM THE CORRESPONDING SMALL
49 BUSINESS REVOLVING TRUST FUND ACCOUNT.

50 (IV) FUNDS FROM THE ADMINISTRATIVE EXPENSES TRUST FUND ACCOUNT MAY BE
51 USED FOR COSTS INCURRED AT ANY TIME BY AN ADMINISTERING LENDING ORGAN-
52 IZATION IN ITS ADMINISTRATION OF A SMALL BUSINESS REVOLVING TRUST FUND
53 ACCOUNT PURSUANT TO THIS SECTION.

54 (V) FUNDS DEPOSITED IN AN ADMINISTRATIVE EXPENSES TRUST FUND ACCOUNT
55 SHALL BE DISBURSED BY THE CORPORATION TO THE LENDING ORGANIZATION THAT
56 ADMINISTERS THE CORRESPONDING SMALL BUSINESS REVOLVING TRUST FUND

ACCOUNT ON A PERIODIC BASIS AND SHALL BE EXPENDED BY THE LENDING ORGANIZATION IN ACCORDANCE WITH AN ANNUAL BUDGET AND ANY UPDATES OF SAME, APPROVED BY THE CORPORATION.

(B) ANY LENDING ORGANIZATION SELECTED TO ADMINISTER A SMALL BUSINESS REVOLVING TRUST FUND ACCOUNT SHALL PAY TO THE CORPORATION FOR DEPOSIT ANY REPAYMENTS RECEIVED IN CONNECTION WITH FINANCIAL ASSISTANCE PROVIDED FROM ITS ACCOUNT. PAYMENTS CONSISTING OF THE REPAYMENT OF THE PRINCIPAL AMOUNT OF A LOAN SHALL BE DEPOSITED BY THE CORPORATION INTO THE SMALL BUSINESS REVOLVING TRUST FUND ACCOUNT FROM WHICH THE LOAN WAS MADE. THE INTEREST EARNED BY THE CORPORATION FROM THE INVESTMENT OF MONEYS IN EACH SMALL BUSINESS REVOLVING TRUST FUND ACCOUNT DURING AND AFTER THE SECOND YEAR OF A SELECTED LENDING ORGANIZATION'S ADMINISTRATION OF SAID ACCOUNT SHALL BE DEPOSITED BY THE CORPORATION INTO THE CORRESPONDING SMALL BUSINESS REVOLVING TRUST FUND ACCOUNT AND USED TO PROVIDE THE FINANCIAL ASSISTANCE TO SMALL BUSINESSES AS AUTHORIZED PURSUANT TO THIS SECTION.

10. WITH RESPECT TO A LENDING ORGANIZATION PROGRAM LOAN APPLICANTS, NO PERSON WHO IS A MEMBER OF THE BOARD OR OTHER GOVERNING BODY, OFFICER, EMPLOYEE, OR MEMBER OF A LOAN COMMITTEE, OR A FAMILY MEMBER OF ANY SUCH LENDING ORGANIZATION SHALL PARTICIPATE IN ANY DECISION ON SUCH APPLICATION IF SUCH PERSON IS A PARTY TO OR HAS A FINANCIAL OR PERSONAL INTEREST IN SUCH LOAN. ANY PERSON WHO CANNOT PARTICIPATE IN A LOAN APPLICATION DECISION FOR SUCH REASONS SHALL NOT BE COUNTED AS A MEMBER OF THE LOAN COMMITTEE, BOARD OR OTHER GOVERNING BODY FOR PURPOSES OF DETERMINING THE NUMBER OF MEMBERS REQUIRED FOR APPROVAL OF SUCH APPLICATION.

11. THE LENDING ORGANIZATION SHALL SUBMIT TO THE CORPORATION ANNUAL REPORTS STATING: THE NUMBER OF PROGRAM LOANS MADE; THE AMOUNT OF PROGRAM FUNDING USED FOR LOANS; THE USE OF LOAN PROCEEDS BY THE BORROWER; THE NUMBER OF JOBS CREATED OR RETAINED; A DESCRIPTION OF THE ECONOMIC DEVELOPMENT GENERATED; THE STATUS OF EACH OUTSTANDING PROGRAM LOAN; AND SUCH OTHER INFORMATION AS THE CORPORATION MAY REQUIRE.

12. THE CORPORATION MAY CONDUCT AUDITS OF THE LENDING ORGANIZATION IN ORDER TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS SECTION, ANY REGULATIONS PROMULGATED WITH RESPECT THERETO AND AGREEMENTS BETWEEN THE LENDING ORGANIZATION AND THE CORPORATION OF ALL ASPECTS OF THE USE OF PROGRAM FUNDS AND PROGRAM LOAN TRANSACTIONS. IN THE EVENT THAT THE CORPORATION FINDS SUBSTANTIVE NONCOMPLIANCE, THE CORPORATION MAY TERMINATE THE LENDING ORGANIZATION'S PARTICIPATION IN THE PROGRAM.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART O

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

S 44. THE NEW TECHNOLOGY SEED INVESTMENT FUND. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING WORDS AND TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL INDICATE ANOTHER OR DIFFERENT MEANING OR INTENT:

(A) "REGIONAL INVESTMENT FUND" SHALL MEAN A LIMITED PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, A LIMITED LIABILITY COMPANY OR A NOT-FOR-PROFIT FUND UNDER EXPERIENCED PROFESSIONAL MANAGEMENT THAT IS FAMILIAR WITH SEED CAPITAL INVESTMENT, APPROPRIATE BUSINESS PRACTICES AND TECHNOLOGY-ORIENTED PRODUCTS AND SERVICES, AND FORMED FOR THE PURPOSE OF PROVIDING PRIVATE EQUITY TO TECHNOLOGY-BASED COMPANIES IN

1 THEIR FORMATIVE STAGES, ENCOMPASSES AT LEAST TWO COUNTIES, AND INVESTS
2 IN QUALIFIED ENTERPRISES LOCATED WITHIN NEW YORK STATE.

3 (B) "QUALIFIED ENTERPRISE" SHALL MEAN:

4 (I) A COMPANY OR A PROPOSED COMPANY THAT HAS OR WILL LOCATE ITS PRIN-
5 CIPAL PLACE OF BUSINESS IN NEW YORK STATE, THAT IS, OR PROPOSES TO BE,
6 ENGAGED IN THIS STATE IN RESEARCH AND DEVELOPMENT OR HIGH TECHNOLOGY
7 MANUFACTURING, AND THAT DEMONSTRATES THE POTENTIAL FOR SUBSTANTIAL
8 GROWTH AND JOB DEVELOPMENT IN AN EMERGING TECHNOLOGY FIELD AS DEFINED IN
9 SECTION 3102-E OF THE PUBLIC AUTHORITIES LAW OR AS ADOPTED BY THE BOARD;
10 AND

11 (II) IS FORMULATING, HAS FORMULATED, OR IS EXECUTING A DETAILED BUSI-
12 NESS PLAN FOR PROOF-OF-CONCEPT OR INITIAL PRODUCT COMMERCIALIZATION.

13 (C) "SEED CAPITAL" SHALL MEAN FINANCIAL ASSISTANCE TO A QUALIFIED
14 ENTERPRISE, IN RETURN FOR EQUITY OR DEBT SECURITIES OR ROYALTIES.

15 2. INVESTMENTS IN REGIONAL INVESTMENT FUNDS. (A) THE CORPORATION SHALL
16 MAKE INVESTMENTS TO ENCOURAGE AND FACILITATE THE CREATION OR EXPANSION
17 OF REGIONAL INVESTMENT FUNDS THAT SERVE THE PURPOSES OF THIS SECTION.
18 THE BOARD OF DIRECTORS SHALL ADOPT CRITERIA AND GUIDELINES GOVERNING
19 SUCH INVESTMENTS, WHICH SHALL REQUIRE THAT:

20 (I) THERE EXISTS A NEED FOR SEED CAPITAL IN THE REGION SERVED OR TO BE
21 SERVED BY A REGIONAL INVESTMENT FUND;

22 (II) SUPPORT FOR A REGIONAL INVESTMENT FUND EXISTS FROM LOCAL GOVERN-
23 MENTS, ECONOMIC DEVELOPMENT AGENCIES, AND BUSINESS COMMUNITIES WITHIN
24 THE REGION OR AREA TO BE SERVICED BY SUCH FUND;

25 (III) THE REGIONAL INVESTMENT FUND HAS THE CAPACITY TO PERFORM DUE
26 DILIGENCE IN MAKING INVESTMENT DECISIONS, AND TO PROVIDE MANAGEMENT
27 EXPERTISE AND OTHER VALUE-ADDED SERVICES TO ITS PORTFOLIO COMPANIES
28 WHICH SERVICES MAY INCLUDE ACCESS TO CAPITAL, BUSINESS EXPERTISE, TECH-
29 NOLOGY COMMERCIALIZATION SERVICES AND A NETWORK OF RESOURCES IN ORDER TO
30 ADVANCE THE DEVELOPMENT OF NEW TECHNOLOGIES;

31 (IV) THE REGIONAL INVESTMENT FUND ESTABLISHES CONFLICT-OF-INTEREST
32 PROVISIONS ACCEPTABLE TO THE CORPORATION;

33 (V) TO THE MAXIMUM EXTENT FEASIBLE, THE REGIONAL INVESTMENT FUND WILL
34 INVEST IN FIRMS WHICH HAVE THE GREATEST POTENTIAL FOR JOB CREATION;

35 (VI) INVESTMENTS MADE BY THE CORPORATION IN A REGIONAL INVESTMENT FUND
36 SHALL NOT EXCEED FIVE MILLION DOLLARS AND, SHALL BE MATCHED BY THE
37 REGIONAL FUND ON AT LEAST A ONE-TO-ONE BASIS WITH MONIES, OTHER THAN
38 STATE MONIES, UNLESS THE BOARD FINDS THAT A REDUCED MATCHING REQUIREMENT
39 WILL FURTHER THE PURPOSES OF THIS SECTION; AND

40 (VII) INVESTMENTS MADE BY A REGIONAL INVESTMENT FUND THAT INCLUDE
41 FUNDS RECEIVED FROM THE CORPORATION SHALL BE MADE ONLY FOR THE FINANCING
42 AUTHORIZED BY SUBDIVISION 3 OF THIS SECTION.

43 (B) (I) THE CORPORATION SHALL MAKE INVESTMENTS IN QUALIFIED REGIONAL
44 INVESTMENT FUNDS VIA THE ISSUANCE OF A REQUEST FOR PROPOSALS TO REGIONAL
45 AND LOCAL ECONOMIC DEVELOPMENT ORGANIZATIONS, TECHNOLOGY DEVELOPMENT
46 ORGANIZATIONS, RESEARCH UNIVERSITIES, AND INVESTMENT FUNDS THAT PROVIDE
47 SMALL-SCALE INVESTMENTS IN HIGH-TECHNOLOGY COMPANIES IN NEW YORK STATE.

48 (II) IN AWARDING FUNDS PURSUANT TO THIS SUBDIVISION, THE CORPORATION
49 SHALL ASSURE ADEQUATE GEOGRAPHIC DISTRIBUTION TO THE EXTENT FEASIBLE.

50 3. REGIONAL INVESTMENT FUNDS. (A) REGIONAL INVESTMENT FUNDS RECEIVING
51 INVESTMENTS FROM THE CORPORATION UNDER THIS ACT SHALL USE SUCH FUNDS AND
52 THE REQUIRED MATCHING FUNDS TO PROVIDE SEED CAPITAL AND FOLLOW-ON
53 FINANCING TO QUALIFIED ENTERPRISES, PROVIDED THAT THE REGIONAL INVEST-
54 MENT FUND SHALL NOT:

(I) INVEST AN AMOUNT IN ANY SINGLE QUALIFIED ENTERPRISE THAT EXCEEDS FIFTY PERCENT OF THE TOTAL INVESTMENT FROM ALL OTHER SOURCES IN ANY SUCH ENTERPRISE; OR

(II) INVEST OVER FIVE HUNDRED THOUSAND DOLLARS IN ANY ONE COMPANY, OR SEVEN HUNDRED FIFTY THOUSAND DOLLARS IN THE CASE OF A BIOTECHNOLOGY COMPANY, AT ANY ONE TIME.

(B) A REGIONAL INVESTMENT FUND, BEFORE APPROVING ANY APPLICATION FOR FINANCIAL ASSISTANCE UNDER THIS SECTION, SHALL FIND THAT:

(I) THE QUALIFIED ENTERPRISE AND ITS PRODUCT OR PROCESS HAVE A REASONABLE CHANCE OF BEING COMMERCIALY SUCCESSFUL;

(II) THE EMPLOYMENT CREATED OR MAINTAINED AS A RESULT OF THE FUND'S INVESTMENT WILL BE IN NEW YORK STATE; AND

(III) PROVISIONS ARE IN PLACE FOR THE REPAYMENT OF THE FUNDS IF THE COMPANY RECEIVING ASSISTANCE LEAVES THE STATE.

4. REGIONAL INVESTMENT FUND REPORTING. THE CORPORATION SHALL REQUIRE ANY REGIONAL INVESTMENT FUND RECEIVING INVESTMENTS UNDER THIS SECTION TO FILE A REPORT WITH THE CORPORATION BY DECEMBER 1, 2011 AND ANNUALLY THEREAFTER. SUCH REPORT SHALL INCLUDE:

(A) THE TOTAL AMOUNT OF FUNDS COMMITTED TO THE REGIONAL INVESTMENT FUND AND THE AMOUNT THAT HAS BEEN INVESTED;

(B) THE NET ASSET VALUE OF THE FUND;

(C) THE AMOUNT INVESTED IN EACH PORTFOLIO COMPANY FROM THE FUND AND FROM OTHER SOURCES;

(D) THE TYPE OF PRODUCT OR TECHNOLOGY BEING DEVELOPED BY EACH PORTFOLIO COMPANY;

(E) THE LOCATION OF EACH PORTFOLIO COMPANY;

(F) THE NUMBER OF JOBS PROJECTED TO BE CREATED AND RETAINED; AND

(G) SUCH OTHER INFORMATION AS THE CORPORATION DEEMS NECESSARY.

5. REPORT OF THE CORPORATION. THE CORPORATION SHALL SUBMIT TO THE GOVERNOR AND THE LEGISLATURE A SUMMARY AND EVALUATION OF THE REPORTS SUBMITTED TO THE CORPORATION PURSUANT TO SUBDIVISION 4 OF THIS SECTION AND AN EVALUATION OF THE PERFORMANCE OF THE REGIONAL INVESTMENT FUNDS ON OR BEFORE FEBRUARY 1, 2012 AND ANNUALLY THEREAFTER.

S 2. This act shall take effect immediately.

PART P

Section 1. Section 2 of 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, as amended by section 1 of part X of chapter 59 of the laws of 2009, is amended to read as follows:

S 2. This act shall take effect immediately provided, however, that section one of this act shall expire on July 1, [2010] 2011, at which time the provisions of subdivision 26 of section 5 of the New York state urban development corporation act shall be deemed repealed; provided, however, that neither the expiration nor the repeal of such subdivision as provided for herein shall be deemed to affect or impair in any manner any loan made pursuant to the authority of such subdivision prior to such expiration and repeal.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART Q

Intentionally omitted.

1

PART R

2

Intentionally omitted.

3

PART S

4

Section 1. Subdivision 3 of section 99-h of the state finance law, as amended by section 1 of part QQ of chapter 59 of the laws of 2009, is amended to read as follows:

7

3. Moneys of the account, following appropriation by the legislature, shall be available for purposes including but not limited to: (a) reimbursements or payments to municipal governments that host tribal casinos pursuant to a tribal-state compact for costs incurred in connection with services provided to such casinos or arising as a result thereof, for economic development opportunities and job expansion programs authorized by the executive law; provided, however, that for any gaming facility located in the city of Buffalo, the city of Buffalo shall receive a minimum of twenty-five percent of the negotiated percentage of the net drop from electronic gaming devices the state receives pursuant to the compact, and provided further that for any gaming facility located in the city of Niagara Falls, county of Niagara a minimum of twenty-five percent of the negotiated percentage of the net drop from electronic gaming devices the state receives pursuant to the compact shall be distributed in accordance with subdivision four of this section, and provided further that for any gaming facility located in the county or counties of Cattaraugus, Chautauqua or Allegany, the municipal governments of the state hosting the facility shall collectively receive a minimum of twenty-five percent of the negotiated percentage of the net drop from electronic gaming devices the state receives pursuant to the compact; and provided further that pursuant to chapter five hundred ninety of the laws of two thousand four, a minimum of twenty-five percent of the revenues received by the state pursuant to the state's compact with the St. Regis Mohawk tribe shall be made available to the counties of Franklin and St. Lawrence, and affected towns in such counties. Each such county and its affected towns shall receive fifty percent of the moneys made available by the state; and (b) support and services of treatment programs for persons suffering from gambling addictions. Moneys not appropriated for such purposes shall be transferred to the general fund for the support of government [during the fiscal year in which they are received]. EACH PAYMENT TO THE ACCOUNT AND ANY INTEREST ACCRUED SHALL BE DISTRIBUTED WITHIN THIRTY-FIVE DAYS UPON RECEIPT TO SUCH MUNICIPALITIES AND THE GENERAL FUND.

40

S 2. Subdivision 3 of section 99-h of the state finance law, as amended by section 1 of part V of chapter 59 of the laws of 2006, is amended to read as follows:

43

3. Moneys of the account, following appropriation by the legislature, shall be available for purposes including but not limited to: (a) reimbursements or payments to municipal governments that host tribal casinos pursuant to a tribal-state compact for costs incurred in connection with services provided to such casinos or arising as a result thereof, for economic development opportunities and job expansion programs authorized by the executive law; provided, however, that for any gaming facility located in the county of Erie or Niagara, the municipal governments hosting the facility shall collectively receive a minimum of twenty-five percent of the negotiated percentage of the net drop from electronic gaming devices the state receives pursuant to the

53

1 compact and provided further that for any gaming facility located in the
2 county or counties of Cattaraugus, Chautauqua or Allegany, the municipal
3 governments of the state hosting the facility shall collectively receive
4 a minimum of twenty-five percent of the negotiated percentage of the net
5 drop from electronic gaming devices the state receives pursuant to the
6 compact; and provided further that pursuant to chapter five hundred
7 ninety of the laws of two thousand four, a minimum of twenty-five
8 percent of the revenues received by the state pursuant to the state's
9 compact with the St. Regis Mohawk tribe shall be made available to the
10 counties of Franklin and St. Lawrence, and affected towns in such coun-
11 ties. Each such county and its affected towns shall receive fifty
12 percent of the moneys made available by the state; and (b) support and
13 services of treatment programs for persons suffering from gambling
14 addictions. Moneys not appropriated for such purposes shall be trans-
15 ferred to the general fund for the support of government [during the
16 fiscal year in which they are received]. EACH PAYMENT TO THE ACCOUNT
17 AND ANY INTEREST ACCRUED SHALL BE DISTRIBUTED WITHIN THIRTY-FIVE DAYS
18 UPON RECEIPT TO SUCH MUNICIPALITIES AND THE GENERAL FUND.

19 S 3. This act shall take effect immediately; provided that the amend-
20 ments to subdivision 3 of section 99-h of the state finance law made by
21 section one of this act shall be subject to the expiration and reversion
22 of such section pursuant to section 2 of chapter 747 of the laws of
23 2006, as amended, when upon such date the provisions of section two of
24 this act shall take effect.

25

PART T

26 Section 1. Section 107 of the agriculture and markets law, as added by
27 chapter 220 of the laws of 1978, subdivision 1 as amended by chapter 473
28 of the laws of 1995, subdivision 3 as amended by chapter 619 of the laws
29 of 1987 and subdivision 5 as added by chapter 530 of the laws of 1997,
30 is amended to read as follows:

31 S 107. Application. 1. This article shall apply to all areas of the
32 state except any city having a population of over two million [except
33 that the provisions in this article relating to the animal population
34 control program shall be applicable to the entire state].

35 2. In the event that any dog owned by a resident of any city having a
36 population of over two million or by a non-resident of this state is
37 harbored within this state outside of any such city, THE LICENSING MUNI-
38 CIPALITY IN WHICH SUCH ANIMAL IS HARBORED MAY EXEMPT such dog [shall be
39 exempt] from the identification and licensing provisions of this article
40 for a period of thirty days provided such dog is licensed pursuant to
41 the provisions of law of the area of residence.

42 3. This article shall not apply to any dog confined to the premises of
43 any public or private hospital devoted solely to the treatment of sick
44 animals, or confined for the purposes of research to the premises of any
45 college or other educational or research institution.

46 4. This article shall not apply to any dog confined to the premises of
47 any person, firm or corporation engaged in the business of breeding or
48 raising dogs for profit and licensed as a class A dealer under the
49 Federal Laboratory Animal Welfare Act[, provided that such person, firm
50 or corporation has obtained a certificate of exemption. Application for
51 such certificate shall be made annually to the commissioner and shall be
52 accompanied by a fee of one hundred dollars].

53 5. Nothing contained in this article shall prevent a municipality from
54 adopting its own program for the control of dangerous dogs; provided,

however, that no such program shall be less stringent than this article, and no such program shall regulate such dogs in a manner that is specific as to breed. Notwithstanding the provisions of subdivision one of this section, this subdivision and [section one hundred twenty-one] SECTIONS ONE HUNDRED TWENTY-THREE, ONE HUNDRED TWENTY-THREE-A AND ONE HUNDRED TWENTY-THREE-B of this article shall apply to all municipalities including cities of two million or more.

S 2. Subdivision 14 of section 108 of the agriculture and markets law is REPEALED.

S 3. Subdivisions 11, 12 and 16 of section 108 of the agriculture and markets law, as added by chapter 220 of the laws of 1978, are amended to read as follows:

11. "Identification tag" means a tag ISSUED BY THE LICENSING MUNICIPALITY which sets forth an [official] identification number [as required by the provisions], TOGETHER WITH THE NAME of [this article] THE MUNICIPALITY, THE STATE OF NEW YORK AND CONTACT INFORMATION FOR THE MUNICIPALITY.

12. "Identified dog" means any dog carrying an identification tag as provided in section one hundred [twelve] ELEVEN of this article.

16. "Owner of record" means the person in whose name any dog was last licensed pursuant to [either subdivision one or subdivision two of section one hundred nine of] this article, except that if any license is issued on application of a person under eighteen years of age, the owner of record shall be deemed to be the parent or guardian of such person. If it cannot be determined in whose name any dog was last licensed or if the owner of record has filed a statement pursuant to the provisions of section [one hundred thirteen] ONE HUNDRED TWELVE of this article, the owner shall be deemed to be the owner of record of such dog, except that if the owner is under eighteen years of age, the owner of record shall be deemed to be the parent or guardian of such person.

S 4. Section 109 of the agriculture and markets law, as added by chapter 220 of the laws of 1978, subdivision 1 as amended by chapter 645 of the laws of 1988, paragraph (a) of subdivision 1 as amended by chapter 86 of the laws of 2006, paragraph (b) as amended by chapter 562 of the laws of 1995, paragraphs (f) and (h) of subdivision 1 and paragraphs (f) and (h) of subdivision 2 as amended by chapter 39 of the laws of 2002, paragraph (c) of subdivision 2 as amended by chapter 180 of the laws of 2002, and subdivision 3 as amended by chapter 269 of the laws of 2005, is amended to read as follows:

S 109. Licensing of dogs REQUIRED; rabies vaccination [requirement] REQUIRED. 1. [Licensing of dogs.] (a) The owner of any dog reaching the age of four months shall immediately make application for a dog license. No license shall be required for any dog which is under the age of four months and which is not at large. Except as otherwise provided in this subdivision, a license shall be issued or renewed for a period of AT LEAST one year, provided[, that at the option of the governing board of the municipality, a license may be issued or renewed for a period of one, two or three years, and provided further], that no license shall be issued for a period expiring after the last day of the eleventh month following the expiration date of the current rabies certificate for the dog being licensed. All licenses shall expire on the last day of the last month of the period for which they are issued. In the event an applicant for a license presents, in lieu of a rabies certificate, a statement certified by a licensed veterinarian, as provided in subdivision [three] TWO of this section, a license shall be issued or renewed for a period of one year from the date of said statement. Any municipi-

1 pality[, authorized to issue licenses pursuant to this article, which
2 has a population not exceeding two thousand five hundred] may[, upon the
3 approval of and pursuant to rules and regulations promulgated by the
4 commissioner,] establish a common renewal date for all such licenses. A
5 license issued by a municipality that has established a common renewal
6 date shall expire no later than the common renewal date prior to the
7 expiration date of the rabies certificate for the dog being licensed.

8 (b) Application for a dog license shall be made to the clerk of the
9 town or city or, in the counties of Nassau and Westchester, incorporated
10 village in which the dog is harbored or to the village clerk of those
11 villages in the county of Rockland with a population of fifteen thousand
12 or more which have elected to accept applications pursuant to the
13 provisions of this paragraph or to the village clerk of the village of
14 Newark in the county of Wayne upon the election of the village of Newark
15 pursuant to the provisions of this paragraph. Provided, however, that in
16 the counties of Nassau and Westchester, the board of trustees of any
17 incorporated village may by resolution provide that applications for
18 licenses shall no longer be made to the village clerk, but to the clerk
19 of the town in which the village is situated. [If such resolution is
20 approved by the town board of the town in which the village is situated,
21 such resolution shall become effective not less than six months after a
22 certified copy of such resolution of the village board and of the resol-
23 ution of approval of the town board shall have been filed with the
24 commissioner.] Provided further, however, that in the county of Rock-
25 land, the board of trustees of any incorporated village with a popu-
26 lation of fifteen thousand or more may by resolution provide that appli-
27 cation for licenses shall be made to the village clerk. Provided
28 further, however, that in the county of Wayne, the board of trustees of
29 the village of Newark may by resolution provide that application for
30 licenses shall be made to the village clerk. [If such resolution is
31 approved by the town or towns in which the village is located, it shall
32 become effective not less than six months after a certified copy of such
33 approved resolution shall have been filed with the commissioner.] The
34 governing body of any town or city or, in the counties of Nassau and
35 Westchester, incorporated village or in the county of Rockland, those
36 villages with a population of fifteen thousand or more which have so
37 elected to accept applications or in the county of Wayne, the village of
38 Newark if such village has so elected to accept applications may, on
39 resolution of such body, authorize that such application be made to one
40 or more named dog control officers of any such town, city or village.
41 The issuance of any license by any such officer shall be under the
42 control and supervision of the clerk. In the case of a seized dog being
43 redeemed or a dog being otherwise obtained from a county animal shelter
44 or pound, such application may be made to the county dog control officer
45 in charge of such facility [provided such officer has been authorized by
46 the commissioner to accept such applications]. In the case of a dog
47 being redeemed or a dog being adopted from a shelter or pound estab-
48 lished, maintained or contracted for, pursuant to section one hundred
49 [fifteen] FOURTEEN of this article, such application may be made to the
50 manager of such facility, provided such manager has been authorized by
51 the [commissioner] MUNICIPALITY IN WHICH THE PROSPECTIVE OWNER RESIDES
52 to accept such application. Such authorization shall be requested by the
53 governing body of the pound or shelter and the granting or denial of
54 such authorization shall be in the discretion of the [commissioner]
55 MUNICIPALITY IN WHICH THE PROSPECTIVE OWNER RESIDES.

(c) The application shall state the sex, actual or approximate age, breed, color, and [official] MUNICIPAL identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county and town, city or village of residence of the owner. MUNICIPALITIES MAY ALSO REQUIRE ADDITIONAL INFORMATION ON SUCH APPLICATION AS DEEMED APPROPRIATE.

(d) The application shall be accompanied by the license fee prescribed by section one hundred ten of this article and a certificate of rabies vaccination or statement in lieu thereof, as required by subdivision [three] TWO of this section. In the case of a spayed or neutered dog, every application shall also be accompanied by a certificate signed by a licensed veterinarian or an affidavit signed by the owner, showing that the dog has been spayed or neutered, provided such certificate or affidavit shall not be required if the same is already on file with the clerk or authorized dog control officer. In lieu of the spay or neuter certificate an owner may present a statement certified by a licensed veterinarian stating that he has examined the dog and found that because of old age or other reason, the life of the dog would be endangered by spaying or neutering. In such case, the license fee for the dog shall be the same as for a spayed or neutered dog as set forth in [paragraph (a) of] subdivision one of section one hundred ten of this article.

(e) Upon validation by the clerk, authorized dog control officer or authorized pound or shelter manager, the application shall become a license for the dog described therein. [Once an application has been validated, no refund therefor shall be made.]

(f) The clerk, authorized dog control officer or authorized pound or shelter manager shall: (i) provide a copy of the license to the owner; (ii) [send, by the fifth day of the month following the month of license issuance, a copy] RETAIN A RECORD OF THE LICENSE THAT SHALL BE MADE AVAILABLE UPON REQUEST TO THE COMMISSIONER FOR PURPOSES of [the license, or a report of the information contained therein, to the commissioner; and (iii) retain a record of the license in the manner prescribed by the commissioner] RABIES AND OTHER ANIMAL DISEASE CONTROL. In addition, the authorized pound or shelter manager shall send, within forty-eight hours of validation, a copy of the license to the licensing municipality within which the dog is to be harbored.

(g) No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog.

(h) Notwithstanding the provisions of any general, special or local law, or any rule or regulation to the contrary, the clerk, authorized dog control officer or authorized pound or shelter manager in municipalities having a population of less than one hundred thousand shall [send to the commissioner a copy of the validated license, or a report of the information therein, by the fifth day of the month following the month of license issuance. In addition, the authorized dog control officer or authorized pound or shelter manager in such municipalities shall,] within five business days after the license has been validated, send a copy of the validated license to the licensing municipality in which the dog is to be harbored.

2. [Purebred license. (a) The owner of one or more purebred dogs registered by a recognized registry association may annually make an application for a purebred license, in lieu of or in addition to the individual licenses required by subdivision one of this section. A purebred license shall be valid for a period of one year beginning with the

1 first day of the month following the date of issuance and shall be
2 renewable annually thereafter prior to the expiration date.

3 (b) Such application shall be made to the person specified in para-
4 graph (b) of subdivision one of this section.

5 (c) The application shall state the name, address and telephone number
6 of the owner; the county and city, town or village where such dogs are
7 harbored; the sex, breed, registry name and number of each purebred
8 registered dog over the age of four months which is harbored on the
9 premises; and the sex and breed of each purebred dog over the age of
10 four months which is harbored on the premises and which is eligible for
11 registration. The application shall also include a statement by the
12 owner that all purebred dogs over the age of four months which are
13 harbored on the premises have been listed.

14 (d) The application shall be accompanied by the license fee prescribed
15 by section one hundred ten of this article and a certificate of rabies
16 vaccination or statement in lieu thereof, as required by subdivision
17 three of this section.

18 (e) Upon receipt of the foregoing items, the clerk or authorized dog
19 control officer shall assign a license number, which shall be reserved
20 for the sole use of the named owner, and shall issue a purebred license.
21 Once a purebred license has been issued, no refund therefor shall be
22 made.

23 (f) The clerk, authorized dog control officer or authorized pound or
24 shelter manager shall: (i) provide a copy of the purebred license to the
25 owner; (ii) send, by the fifth day of the month following the month of
26 license issuance, a copy of the purebred license, or a report of the
27 information contained therein, to the commissioner; and (iii) retain a
28 record of the purebred license in the manner prescribed by the commis-
29 sioner. In addition, the authorized dog control officer or authorized
30 pound or shelter manager shall send, within forty-eight hours of vali-
31 dation, a copy of the license to the licensing municipality within which
32 the dog is to be harbored.

33 (g) No purebred license shall be transferable. Upon change of owner-
34 ship of any dog licensed under a purebred license, such dog shall become
35 subject to the licensing provisions of subdivision one of this section,
36 except when the new owner holds a valid purebred license.

37 (h) Notwithstanding the provisions of any general, special or local
38 law, or any rule or regulation to the contrary, the clerk, authorized
39 dog control officer or authorized pound or shelter manager in munici-
40 palities having a population of less than one hundred thousand shall
41 send to the commissioner a copy of the validated license, or a report of
42 the information contained therein, by the fifth day of the month follow-
43 ing the month of license issuance. In addition, the authorized dog
44 control officer or authorized pound or shelter manager in such munici-
45 palities shall, within five business days after the license has been
46 validated, send a copy of the validated license to the licensing munici-
47 pality within which the dog is to be harbored.

48 3. The clerk, authorized dog control officer or authorized pound or
49 shelter manager, at the time of issuing any license pursuant to this
50 article, shall require the applicant to present a statement certified by
51 a licensed veterinarian showing that the dog or dogs have been vaccinat-
52 ed to prevent rabies or, in lieu thereof, a statement certified by a
53 licensed veterinarian stating that because of old age or other reason,
54 the life of the dog or dogs would be endangered by the administration of
55 vaccine. The clerk, authorized dog control officer or authorized pound
56 or shelter manager shall make or cause to be made from such statement a

1 record of such information as may be required by the commissioner and
2 shall file such record with a copy of the license.]

3 THE CLERK, AUTHORIZED DOG CONTROL OFFICER OR AUTHORIZED POUND OR SHEL-
4 TER MANAGER, AT THE TIME OF ISSUING ANY LICENSE PURSUANT TO THIS ARTI-
5 CLE, SHALL REQUIRE THE APPLICANT TO PRESENT A STATEMENT CERTIFIED BY A
6 LICENSED VETERINARIAN SHOWING THAT THE DOG OR DOGS HAVE BEEN VACCINATED
7 TO PREVENT RABIES OR, IN LIEU THEREOF, A STATEMENT CERTIFIED BY A
8 LICENSED VETERINARIAN STATING THAT BECAUSE OF OLD AGE OR ANOTHER REASON,
9 THE LIFE OF THE DOG OR DOGS WOULD BE ENDANGERED BY THE ADMINISTRATION OF
10 VACCINE. THE CLERK, AUTHORIZED DOG CONTROL OFFICER OR AUTHORIZED POUND
11 OR SHELTER MANAGER SHALL MAKE OR CAUSE TO BE MADE FROM SUCH STATEMENT A
12 RECORD OF SUCH INFORMATION AND SHALL FILE SUCH RECORD WITH A COPY OF THE
13 LICENSE. SUCH RECORDS SHALL BE MADE AVAILABLE TO THE COMMISSIONER UPON
14 REQUEST FOR RABIES AND OTHER ANIMAL DISEASE CONTROL EFFORTS.

15 3. MUNICIPALITIES MAY PROVIDE FOR THE ESTABLISHMENT AND ISSUANCE OF
16 PUREBRED LICENSES.

17 S 5. Section 110 of the agriculture and markets law is REPEALED and a
18 new section 110 is added to read as follows:

19 S 110. LICENSE FEES. 1. THE LICENSE FEE FOR DOG LICENSES ISSUED
20 PURSUANT TO SUBDIVISION ONE OF SECTION ONE HUNDRED NINE OF THIS ARTICLE
21 SHALL BE DETERMINED BY THE MUNICIPALITY ISSUING THE LICENSE, PROVIDED
22 THAT THE TOTAL FEE FOR AN UNSPAVED OR UNNEUTERED DOG SHALL BE AT LEAST
23 FIVE DOLLARS MORE THAN THE TOTAL FEE FOR A SPAYED OR NEUTERED DOG. ALL
24 REVENUE DERIVED FROM SUCH FEES SHALL BE THE SOLE PROPERTY OF THE MUNICI-
25 PALITY SETTING THE SAME AND SHALL BE USED ONLY FOR CONTROLLING DOGS AND
26 ENFORCING THIS ARTICLE AND ANY RULE, REGULATION, OR LOCAL LAW OR ORDI-
27 NANCE ADOPTED PURSUANT THERETO, INCLUDING SUBSIDIZING THE SPAYING OR
28 NEUTERING OF DOGS AND ANY FACILITY AS AUTHORIZED UNDER SECTION ONE
29 HUNDRED SIXTEEN OF THIS ARTICLE USED THEREFOR, AND SUBSIDIZING PUBLIC
30 HUMANE EDUCATION PROGRAMS IN RESPONSIBLE DOG OWNERSHIP.

31 2. MUNICIPALITIES MAY EXEMPT FROM THEIR LICENSING FEES ANY GUIDE DOG,
32 HEARING DOG, SERVICE DOG, WAR DOG, WORKING SEARCH DOG, DETECTION DOG,
33 POLICE WORK DOG OR THERAPY DOG. EACH COPY OF ANY LICENSE FOR SUCH DOGS
34 SHALL BE CONSPICUOUSLY MARKED "GUIDE DOG", "HEARING DOG", "SERVICE DOG",
35 "WORKING SEARCH DOG", "WAR DOG", "DETECTION DOG", "POLICE WORK DOG", OR
36 "THERAPY DOG", AS MAY BE APPROPRIATE, BY THE CLERK OR AUTHORIZED DOG
37 CONTROL OFFICER.

38 3. IN ADDITION TO THE FEE CHARGED PURSUANT TO SUBDIVISIONS ONE AND TWO
39 OF THIS SECTION, ALL MUNICIPALITIES ISSUING DOG LICENSES PURSUANT TO
40 THIS ARTICLE ARE REQUIRED TO PROVIDE FOR THE ASSESSMENT OF ADDITIONAL
41 SURCHARGES FOR THE PURPOSES OF CARRYING OUT ANIMAL POPULATION CONTROL
42 EFFORTS AS PROVIDED IN SECTION ONE HUNDRED SEVENTEEN-A OF THIS ARTICLE.

43 4. IN ADDITION TO THE FEE CHARGED PURSUANT TO SUBDIVISIONS ONE AND TWO
44 OF THIS SECTION, ANY MUNICIPALITY ISSUING DOG LICENSES PURSUANT TO THIS
45 ARTICLE IS HEREBY AUTHORIZED TO PROVIDE FOR THE REASSESSMENT OF ADDI-
46 TIONAL SURCHARGES FOR THE PURPOSE OF:

47 (A) RECOVERING COSTS ASSOCIATED WITH ENUMERATION CONDUCTED PURSUANT TO
48 SUBDIVISION SIX OF SECTION ONE HUNDRED THIRTEEN OF THIS ARTICLE SHOULD A
49 DOG BE IDENTIFIED AS UNLICENSED DURING SUCH ENUMERATION. SUCH ADDITIONAL
50 FEE SHALL BE THE PROPERTY OF THE LICENSING MUNICIPALITY AND SHALL BE
51 USED TO PAY THE EXPENSES INCURRED BY THE MUNICIPALITY IN CONDUCTING THE
52 ENUMERATION. IN THE EVENT THE ADDITIONAL FEES COLLECTED EXCEED THE
53 EXPENSES INCURRED BY THE MUNICIPALITY IN CONDUCTING AN ENUMERATION IN
54 ANY YEAR, SUCH EXCESS FEES MAY BE USED BY THE MUNICIPALITY FOR ANY OTHER
55 LAWFUL PURPOSE; AND

(B) OFFSETTING COSTS ASSOCIATED WITH THE PROVISION AND REPLACEMENT OF IDENTIFICATION TAGS PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS ARTICLE.

5. EACH COPY OF ANY LICENSE FOR ANY GUIDE DOG, HEARING DOG, SERVICE DOG, WAR DOG, WORKING SEARCH DOG, DETECTION DOG, POLICE WORK DOG OR THERAPY DOG SHALL BE CONSPICUOUSLY MARKED "GUIDE DOG", "HEARING DOG", "SERVICE DOG", "WORKING SEARCH DOG", OR "THERAPY DOG".

6. ANY TOWN, CITY OR VILLAGE ASSESSING SURCHARGES PURSUANT TO SUBDIVISION THREE OF THIS SECTION MAY ADOPT A RESOLUTION EXEMPTING FROM THE PAYMENT OF SUCH SURCHARGES, DOGS OWNED BY ONE OR MORE PERSONS EACH OF WHOM IS SIXTY-FIVE YEARS OF AGE OR OVER.

S 6. Section 111 of the agriculture and markets law is REPEALED and section 112 of such law, as added by chapter 220 of the laws of 1978, subdivisions 1 and 5 as amended by chapter 645 of the laws of 1988, subdivision 7 as amended by chapter 494 of the laws of 2002 and subdivision 8 as added by chapter 169 of the laws of 1994, is renumbered section 111 and amended to read as follows:

S 111. Identification of dogs. 1. Each dog licensed pursuant to subdivision one of section one hundred nine of this article shall be assigned, at the time the dog is first licensed, a [permanent official] MUNICIPAL identification number. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dog at all times, provided that a [dog] MUNICIPALITY MAY EXEMPT DOGS participating in a dog show [shall be exempt from this requirement] during such participation.

2. [The official identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.

3. At the time a dog is first licensed, one identification tag shall be furnished to the owner at no charge. Any replacement tag shall be obtained by the owner at his expense at a fee and in a manner prescribed by the commissioner.

4.] No tag carrying an [official] identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.

[5. The holder of] 3. A MUNICIPALITY OFFERING a purebred license may [procure] PROVIDE A LICENSEE, at his OR HER expense, any number of tags imprinted with the same number as the purebred license. One such tag shall be affixed to the collar of each dog harbored pursuant to the purebred license at all times, provided that a dog participating in a dog show shall be exempt from this requirement during such participation. Such a tag shall be affixed only to the collar of a dog owned by the holder of the purebred license and harbored on his premises.

[6. The shape, size and form of imprints on identification tags and purebred license tags shall be prescribed by the commissioner, and any tag bearing an imprint other than that prescribed shall not constitute valid identification for the purposes of this article.

7. The applicant for] 4. A MUNICIPALITY OFFERING a license for any guide dog, service dog, hearing dog or detection dog may [procure] ISSUE a special tag for identifying such dog[. This special], PROVIDED THAT SUCH tag shall be in addition to the identification tag required by subdivision one of this section. [The commissioner shall prescribe the shape, size, color, and form of imprint of the tag which shall be a different color and shape than the official identification tag. Upon

1 application, the commissioner shall furnish such tags without payment of
2 a fee.

3 8. Fees received by the department pursuant to this section shall be
4 deposited in an account within the miscellaneous special revenue fund.]

5 S 7. Section 113 of the agriculture and markets law, as amended by
6 chapter 57 of the laws of 1981, is renumbered section 112 and amended to
7 read as follows:

8 S 112. Change of ownership; lost or stolen dog. 1. In the event of a
9 change in the ownership of any dog which has been [assigned an official
10 identification number] LICENSED PURSUANT TO THIS ARTICLE or in the
11 address of the owner of record of any such dog, the owner of record
12 shall, within ten days of such change, file with the [commissioner]
13 MUNICIPALITY IN WHICH THE DOG IS LICENSED a written report of such
14 change. Such owner of record shall be liable for any violation of this
15 article until such filing is made or until the dog is licensed in the
16 name of the new owner.

17 2. If any dog which has been [assigned an official identification
18 number] LICENSED PURSUANT TO THIS ARTICLE is lost or stolen, the owner
19 of record shall, within ten days of the discovery of such loss or theft
20 file with the [commissioner] MUNICIPALITY IN WHICH THE DOG IS LICENSED a
21 written report of such loss or theft. In the case of a loss or theft,
22 the owner of record of any such dog shall not be liable for any
23 violation of this article committed after such report is filed.

24 3. In the case of a dog's death, the owner of record shall so notify
25 the [commissioner] MUNICIPALITY IN WHICH THE DOG IS LICENSED either
26 prior to renewal of licensure or upon the time of such renewal as set
27 forth [in subdivision one of section one hundred nine of this chapter.
28 Until such time that the commissioner files such information with] BY
29 the [central registry of official identification numbers, said number
30 shall not be reassigned. Failure to notify] MUNICIPALITY IN WHICH THE
31 the [commissioner of the death of a dog as so required herein shall
32 constitute a violation and the owner of record shall be held liable] DOG
33 IS LICENSED.

34 S 8. Section 114 of the agriculture and markets law, as added by chap-
35 ter 220 of the laws of 1978, subdivisions 2 and 4 as amended by chapter
36 714 of the laws of 1980, subdivision 4 as separately amended and subdi-
37 vision 5 as amended by chapter 843 of the laws of 1980 and subdivision 7
38 as amended by chapter 180 of the laws of 2002, is renumbered section 113
39 and amended to read as follows:

40 S 113. Dog control officers. 1. Each town and city, and each village
41 in which licenses are issued, shall appoint, and any other village and
42 any county may appoint, one or more dog control officers for the purpose
43 of assisting, within the appointing municipality, with the control of
44 dogs and the enforcement of this article [and rules and regulations
45 promulgated pursuant thereto].

46 2. In lieu of or in addition to the appointment of a dog control offi-
47 cer or officers, any town or city, or any village in which licenses are
48 issued shall, and any other village and any county may, contract for dog
49 control officer services with any other municipality or with any incor-
50 porated humane society or similar incorporated dog protective associ-
51 ation, or shall appoint, jointly with one or more other municipalities,
52 one or more dog control officers having jurisdiction in each of the
53 cooperating municipalities.

54 3. [The commissioner may appoint as many state dog control officers as
55 he deems necessary to supervise the provisions of this article and any
56 rules and regulations adopted pursuant thereto.

1 4.] Every dog control officer shall have the power to issue an appear-
2 ance ticket pursuant to section 150.20 of the criminal procedure law, to
3 serve a summons and to serve and execute any other order or process in
4 the execution of the provisions of this article. In addition, any dog
5 control officer or any peace officer, when acting pursuant to his
6 special duties, or police officer, who is authorized by a municipality
7 to assist in the enforcement of this article may serve any process,
8 including an appearance ticket, a uniform appearance ticket and a
9 uniform appearance ticket and simplified information, related to any
10 proceeding, whether criminal or civil in nature undertaken in accord
11 with the provisions of this article or any local law or ordinance
12 promulgated pursuant thereto.

13 [5] 4. Every dog control officer, peace officer, when acting pursuant
14 to his special duties or police officer shall promptly make and maintain
15 a complete record of any seizure and subsequent disposition of any dog.
16 Such record shall include, but not be limited to, a description of the
17 dog, the date and hour of seizure, the official identification number of
18 such dog, if any, the location where seized, the reason for seizure, and
19 the owner's name and address, if known.

20 [6] 5. Every dog control officer shall file and maintain[, in the
21 manner prescribed by the commissioner,] such records [as may be required
22 by this article or rules and regulations promulgated pursuant thereto]
23 FOR NOT LESS THAN THREE YEARS FOLLOWING THE CREATION OF SUCH RECORD, and
24 shall make such reports AVAILABLE to the commissioner [as may be
25 required thereby] UPON REQUEST.

26 [7] 6. The governing body of any municipality in which licenses are
27 issued, may, either individually or in cooperation with other municipal
28 entities, require its dog control officer or animal control officer or
29 any other authorized agent to ascertain and list the names of all
30 persons in the municipality owning or harboring dogs, or in lieu there-
31 of, such municipality may contract to have the same done.

32 S 9. Sections 115 and 116 of the agriculture and markets law are
33 renumbered sections 114 and 115.

34 S 10. Section 117 of the agriculture and markets law is renumbered
35 section 116.

36 S 11. Section 117-a of the agriculture and markets law, as added by
37 chapter 473 of the laws of 1995, subdivisions 1, 2-a, 4 and 7 as amended
38 by chapter 205 of the laws of 2000, subdivision 2, the opening paragraph
39 of subdivision 2-a and paragraph (c) of subdivision 3 as amended by
40 chapter 534 of the laws of 2005, is amended to read as follows:

41 S 117-a. Animal population control program. 1. [The department shall]
42 ANY MUNICIPALITY MAY establish and implement an animal population
43 control program. The purpose of this program shall be to reduce the
44 population of unwanted and stray dogs and cats thereby reducing poten-
45 tial threats to public health and safety posed by the large population
46 of these animals. This program shall seek to accomplish its purpose by
47 encouraging residents of New York state who are the owners of dogs and
48 cats to have them spayed or neutered by providing low-cost spaying and
49 neutering services to such owners meeting the criteria enumerated in
50 subdivision two of this section. [The department shall use its best
51 efforts to encourage every adoption facility that qualifies for partic-
52 ipation in the low-cost spay-neuter program to do so to the maximum
53 possible extent.] ADDITIONALLY, SUCH LICENSED VETERINARIAN SHALL CERTIFY
54 THAT THE FEES CHARGED FOR LOW COST SPAY-NEUTER PROCEDURES ARE LESS THAN
55 THE LOWEST FEES CHARGED TO A PRIVATE CLIENT FOR SUCH PROCEDURES DURING
56 THE PREVIOUS YEAR.

1 2. In order to be eligible to participate in the animal population
2 control program, and therefore, be entitled to the low-cost spay/neuter
3 services provided for herein, an owner of a dog or cat shall be a resi-
4 dent of New York state and shall submit proof to [a veterinarian partic-
5 ipating in the program] THE ENTITY PROVIDING SUCH SERVICES as follows:

6 (a) in the form of an adoption agreement that their dog or cat was
7 adopted from a pound, shelter, duly incorporated society for the
8 prevention of cruelty to animals, humane society or dog or cat protec-
9 tive association; or

10 (b) proof of participation in at least one of the following:

11 (i) the food stamp program authorized pursuant to 7 U.S.C. 2011, et
12 seq.;

13 (ii) the supplemental security income for the aged, blind and disabled
14 program authorized pursuant to 42 U.S.C. 1381 et seq.;

15 (iii) the low income housing assistance program authorized pursuant to
16 42 U.S.C. 1437(f);

17 (iv) the Family Assistance program authorized pursuant to title ten of
18 article five of the social services law;

19 (v) the Safety Net Assistance program authorized pursuant to title
20 three of article five of the social services law;

21 (vi) the program of Medical Assistance authorized pursuant to title
22 eleven of article five of the social services law; [or

23 (vii) the food assistance program authorized pursuant to subdivision
24 ten of section ninety-five of the social services law;] and

25 (c) in any city, town, village, or county which has enacted a local
26 law or ordinance requiring spay/neuter of all dogs and cats prior to
27 adoption from shelters, pounds, duly incorporated societies for the
28 prevention of cruelty to animals, humane societies and duly incorporated
29 dog or cat protective associations within such city, town, village or
30 county, eligibility for participation in the animal population control
31 program shall be determined based solely on the provisions of paragraph
32 (b) of this subdivision.

33 2-a. Notwithstanding the provisions of paragraph (a) of subdivision
34 two of this section, no resident, otherwise qualified pursuant to such
35 paragraph, shall be entitled to participate in the low cost spay/neuter
36 program implemented by this section if the animal to be spayed or
37 neutered:

38 (a) was imported or caused to be imported from outside the state;

39 (b) was adopted from an otherwise qualifying pound, shelter, duly
40 incorporated society for the prevention of cruelty to animals, humane
41 society or dog or cat protective association which included the cost of
42 a spaying or neutering procedure in the cost of the adoption[;

43 (c) was spayed or neutered by an otherwise eligible veterinarian who
44 is employed by otherwise qualifying pounds, shelters, duly incorporated
45 societies for the prevention of cruelty to animals, humane societies or
46 dog or cat protective associations except to the extent that they shall
47 have performed spay/neuter procedures in excess of the number of such
48 procedures done upon animals adopted from such facility during nineteen
49 hundred ninety-four; or

50 (d) was adopted from any facility that as a condition of adoption,
51 required or encouraged the utilization of a specific veterinarian or
52 veterinary facility to perform such spay or neuter procedure. The estab-
53 lishment of such conditions by a facility shall constitute grounds for
54 the disqualification of such facility to participate in the program.
55 Nothing contained in this section shall be construed as precluding a
56 facility from informing a person adopting an animal of the identity of

1 those participating veterinarians in the vicinity of such facility in
2 addition to providing them with the voucher provided under this section
3 and any accompanying materials.

4 3. Any person submitting a dog or cat for spaying or neutering pursu-
5 ant to the provisions of this section shall:

6 (a) Furnish any licensed veterinarian of this state participating in
7 the program with proof that the owner meets the eligibility criteria
8 pursuant to the provisions of subdivisions two and two-a of this
9 section;

10 (b) Sign a consent form certifying that the person is the owner of the
11 dog or cat or is authorized by the owner to present the dog or cat for
12 the procedure;

13 (c) Pay a fee of thirty dollars to the veterinarian participating in
14 the program if such dog or cat was adopted from a duly incorporated
15 pound, shelter, duly incorporated society for the prevention of cruelty
16 to animals, humane society or duly incorporated dog or cat protective
17 association, or pay a fee of twenty dollars to the veterinarian partic-
18 ipating in the program if such person participates in any of the
19 programs enumerated in paragraph (b) of subdivision two of this section.
20 When eligibility to participate in the animal population control program
21 is based upon participation in a program enumerated in paragraph (b) of
22 subdivision two of this section, the department shall issue vouchers to
23 dog and cat owners upon provision of requisite proof required under
24 paragraph (b) of subdivision two of this section and in accordance with
25 any rules and regulations promulgated by the commissioner.

26 4. (a) Any licensed veterinarian of this state including, but not
27 limited to, licensed veterinarians working at municipal facilities which
28 provide dog and cat spaying and neutering services, other than with
29 respect to animals who would not be eligible pursuant to subdivision
30 two-a of this section may participate in the program upon filing with
31 the commissioner an application therefor, on forms prescribed by the
32 commissioner, which application shall certify, in addition to any other
33 information requested by the commissioner, an animal sterilization fee
34 schedule listing the fees charged for spaying and neutering in the
35 normal course of business and for the presurgical immunization of dogs
36 against distemper, hepatitis, leptospirosis, parvovirus and rabies, or
37 if deemed necessary for the presurgical immunization of cats against
38 feline panleukopenia, calici, pneumonitis, rhinotracheitis and rabies,
39 as the case may be on the first day of January two thousand one and the
40 first day of January each third year thereafter and the number of
41 spay/neuter procedures done by such facility during such period. Addi-
42 tionally, such licensed veterinarian shall certify that the fees charged
43 for procedures and vaccinations for which reimbursement is sought are
44 equal to or less than the lowest fees charged to a private client for
45 such procedures during the previous year. The veterinarian shall also
46 provide the name of the veterinarian, animal hospital, veterinary clinic
47 or other entity to which such reimbursement is to be made. These fees
48 may vary with the animal's weight, sex and species. The commissioner
49 may, however, disqualify from participation in the program any veterina-
50 rian whose fees are deemed unreasonable. Nothing contained in this
51 subdivision shall limit the right of the state education department to
52 undertake such actions as it may deem necessary to enforce the
53 provisions of article one hundred thirty-five of the education law.

54 (b) Licensed veterinarians of this state participating in the program
55 shall provide, if deemed necessary, for the presurgical immunization of
56 dogs against distemper, hepatitis, leptospirosis, parvovirus and rabies,

1 or if deemed necessary, for the presurgical immunization of cats against
2 feline panleukopenia, calici, pneumonitis, rhinotracheitis and rabies,
3 as the case may be. Charges for such services to the owner or person
4 submitting the dog or cat for spaying or neutering shall be no more than
5 fifty percent of the amount certified pursuant to paragraph (a) of this
6 subdivision. In addition to other reimbursement to which a licensed
7 veterinarian may be entitled under this section, a veterinarian may seek
8 reimbursement for expenses incurred as a direct result of extraordinary
9 circumstances which occurred during the course of a spay/neuter proce-
10 dure up to an amount approved by the department which shall not exceed
11 twenty percent of such veterinarian's fee for performing such procedure.

12 (c) The state comptroller upon the submission of vouchers by the
13 commissioner shall, to the extent that monies are available from the
14 animal population control fund, reimburse participating veterinarians
15 for eighty percent of the balance of the fee charged pursuant to para-
16 graph (a) of this subdivision, and after deducting that portion of the
17 fee already paid to the veterinarian by those persons participating in
18 the program pursuant to paragraph (c) of subdivision three of this
19 section, for each animal spaying and neutering procedure administered
20 after the submission to the commissioner of an animal sterilization
21 certificate, prescribed by the commissioner, signed by the veterinarian
22 and the owner of the animal or person authorized by the owner, for each
23 spaying and neutering procedure performed in conjunction with the animal
24 population control program. Notwithstanding the foregoing provisions,
25 the state comptroller shall not reimburse veterinarians for any voucher
26 which shall have been issued by the commissioner more than one year
27 prior to the date upon which it is submitted to the commissioner unless
28 the commissioner shall indicate good cause for the payment of such
29 voucher. If the moneys are not immediately available from such fund, the
30 commissioner shall give priority to approving reimbursement to partic-
31 ipating veterinarians from counties from which the amount of fees depos-
32 ited in such fund, after taking into consideration the administrative
33 expenses to which the department is entitled, exceeds the money paid out
34 to participating veterinarians in such counties. The participating
35 veterinarian shall submit to the commissioner within sixty days of each
36 animal spaying and neutering procedure an animal sterilization certif-
37 icate for the purposes of reimbursement. Notwithstanding the provisions
38 of this paragraph, the commissioner shall not approve reimbursement to
39 municipal facilities, not-for-profit organizations, pounds, shelters,
40 duly incorporated societies for the prevention of cruelty to animals,
41 humane societies or dog or cat protective associations except to the
42 extent that they shall have performed spay/neuter procedures in excess
43 of the number of such procedures done by it during nineteen hundred
44 ninety-four.

45 5. The commissioner may solicit and accept funds from any public or
46 private source to help carry out the provisions of this section.

47 6. All fees collected pursuant to this section and paragraph c of
48 subdivision four of section one hundred ten of this article shall be
49 deposited in a miscellaneous special revenue fund known as the animal
50 population control fund. An amount not to exceed fifteen percent of the
51 balance of the fund at the beginning of each fiscal year, following
52 appropriation by the legislature and allocation by the director of the
53 budget, shall be available for the purposes of implementation and
54 promotion of the program. Such promotion shall include educating the
55 public about the benefits associated with spaying and neutering. The
56 remaining monies shall be used exclusively for the reimbursement to

1 participating veterinarians pursuant to paragraph (b) of subdivision
2 four of this section.

3 7. The commissioner shall, in consultation with such professional
4 organizations as the commissioner deems appropriate, develop a list of
5 veterinarians approved by the commissioner to participate in the low-
6 cost spay/neuter program who provide care, including, but not limited
7 to, spay/neuter procedures, to dogs and cats. Any otherwise qualifying
8 pound, shelter, duly incorporated society for the prevention of cruelty
9 to animals, humane society, or dog or cat protective association shall
10 distribute such list of approved veterinarians to persons adopting a dog
11 or a cat as a precondition to reimbursement under the low-cost
12 spay/neuter program established in this section. In addition to such
13 distribution, such pound, shelter, duly incorporated society for the
14 prevention of cruelty to animals, humane society or dog or cat protec-
15 tive association shall not discriminate against any veterinarian on such
16 list or directly or indirectly require, direct or recommend the utiliza-
17 tion or non-utilization of any such veterinarian for any procedure for
18 which reimbursement is to be sought under this program. Such discrimi-
19 nation may, in the discretion of the commissioner, constitute grounds
20 for the revocation of the right of such facility to participate in the
21 program].

22 3. ANY MUNICIPALITY CREATING ITS OWN PROGRAM MAY SUBMIT A PLAN FOR
23 SUCH PROGRAM FOR APPROVAL AND TO RECEIVE FUNDING FROM THE ANIMAL POPU-
24 LATION CONTROL FUND PURSUANT TO SECTION NINETY-SEVEN-XX OF THE STATE
25 FINANCE LAW. SUCH PLAN SHALL INCLUDE BUT NOT BE LIMITED TO THE CRITERIA
26 DESCRIBED THEREIN.

27 4. ANY MUNICIPALITY CREATING ITS OWN PROGRAM MAY RETAIN THE FUNDS
28 COLLECTED PURSUANT TO SUBDIVISION THREE OF SECTION ONE HUNDRED TEN OF
29 THIS ARTICLE FOR THE SOLE PURPOSE OF ADMINISTERING SUCH PROGRAM.

30 5. ANY MUNICIPALITY THAT DOES NOT CREATE ITS OWN PROGRAM MUST SUBMIT
31 THE FUNDS COLLECTED PURSUANT TO SUBDIVISION THREE OF SECTION ONE HUNDRED
32 TEN OF THIS ARTICLE TO THE ANIMAL POPULATION CONTROL FUND PURSUANT TO
33 SECTION NINETY-SEVEN-XX OF THE STATE FINANCE LAW.

34 6. IF A MUNICIPALITY DOES NOT CREATE ITS OWN ANIMAL POPULATION CONTROL
35 PROGRAM, ENTITIES DESCRIBED HEREIN WITHIN SUCH MUNICIPALITY MAY APPLY
36 FOR FUNDS FROM THE ANIMAL POPULATION CONTROL FUND PURSUANT TO SECTION
37 NINETY-SEVEN-XX OF THE STATE FINANCE LAW FOR THE SOLE PURPOSE OF PROVID-
38 ING LOW COST SPAY AND NEUTER SERVICES IN SUCH MUNICIPALITY. SUCH ENTI-
39 TIES SHALL INCLUDE POUNDS, DULY INCORPORATED SOCIETIES FOR THE
40 PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETIES,
41 AND DULY INCORPORATED ANIMAL PROTECTIVE ASSOCIATIONS.

42 7. ANY ENTITY WHICH HAS RECEIVED FUNDS FROM THE ANIMAL POPULATION
43 CONTROL FUND MUST SUBMIT A REPORT WITHIN ONE YEAR OF RECEIVING FUNDS
44 PURSUANT TO SUBDIVISION THREE OR FOUR OF THIS SECTION TO THE ADMINISTRA-
45 TIVE ENTITY DESCRIBED IN SECTION NINETY-SEVEN-XX OF THE STATE FINANCE
46 LAW. SUCH REPORT SHALL INCLUDE THE INFORMATION DESCRIBED IN SUBDIVISION
47 FOUR OF SECTION NINETY-SEVEN-XX OF THE STATE FINANCE LAW.

48 S 12. Section 118 of the agriculture and markets law is renumbered
49 section 117 and subdivisions 1, 4, 5 and 7, subdivision 1 as amended by
50 chapter 843 of the laws of 1980, paragraphs (c) and (d) of subdivision 1
51 as added by chapter 530 of the laws of 1997 and the closing paragraph of
52 subdivision 1 as amended by chapter 392 of the laws of 2004, subdivi-
53 sions 4 and 5 as added by chapter 220 of the laws of 1978, and subdivi-
54 sion 7 as amended by chapter 645 of the laws of 1988, are amended to
55 read as follows:

1 1. Any dog control officer or peace officer, acting pursuant to his
2 special duties, or police officer in the employ of or under contract to
3 a municipality shall seize:

4 (a) any dog which is not identified and which is not on the owner's
5 premises; [and]

6 (b) any dog which is not licensed, whether on or off the owner's prem-
7 ises[.];

8 (c) any licensed dog which is not in the control of its owner or
9 custodian or not on the premises of the dog's owner or custodian, if
10 there is probable cause to believe the dog is [a] dangerous [dog.]; AND

11 (d) any dog which poses an immediate threat to the public safety.

12 Promptly upon seizure the dog control officer shall commence a
13 proceeding as provided for in subdivision two of section [one hundred
14 twenty-one] ONE HUNDRED TWENTY-THREE of this article.

15 4. Each dog which is not identified, whether or not licensed, shall be
16 held for a period of five days from the day seized during which period
17 the dog may be redeemed by its owner, provided that such owner produces
18 proof that the dog has been licensed and has been identified pursuant to
19 the provisions of this article and further provided that the owner pays
20 the following impoundment fees:

21 (a) NOT LESS THAN ten dollars for the first impoundment of any dog
22 owned by that person;

23 (b) NOT LESS THAN twenty dollars for the first twenty-four hours or
24 part thereof and three dollars for each additional twenty-four hours or
25 part thereof for the second impoundment, within one year of the first
26 impoundment, of any dog owned by that person; or

27 (c) NOT LESS THAN thirty dollars for the first twenty-four hours or
28 part thereof and three dollars for each additional twenty-four hours or
29 part thereof for the third and subsequent impoundments, within one year
30 of the first impoundment, of any dog owned by that person.

31 The impoundment fees set forth in paragraphs (a), (b) and (c) of this
32 subdivision notwithstanding, any municipality may set by local law or
33 ordinance such fees in any amount.

34 5. All impoundment fees shall be the property of the municipality to
35 which they are paid and shall be used only for controlling dogs and
36 enforcing this article and any rule, regulation, or local law or ordi-
37 nance adopted pursuant thereto, including subsidizing the spaying or
38 neutering of dogs and any facility as authorized under section [one
39 hundred seventeen] ONE HUNDRED SIXTEEN of this article used therefor,
40 and subsidizing public humane education programs in responsible dog
41 ownership.

42 7. An owner shall forfeit title to any dog unredeemed at the expira-
43 tion of the appropriate redemption period, and the dog shall then be
44 made available for adoption or euthanized subject to the provisions of
45 subdivisions two-a, two-b, two-c, two-d, and two-e of section three
46 hundred seventy-four of this chapter. [Provided that no dog in the
47 custody of a pound or shelter shall be delivered for adoption unless it
48 has been licensed pursuant to the provisions of this article prior to
49 its release from the custody of a pound or shelter.] Any municipality
50 may by local law or ordinance establish additional conditions for
51 adoption including the requirement that adopted dogs shall be spayed or
52 neutered before or after release from custody upon such terms and condi-
53 tions as the municipality may establish.

54 S 13. Subdivision 7 of section 117 of the agriculture and markets law,
55 as amended by chapter 479 of the laws of 2009, such section as renum-
56 bered by section twelve of this act, is amended to read as follows:

1 7. An owner shall forfeit title to any dog unredeemed at the expira-
2 tion of the appropriate redemption period, and the dog shall then be
3 made available for adoption or euthanized subject to subdivisions six,
4 eight and nine of this section and subject to the provisions of section
5 three hundred seventy-four of this chapter. [Provided that no dog in the
6 custody of a pound or shelter shall be delivered for adoption unless it
7 has been licensed pursuant to the provisions of this article prior to
8 its release from the custody of a pound or shelter.] Any municipality
9 may by local law or ordinance establish additional conditions for
10 adoption including the requirement that adopted dogs shall be spayed or
11 neutered before or after release from custody upon such terms and condi-
12 tions as the municipality may establish.

13 S 14. Section 119 of the agriculture and markets law, as added by
14 chapter 220 of the laws of 1978, paragraph (c) of subdivision 1 as added
15 by chapter 404 of the laws of 1986, paragraph (g) of subdivision 1 as
16 amended and paragraph (h) of subdivision 1 as added by chapter 263 of
17 the laws of 2000, subdivision 2 as amended by chapter 221 of the laws of
18 1978, subdivision 3 as added and subdivision 4 as renumbered by chapter
19 714 of the laws of 1980, subdivisions 5 and 6 as added by chapter 473 of
20 the laws of 1995, paragraphs (a) and (b) of subdivision 5 as amended by
21 chapter 534 of the laws of 2005 and subdivision 7 as added by chapter
22 494 of the laws of 2002, is renumbered section 118 and amended to read
23 as follows:

24 S 118. Violations. 1. It shall be a violation, punishable as provided
25 in subdivision two of this section, for:

26 (a) any owner to fail to license any dog;

27 (b) any owner to fail to have any dog identified as required by this
28 article;

29 (c) any person to knowingly affix to any dog any false or improper
30 identification tag, special identification tag for identifying guide,
31 service or hearing dogs or purebred license tag;

32 [(f)] (D) any owner or custodian of any dog to fail to confine,
33 restrain or present such dog for any lawful purpose pursuant to this
34 article;

35 [(g)] (E) any person to furnish any false or misleading information on
36 any form required to be filed with any municipality [or the commission-
37 er] pursuant to the provisions of this article or rules and regulations
38 promulgated pursuant thereto;

39 [(h)] (F) the owner or custodian of any dog to fail to exercise due
40 diligence in handling his or her dog if the handling results in harm to
41 another dog that is a guide, hearing or service dog.

42 2. It shall be the duty of the dog control officer of any municipality
43 to bring an action against any person who has committed within such
44 municipality any violation set forth in subdivision one of this section.
45 Any municipality may elect either to prosecute such action as a
46 violation under the penal law or to commence an action to recover a
47 civil penalty.

48 A violation of this section shall be punishable, subject to such an
49 election, either:

50 (a) where prosecuted pursuant to the penal law, by a fine of not
51 [more] LESS than twenty-five dollars, except that (i) where the person
52 was found to have violated this section or former article seven of this
53 chapter within the preceding five years, the fine may be not [more] LESS
54 than fifty dollars, and (ii) where the person was found to have commit-
55 ted two or more such violations within the preceding five years, it

1 shall be punishable by a fine of not [more] LESS than one hundred
2 dollars or imprisonment for not more than fifteen days, or both; or

3 (b) where prosecuted as an action to recover a civil penalty, by a
4 civil penalty of not [more] LESS than twenty-five dollars, except that
5 (i) when the person was found to have violated this section or [former]
6 THIS article [seven of this chapter] within the preceding five years,
7 the civil penalty may be not [more] LESS than fifty dollars, and (ii)
8 where the person was found to have committed two or more such violations
9 within the preceding five years, the civil penalty may be not [more]
10 LESS than one hundred dollars.

11 3. A defendant charged with a violation of any provision of this arti-
12 cle or any local law or ordinance promulgated pursuant thereto may
13 [himself] plead guilty to the charge in open court. He OR SHE may also
14 submit to the magistrate having jurisdiction, in person, by duly author-
15 ized agent, or by registered mail, a statement (a) that he OR SHE waives
16 arraignment in open court and the aid of counsel, (b) that he OR SHE
17 pleads guilty to the offense charged, (c) that he OR SHE elects and
18 requests that the charge be disposed of and the fine or penalty fixed by
19 the court, (d) of any explanation that he OR SHE desires to make
20 concerning the offense charged, and (e) that he OR SHE makes all state-
21 ments under penalty of perjury. Thereupon the magistrate may proceed as
22 though the defendant had been convicted upon a plea of guilty in open
23 court, provided however, that any imposition of fine or penalty here-
24 under shall be deemed tentative until such fine or penalty shall have
25 been paid and discharged in full. If upon receipt of the aforesaid
26 statement the magistrate shall deny the same, he OR SHE shall thereupon
27 notify the defendant of this fact, and that he OR SHE is required to
28 appear before the said magistrate at a stated time and place to answer
29 the charge which shall thereafter be disposed of pursuant to the appli-
30 cable provisions of law.

31 4. [Any person who shall violate any other provision of this article
32 or rules and regulations promulgated pursuant thereto shall be subject
33 to the penalty provisions of sections thirty-nine and forty of this
34 chapter, but not section forty-one of this chapter. Such violations
35 shall include, but not be limited to, the following:

36 (a) failure of any owner of record to notify the commissioner of any
37 change of ownership or address as required by section one hundred thir-
38 teen of this article;

39 (b) failure of any person to perform any other duty or carry out any
40 other requirement imposed pursuant to the provisions of this article or
41 the rules and regulations promulgated pursuant thereto. Each day that
42 failure continues shall constitute a separate violation.

43 5. For the purpose of participating in the "animal population control
44 program" established under section one hundred seventeen-a of this arti-
45 cle, it shall be a violation punishable as provided in subdivision six
46 of this section, for:

47 (a) any person to falsify proof of adoption from a pound, shelter,
48 duly incorporated society for the prevention of cruelty to animals,
49 humane society or dog or cat protective association or to falsify proof
50 of participation in any of the programs enumerated in paragraph (b) of
51 subdivision two of section one hundred seventeen-a of this article;

52 (b) any person to furnish any licensed veterinarian of this state with
53 inaccurate information concerning his or her residency or the ownership
54 of an animal or such person's authority to submit an animal for a spay-
55 ing or neutering procedure pursuant to section one hundred seventeen-a
56 of this article or to knowingly furnish the department or any licensed

1 veterinarian of this state with inaccurate information concerning his or
2 her participation in any of the programs enumerated in paragraph (b) of
3 subdivision two of section one hundred seventeen-a of this article;

4 (c) any licensed veterinarian to furnish the commissioner with false
5 information concerning an animal sterilization fee schedule or an animal
6 sterilization certificate submitted pursuant to subdivision four of
7 section one hundred seventeen-a of this article.

8 6. Any person or veterinarian who violates the provisions of subdivi-
9 sion five of this section or any rule or regulation promulgated by the
10 commissioner to carry out the provisions of section one hundred seven-
11 teen-a of this article shall be subject to a fine of not more than two
12 hundred fifty dollars where prosecuted pursuant to the penal law, or
13 where prosecuted as an action to recover a civil penalty of not more
14 than two hundred fifty dollars.

15 7.] Any person who intentionally refuses, withholds, or denies a
16 person, because [they are] HE OR SHE IS accompanied by an on-duty police
17 work dog, working search, war, or detection dog as defined in section
18 one hundred eight of this article, any accommodations, facilities, or
19 privileges thereof shall be subject to a civil penalty of up to two
20 hundred dollars for the first violation and up to four hundred dollars
21 for each subsequent violation.

22 S 15. Section 120 of the agriculture and markets law, as added by
23 chapter 220 of the laws of 1978, is renumbered section 119 and amended
24 to read as follows:

25 S 119. Disposition of fines. Notwithstanding any other provision of
26 law, all moneys collected as fines or penalties by any municipality as a
27 result of any prosecution for violations of the provisions of this arti-
28 cle or any local law or ordinance and all bail forfeitures by persons
29 charged with such violations shall be the property of the municipality
30 and shall be paid to the financial officer of such municipality. Such
31 moneys shall be used only for controlling dogs and enforcing this arti-
32 cle and any rule, regulation, or local law or ordinance adopted pursuant
33 thereto, including subsidizing the spaying or neutering of dogs and any
34 facility as authorized under section [one hundred seventeen] ONE HUNDRED
35 SIXTEEN of this article used therefor, and subsidizing public humane
36 education programs in responsible dog ownership.

37 S 16. Section 122 of the agriculture and markets law is renumbered
38 section 120.

39 S 17. Section 123 of the agriculture and markets law is renumbered
40 section 121.

41 S 18. Section 121 of the agriculture and markets law is renumbered
42 section 123, and subdivisions 1 and 2 as amended by chapter 392 of the
43 laws of 2004, are amended to read as follows:

44 1. Any person who witnesses an attack or threatened attack, or in the
45 case of a minor, an adult acting on behalf of such minor, may make a
46 complaint of an attack or threatened attack upon a person, companion
47 animal AS DEFINED IN SECTION THREE HUNDRED FIFTY OF THIS CHAPTER, farm
48 animal as defined in [subdivision twenty-four of] SUCH section [one
49 hundred eight of this article] THREE HUNDRED FIFTY, or a domestic animal
50 as defined in subdivision seven of section one hundred eight of this
51 article to a dog control officer or police officer of the appropriate
52 municipality. Such officer shall immediately inform the complainant of
53 his OR HER right to commence a proceeding as provided in subdivision two
54 of this section and, if there is reason to believe the dog is a danger-
55 ous dog, the officer shall forthwith commence such proceeding himself OR
56 HERSELF.

1 2. Any person who witnesses an attack or threatened attack, or in the
2 case of a minor, an adult acting on behalf of such minor, may, and any
3 dog control officer or police officer as provided in subdivision one of
4 this section shall, make a complaint under oath or affirmation to any
5 municipal judge or justice of such attack or threatened attack. There-
6 upon, the judge or justice shall immediately determine if there is prob-
7 able cause to believe the dog is a dangerous dog and, if so, shall issue
8 an order to any dog control officer, peace officer, acting pursuant to
9 his OR HER special duties, or police officer directing such officer to
10 immediately seize such dog and hold the same pending judicial determi-
11 nation as provided in this section. Whether or not the judge or justice
12 finds there is probable cause for such seizure, he OR SHE shall, within
13 five days and upon written notice of not less than two days to the owner
14 of the dog, hold a hearing on the complaint. The petitioner shall have
15 the burden at such hearing to prove the dog is a "dangerous dog" by
16 clear and convincing evidence. If satisfied that the dog is a dangerous
17 dog, the judge or justice shall then order neutering or spaying of the
18 dog, microchipping of the dog and one or more of the following as deemed
19 appropriate under the circumstances and as deemed necessary for the
20 protection of the public:

21 (a) evaluation of the dog by a certified applied behaviorist, a board
22 certified veterinary behaviorist, or another recognized expert in the
23 field and completion of training or other treatment as deemed appropri-
24 ate by such expert. The owner of the dog shall be responsible for all
25 costs associated with evaluations and training ordered under this
26 section;

27 (b) secure, humane confinement of the dog for a period of time and in
28 a manner deemed appropriate by the court but in all instances in a
29 manner designed to: (1) prevent escape of the dog, (2) protect the
30 public from unauthorized contact with the dog, and (3) to protect the
31 dog from the elements pursuant to section three hundred fifty-three-b of
32 this chapter. Such confinement shall not include lengthy periods of
33 tying or chaining;

34 (c) restraint of the dog on a leash by an adult of at least twenty-one
35 years of age whenever the dog is on public premises;

36 (d) muzzling the dog whenever it is on public premises in a manner
37 that will prevent it from biting any person or animal, but that shall
38 not injure the dog or interfere with its vision or respiration; or

39 (e) maintenance of a liability insurance policy in an amount deter-
40 mined by the court, but in no event in excess of one hundred thousand
41 dollars for personal injury or death resulting from an attack by such
42 dangerous dog.

43 S 19. Section 121-a of the agriculture and markets law is renumbered
44 section 123-a.

45 S 20. Section 121-b of the agriculture and markets law is renumbered
46 section 123-b.

47 S 21. Section 124 of the agriculture and markets law is renumbered
48 section 122 and subdivision 1 of such section, as amended by chapter 714
49 of the laws of 1980, is amended to read as follows:

50 1. Any municipality may enact a local law or ordinance upon the keep-
51 ing or running at large of dogs and the seizure thereof, provided no
52 municipality shall vary, modify, enlarge or restrict the provisions of
53 this article relating to [identification, licensing,] rabies vaccination
54 and euthanization.

1 S 22. Section 126 of the agriculture and markets law, as added by
2 chapter 220 of the laws of 1978, is renumbered section 124 and amended
3 to read as follows:

4 S 124. [Duties and powers] POWERS of commissioner. [1. The commission-
5 er shall:

6 (a) supervise the enforcement of this article;

7 (b) maintain a central registry of official identification numbers;

8 (c) prescribe the form of all notices, reports and other papers and
9 documents required by this article and the rules and regulations promul-
10 gated pursuant thereto; and

11 (d) prescribe the manner in which all reports required by this article
12 and the rules or regulations promulgated thereto are to be filed and
13 maintained, and all licenses issued or validated; and

14 (e) furnish all forms and other supplies, including identification
15 tags and preprinted license applications, necessary for the implementa-
16 tion and enforcement of this article and the rules and regulations
17 promulgated pursuant thereto; and

18 (f) supply, for identification purposes, names and addresses of owners
19 of record of identified dogs immediately upon request; and

20 (g) furnish such information and assistance to dog control officers as
21 he deems necessary for enforcement purposes.

22 2.] The commissioner is hereby authorized to:

23 (a) promulgate, after public hearing, such rules and regulations as
24 are necessary to supplement and give full effect to the provisions of
25 SECTIONS ONE HUNDRED THIRTEEN, ONE HUNDRED FOURTEEN AND ONE HUNDRED
26 SEVENTEEN OF this article; and

27 (b) exercise all other powers and functions as are necessary to carry
28 out the duties and purposes set forth in SECTIONS ONE HUNDRED THIRTEEN,
29 ONE HUNDRED FOURTEEN AND ONE HUNDRED SEVENTEEN OF this article.

30 S 23. Subdivision 5 of section 373 of the agriculture and markets law,
31 as amended by chapter 674 of the laws of 1980, is amended to read as
32 follows:

33 5. Nothing herein contained shall restrict the rights and powers
34 derived from section one hundred [eighteen] SEVENTEEN of this chapter
35 relating to seizure of unlicensed dogs and the disposition to be made of
36 animals so seized or taken, nor those derived from any other general or
37 special law relating to the seizure or other taking of dogs and other
38 animals by a society for the prevention of cruelty to animals.

39 S 24. Subparagraph 2 of paragraph b of subdivision 6 of section 373 of
40 the agriculture and markets law, as amended by chapter 256 of the laws
41 of 1997, is amended to read as follows:

42 (2) If the court orders the posting of a security, the security shall
43 be posted with the clerk of the court within five business days of the
44 hearing provided for in subparagraph one of this paragraph. The court
45 may order the immediate forfeiture of the seized animal to the impound-
46 ing organization if the person ordered to post the security fails to do
47 so. Any animal forfeited shall be made available for adoption or euthan-
48 ized subject to subdivision seven-a of section [one hundred eighteen]
49 ONE HUNDRED SEVENTEEN of this chapter or section three hundred seventy-
50 four of this article.

51 S 25. Paragraph (d) of subdivision 2 of section 209-cc of the general
52 municipal law, as amended by chapter 392 of the laws of 2004, is amended
53 to read as follows:

54 (d) the term "dangerous dog" means a dog found dangerous pursuant to
55 the provisions of section [one hundred twenty-one] ONE HUNDRED
56 TWENTY-THREE of the agriculture and markets law.

1 S 26. Section 97-xx of the state finance law, as added by chapter 473
2 of the laws of 1995, is amended to read as follows:

3 S 97-xx. Animal population control fund. 1. There is hereby estab-
4 lished in the joint custody of the state comptroller and the commission-
5 er of taxation and finance a fund to be known as the "animal population
6 control fund".

7 2. Such fund shall consist of all moneys collected pursuant to [para-
8 graph c of] subdivision [four] THREE of section one hundred ten of the
9 agriculture and markets law, [subdivision five of] section one hundred
10 seventeen-a of the agriculture and markets law, and section three-a of
11 chapter one hundred fifteen of the laws of eighteen hundred ninety-four,
12 and all other moneys credited or transferred thereto from any other fund
13 or source pursuant to law.

14 3. Moneys of the fund shall be expended for the purposes of carrying
15 out the provisions of section one hundred seventeen-a of the agriculture
16 and markets law. Moneys shall be paid out of the fund on the audit and
17 warrant of the state comptroller [on vouchers approved by the commis-
18 sioner of agriculture and markets] PURSUANT TO SUBDIVISION FOUR OF THIS
19 SECTION. Any interest received by the comptroller on moneys on deposit
20 in the animal population control fund shall be retained in and become
21 part of such fund.

22 4. THE COMMISSIONER OF AGRICULTURE AND MARKETS SHALL SUBMIT A REQUEST
23 FOR PROPOSALS FROM NOT-FOR-PROFIT ENTITIES AS DESCRIBED HEREIN FOR THE
24 PURPOSE OF ADMINISTERING THE STATE ANIMAL POPULATION CONTROL FUND. SUCH
25 ENTITIES SHALL CONSIST OF POUNDS, DULY INCORPORATED SOCIETIES FOR THE
26 PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETIES,
27 AND DULY INCORPORATED ANIMAL PROTECTIVE ASSOCIATIONS. IN AWARDING THE
28 CONTRACT, THE COMMISSIONER OF AGRICULTURE AND MARKETS MUST CONSIDER THE
29 FOLLOWING CRITERIA WITH RESPECT TO EACH APPLICANT: ITS EXPERIENCE IN
30 PROVIDING LOW COST SPAY-NEUTER SERVICES, THE SCOPE AND DURATION OF
31 SERVICES IT PROVIDES, ITS FINANCIAL HISTORY, AND ITS DEMONSTRATED ABILI-
32 TY TO WORK WITH OUTSIDE ORGANIZATIONS AND COMMUNITY GROUPS. THE COMMIS-
33 SIONER OF AGRICULTURE AND MARKETS MAY ESTABLISH SUCH OTHER CRITERIA AS
34 SUCH COMMISSIONER MAY DETERMINE IN CONSULTATION WITH VETERINARIANS,
35 REPRESENTATIVES FROM ANIMAL ADVOCACY AND WELFARE ORGANIZATIONS, AND
36 MUNICIPALITIES. THE SELECTION OF THE ADMINISTRATIVE ENTITY OVERSEEING
37 THE STATE ANIMAL POPULATION CONTROL FUND MUST BE COMPLETED NO LATER THAN
38 DECEMBER THIRTY-FIRST, TWO THOUSAND TEN.

39 (A) SUCH ADMINISTRATIVE ENTITY SHALL REVIEW PLANS SUBMITTED FOR
40 APPROVAL AND FUNDING AS DESCRIBED IN SECTION ONE HUNDRED SEVENTEEN-A OF
41 THE AGRICULTURE AND MARKETS LAW. IN REVIEWING THE PLANS, THE ENTITY MUST
42 CONSIDER THE FOLLOWING CRITERIA: THE METHOD OF PROVIDING LOW COST SPAY-
43 NEUTER SERVICES, THE SIZE OF THE POPULATION SERVED, THE PLAN FOR
44 OUTREACH AND PROMOTION OF SUCH SERVICES, AND EXPERIENCE IN PROVIDING LOW
45 COST SPAY-NEUTER SERVICES.

46 (B) UPON APPROVING A PLAN SUBMITTED PURSUANT TO SECTION ONE HUNDRED
47 SEVENTEEN-A OF THE AGRICULTURE AND MARKETS LAW, THE ADMINISTRATIVE ENTI-
48 TY SHALL AWARD A ONE-TIME GRANT FOR THE IMPLEMENTATION OF SUCH PLAN.

49 (C) SUCH ADMINISTRATIVE ENTITY SHALL REVIEW PLANS SUBMITTED FOR
50 APPROVAL AND FUNDING AS DESCRIBED IN SECTION ONE HUNDRED SEVENTEEN-A OF
51 THE AGRICULTURE AND MARKETS LAW. IN REVIEWING THE PLANS, THE ENTITY MUST
52 CONSIDER THE FOLLOWING CRITERIA: THE METHOD OF PROVIDING LOW COST SPAY-
53 NEUTER SERVICES, THE SIZE OF THE POPULATION SERVED, THE PLAN FOR
54 OUTREACH AND PROMOTION OF SUCH SERVICES, AND EXPERIENCE IN PROVIDING LOW
55 COST SPAY-NEUTER SERVICES.

(D) UPON APPROVING A PLAN SUBMITTED PURSUANT TO SECTION ONE HUNDRED SEVENTEEN-A OF THE AGRICULTURE AND MARKETS LAW, THE ADMINISTRATIVE ENTITY SHALL DISBURSE FUNDS ON A QUARTERLY BASIS FOR THE IMPLEMENTATION OF SUCH PLAN.

(E) SUCH ENTITY SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY, AND THE COMMISSIONER OF AGRICULTURE AND MARKETS. SUCH REPORT SHALL INCLUDE BUT NOT BE LIMITED TO THE BALANCE OF THE FUND, ANNUAL EXPENDITURE, ANNUAL INCOME, THE NUMBER OF ENTITIES RECEIVING FUNDING AND THE AMOUNT RECEIVED BY EACH ENTITY, THE TOTAL NUMBER OF SPAY-NEUTER SERVICES PROVIDED BY EACH ENTITY, THE METHOD OF PROVIDING SUCH SERVICES BY EACH ENTITY, AND RECOMMENDATIONS REGARDING THE IMPLEMENTATION AND FINANCIAL VIABILITY OF THE FUND.

(F) THE ADMINISTRATIVE ENTITY SHALL ALSO BE REQUIRED TO PERFORM SUCH OTHER TASKS AS MAY BE REASONABLE AND NECESSARY FOR THE ADMINISTRATION OF SUCH FUND.

S 27. Subdivision 1 of section 107 of the agriculture and markets law, as amended by chapter 473 of the laws of 1995, is amended to read as follows:

1. This article shall apply to all areas of the state except any city having a population of over two million [except that the provisions in this article relating to the animal population control program shall be applicable to the entire state].

S 28. The administrative code of the city of New York is amended by adding a new section 17-811 to read as follows:

S 17-811 ANIMAL POPULATION CONTROL PROGRAM. THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL PROMULGATE RULES AND REGULATIONS TO ESTABLISH AND IMPLEMENT AN ANIMAL POPULATION CONTROL PROGRAM WITHIN ONE HUNDRED TWENTY DAYS FROM THE EFFECTIVE DATE OF THIS SECTION. THE PURPOSE OF THIS PROGRAM SHALL BE TO REDUCE THE POPULATION OF UNWANTED STRAY DOGS AND CATS THEREBY REDUCING POTENTIAL THREATS TO PUBLIC HEALTH AND SAFETY AND REDUCING THE COSTS OF CARING FOR THESE ANIMALS. THIS PROGRAM SHALL SEEK TO ACCOMPLISH ITS PURPOSE BY ENCOURAGING RESIDENTS OF THE CITY OF NEW YORK WHO ARE THE OWNERS OF DOGS AND CATS TO HAVE THEM SPAYED OR NEUTERED BY PROVIDING NO OR LOW-COST SPAYING AND NEUTERING SERVICES TO SUCH OWNERS. THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS NECESSARY TO ESTABLISH AN ANIMAL POPULATION CONTROL PROGRAM INCLUDING, BUT NOT LIMITED, TO CREATING CLINICS OR MOBILE UNITS WHERE SUCH SERVICES SHALL BE PERFORMED AND ESTABLISHING CRITERIA FOR PET OWNER ELIGIBILITY TO USE SUCH SERVICES. INDICIA OF ELIGIBILITY FOR PET OWNERS SEEKING NO OR LOW-COST SPAY AND NEUTER SERVICES SHALL INCLUDE BUT NOT BE LIMITED TO ANY CRITERIA DEEMED ACCEPTABLE BY THE AGENCIES PERFORMING THE SERVICES. THE COMMISSIONER OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE MAY SOLICIT AND ACCEPT FUNDS FROM THE ANIMAL POPULATION CONTROL FUND ESTABLISHED PURSUANT TO SECTION 17-812 OF THIS CHAPTER AND ANY OTHER PUBLIC OR PRIVATE SOURCE TO HELP CARRY OUT THE PROVISIONS OF THIS SECTION.

S 29. The administrative code of the city of New York is amended by adding a new section 17-812 to read as follows:

S 17-812 ANIMAL POPULATION CONTROL FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE CITY COMPTROLLER AND COMMISSIONER OF FINANCE A FUND TO BE KNOWN AS THE "ANIMAL POPULATION CONTROL FUND" WHICH SHALL BE USED BY THE DEPARTMENT TO SUBSIDIZE THE CITY'S ANIMAL POPULATION CONTROL PROGRAM AS ESTABLISHED BY SECTION 17-811 OF THIS CHAPTER.

2. SUCH FUND SHALL CONSIST OF ALL MONEYS COLLECTED FROM THE ANIMAL POPULATION CONTROL PROGRAM ESTABLISHED PURSUANT TO SECTION 17-811 OF

1 THIS CHAPTER AND SECTION THREE-A OF CHAPTER ONE HUNDRED FIFTEEN OF THE
2 LAWS OF EIGHTEEN HUNDRED NINETY-FOUR, AND ALL OTHER MONEYS CREDITED OR
3 TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

4 3. MONEYS OF THE FUND SHALL BE MADE AVAILABLE TO THE DEPARTMENT AND
5 SHALL BE EXPENDED FOR THE PURPOSES OF CARRYING OUT ANIMAL POPULATION
6 CONTROL PROGRAMS PURSUANT TO THE PROVISIONS OF SECTION 17-811 OF THIS
7 CHAPTER. MONEYS SHALL BE PAID OUT OF THE FUND ON THE AUDIT AND WARRANT
8 OF THE CITY COMPTROLLER AND APPROVED BY THE COMMISSIONER OF THE DEPART-
9 MENT OF HEALTH AND MENTAL HYGIENE. ANY INTEREST RECEIVED BY THE CITY
10 COMPTROLLER ON MONEYS ON DEPOSIT IN THE ANIMAL POPULATION CONTROL FUND
11 SHALL BE RETAINED IN AND BECOME PART OF SUCH FUND.

12 S 30. Section 3-a of chapter 115 of the laws of 1894 relating to the
13 better protection of lost and strayed animals and for securing the
14 rights of owners thereof, as amended by chapter 180 of the laws of 2002,
15 is amended to read as follows:

16 S 3-a. In addition to the fee charged pursuant to sections one and two
17 of this chapter, any person applying for a dog license shall pay a fee
18 of three dollars, OR SUCH GREATER AMOUNT AS DETERMINED BY THE CITY COUN-
19 CIL OR THE BOARD OF HEALTH IN THE CODE OF SUCH CITY, for any dog four
20 months of age or older which has not been spayed or neutered unless an
21 owner presents with the license application a statement certified by a
22 licensed veterinarian stating that he or she has examined the dog and
23 found that because of old age or other reasons, the life of the dog
24 would be endangered by spaying or neutering. All fees collected pursuant
25 to the provisions of this section shall be forwarded to the [state] CITY
26 comptroller for deposit in the animal population control fund created
27 pursuant to section [97-xx of the state finance law and section 117-a of
28 the agriculture and markets law] 17-812 OF THE ADMINISTRATIVE CODE OF
29 THE CITY OF NEW YORK.

30 S 31. Any unspent moneys collected in prior fiscal years attributable
31 to dog licensing fees in cities having a population of two million or
32 more and collected and deposited in the New York state animal population
33 control fund pursuant to section 97-xx of the state finance law shall be
34 transferred to and retained in the animal population control fund
35 created pursuant to section 17-812 of the administrative code of the
36 city of New York as added by section twenty-nine of this act.

37 S 32. Any funds in the state animal population control fund described
38 in section 97-xx of the state finance law as of the effective date of
39 this act that were derived from cities having a population of two
40 million or more shall be transferred to the animal population control
41 fund as described in section 17-812 of the administrative code of the
42 city of New York as added by section twenty-nine of this act, to the
43 extent practicable.

44 S 33. Section 9 of chapter 115 of the laws of 1894 relating to the
45 better protection of lost and strayed animals, and for securing the
46 rights of owners thereof, as amended by chapter 473 of the laws of 1995,
47 is amended to read as follows:

48 S 9. Any person or persons, who shall hinder or molest or interfere
49 with any officer or agent of said society in the performance of any duty
50 enjoined by this act, or who shall use a license tag on a dog for which
51 it was not issued, shall be deemed guilty of a misdemeanor. Any person
52 who owns or harbors a dog without complying with the provisions of this
53 act shall be deemed guilty of disorderly conduct, and upon conviction
54 thereof before any magistrate shall be fined for such offense any sum
55 not exceeding ten dollars, and in default of payment of such fine may be
56 committed to prison by such magistrate until the same be paid, but such

1 imprisonment shall not exceed ten days. Any person who for the purpose
2 of participating in the "animal population control program" shall falsi-
3 fy proof of adoption from a pound, shelter, duly incorporated society
4 for the prevention of cruelty to animals, humane society or dog or cat
5 protective association or who shall furnish any licensed veterinarian of
6 this state with inaccurate information concerning his or her residency
7 or the ownership of an animal or such person's authority to submit an
8 animal for a spaying or neutering procedure pursuant to section 117-a of
9 the agriculture and markets law and any veterinarian who shall furnish
10 [the commissioner with] false information concerning an animal sterili-
11 zation fee schedule or an animal sterilization certificate submitted
12 pursuant to [subdivision 4 of] section 117-a of the agriculture and
13 markets law shall be guilty of a violation punishable by a fine of not
14 more than two hundred fifty dollars where prosecuted pursuant to the
15 penal law, or where prosecuted as an action to recover a civil penalty
16 of not more than two hundred fifty dollars.

17 S 34. This act shall take effect January 1, 2011; provided, however
18 that if chapter 479 of the laws of 2009 is not in effect on such date
19 then section thirteen of this act shall take effect on the same date and
20 in the same manner as such chapter takes effect.

21 PART U

22 Intentionally omitted.

23 PART V

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

29 S 2. This act shall take effect immediately and shall be deemed to
30 have been in full force and effect on and after April 1, 2010.

31 PART W

32 Intentionally omitted.

33 PART X

34 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
35 executive law relating to permitting the secretary of state to provide
36 special handling for all documents filed or issued by the division of
37 corporations and to permit additional levels of such expedited service,
38 as amended by section 1 of part RR of chapter 59 of the laws of 2009, is
39 amended to read as follows:

40 S 2. This act shall take effect immediately, provided however, that
41 section one of this act shall be deemed to have been in full force and
42 effect on and after April 1, 2003 and shall expire March 31, [2010]
43 2011.

44 S 2. This act shall take effect immediately and shall be deemed to
45 have been in full force and effect on and after March 31, 2010.

46 PART Y

1 Section 1. Section 159-i of the executive law, as amended by section 4
2 of part R of chapter 59 of the laws of 2009, is amended to read as
3 follows:

4 S 159-i. Distribution of funds. For federal fiscal year two thousand
5 [ten] ELEVEN at least ninety percent of the community services block
6 grant funds received by the state shall be distributed pursuant to a
7 contract by the secretary to eligible entities as defined in subdivision
8 one of section one hundred fifty-nine-e of this article. Each such
9 eligible entity shall receive the same proportion of community services
10 block grant funds as was the proportion of funds received in the imme-
11 diately preceding federal fiscal year under the federal community
12 services block grant program as compared to the total amount received by
13 all eligible entities in the state, under the federal community services
14 block grant program.

15 For federal fiscal year two thousand [ten] ELEVEN the secretary shall,
16 pursuant to section one hundred fifty-nine-h of this article, retain not
17 more than five percent of the community services block grant funds for
18 administration at the state level.

19 For federal fiscal year two thousand [ten] ELEVEN the remainder of the
20 community services block grant funds received by the state shall be
21 distributed pursuant to a contract by the secretary in the following
22 order of preference: a sum of up to one-half of one percent of the
23 community services block grant funds received by the state to Indian
24 tribes and tribal organizations as defined in this article, on the basis
25 of need; and to community based organizations. Such remainder funds
26 received by eligible entities will not be included in determining the
27 proportion of funds received by any such entity in the immediately
28 preceding federal fiscal year under the federal community services block
29 grant program.

30 S 2. Section 5 of chapter 728 of the laws of 1982, amending the execu-
31 tive law relating to community services block grant programs, as amended
32 by section 6 of part R of chapter 59 of the laws of 2009, is amended to
33 read as follows:

34 S 5. This act shall take effect immediately provided, however, that
35 section four hereof shall take effect October 1, 1982 and provided
36 further, however, that the provisions of sections two, three and four of
37 this act shall be in full force and effect only until September 30, 1983
38 and section one of this act shall be in full force and effect until
39 September 30, [2010] 2011, provided, however, that the distribution of
40 funds pursuant to section 159-i of the executive law shall be limited to
41 the federal fiscal year expressly set forth in such section.

42 S 3. Section 7 of chapter 710 of the laws of 1983, amending the execu-
43 tive law relating to community services block grant programs, as amended
44 by section 7 of part R of chapter 59 of the laws of 2009, is amended to
45 read as follows:

46 S 7. This act shall take effect September 30, 1983 and shall be in
47 full force and effect only until September 30, [2010] 2011 at which time
48 the amendments and additions made pursuant to the provisions of this act
49 shall be deemed to be repealed, provided, however, that the distribution
50 of funds pursuant to section 159-i of the executive law shall be limited
51 to the federal fiscal year expressly set forth in such section.

52 S 4. This act shall take effect immediately; provided, however, that
53 the amendments to section 159-i of the executive law made by section one
54 of this act shall not affect the expiration of such section as provided
55 in section 5 of chapter 728 of the laws of 1982, as amended, and section

1 7 of chapter 710 of the laws of 1983, as amended, and shall be deemed to
2 expire therewith.

3 PART Z

4 Intentionally omitted.

5 PART AA

6 Section 1. Subdivision 1 of section 2976 of the public authorities
7 law, as amended by section 1 of part X of chapter 85 of the laws of
8 2002, is amended to read as follows:

9 1. Notwithstanding any other law to the contrary, public benefit
10 corporations (which for purposes of this section shall include indus-
11 trial development agencies created pursuant to title one of article
12 eighteen-A of the general municipal law or any other provision of law
13 AND THE NEW YORK CITY HOUSING DEVELOPMENT CORPORATION CREATED PURSUANT
14 TO ARTICLE TWELVE OF THE PRIVATE HOUSING FINANCE LAW) which issue bonds,
15 notes or other obligations shall pay to the state a bond issuance charge
16 upon the issuance of such bonds in an amount determined pursuant to
17 subdivision two of this section. Such charge shall be paid to the state
18 department of taxation and finance, upon forms prescribed therefor, no
19 later than fifteen days from the end of the month within which such
20 bonds are issued.

21 S 2. This act shall take effect immediately.

22 PART BB

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

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 April 1, 2010.

29 PART CC

30 Section 1. Expenditures of moneys appropriated in a chapter of the
31 laws of 2010 to the energy research and development authority, under the
32 research, development and demonstration program, from the special reven-
33 ue funds - other/state operations, miscellaneous special revenue
34 fund-339, energy research and planning account, and special revenue
35 funds - other/aid to localities, miscellaneous special revenue fund -
36 339, energy research and planning account shall be subject to the
37 provisions of this section. Notwithstanding the provisions of subdivi-
38 sion 4-a of section 18-a of the public service law, all moneys committed
39 or expended shall be reimbursed by assessment against gas corporations
40 and electric corporations as defined in section 2 of the public service
41 law, and the total amount which may be charged to any gas corporation
42 and any electric corporation shall not exceed one cent per one thousand
43 cubic feet of gas sold and .010 cent per kilowatt-hour of electricity
44 sold by such corporations in their intrastate utility operations in
45 calendar year 2008. Such amounts shall be excluded from the general
46 assessment provisions of subdivision 2 of section 18-a of the public
47 service law, but shall be billed and paid in the manner set forth in
48 such subdivision and upon receipt shall be paid to the state comptroller

1 for deposit in the state treasury for credit to the miscellaneous
2 special revenue fund. The director of the budget shall not issue a
3 certificate of approval with respect to the commitment and expenditure
4 of moneys hereby appropriated until the chair of such authority shall
5 have submitted, and the director of the budget shall have approved, a
6 comprehensive financial plan encompassing all moneys available to and
7 all anticipated commitments and expenditures by such authority from any
8 source for the operations of such authority. Copies of the approved
9 comprehensive financial plan shall be immediately submitted by the
10 director of the budget to the chairs and secretaries of the legislative
11 fiscal committees.

12 S 2. This act shall take effect immediately and shall be deemed to
13 have been in full force and effect on and after April 1, 2010.

14

PART DD

15 Section 1. Subdivisions 1 and 2 of section 27-1905 of the environ-
16 mental conservation law, subdivision 1 as amended by section 1 of part
17 E1 of chapter 63 of the laws of 2003 and subdivision 2 as amended by
18 chapter 200 of the laws of 2008, are amended to read as follows:

19 1. Until December thirty-first, two thousand [ten] TWELVE, accept from
20 a customer, waste tires of approximately the same size and in a quantity
21 equal to the number of new tires purchased or installed by the customer;
22 and

23 2. Until December thirty-first, two thousand [ten] TWELVE, post writ-
24 ten notice in a prominent location, which must be at least eight and
25 one-half inches by fourteen inches in size and contain the following
26 language:

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

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

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

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

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

46 S 2. Subdivisions 2, 3 and 5 of section 27-1907 of the environmental
47 conservation law, as added by section 3 of part V1 of chapter 62 of the
48 laws of 2003, are amended to read as follows:

49 2. The owner or operator of a noncompliant waste tire stockpile shall,
50 at the department's request, submit to and/or cooperate with any and all
51 remedial measures necessary for the abatement of noncompliant waste tire
52 stockpiles with funds from the waste [tire] management and [recycling]
53 CLEANUP fund pursuant to section ninety-two-bb of the state finance law.

1 3. No later than two years from the effective date of this title, the
2 department shall publish requests for proposals to seek contractors to
3 prepare whole and mechanically processed waste tires situated at noncom-
4 pliant waste tire stockpiles for arrangement in accordance with fire
5 safety requirements and for removal for appropriate processing, recycl-
6 ing or beneficial use. Disposal will be considered only as a last
7 option. The expenses of remedial and fire safety activities at a noncom-
8 pliant waste tire stockpile shall be paid by the person or persons who
9 owned, operated or maintained the noncompliant waste tire stockpile, or
10 from the waste [tire] management and [recycling] CLEANUP fund and shall
11 be a debt recoverable by the state from all persons who owned, operated
12 or maintained the noncompliant waste tire stockpile, and a lien and
13 charge may be placed on the premises upon which the noncompliant waste
14 tire stockpile is maintained and upon any real or personal property,
15 equipment, vehicles, and inventory controlled by such person or persons.
16 Moneys recovered shall be paid to the waste [tire] management and [recy-
17 cling] CLEANUP fund established pursuant to section ninety-two-bb of the
18 state finance law.

19 5. The department shall make all reasonable efforts to recover the
20 full amount of any funds expended from the waste [tire] management and
21 [recycling] CLEANUP fund for abatement or remediation through litigation
22 or cooperative agreements. Any and all moneys recovered, repaid or reim-
23 bursed pursuant to this section shall be deposited with the comptroller
24 and credited to such fund.

25 S 3. Subdivision 2 of section 27-1911 of the environmental conserva-
26 tion law, as added by section 3 of part VI of chapter 62 of the laws of
27 2003, is amended to read as follows:

28 2. No moneys from the waste [tire] management and [recycling] CLEANUP
29 fund shall be used to dispose of waste tires in a landfill unless the
30 department has determined that it is not feasible to convert the waste
31 tires to a beneficial use. Department-approved beneficial uses of scrap-
32 tire-derived material for leachate collection systems, or gas collection
33 systems in the construction or operation of a landfill are not consid-
34 ered disposal.

35 S 4. Subdivisions 1, 2 and 4, the opening paragraph of subdivision 3
36 and paragraph (a) of subdivision 6 of section 27-1913 of the environ-
37 mental conservation law, subdivisions 1, 2 and 4 as amended by section 2
38 of part E1 of chapter 63 of the laws of 2003, the opening paragraph of
39 subdivision 3 as amended by section 1 of part E of chapter 686 of the
40 laws of 2003 and paragraph (a) of subdivision 6 as added by chapter 200
41 of the laws of 2008, are amended to read as follows:

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

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

48 (a) recapped or resold tires;

49 (b) mail-order sales; or

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

53 2. Until December thirty-first, two thousand [ten] TWELVE, the tire
54 service shall collect the waste tire management and recycling fee from
55 the purchaser at the time of the sale and shall remit such fee to the

1 department of taxation and finance with the quarterly report filed
2 pursuant to subdivision three of this section.

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

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

7 Until March thirty-first, two thousand [eleven] THIRTEEN, each tire
8 service maintaining a place of business in this state shall make a
9 return to the department of taxation and finance on a quarterly basis,
10 with the return for December, January, and February being due on or
11 before the immediately following March thirty-first; the return for
12 March, April, and May being due on or before the immediately following
13 June thirtieth; the return for June, July, and August being due on or
14 before the immediately following September thirtieth; and the return for
15 September, October, and November being due on or before the immediately
16 following December thirty-first.

17 4. [All] EIGHTY PERCENT OF THE waste tire management and recycling
18 fees collected by the department of taxation and finance shall be trans-
19 ferred to the waste [tire] management and [recycling] CLEANUP fund
20 pursuant to section ninety-two-bb of the state finance law PROVIDED
21 FURTHER THAT TWENTY PERCENT OF SUCH FEES COLLECTED SHALL BE DEPOSITED TO
22 THE CREDIT OF THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED IN SECTION
23 NINETY-TWO-S OF THE STATE FINANCE LAW.

24 (a) Until December thirty-first, two thousand [ten] TWELVE, any addi-
25 tional waste tire management and recycling costs of the tire service in
26 excess of the amount authorized to be retained pursuant to paragraph (b)
27 of subdivision two of this section may be included in the published
28 selling price of the new tire, or charged as a separate per-tire charge
29 on each new tire sold. When such costs are charged as a separate per-
30 tire charge: (i) such charge shall be stated as an invoice item separate
31 and distinct from the selling price of the tire; (ii) the invoice shall
32 state that the charge is imposed at the sole discretion of the tire
33 service; and (iii) the amount of such charge shall reflect the actual
34 cost to the tire service for the management and recycling of waste tires
35 accepted by the tire service pursuant to section 27-1905 of this title,
36 provided however, that in no event shall such charge exceed two dollars
37 and fifty cents on each new tire sold.

38 S 5. The opening paragraph and subdivision 1 of section 27-1915 of the
39 environmental conservation law, as added by section 3 of part VI of
40 chapter 62 of the laws of 2003, are amended to read as follows:

41 [Funds from the waste] WASTE tire management and recycling FEES SHALL
42 BE DEPOSITED IN THE WASTE MANAGEMENT AND CLEANUP fund established in
43 section ninety-two-bb of the state finance law, AND shall be made AVAIL-
44 ABLE for the following purposes:

45 1. costs of the department for the following:

46 (a) first-year costs:

47 (i) enumeration and assessment of noncompliant waste tire stockpiles;
48 and

49 (ii) aerial reconnaissance to locate, survey and characterize sites
50 environmentally, for remote sensing, special analysis and scanning;

51 (b) abatement of noncompliant waste tire stockpiles; and

52 (c) administration AND ENFORCEMENT of THE requirements of this
53 [section] ARTICLE, EXCLUSIVE OF TITLES THIRTEEN AND FOURTEEN.

54 S 6. Section 92-bb of the state finance law, as added by section 4 of
55 part VI of chapter 62 of the laws of 2003, is amended to read as
56 follows:

1 S 92-bb. Waste [tire] management and [recycling] CLEANUP fund. 1.
2 There is hereby established in the joint custody of the state comp-
3 troller and the commissioner of the department of taxation and finance a
4 special fund to be known as the "waste [tire] management and [recycling]
5 CLEANUP fund".

6 2. The waste [tire] management and [recycling] CLEANUP fund shall
7 consist of [all] revenue collected from waste tire management and recy-
8 cling fees pursuant to SUBDIVISION FOUR OF section 27-1913 of the envi-
9 ronmental conservation law and any cost recoveries or other revenues
10 collected pursuant to title nineteen of article twenty-seven of the
11 environmental conservation law, AND ANY OTHER MONIES DEPOSITED INTO THE
12 FUND PURSUANT TO LAW.

13 3. Moneys of the fund, following appropriation by the legislature,
14 shall be used for execution of waste tire management and recycling
15 pursuant to title nineteen of article twenty-seven of the environmental
16 conservation law, and expended for the purposes as set forth in section
17 27-1915 of the environmental conservation law.

18 S 7. This act shall take effect immediately and shall be deemed to
19 have been in full force and effect on and after April 1, 2010.

20 PART EE

21 Intentionally omitted.

22 PART FF

23 Section 1. Section 1421 of the tax law, as amended by section 1 of
24 part T of chapter 59 of the laws of 2009, is amended to read as follows:

25 S 1421. Deposit and dispositions of revenues. From the taxes, interest
26 and penalties attributable to the tax imposed pursuant to section four-
27 teen hundred two of this article, the amount of [thirty-three and one-
28 half million] ONE HUNDRED NINETY-NINE MILLION THREE HUNDRED THOUSAND
29 dollars shall be deposited by the comptroller in the environmental
30 protection fund established pursuant to section ninety-two-s of the
31 state finance law for the fiscal year beginning April first, [nineteen
32 hundred ninety-five] TWO THOUSAND NINE; the amount of [eighty-seven
33 million dollars shall be deposited in such fund for the fiscal years
34 beginning April first, nineteen hundred ninety-six and nineteen hundred
35 ninety-seven; the amount of one hundred twelve million dollars shall be
36 deposited in such fund for the fiscal years beginning April first, nine-
37 teen hundred ninety-eight, nineteen hundred ninety-nine, two thousand,
38 two thousand one, two thousand two, two thousand three, two thousand
39 four and two thousand five; the amount of one hundred thirty-seven
40 million dollars shall be deposited in such fund for the fiscal year
41 beginning April first, two thousand six; the amount of two hundred
42 twelve million dollars shall be deposited in such fund for the fiscal
43 year beginning April first, two thousand seven; the amount of two
44 hundred thirty-seven million dollars shall be deposited in such fund for
45 the fiscal year beginning April first, two thousand eight; the amount of
46 one hundred ninety-nine million three hundred thousand dollars shall be
47 deposited in such fund for four fiscal years beginning April first, two
48 thousand nine;] ONE HUNDRED THIRTY-TWO MILLION THREE HUNDRED THOUSAND
49 DOLLARS SHALL BE DEPOSITED IN SUCH FUND FOR THE FISCAL YEAR BEGINNING
50 APRIL FIRST, TWO THOUSAND TEN; and for each fiscal year thereafter[;
51 provided however that at the direction of the director of the budget, an
52 additional amount of up to twenty-five million dollars may be deposited

1 in such fund for the fiscal year beginning April first, two thousand
2 seven and ending March thirty-first, two thousand eight, for disposition
3 as provided under such section]. On or before June twelfth, nineteen
4 hundred ninety-five and on or before the twelfth day of each month ther-
5 eafter (excepting the first and second months of each fiscal year), the
6 comptroller shall deposit into such fund from the taxes, interest and
7 penalties collected pursuant to such section fourteen hundred two of
8 this article which have been deposited and remain to the comptroller's
9 credit in the banks, banking houses or trust companies referred to in
10 section one hundred seventy-one-a of this chapter at the close of busi-
11 ness on the last day of the preceding month, an amount equal to one-
12 tenth of the annual amount required to be deposited in such fund pursu-
13 ant to this section for the fiscal year in which such deposit is
14 required to be made. In the event such amount of taxes, interest and
15 penalties so remaining to the comptroller's credit is less than the
16 amount required to be deposited in such fund by the comptroller, an
17 amount equal to the shortfall shall be deposited in such fund by the
18 comptroller with subsequent deposits, as soon as the revenue is avail-
19 able. Beginning April first, nineteen hundred ninety-seven, the comp-
20 troller shall transfer monthly to the clean water/clean air fund estab-
21 lished pursuant to section ninety-seven-bbb of the state finance law,
22 all moneys remaining from such taxes, interest and penalties collected
23 that are not required for deposit in the environmental protection fund.
24 S 2. This act shall take effect immediately and shall be deemed to
25 have been in full force and effect on and after April 1, 2010.

26 PART GG

27 Intentionally omitted.

28 PART HH

29 Intentionally omitted.

30 PART II

31 Intentionally omitted.

32 PART JJ

33 Section 1. Section 878 of the public authorities law is amended by
34 adding a new subdivision 6 to read as follows:

35 6. IN FULFILLING THE AUTHORITY'S MISSION, THE BOARD SHALL WORK COOPER-
36 ATIVELY AND IN CONSULTATION WITH THE COMMISSIONER OF AGRICULTURE AND
37 MARKETS TO ASSURE THE PROPER DEVELOPMENT OF REGIONAL MARKET FACILITIES
38 IN THE GENESEE VALLEY REGIONAL MARKET DISTRICT. THE BOARD AND THE
39 COMMISSIONER OF AGRICULTURE AND MARKETS SHALL JOINTLY DEVELOP A PLAN FOR
40 THE FUTURE DEVELOPMENT AND VIABILITY OF REGIONAL MARKET FACILITIES IN
41 THE DISTRICT. SUCH PLAN SHALL INCLUDE BOTH SHORT TERM AND LONG TERM
42 GOALS AND OBJECTIVES AS WELL AS ACTUAL AND PROJECTED REVENUES AND
43 EXPENDITURES. SUCH PLAN SHALL ANNUALLY ALLOCATE NO LESS THAN
44 SEVENTY-FIVE PERCENT OF THE AUTHORITY'S AVAILABLE FUNDS FOR THE
45 CREATION, DEVELOPMENT, AND ENHANCEMENT OF REGIONAL MARKET FACILITIES IN
46 THE DISTRICT. FOR PURPOSES OF THIS SUBDIVISION, AVAILABLE FUNDS SHALL
47 MEAN THE NET AMOUNT AVAILABLE AFTER CONTRACTUALLY OBLIGATED EXPENDITURES
48 ARE SUBTRACTED FROM, BUT NOT BE LIMITED TO, CASH, CASH EQUIVALENTS,

1 CERTIFICATES OF DEPOSIT, AND OTHER RECEIVABLES AVAILABLE. THE BOARD AND
2 COMMISSIONER SHALL MEET ANNUALLY PRIOR TO THE CLOSE OF THE AUTHORITY'S
3 FISCAL YEAR TO EVALUATE THE EFFECTIVENESS OF THE USE OF FUNDS FOR THAT
4 FISCAL YEAR, REVIEW THE GOALS AND OBJECTIVES OF THE PLAN, AND PROPERLY
5 PREPARE FOR THE ALLOCATION AND USE OF SUCH FUNDS FOR THE NEXT FISCAL
6 YEAR. THE PLAN SHALL BE UPDATED ANNUALLY TO MAKE APPROPRIATE MODIFICA-
7 TIONS TO SUCH PLAN FOR THE NEXT FISCAL YEAR. PRIOR TO ANY SUCH FUNDS
8 BEING EXPENDED, BOTH THE BOARD AND THE COMMISSIONER MUST APPROVE SUCH
9 PLAN, ITS GOALS AND OBJECTIVES AS WELL AS THE PROJECTED REVENUES AND
10 PROPOSED ALLOCATIONS.

11 S 2. The Genesee Valley regional market authority shall comply with
12 all provisions of law, including but not limited to title 1 of article 9
13 of the public authorities law. In addition, the Genesee Valley Regional
14 Market Authority must furnish an annual real estate report detailing all
15 real estate holdings and detailed property information, including but
16 not limited to the tenants, important lease terms, rents, durations of
17 leases, as well as copies of each lease. Notwithstanding any other
18 provision of law to the contrary, the Genesee Valley Regional Market
19 Authority shall furnish all required reports, audits, and reviews,
20 including the annual real estate report, to all parties enumerated in
21 paragraph (a) of subdivision 1 of section 2800 of the public authorities
22 law as well as to the commissioner of agriculture and markets, within 60
23 days of the effective date of this act or within 90 days after the end
24 of its fiscal year whichever is sooner.

25 S 3. This act shall take effect immediately and shall be deemed to
26 have been in full force and effect on and after April 1, 2010.

27 PART KK

28 Intentionally omitted.

29 PART LL

30 Section 1. Subdivision 46 of section 100 of the economic development
31 law, as added by chapter 427 of the laws of 2008, is amended to read as
32 follows:

33 46. to prepare[, in cooperation with the governor's office of regula-
34 tory reform,] an annual summary for the small business community of the
35 key legislative, budgetary and regulatory changes impacting small busi-
36 nesses. Agencies shall cooperate with the department [and the governor's
37 office of regulatory reform] in developing the annual summary. The
38 annual summary shall be written in plain language and shall provide
39 specific contact information within the appropriate agency for inquiries
40 regarding implementation and compliance. The annual summary shall be
41 posted on the department website on or before September first of each
42 year.

43 S 2. Section 90 of the executive law, as amended by chapter 71 of the
44 laws of 1964, is amended to read as follows:

45 S 90. Department of state; secretary of state. 1. There shall be in
46 the state government a department of state. The head of the department
47 shall be the secretary of state who shall be appointed by the governor
48 by and with the advice and consent of the senate and hold office until
49 the end of the term of the governor by whom he OR SHE was appointed and
50 until his OR HER successor is appointed and has qualified. The secretary
51 of state shall receive an annual salary within the amount appropriated
52 therefor and his OR HER reasonable expenses when necessarily absent on
53 public business pertaining to the duties of his OR HER office.

1 In addition to those divisions created and continued within the
2 Department of State by other statutes, the secretary of state may estab-
3 lish such other divisions and bureaus in the department of state as he
4 OR SHE may deem necessary. He OR SHE may prescribe the duties and powers
5 of such divisions and bureaus which shall be exercised and performed
6 under his OR HER supervision.

7 2. ANY REFERENCE TO THE "GOVERNOR'S OFFICE OF REGULATORY REFORM" OR
8 "OFFICE OF REGULATORY AND MANAGEMENT ASSISTANCE" IN THE LAWS OF NEW YORK
9 STATE OR CONTRACTS ENTERED INTO ON BEHALF OF THE STATE SHALL BE DEEMED
10 TO REFER TO THE DEPARTMENT OF STATE.

11 S 3. Paragraph a of subdivision 1 of section 102 of the executive law,
12 as amended by chapter 941 of the laws of 1984, is amended to read as
13 follows:

14 a. No code, rule or regulation shall become effective until it is
15 filed with the secretary of state, unless a later date is required by
16 statute or is specified by such code, rule or regulation. THE SECRETARY
17 SHALL HAVE THE AUTHORITY TO ENSURE THAT EACH AGENCY HAS COMPLIED WITH
18 THE REQUIREMENTS OF THE STATE ADMINISTRATIVE PROCEDURE ACT BEFORE ITS
19 PROPOSED REGULATIONS BECOME EFFECTIVE, AND MAY REQUIRE AGENCIES TO COOP-
20 ERATE IN ITS REVIEWS AND COMPLIANCE ACTIVITIES.

21 S 4. Subdivision 1 of section 102 of the executive law is amended by
22 adding a new paragraph f to read as follows:

23 F. BEFORE THE ADOPTION OF ANY NEW CODE, RULE, OR REGULATION INCLUDING
24 ANY RULE AS DEFINED IN THE STATE ADMINISTRATIVE PROCEDURE ACT, OR ANY
25 SUBSTANTIAL REVISION OF AN EXISTING CODE, RULE, OR REGULATION, THE
26 SECRETARY MAY REQUIRE AN AGENCY TO PREPARE AND SUBMIT A COST-BENEFIT
27 ANALYSIS, RISK ASSESSMENT, JOB IMPACT ANALYSIS, OR OTHER ANALYSIS
28 CONSISTENT WITH THE STATE ADMINISTRATIVE PROCEDURE ACT, AND MAY FURTHER
29 REQUIRE AN AGENCY TO DEMONSTRATE THAT IT HAS COMPLIED WITH THE
30 PROVISIONS OF THE STATE ADMINISTRATIVE PROCEDURE ACT AND HAS PROVIDED
31 INFORMATION IN THE REGULATORY IMPACT STATEMENT, THE REGULATORY FLEXIBIL-
32 ITY ANALYSIS, AND THE RURAL AREA FLEXIBILITY ANALYSIS PREPARED PURSUANT
33 TO SUCH SECTIONS ADEQUATE TO ENABLE INTERESTED PERSONS TO EVALUATE THE
34 IMPACT OF THE RULE.

35 S 5. Subdivision 3 of section 164-d of the executive law, as added by
36 chapter 65 of the laws of 2005, is amended to read as follows:

37 3. The office for technology[, in consultation with the governor's
38 office of regulatory reform,] shall promulgate rules and regulations to
39 implement the provisions of this section. Such rules shall at least
40 provide for the prioritization and timing for making application forms
41 available on the internet.

42 S 6. Section 102-a of the state administrative procedure act, as added
43 by chapter 419 of the laws of 2007, is amended to read as follows:

44 S 102-a. Small business regulation guides. For each rule or group of
45 related rules which significantly impact a substantial number of small
46 businesses, the agency which adopted the rule shall post on its website
47 one or more guides explaining the actions a small business may take to
48 comply with such rule or group of rules if the agency determines[, in
49 conjunction with the governor's office of regulatory reform,] that such
50 guide or guides will assist small businesses in complying with the rule,
51 and shall designate each such posting as a "small business regulation
52 guide". The guide shall explain the actions a small business may take to
53 comply with a rule or group of rules. The agency shall, in its sole
54 discretion, taking into account the subject matter of the rule and the
55 language of relevant statutes, ensure that the guide is written using
56 sufficiently plain language that it is likely to be understood by

1 affected small businesses. [Agencies shall cooperate with the governor's
2 office of regulatory reform and other state agencies in developing such
3 guides.] The [governor's office of regulatory reform] SECRETARY OF STATE
4 shall oversee and coordinate the preparation of such small business
5 regulation guides by agencies.

6 S 7. Paragraph (a) of subdivision 6-a of section 202 of the state
7 administrative procedure act, as amended by chapter 171 of the laws of
8 1994, is amended to read as follows:

9 (a) An agency shall transmit a copy of any rule making notice prepared
10 pursuant to this article to the governor, the temporary president of the
11 senate, the speaker of the assembly, AND the administrative regulations
12 review commission [and the office of regulatory and management assist-
13 ance] at the time such notice is submitted to the secretary of state for
14 publication in the state register. Such transmittal shall include the
15 complete rule text, regulatory impact statement, regulatory flexibility
16 analysis, rural area flexibility analysis, or revisions thereof, and any
17 other information submitted to the secretary of state pursuant to this
18 article.

19 S 8. Subparagraph (iii) of paragraph (b) of subdivision 9 of section
20 202 of the state administrative procedure act, as added by chapter 230
21 of the laws of 2006, is amended to read as follows:

22 (iii) The secretary of state shall provide that the direct link
23 between the electronic copy of the state register and the electronic
24 mail address provided by an agency shall also deliver to the [governor's
25 office of regulatory reform] DEPARTMENT OF STATE a copy of all comments
26 submitted.

27 S 9. Subdivision 8 of section 202-b of the state administrative proce-
28 dure act, as added by chapter 637 of the laws of 2005, is amended to
29 read as follows:

30 8. The [governor's office of regulatory reform] SECRETARY OF STATE
31 shall issue quarterly reports to the governor and the legislature iden-
32 tifying the alternative approaches utilized by state agencies to mini-
33 mize any adverse economic impact of rules on small businesses and local
34 governments, in accordance with subdivision one of this section.

35 S 10. The opening paragraph of subdivision 3 of section 202-bb of the
36 state administrative procedure act, as added by chapter 171 of the laws
37 of 1994, is amended to read as follows:

38 In proposing a rule for adoption or in adopting a rule on an emergency
39 basis, the agency shall issue a rural area flexibility analysis regard-
40 ing the rule being proposed for adoption or the emergency rule being
41 adopted. A copy of such analysis and any finding, and reasons for such
42 finding, pursuant to this section, shall be submitted to the governor,
43 the temporary president of the senate, the speaker of the assembly[, the
44 office for regulatory and management assistance] and the administrative
45 regulations review commission at the time such analysis is submitted to
46 the secretary of state for publication and, upon written request, a copy
47 shall be sent to any other person. Each rural area flexibility analysis
48 shall contain:

49 S 11. Paragraph (d) of subdivision 1 of section 202-d of the state
50 administrative procedure act, as added by chapter 193 of the laws of
51 2008, is amended to read as follows:

52 (d) An agency shall identify each rule described in its regulatory
53 agenda for which a regulatory flexibility analysis or a rural area flex-
54 ibility analysis may be required, and shall provide outreach as appro-
55 priate to potentially affected small businesses, local governments and
56 public and private interests in rural areas. Such outreach may include

1 solicitation of input from potentially affected parties through elec-
2 tronic means or through any of the activities listed in subdivision six
3 of section two hundred two-b and subdivision seven of section two
4 hundred two-bb of this article. In addition, the agency shall provide a
5 copy of the description of each rule subject to the provisions of this
6 paragraph to the [governor's office of regulatory reform] DEPARTMENT OF
7 STATE, which may in its discretion include the description and addi-
8 tional information on the rule in the quarterly report issued pursuant
9 to subdivision eight of section two hundred two-b of this article.

10 S 12. a. The powers, duties, and unfinished business of the governor's
11 office of regulatory reform are transferred to the department of state
12 as established in article 6 of the executive law. All assets, liabil-
13 ities, and records of the governor's office of regulatory reform are
14 transferred to the department of state. For the purposes of succession
15 to functions, powers, duties, and obligations transferred and assigned
16 to, devolved upon and assumed by it pursuant to this act, the department
17 of state shall be deemed and held to constitute the continuation of the
18 governor's office of regulatory reform except where otherwise provided
19 in this act.

20 b. Every officer and employee of the governor's office of regulatory
21 reform is hereby transferred to the department of state. Transfers of
22 such employees will be made pursuant to subdivision 2 of section 70 of
23 the civil service law.

24 c. All rules, regulations, acts, determinations and decisions of the
25 governor's office of regulatory reform at the time of the effective date
26 of this act shall continue in force and effect as rules, regulations,
27 acts, determinations, and decisions of the secretary of state until duly
28 modified or abrogated by the secretary of state.

29 d. All appropriations and reappropriations heretofore made to the
30 governor's office of regulatory reform, to the extent of remaining unex-
31 pended or unencumbered balances thereof, whether allocated or unallo-
32 cated and whether obligated or unobligated, shall be transferred to and
33 made available for use and expenditure by the department of state.

34 S 13. This act shall take effect January 1, 2011; provided, however,
35 that the amendments to paragraph (d) of subdivision 1 of section 202-d
36 of the state administrative procedure act made by section eleven of this
37 act shall not affect the expiration of such subdivision and shall expire
38 therewith.

39 PART MM

40 Section 1. The director of the division of the lottery and the chair-
41 man of the racing and wagering board, shall, to the greatest extent
42 possible, coordinate and centralize administrative functions, including
43 but not limited to, clerical, payroll, bookkeeping, procurement and
44 human resource functions in an effort to create greater efficiencies and
45 cost savings.

46 S 2. This act shall take effect immediately.

47 PART NN

48 Section 1. Short title. This act shall be known and may be cited as
49 the "electronic equipment recycling and reuse act".

50 S 2. Article 27 of the environmental conservation law is amended by
51 adding a new title 26 to read as follows:

TITLE 26

ELECTRONIC EQUIPMENT RECYCLING AND REUSE

SECTION 27-2601. DEFINITIONS.

27-2603. MANUFACTURER COLLECTION; RECYCLING SURCHARGE.

27-2605. MANUFACTURER ELECTRONIC WASTE REGISTRATION AND RESPONSIBILITIES.

27-2607. RETAILER REQUIREMENTS.

27-2609. LABELING.

27-2611. DISPOSAL BAN.

27-2613. ELECTRONIC WASTE COLLECTION, CONSOLIDATION AND RECYCLING.

27-2615. DEPARTMENT RESPONSIBILITIES.

27-2617. REPORTING REQUIREMENTS.

27-2619. PREEMPTION.

27-2621. DISPOSITION OF FEES.

S 27-2601. DEFINITIONS.

AS USED IN THIS TITLE:

1. "CATHODE RAY TUBE" MEANS A VACUUM TUBE OR PICTURE TUBE USED TO CONVERT AN ELECTRONIC SIGNAL INTO A VISUAL IMAGE.

2. "COMPUTER" MEANS AN ELECTRONIC, MAGNETIC, OPTICAL, ELECTROCHEMICAL OR OTHER HIGH-SPEED DATA PROCESSING DEVICE PERFORMING A LOGICAL, ARITHMETIC OR STORAGE FUNCTION, INCLUDING A LAPTOP COMPUTER AND DESKTOP COMPUTER, AND INCLUDES ANY CABLE, CORD, OR WIRING PERMANENTLY AFFIXED TO OR INCORPORATED INTO SUCH PRODUCT, AND MAY INCLUDE BOTH A COMPUTER CENTRAL PROCESSING UNIT AND A MONITOR; BUT SUCH TERM SHALL NOT INCLUDE AN AUTOMATED TYPEWRITER OR TYPESETTER, A PORTABLE HAND-HELD CALCULATOR, A PORTABLE DIGITAL ASSISTANT, OR OTHER SIMILAR DEVICE.

3. "COMPUTER PERIPHERAL" MEANS A MONITOR; ELECTRONIC KEYBOARD; ELECTRONIC MOUSE OR SIMILAR POINTING DEVICE; FACSIMILE MACHINE, DOCUMENT SCANNER, OR PRINTER INTENDED FOR USE WITH A COMPUTER; AND INCLUDES ANY CABLE, CORD, OR WIRING PERMANENTLY AFFIXED TO OR INCORPORATED INTO ANY SUCH PRODUCT.

4. "CONSUMER" MEANS A PERSON LOCATED IN THE STATE WHO OWNS OR USES COVERED ELECTRONIC EQUIPMENT, INCLUDING BUT NOT LIMITED TO AN INDIVIDUAL, A BUSINESS, CORPORATION, LIMITED PARTNERSHIP, NOT-FOR-PROFIT ORGANIZATION, OR GOVERNMENTAL ENTITY, BUT DOES NOT INCLUDE AN ENTITY INVOLVED IN A WHOLESALE TRANSACTION BETWEEN A DISTRIBUTOR AND RETAILER.

5. "COVERED ELECTRONIC EQUIPMENT" MEANS: A COMPUTER; COMPUTER PERIPHERAL; SMALL ELECTRONIC EQUIPMENT; CATHODE RAY TUBE; CATHODE RAY TUBE DEVICE; OR TELEVISION, AS DEFINED IN THIS SECTION. "COVERED ELECTRONIC EQUIPMENT" DOES NOT INCLUDE ANY MOTOR VEHICLE OR ANY PART THEREOF; CAMERA OR VIDEO CAMERA; PORTABLE OR STATIONARY RADIO; WIRELESS TELEPHONE; HOUSEHOLD APPLIANCES SUCH AS CLOTHES WASHERS, CLOTHES DRYERS, REFRIGERATORS, FREEZERS, MICROWAVE OVENS, OVENS, RANGES OR DISHWASHERS; EQUIPMENT THAT IS FUNCTIONALLY OR PHYSICALLY PART OF A LARGER PIECE OF EQUIPMENT INTENDED FOR USE IN AN INDUSTRIAL, RESEARCH AND DEVELOPMENT OR COMMERCIAL SETTING; SECURITY OR ANTI-TERRORISM EQUIPMENT; MONITORING AND CONTROL INSTRUMENT OR SYSTEM; THERMOSTAT; HAND-HELD TRANSCEIVER; TELEPHONE OF ANY TYPE; PORTABLE DIGITAL ASSISTANT OR SIMILAR DEVICE; CALCULATOR; GLOBAL POSITIONING SYSTEM (GPS) RECEIVER OR SIMILAR NAVIGATION DEVICE; COMMERCIAL MEDICAL EQUIPMENT THAT CONTAINS WITHIN IT A CATHODE RAY TUBE, A CATHODE RAY TUBE DEVICE, A FLAT PANEL DISPLAY OR SIMILAR VIDEO DISPLAY DEVICE, AND IS NOT SEPARATE FROM THE LARGER PIECE OF EQUIPMENT; OR OTHER MEDICAL DEVICES AS THAT TERM IS DEFINED UNDER THE FEDERAL FOOD, DRUG AND COSMETIC ACT.

1 6. "ELECTRONIC RECYCLER" MEANS A PERSON WHO ENGAGES IN THE RECYCLING
2 OF ELECTRONIC WASTE.

3 7. "ELECTRONIC WASTE" MEANS COVERED ELECTRONIC EQUIPMENT THAT HAS BEEN
4 DISCARDED OR IS NO LONGER WANTED BY ITS OWNER, OR FOR ANY OTHER REASON
5 ENTERS THE WASTE COLLECTION, RECOVERY, TREATMENT, PROCESSING, OR RECYCL-
6 ING SYSTEM. FOR PURPOSES OF SECTION 27-2611 OF THIS TITLE, "ELECTRONIC
7 WASTE" DOES NOT INCLUDE THE CASE, SHELL, OR OTHER ENCLOSURE OF COVERED
8 ELECTRONIC EQUIPMENT FROM WHICH INCORPORATED ASSEMBLIES, SUB-ASSEMBLIES,
9 COMPONENTS, MATERIALS, WIRING, CIRCUITRY AND COMMODITIES HAVE BEEN
10 REMOVED.

11 8. "ELECTRONIC WASTE COLLECTION SITE" MEANS A FACILITY AT A FIXED OR
12 TEMPORARY SITE AT WHICH ELECTRONIC WASTE IS ACCEPTED FROM CONSUMERS AND
13 TEMPORARILY STORED FOR NOT MORE THAN FIVE DAYS IN A CALENDAR YEAR BEFORE
14 SUCH WASTE IS TRANSPORTED TO AN ELECTRONIC WASTE CONSOLIDATION FACILITY
15 OR ELECTRONIC WASTE RECYCLING FACILITY. ELECTRONIC WASTE COLLECTION
16 SITES INCLUDE, BUT ARE NOT LIMITED TO, DEDICATED SITES AND FACILITIES
17 FOR THE ACCEPTANCE OF ELECTRONIC WASTE, AND RETAIL STORES AND OUTLETS,
18 MUNICIPAL OR PRIVATE ELECTRONIC WASTE COLLECTION SITES AND NOT-FOR-PRO-
19 FIT DONATION SITES THAT HAVE AGREED TO ACCEPT ELECTRONIC WASTE.

20 9. "ELECTRONIC WASTE CONSOLIDATION FACILITY" MEANS A FACILITY THAT
21 RECEIVES AND STORES ELECTRONIC WASTE FOR THE PURPOSE OF ORGANIZING,
22 CATEGORIZING OR CONSOLIDATING ITEMS OF ELECTRONIC WASTE BEFORE SUCH
23 WASTE IS TRANSPORTED TO AN ELECTRONIC WASTE RECYCLING FACILITY. ELEC-
24 TRONIC WASTE CONSOLIDATION FACILITIES INCLUDE, BUT ARE NOT LIMITED TO,
25 FACILITIES OF BROKERS ACTING AS INTERMEDIARIES BETWEEN ELECTRONIC WASTE
26 BUYERS AND SELLERS, AND REGIONAL CENTERS AT WHICH ELECTRONIC WASTE IS
27 ORGANIZED, CATEGORIZED OR CONSOLIDATED AFTER BEING TRANSPORTED TO SUCH
28 CENTERS FROM ELECTRONIC WASTE COLLECTION SITES OR OTHER ELECTRONIC WASTE
29 CONSOLIDATION FACILITIES.

30 10. "ELECTRONIC WASTE RECYCLING FACILITY" MEANS A FACILITY AT WHICH
31 ELECTRONIC WASTE IS RECYCLED.

32 11. "LABEL" MEANS A MARKER ON THE SURFACE OF COVERED ELECTRONIC EQUIP-
33 MENT CONVEYING INFORMATION; FOR THE PURPOSES OF THIS TITLE, LABELS MUST
34 BE PERMANENT AND CAN BE ATTACHED, PRINTED, ENGRAVED OR INCORPORATED IN
35 ANY OTHER PERMANENT WAY THAT IS OBVIOUS AND VISIBLE TO USERS OF THE
36 PRODUCT.

37 12. "MANUFACTURER" MEANS A PERSON WHO: (A) ASSEMBLES OR SUBSTANTIALLY
38 ASSEMBLES COVERED ELECTRONIC EQUIPMENT FOR SALE IN THE STATE; (B) MANU-
39 FACTURES COVERED ELECTRONIC EQUIPMENT UNDER ITS OWN BRAND NAME OR UNDER
40 ANY OTHER BRAND NAME FOR SALE IN THE STATE; (C) SELLS, UNDER ITS OWN
41 BRAND NAME, COVERED ELECTRONIC EQUIPMENT SOLD IN THE STATE; (D) OWNS A
42 BRAND NAME THAT IT LICENSES TO ANOTHER PERSON FOR USE ON COVERED ELEC-
43 TRONIC EQUIPMENT SOLD IN THE STATE; (E) IMPORTS COVERED ELECTRONIC
44 EQUIPMENT FOR SALE IN THE STATE; OR (F) MANUFACTURES COVERED ELECTRONIC
45 EQUIPMENT FOR SALE IN THE STATE WITHOUT AFFIXING A BRAND NAME. "MANUFAC-
46 Turer" DOES NOT MEAN A PERSON WHO ASSEMBLES OR SUBSTANTIALLY ASSEMBLES,
47 AND SELLS LESS THAN ONE THOUSAND UNITS OF COVERED ELECTRONIC EQUIPMENT
48 ANNUALLY IN THIS STATE, OR WHOSE PRIMARY BUSINESS IS THE SALE OF COVERED
49 ELECTRONIC EQUIPMENT WHICH IS COMPRISED PRIMARILY OF REBUILT, REFUR-
50 BISHED OR USED COMPONENTS. IF MORE THAN ONE PERSON IS A MANUFACTURER OF
51 A BRAND OF COVERED ELECTRONIC EQUIPMENT, ANY SUCH PERSON MAY ASSUME
52 RESPONSIBILITY FOR OBLIGATIONS OF A MANUFACTURER OF THAT BRAND UNDER
53 THIS TITLE. IF NONE OF THOSE PERSONS ASSUMES RESPONSIBILITY FOR THE
54 OBLIGATIONS OF A MANUFACTURER UNDER THIS TITLE, ANY AND ALL SUCH PERSONS
55 JOINTLY AND SEVERALLY MAY BE CONSIDERED TO BE THE RESPONSIBLE MANUFAC-
56 Turer OF THAT BRAND FOR PURPOSES OF THIS TITLE.

1 13. "MANUFACTURER'S BRANDS" MEANS A MANUFACTURER'S NAME, BRAND NAME OR
2 BRAND LABEL, AND ALL MANUFACTURER'S NAMES, BRAND NAMES AND BRAND LABELS
3 FOR WHICH THE MANUFACTURER HAS A LEGAL RIGHT OR INTEREST, INCLUDING
4 THOSE NAMES, BRAND NAMES, AND BRAND LABELS OF COMPANIES THAT HAVE BEEN
5 ACQUIRED BY THE MANUFACTURER OR IN WHICH THE MANUFACTURER ASSERTS A
6 LEGAL INTEREST SUCH AS TRADEMARK, LICENSE, SERVICE MARK, OR PATENT.

7 14. "MONITOR" MEANS A SEPARATE VISUAL DISPLAY COMPONENT OF A COMPUTER,
8 WHETHER SOLD SEPARATELY OR TOGETHER WITH A COMPUTER CENTRAL PROCESSING
9 UNIT, AND INCLUDES A CATHODE RAY TUBE, LIQUID CRYSTAL DISPLAY, GAS PLAS-
10 MA, DIGITAL LIGHT PROCESSING OR OTHER IMAGE PROJECTION TECHNOLOGY,
11 GREATER THAN FOUR INCHES WHEN MEASURED DIAGONALLY, AND ITS CASE, INTERI-
12 OR WIRES AND CIRCUITRY, AND ANY CABLE CORD OR WIRING PERMANENTLY AFFIXED
13 THERETO OR INCORPORATED INTO SUCH PRODUCT.

14 15. "PERSON" MEANS ANY INDIVIDUAL, BUSINESS ENTITY, PARTNERSHIP,
15 COMPANY, CORPORATION, NOT-FOR-PROFIT CORPORATION, ASSOCIATION, GOVERN-
16 MENTAL ENTITY, PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY, FIRM,
17 ORGANIZATION, OR ANY OTHER GROUP OF INDIVIDUALS, OR ANY OFFICER OR
18 EMPLOYEE OR AGENT THEREOF.

19 16. "RECYCLE" MEANS TO SEPARATE, DISMANTLE OR PROCESS THE MATERIALS,
20 COMPONENTS OR COMMODITIES CONTAINED IN ELECTRONIC WASTE FOR THE PURPOSE
21 OF PREPARING THE MATERIALS, COMPONENTS OR COMMODITIES FOR USE OR REUSE
22 IN NEW PRODUCTS OR COMPONENTS THEREOF, BUT NOT FOR ENERGY RECOVERY OR
23 ENERGY GENERATION BY MEANS OF COMBUSTION, GASIFICATION, PYROLYSIS OR
24 OTHER MEANS. RECYCLING INCLUDES THE MANUAL AND MECHANICAL SEPARATION OF
25 ELECTRONIC WASTE TO RECOVER MATERIALS, COMPONENTS OR COMMODITIES
26 CONTAINED THEREIN FOR THE PURPOSE OF REUSE OR RECYCLING, AND CHANGING
27 THE PHYSICAL OR CHEMICAL COMPOSITION OF ELECTRONIC WASTE TO SEGREGATE
28 COMPONENTS FOR PURPOSES OF RECYCLING THOSE COMPONENTS.

29 17. "RETAILER" MEANS A PERSON WHO SELLS COVERED ELECTRONIC EQUIPMENT
30 TO A PERSON IN THE STATE THROUGH ANY MEANS, INCLUDING, BUT NOT LIMITED
31 TO, TRANSACTIONS CONDUCTED THROUGH RETAIL SALES OUTLETS, MAIL, CATALOGS,
32 THE TELEPHONE OR THE INTERNET, OR ANY ELECTRONIC MEANS. "RETAILER" DOES
33 NOT INCLUDE A PERSON WHO SELLS OR OFFERS FOR SALE FEWER THAN TEN ITEMS
34 OF COVERED ELECTRONIC EQUIPMENT DURING A CALENDAR YEAR.

35 18. "REUSE" MEANS THE USE OF ELECTRONIC WASTE THAT IS TESTED AND
36 CERTIFIED TO BE IN GOOD WORKING ORDER AND WHICH WAS REMOVED FROM THE
37 WASTE STREAM FOR USE FOR THE SAME PURPOSE FOR WHICH IT WAS MANUFACTURED,
38 INCLUDING THE CONTINUED USE OF WHOLE SYSTEMS OR COMPONENTS.

39 19. "SELL" OR "SALE" MEANS ANY TRANSFER FOR CONSIDERATION OF TITLE OR
40 THE RIGHT TO USE, FROM A MANUFACTURER OR RETAILER TO A PERSON, INCLUD-
41 ING, BUT NOT LIMITED TO, TRANSACTIONS CONDUCTED THROUGH RETAIL SALES
42 OUTLETS, CATALOGS, MAIL, THE TELEPHONE, THE INTERNET, OR ANY ELECTRONIC
43 MEANS; THIS INCLUDES TRANSFER OF NEW PRODUCTS OR USED PRODUCTS THAT MAY
44 HAVE BEEN REFURBISHED BY THEIR MANUFACTURER OR MANUFACTURER-APPROVED
45 PARTY AND THAT ARE OFFERED FOR SALE BY A MANUFACTURER OR RETAILER, BUT
46 DOES NOT INCLUDE CONSUMER-TO-CONSUMER SECOND-HAND TRANSFER. "SELL OR
47 SALE" DOES NOT INCLUDE: (A) THE TRANSFER OF USED COVERED ELECTRONIC
48 EQUIPMENT OR A LEASE OF COVERED ELECTRONIC EQUIPMENT; OR (B) WHOLESALE
49 TRANSACTIONS AMONG A MANUFACTURER, WHOLESALE AND RETAILER.

50 20. "SMALL ELECTRONIC EQUIPMENT" MEANS ANY PORTABLE DIGITAL MUSIC
51 PLAYER THAT HAS MEMORY CAPABILITY AND IS BATTERY-POWERED, VIDEO CASSETTE
52 RECORDER, A DIGITAL VIDEO DISC PLAYER, DIGITAL VIDEO RECORDER, DIGITAL
53 CONVERTER BOX, CABLE OR SATELLITE RECEIVER, OR ELECTRONIC OR VIDEO GAME
54 CONSOLE, AND INCLUDES ANY CABLE, CORD, OR WIRING PERMANENTLY AFFIXED TO
55 OR INCORPORATED INTO ANY SUCH PRODUCT.

21. "TELEVISION" MEANS A DISPLAY SYSTEM CONTAINING A CATHODE RAY TUBE OR ANY OTHER TYPE OF DISPLAY PRIMARILY INTENDED TO RECEIVE VIDEO PROGRAMMING VIA BROADCAST, CABLE OR SATELLITE TRANSMISSION, HAVING A VIEWABLE AREA GREATER THAN FOUR INCHES WHEN MEASURED DIAGONALLY.

S 27-2603. MANUFACTURER COLLECTION; RECYCLING SURCHARGE.

1. BEGINNING DECEMBER FIRST, TWO THOUSAND TEN, A MANUFACTURER OF COVERED ELECTRONIC EQUIPMENT MUST ACCEPT FOR COLLECTION, HANDLING AND RECYCLING OR REUSE ELECTRONIC WASTE FOR WHICH IT IS THE MANUFACTURER AND ONE PIECE OF ELECTRONIC WASTE OF ANY MANUFACTURER'S BRAND, WITH THE PURCHASE OF COVERED ELECTRONIC EQUIPMENT OF THE SAME TYPE BY A CONSUMER. SUCH WASTE SHALL COUNT TOWARD THE AMOUNT OF ELECTRONIC WASTE REQUIRED TO BE ACCEPTED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.

2. BEGINNING DECEMBER FIRST, TWO THOUSAND TEN, EACH MANUFACTURER MUST ACCEPT FOR COLLECTION, HANDLING AND RECYCLING OR REUSE THE MANUFACTURER'S ACCEPTANCE STANDARD AS SPECIFIED IN SUBDIVISION FOUR OF THIS SECTION.

3. STATEWIDE RECYCLING OR REUSE GOAL. (A) FOR THE PERIOD FROM DECEMBER FIRST, TWO THOUSAND TEN THROUGH JUNE FIRST, TWO THOUSAND ELEVEN, THE STATEWIDE RECYCLING OR REUSE GOAL FOR ELECTRONIC WASTE SHALL BE THE PRODUCT OF THE LATEST POPULATION ESTIMATE FOR THE STATE, AS PUBLISHED BY THE U.S. CENSUS BUREAU ON JANUARY FIRST, TWO THOUSAND TEN MULTIPLIED BY THREE POUNDS MULTIPLIED BY ONE-HALF.

(B) BEGINNING JUNE SECOND, TWO THOUSAND ELEVEN, THE STATEWIDE RECYCLING OR REUSE GOAL FOR ALL ELECTRONIC WASTE SHALL BE THE PRODUCT OF THE LATEST POPULATION ESTIMATE, AS PUBLISHED BY THE U.S. CENSUS BUREAU MULTIPLIED BY FOUR POUNDS.

(C) FOR CALENDAR YEAR TWO THOUSAND TWELVE, THE STATEWIDE RECYCLING OR REUSE GOAL FOR ALL ELECTRONIC WASTE SHALL BE THE PRODUCT OF THE LATEST POPULATION ESTIMATE, AS PUBLISHED BY THE U.S. CENSUS BUREAU MULTIPLIED BY FIVE POUNDS.

(D) FOR CALENDAR YEAR TWO THOUSAND THIRTEEN AND ANNUALLY THEREAFTER, THE STATEWIDE RECYCLING OR REUSE GOAL FOR ALL ELECTRONIC WASTE IS THE PRODUCT OF THE BASE WEIGHT MULTIPLIED BY THE GOAL ATTAINMENT PERCENTAGE. FOR THE PURPOSES OF THIS PARAGRAPH, "BASE WEIGHT" MEANS THE GREATER OF:

(I) THE AVERAGE WEIGHT OF ALL ELECTRONIC WASTE COLLECTED FOR RECYCLING OR REUSE DURING THE PREVIOUS THREE CALENDAR YEARS AS REPORTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION 27-2617 OF THIS TITLE; OR (II) THE THREE YEAR AVERAGE OF THE SUM OF ALL ELECTRONIC WASTE COLLECTED FOR RECYCLING OR REUSE DURING THE PREVIOUS THREE CALENDAR YEARS AS REPORTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (B) OF SUBDIVISION ONE, PARAGRAPH (B) OF SUBDIVISION TWO AND PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION 27-2613 OF THIS TITLE.

(E) THE "GOAL ATTAINMENT PERCENTAGE" MEANS:

(I) NINETY PERCENT IF THE BASE WEIGHT IS LESS THAN NINETY PERCENT OF THE STATEWIDE RECYCLING OR REUSE GOAL FOR THE PREVIOUS CALENDAR YEAR;

(II) NINETY-FIVE PERCENT IF THE BASE WEIGHT IS NINETY PERCENT OR GREATER, BUT DOES NOT EXCEED NINETY-FIVE PERCENT OF THE STATEWIDE RECYCLING OR REUSE GOAL FOR THE PREVIOUS CALENDAR YEAR;

(III) ONE HUNDRED PERCENT IF THE BASE WEIGHT IS NINETY-FIVE PERCENT OR GREATER, BUT DOES NOT EXCEED ONE HUNDRED FIVE PERCENT OF THE STATEWIDE RECYCLING OR REUSE GOAL FOR THE PREVIOUS CALENDAR YEAR;

(IV) ONE HUNDRED FIVE PERCENT IF THE BASE WEIGHT IS ONE HUNDRED FIVE PERCENT OR GREATER, BUT DOES NOT EXCEED ONE HUNDRED TEN PERCENT OF THE STATEWIDE RECYCLING OR REUSE GOAL FOR THE PREVIOUS CALENDAR YEAR; AND

1 (V) ONE HUNDRED TEN PERCENT IF THE BASE WEIGHT IS ONE HUNDRED TEN
2 PERCENT OR GREATER OF THE STATEWIDE RECYCLING OR REUSE GOAL FOR THE
3 PREVIOUS CALENDAR YEAR.

4 4. MANUFACTURER ACCEPTANCE STANDARD. (A) FOR CALENDAR YEAR TWO THOU-
5 SAND ELEVEN, EACH MANUFACTURER'S ACCEPTANCE STANDARD IS THE PRODUCT OF
6 THE STATEWIDE RECYCLING OR REUSE GOAL UNDER PARAGRAPH (A) OF SUBDIVISION
7 THREE OF THIS SECTION MULTIPLIED BY THAT MANUFACTURER'S MARKET SHARE AS
8 DETERMINED BY THE DEPARTMENT PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVI-
9 SION.

10 (B) FOR CALENDAR YEAR TWO THOUSAND TWELVE AND ANNUALLY THEREAFTER,
11 EACH MANUFACTURER'S ACCEPTANCE STANDARD IS THE PRODUCT OF THE STATEWIDE
12 RECYCLING OR REUSE GOAL UNDER PARAGRAPH (B), (C) OR (D) OF SUBDIVISION
13 THREE OF THIS SECTION AS APPROPRIATE MULTIPLIED BY THAT MANUFACTURER'S
14 MARKET SHARE PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION.

15 (C) EACH MANUFACTURER'S MARKET SHARE OF ELECTRONIC WASTE SHALL BE
16 DETERMINED BY THE DEPARTMENT BASED ON THE MANUFACTURER'S PERCENTAGE
17 SHARE OF THE TOTAL WEIGHT OF COVERED ELECTRONIC EQUIPMENT SOLD AS DETER-
18 MINED BY THE BEST AVAILABLE INFORMATION, INCLUDING, BUT NOT LIMITED TO,
19 STATE SALES DATA REPORTED BY WEIGHT. BEGINNING JULY FIRST, TWO THOUSAND
20 ELEVEN, AND EVERY YEAR THEREAFTER, THE DEPARTMENT SHALL PROVIDE EACH
21 MANUFACTURER WITH A DETERMINATION OF ITS MARKET SHARE OF ELECTRONIC
22 WASTE WHICH SHALL BE THE QUOTIENT OF THE TOTAL WEIGHT OF THE MANUFACTUR-
23 ER'S COVERED ELECTRONIC EQUIPMENT SOLD TO PERSONS IN THIS STATE BASED ON
24 THE AVERAGE ANNUAL RETAIL SALES DURING THE PRECEDING THREE CALENDAR
25 YEARS, AS REPORTED UNDER SECTION 27-2617 OF THIS TITLE DIVIDED BY THE
26 TOTAL WEIGHT OF ALL MANUFACTURERS COVERED ELECTRONIC EQUIPMENT SOLD TO
27 PERSONS IN THIS STATE BASED ON THE AVERAGE ANNUAL RETAIL SALES DURING
28 THE PRECEDING THREE CALENDAR YEARS, AS REPORTED UNDER SECTION 27-2617 OF
29 THIS TITLE.

30 5. IN THE ABSENCE OF A WAIVER BY THE DEPARTMENT PURSUANT TO SUBDIVI-
31 SION THREE OF SECTION 27-2615 OF THIS TITLE, BEGINNING IN CALENDAR YEAR
32 TWO THOUSAND TWELVE, A MANUFACTURER THAT FAILS TO MEET ITS MANUFACTUR-
33 ER'S ACCEPTANCE STANDARD AS REQUIRED BY SUBDIVISION FOUR OF THIS SECTION
34 SHALL BE SUBJECT TO A RECYCLING SURCHARGE, DETERMINED AS FOLLOWS:

35 (A) IF A MANUFACTURER ACCEPTS AT LEAST NINETY PERCENT BUT LESS THAN
36 ONE HUNDRED PERCENT OF ITS MANUFACTURER'S ACCEPTANCE STANDARD AS
37 REQUIRED BY SUBDIVISION FOUR OF THIS SECTION, THE SURCHARGE SHALL BE
38 THIRTY CENTS MULTIPLIED BY THE NUMBER OF ADDITIONAL POUNDS OF ELECTRONIC
39 WASTE THAT SHOULD HAVE BEEN ACCEPTED BY SUCH MANUFACTURER.

40 (B) IF A MANUFACTURER ACCEPTS AT LEAST FIFTY PERCENT BUT LESS THAN
41 NINETY PERCENT OF ITS MANUFACTURER'S ACCEPTANCE STANDARD AS REQUIRED BY
42 SUBDIVISION FOUR OF THIS SECTION, THE SURCHARGE SHALL BE FORTY CENTS
43 MULTIPLIED BY THE NUMBER OF ADDITIONAL POUNDS OF ELECTRONIC WASTE THAT
44 SHOULD HAVE BEEN ACCEPTED BY SUCH MANUFACTURER.

45 (C) IF A MANUFACTURER ACCEPTS LESS THAN FIFTY PERCENT OF ITS MANUFAC-
46 Turer's ACCEPTANCE STANDARD AS REQUIRED BY SUBDIVISION FOUR OF THIS
47 SECTION, THE SURCHARGE SHALL BE FIFTY CENTS MULTIPLIED BY THE NUMBER OF
48 ADDITIONAL POUNDS OF ELECTRONIC WASTE THAT SHOULD HAVE BEEN ACCEPTED BY
49 SUCH MANUFACTURER.

50 6. THE RECYCLING SURCHARGE SHALL BE PAID TO THE DEPARTMENT WITH THE
51 ANNUAL REPORT REQUIRED PURSUANT TO SECTION 27-2617 OF THIS TITLE.

52 7. BEGINNING WITH CALENDAR YEAR TWO THOUSAND THIRTEEN, IF A MANUFAC-
53 Turer ACCEPTS MORE THAN ITS MANUFACTURER'S ACCEPTANCE STANDARD AS
54 REQUIRED BY SUBDIVISION FOUR OF THIS SECTION, THE EXCESS WEIGHT MAY BE
55 USED AS ELECTRONIC WASTE ACCEPTANCE CREDITS AND MAY BE SOLD, TRADED, OR
56 BANKED FOR A PERIOD NO LONGER THAN THREE CALENDAR YEARS SUCCEEDING THE

1 YEAR IN WHICH THE CREDITS WERE EARNED; PROVIDED, HOWEVER, THAT NO MORE
2 THAN TWENTY-FIVE PERCENT OF A MANUFACTURER'S OBLIGATION FOR ANY CALENDAR
3 YEAR MAY BE MET WITH RECYCLING CREDITS GENERATED IN A PRIOR CALENDAR
4 YEAR.

5 S 27-2605. MANUFACTURER ELECTRONIC WASTE REGISTRATION AND RESPONSIBIL-
6 ITIES.

7 1. A MANUFACTURER SHALL SUBMIT A REGISTRATION TO THE DEPARTMENT BY
8 JUNE FIRST, TWO THOUSAND TEN, ALONG WITH A REGISTRATION FEE OF FIVE
9 THOUSAND DOLLARS. SUCH REGISTRATION SHALL INCLUDE:

10 (A) THE MANUFACTURER'S NAME, ADDRESS, AND TELEPHONE NUMBER;

11 (B) THE NAME AND TITLE OF AN OFFICER, DIRECTOR, OR OTHER INDIVIDUAL
12 DESIGNATED AS THE MANUFACTURER'S CONTACT FOR PURPOSES OF THIS TITLE;

13 (C) A LIST IDENTIFYING THE MANUFACTURER'S BRANDS;

14 (D) A GENERAL DESCRIPTION OF THE MANNER IN WHICH THE MANUFACTURER WILL
15 COMPLY WITH SECTION 27-2603 OF THIS TITLE, INCLUDING SPECIFIC INFORMA-
16 TION ON THE MANUFACTURER'S ELECTRONIC WASTE ACCEPTANCE PROGRAM IN THE
17 STATE, AND A CURRENT LIST OF LOCATIONS WITHIN THE STATE WHERE CONSUMERS
18 MAY RETURN ELECTRONIC WASTE;

19 (E) SALES DATA REPORTED BY WEIGHT FOR THE MANUFACTURER'S COVERED ELEC-
20 TRONIC EQUIPMENT SOLD IN THIS STATE FOR THE PREVIOUS THREE CALENDAR
21 YEARS, CATEGORIZED BY TYPE TO THE EXTENT KNOWN. IF THE MANUFACTURER
22 CANNOT PROVIDE ACCURATE STATE SALES DATA, IT MUST EXPLAIN WHY SUCH DATA
23 CANNOT BE PROVIDED, AND ESTIMATE STATE SALES DATA BY (I) DIVIDING ITS
24 NATIONAL SALES DATA BY WEIGHT BY THE NATIONAL POPULATION ACCORDING TO
25 THE MOST RECENT CENSUS AND MULTIPLYING THE RESULT BY THE POPULATION OF
26 THE STATE, OR (II) ANOTHER METHOD APPROVED BY THE DEPARTMENT;

27 (F) A STATEMENT DISCLOSING WHETHER: (I) ANY COVERED ELECTRONIC DEVICE
28 SOLD IN THIS STATE EXCEEDS THE MAXIMUM CONCENTRATION VALUES ESTABLISHED
29 FOR LEAD, MERCURY, CADMIUM, HEXAVALENT CHROMIUM, POLYBROMINATED BIPHE-
30 NYLS (PBBS), AND POLYBROMINATED DIPHENYL ETHERS (PBDES) UNDER THE
31 RESTRICTION OF HAZARDOUS SUBSTANCES DIRECTIVE (ROHS) PURSUANT TO
32 2002/95/EC OF THE EUROPEAN PARLIAMENT AND COUNCIL AND ANY AMENDMENTS
33 THERETO AND IF SO, A LISTING OF ANY COVERED ELECTRONIC EQUIPMENT THAT IS
34 NOT IN COMPLIANCE WITH SUCH DIRECTIVE; OR (II) THE MANUFACTURER HAS
35 RECEIVED AN EXEMPTION FROM ONE OR MORE OF THOSE MAXIMUM CONCENTRATION
36 VALUES UNDER THE ROHS DIRECTIVE THAT HAS BEEN APPROVED AND PUBLISHED BY
37 THE EUROPEAN COMMISSION; AND

38 (G) ANY OTHER INFORMATION AS THE DEPARTMENT MAY REQUIRE.

39 2. A MANUFACTURER'S REGISTRATION MUST BE UPDATED WITHIN THIRTY DAYS OF
40 ANY MATERIAL CHANGE TO THE INFORMATION REQUIRED BY THE REGISTRATION.

41 3. ANY PERSON WHO BECOMES A MANUFACTURER ON OR AFTER JUNE SECOND, TWO
42 THOUSAND TEN SHALL REGISTER WITH THE DEPARTMENT PRIOR TO SELLING OR
43 OFFERING FOR SALE IN THE STATE ANY COVERED ELECTRONIC EQUIPMENT, AND
44 MUST COMPLY WITH THE REQUIREMENTS OF THIS TITLE.

45 4. NO LATER THAN DECEMBER FIRST, TWO THOUSAND TEN, A MANUFACTURER
46 SHALL NOT SELL OR OFFER FOR SALE ELECTRONIC EQUIPMENT IN THE STATE
47 UNLESS THE MANUFACTURER HAS REGISTERED WITH THE DEPARTMENT AND MAINTAINS
48 AN ELECTRONIC WASTE ACCEPTANCE PROGRAM THROUGH WHICH THE MANUFACTURER,
49 EITHER DIRECTLY OR THROUGH AN AGENT OR DESIGNEE, ACCEPTS ELECTRONIC
50 WASTE FROM CONSUMERS IN THE STATE FOR RECYCLING. THE MANUFACTURER SHALL
51 ENSURE THAT RETAILERS ARE NOTIFIED OF SUCH REGISTRATION. THE MANUFAC-
52 TURER SHALL NOT IMPOSE A FEE ON CONSUMERS FOR THE COLLECTION, HANDLING
53 AND RECYCLING OR REUSE OF ELECTRONIC WASTE.

54 5. THE ELECTRONIC WASTE ACCEPTANCE PROGRAM SHALL INCLUDE, AT A MINI-
55 MUM:

1 (A) COLLECTION, HANDLING AND RECYCLING OR REUSE OF COVERED ELECTRONIC
2 EQUIPMENT PRODUCED BY THE MANUFACTURER AND OFFERED FOR RETURN BY ANY
3 CONSUMER IN THIS STATE, FREE OF COST AND IN A MANNER CONVENIENT TO
4 CONSUMERS. THE FOLLOWING ACCEPTANCE METHODS SHALL BE CONSIDERED REASON-
5 ABLY CONVENIENT: (I) MAIL OR SHIP BACK RETURN PROGRAMS; (II) COLLECTION
6 OR ACCEPTANCE EVENTS CONDUCTED BY THE MANUFACTURER OR THE MANUFACTURER'S
7 AGENT OR DESIGNEE, INCLUDING EVENTS CONDUCTED THROUGH LOCAL GOVERNMENTS
8 OR PRIVATE PARTIES; (III) FIXED ACCEPTANCE LOCATIONS SUCH AS DEDICATED
9 ACCEPTANCE SITES OPERATED BY THE MANUFACTURER OR ITS AGENT OR DESIGNEE;
10 (IV) AGREEMENTS WITH LOCAL GOVERNMENTS, RETAIL STORES, SALES OUTLETS AND
11 NOT-FOR-PROFIT ORGANIZATIONS WHICH HAVE AGREED TO PROVIDE FACILITIES FOR
12 THE COLLECTION OF ELECTRONIC WASTE; (V) COMMUNITY COLLECTION EVENTS; AND
13 (VI) ANY COMBINATION OF THESE OR OTHER ACCEPTANCE METHODS WHICH EFFEC-
14 TIVELY PROVIDE FOR THE ACCEPTANCE OF ELECTRONIC WASTE FOR RECYCLING OR
15 REUSE THROUGH MEANS THAT ARE AVAILABLE AND REASONABLY CONVENIENT TO
16 CONSUMERS IN THE STATE. AT A MINIMUM, THE MANUFACTURER SHALL ENSURE THAT
17 ALL COUNTIES OF THE STATE AND ALL MUNICIPALITIES WHICH HAVE A POPULATION
18 OF TEN THOUSAND OR GREATER HAVE AT LEAST ONE METHOD OF ACCEPTANCE THAT
19 IS AVAILABLE WITHIN THAT MUNICIPALITY. THE DEPARTMENT MAY ESTABLISH
20 ADDITIONAL REQUIREMENTS TO ENSURE CONVENIENT COLLECTION FROM CONSUMERS;

21 (B) INFORMATION ON HOW CONSUMERS CAN DESTROY ALL DATA ON ANY ELECTRON-
22 IC WASTE, EITHER THROUGH PHYSICAL DESTRUCTION OF THE HARD DRIVE OR
23 THROUGH DATA WIPING;

24 (C) A PUBLIC EDUCATION PROGRAM TO INFORM CONSUMERS ABOUT THE MANUFAC-
25 Turer's ELECTRONIC WASTE ACCEPTANCE PROGRAM, INCLUDING AT A MINIMUM: (I)
26 AN INTERNET WEBSITE AND A TOLL-FREE TELEPHONE NUMBER AND WRITTEN INFOR-
27 MATION INCLUDED IN THE PACKAGE FOR, OR AT THE TIME OF SALE OF, COVERED
28 ELECTRONIC EQUIPMENT THAT PROVIDES SUFFICIENT INFORMATION TO ALLOW A
29 CONSUMER OF COVERED ELECTRONIC EQUIPMENT TO LEARN HOW TO RETURN THE
30 COVERED EQUIPMENT FOR RECYCLING OR REUSE, AND IN THE CASE OF MANUFACTUR-
31 ERS OF COMPUTERS, HARD DRIVES AND OTHER COVERED ELECTRONIC EQUIPMENT
32 THAT HAVE INTERNAL MEMORY ON WHICH PERSONAL OR OTHER CONFIDENTIAL DATA
33 CAN BE STORED, SUCH WEBSITE SHALL PROVIDE INSTRUCTIONS FOR HOW CONSUMERS
34 CAN DESTROY SUCH DATA BEFORE SURRENDERING THE PRODUCTS FOR RECYCLING OR
35 REUSE; (II) ADVERTISEMENTS AND PRESS RELEASES IF ANY; AND

36 (D) ANY OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT IN ACCORDANCE
37 WITH REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE.

38 6. A MANUFACTURER SHALL MAINTAIN RECORDS DEMONSTRATING COMPLIANCE WITH
39 THIS TITLE AND MAKE THEM AVAILABLE FOR AUDIT AND INSPECTION BY THE
40 DEPARTMENT FOR A PERIOD OF THREE YEARS.

41 7. A MANUFACTURER MAY SATISFY THE ELECTRONIC WASTE COLLECTION REQUIRE-
42 MENTS OF THIS SECTION BY AGREEING TO PARTICIPATE IN A COLLECTIVE ELEC-
43 TRONIC WASTE ACCEPTANCE PROGRAM WITH OTHER MANUFACTURERS. ANY SUCH
44 COLLECTIVE ELECTRONIC WASTE ACCEPTANCE PROGRAM MUST MEET THE SAME
45 REQUIREMENTS AS AN INDIVIDUAL MANUFACTURER. ANY COLLECTIVE ELECTRONIC
46 WASTE ACCEPTANCE PROGRAM MUST INCLUDE A LIST OF MANUFACTURERS THAT ARE
47 PARTICIPATING IN SUCH PROGRAM ALONG WITH OTHER IDENTIFYING INFORMATION
48 AS MAY BE REQUIRED BY THE DEPARTMENT. SUCH PROGRAM SHALL SUBMIT A REGIS-
49 TRATION TO THE DEPARTMENT ALONG WITH A REGISTRATION FEE OF TEN THOUSAND
50 DOLLARS.

51 8. A MANUFACTURER SHALL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH
52 THE IMPLEMENTATION OF THE ELECTRONIC WASTE ACCEPTANCE PROGRAM.
53 S 27-2607. RETAILER REQUIREMENTS.

54 1. AT THE LOCATION OF SALE OF COVERED ELECTRONIC EQUIPMENT, A RETAILER
55 SHALL PROVIDE PURCHASERS OF COVERED ELECTRONIC EQUIPMENT WITH INFORMA-

1 TION, IF ANY, ABOUT OPPORTUNITIES FOR THE RETURN OF ELECTRONIC WASTE
2 THAT HAS BEEN PROVIDED TO THE RETAILER BY A MANUFACTURER.

3 2. NO RETAILER SHALL SELL OR OFFER FOR SALE IN THE STATE ANY COVERED
4 ELECTRONIC EQUIPMENT UNLESS THE MANUFACTURER AND THE MANUFACTURER'S
5 BRANDS ARE REGISTERED WITH THE DEPARTMENT PURSUANT TO SECTION 27-2605 OF
6 THIS TITLE.

7 S 27-2609. LABELING.

8 BEGINNING DECEMBER FIRST, TWO THOUSAND TEN, A MANUFACTURER MAY NOT
9 OFFER FOR SALE IN THE STATE OR DELIVER TO RETAILERS FOR SUBSEQUENT SALE
10 COVERED ELECTRONIC EQUIPMENT UNLESS IT HAS A VISIBLE, PERMANENT LABEL
11 CLEARLY IDENTIFYING THE MANUFACTURER OF THAT EQUIPMENT.

12 S 27-2611. DISPOSAL BAN.

13 1. BEGINNING JANUARY FIRST, TWO THOUSAND ELEVEN, NO MANUFACTURER,
14 RETAILER, OR OWNER OR OPERATOR OF AN ELECTRONIC WASTE COLLECTION SITE,
15 ELECTRONIC WASTE CONSOLIDATION FACILITY OR ELECTRONIC WASTE RECYCLING
16 FACILITY IN THE STATE SHALL DISPOSE OF ELECTRONIC WASTE AT A SOLID WASTE
17 MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY, OR PLACE
18 ELECTRONIC WASTE FOR COLLECTION WHICH IS INTENDED FOR DISPOSAL AT A
19 SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY.

20 2. BEGINNING JANUARY FIRST, TWO THOUSAND TWELVE, NO PERSON EXCEPT FOR
21 AN INDIVIDUAL OR HOUSEHOLD SHALL PLACE OR DISPOSE OF ANY ELECTRONIC
22 WASTE IN ANY SOLID WASTE MANAGEMENT FACILITY, OR PLACE ELECTRONIC WASTE
23 FOR COLLECTION WHICH IS INTENDED FOR DISPOSAL AT A SOLID WASTE MANAGE-
24 MENT FACILITY OR HAZARDOUS WASTE MANAGEMENT FACILITY IN THIS STATE.
25 PERSONS ENGAGED IN THE COLLECTION OF SOLID WASTE FOR DELIVERY TO A SOLID
26 WASTE MANAGEMENT FACILITY SHALL PROVIDE WRITTEN INFORMATION TO USERS OF
27 SUCH FACILITY ON THE PROPER METHODS FOR THE RECYCLING OF ELECTRONIC
28 WASTE.

29 3. BEGINNING JANUARY FIRST, TWO THOUSAND SIXTEEN, NO INDIVIDUAL OR
30 HOUSEHOLD SHALL PLACE OR DISPOSE OF ANY ELECTRONIC WASTE IN ANY SOLID
31 WASTE MANAGEMENT FACILITY, OR PLACE ELECTRONIC WASTE FOR COLLECTION
32 WHICH IS INTENDED FOR DISPOSAL AT A SOLID WASTE MANAGEMENT FACILITY OR
33 HAZARDOUS WASTE MANAGEMENT FACILITY IN THIS STATE.

34 4. BEGINNING JANUARY FIRST, TWO THOUSAND ELEVEN, AN OWNER OR OPERATOR
35 OF A SOLID WASTE MANAGEMENT FACILITY OR HAZARDOUS WASTE MANAGEMENT
36 FACILITY SHALL EDUCATE USERS OF SUCH FACILITY ON THE PROPER METHODS FOR
37 THE MANAGEMENT OF ELECTRONIC WASTE. SUCH EDUCATION SHALL INCLUDE:

38 (A) PROVIDING WRITTEN INFORMATION TO USERS OF SUCH FACILITY ON THE
39 PROPER METHODS FOR RECYCLING OF ELECTRONIC WASTE; AND

40 (B) POSTING, IN CONSPICUOUS LOCATIONS AT SUCH FACILITY, SIGNS STATING
41 THAT ELECTRONIC WASTE MAY NOT BE DISPOSED OF AT THE FACILITY.

42 S 27-2613. ELECTRONIC WASTE COLLECTION, CONSOLIDATION AND RECYCLING.

43 1. ELECTRONIC WASTE COLLECTION SITES. NO LATER THAN DECEMBER FIRST,
44 TWO THOUSAND TEN, EACH PERSON WHO OWNS OR OPERATES AN ELECTRONIC WASTE
45 COLLECTION SITE IN THE STATE SHALL:

46 (A) REGISTER WITH THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPART-
47 MENT. THE REGISTRATION SHALL INCLUDE: (I) THE NAME, ADDRESS, AND TELE-
48 PHONE NUMBER OF THE OWNERS AND THE OPERATORS OF THE ELECTRONIC WASTE
49 COLLECTION SITE; AND (II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
50 ELECTRONIC WASTE COLLECTION SITE. ANY PERSON WHO COMMENCES THE OPERATION
51 OF AN ELECTRONIC WASTE COLLECTION SITE ON OR AFTER DECEMBER FIRST, TWO
52 THOUSAND TEN SHALL REGISTER WITH THE DEPARTMENT AT LEAST THIRTY DAYS
53 PRIOR TO RECEIVING ANY ELECTRONIC WASTE AT SUCH COLLECTION SITE. A
54 REGISTRATION IS EFFECTIVE UPON ACCEPTANCE BY THE DEPARTMENT. IN THE CASE
55 OF COLLECTION SITES OPERATED BY A RETAILER, A SINGLE REGISTRATION LIST-

1 ING THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE INDIVIDUAL COLLECTION
2 SITES MAY BE SUBMITTED COVERING ALL THEIR COLLECTION SITES;

3 (B) BEGINNING MARCH FIRST, TWO THOUSAND ELEVEN, EACH PERSON OPERATING
4 AN ELECTRONIC WASTE COLLECTION SITE SHALL SUBMIT TO THE DEPARTMENT A
5 REPORT FOR THE PERIOD DECEMBER FIRST, TWO THOUSAND TEN THROUGH DECEMBER
6 THIRTY-FIRST, TWO THOUSAND ELEVEN, AND THEREAFTER, AN ANNUAL REPORT FOR
7 THE PREVIOUS CALENDAR YEAR, ON A FORM PRESCRIBED BY THE DEPARTMENT,
8 INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING INFORMATION: (I) THE QUAN-
9 TITY, BY WEIGHT, OF ELECTRONIC WASTE RECEIVED FROM CONSUMERS IN THE
10 STATE; (II) THE NAME AND ADDRESS OF EACH PERSON TO WHOM THE ELECTRONIC
11 WASTE COLLECTION SITE SENT ELECTRONIC WASTE DURING THE PRECEDING YEAR,
12 ALONG WITH THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE THAT WAS SENT TO
13 EACH SUCH PERSON; AND (III) THE WEIGHT OF ELECTRONIC WASTE COLLECTED ON
14 BEHALF OF OR PURSUANT TO AN AGREEMENT WITH EACH MANUFACTURER DURING THE
15 PRECEDING CALENDAR YEAR. ALL QUANTITIES OF ELECTRONIC WASTE REPORTED BY
16 THE COLLECTION SITE MUST SEPARATELY INCLUDE ELECTRONIC WASTE GENERATED
17 BY NEW YORK STATE CONSUMERS AND ELECTRONIC WASTE RECEIVED FROM OR
18 SHIPPED OUTSIDE THE STATE;

19 (C) MANAGE ELECTRONIC WASTE IN A MANNER THAT COMPLIES WITH ALL APPLI-
20 CABLE LAWS, RULES AND REGULATIONS;

21 (D) STORE ELECTRONIC WASTE (I) IN A FULLY ENCLOSED BUILDING WITH A
22 ROOF, FLOOR AND WALLS, OR (II) IN A SECURE CONTAINER (E.G., PACKAGE OR
23 VEHICLE), THAT IS CONSTRUCTED AND MAINTAINED TO MINIMIZE BREAKAGE OF
24 ELECTRONIC WASTE AND TO PREVENT RELEASES OF HAZARDOUS MATERIALS TO THE
25 ENVIRONMENT;

26 (E) REMOVE ELECTRONIC WASTE FROM THE SITE WITHIN ONE YEAR OF THE
27 WASTE'S RECEIPT AT THE SITE, AND MAINTAIN RECORDS DEMONSTRATING COMPLI-
28 ANCE WITH THIS REQUIREMENT.

29 2. ELECTRONIC WASTE CONSOLIDATION FACILITIES. (A) NO LATER THAN
30 DECEMBER FIRST, TWO THOUSAND TEN, EACH PERSON WHO OPERATES AN ELECTRONIC
31 WASTE CONSOLIDATION FACILITY IN THE STATE SHALL REGISTER WITH THE
32 DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT. THE REGISTRATION
33 SHALL INCLUDE: (I) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE OWNER
34 AND THE OPERATOR OF THE FACILITY; AND (II) THE NAME, ADDRESS AND TELE-
35 PHONE NUMBER OF THE ELECTRONIC WASTE CONSOLIDATION FACILITY. ANY PERSON
36 WHO COMMENCES THE OPERATION OF AN ELECTRONIC WASTE CONSOLIDATION FACILI-
37 TY ON OR AFTER DECEMBER FIRST, TWO THOUSAND TEN SHALL REGISTER WITH THE
38 DEPARTMENT AT LEAST THIRTY DAYS PRIOR TO RECEIVING ANY ELECTRONIC WASTE.
39 A REGISTRATION IS EFFECTIVE UPON ACCEPTANCE BY THE DEPARTMENT. ANY
40 REGISTRATION REQUIRED BY THIS PARAGRAPH SHALL BE ACCOMPANIED BY A REGIS-
41 TRATION FEE OF TWO HUNDRED FIFTY DOLLARS.

42 (B) BEGINNING MARCH FIRST, TWO THOUSAND ELEVEN, EACH PERSON OPERATING
43 AN ELECTRONIC WASTE CONSOLIDATION FACILITY SHALL SUBMIT TO THE DEPART-
44 MENT A REPORT FOR THE PERIOD DECEMBER FIRST, TWO THOUSAND TEN THROUGH
45 DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN, AND THEREAFTER, AN ANNUAL
46 REPORT FOR THE PREVIOUS CALENDAR YEAR, ON A FORM PRESCRIBED BY THE
47 DEPARTMENT, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING INFORMATION:
48 (I) THE NAME AND ADDRESS OF EACH ELECTRONIC WASTE COLLECTION SITE FROM
49 WHICH THE CONSOLIDATION FACILITY RECEIVED ELECTRONIC WASTE DURING THE
50 PRECEDING YEAR, ALONG WITH THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE
51 RECEIVED FROM EACH COLLECTION SITE; (II) THE NAME AND ADDRESS OF EACH
52 PERSON TO WHOM THE ELECTRONIC WASTE CONSOLIDATION FACILITY SENT ELEC-
53 TRONIC WASTE DURING THE PRECEDING YEAR, ALONG WITH THE QUANTITY, BY
54 WEIGHT, OF ELECTRONIC WASTE THAT WAS SENT TO EACH SUCH PERSON; (III) THE
55 WEIGHT OF ELECTRONIC WASTE COLLECTED ON BEHALF OF OR PURSUANT TO AN
56 AGREEMENT WITH EACH MANUFACTURER DURING THE PRECEDING CALENDAR YEAR; AND

(IV) A CERTIFICATION BY THE OWNER OR OPERATOR OF THE ELECTRONIC WASTE CONSOLIDATION FACILITY THAT SUCH A FACILITY HAS COMPLIED WITH THE REQUIREMENTS OF THIS TITLE AND ALL OTHER APPLICABLE LAWS, RULES, AND REGULATIONS. ALL QUANTITIES OF ELECTRONIC WASTE REPORTED BY THE CONSOLIDATION FACILITY MUST SEPARATELY INCLUDE ELECTRONIC WASTE GENERATED BY NEW YORK STATE CONSUMERS AND ELECTRONIC WASTE RECEIVED FROM OR SHIPPED OUTSIDE THE STATE.

(C) EACH PERSON OPERATING AN ELECTRONIC WASTE CONSOLIDATION FACILITY SHALL:

(I) MANAGE ELECTRONIC WASTE IN A MANNER THAT COMPLIES WITH ALL APPLICABLE LAWS, RULES AND REGULATIONS;

(II) STORE ELECTRONIC WASTE (A) IN A FULLY ENCLOSED BUILDING WITH A ROOF, FLOOR AND WALLS, OR (B) IN A SECURE CONTAINER (E.G., PACKAGE OR VEHICLE), THAT IS CONSTRUCTED AND MAINTAINED TO MINIMIZE BREAKAGE OF ELECTRONIC WASTE AND TO PREVENT RELEASES OF HAZARDOUS MATERIALS TO THE ENVIRONMENT;

(III) HAVE A MEANS TO CONTROL ENTRY, AT ALL TIMES, TO THE ACTIVE PORTION OF THE FACILITY;

(IV) INFORM ALL EMPLOYEES WHO HANDLE OR HAVE RESPONSIBILITY FOR MANAGING ELECTRONIC WASTE ABOUT THE PROPER HANDLING AND EMERGENCY PROCEDURES APPROPRIATE TO THE TYPE OR TYPES OF ELECTRONIC WASTE HANDLED AT THE FACILITY;

(V) REMOVE ELECTRONIC WASTE FROM THE SITE WITHIN ONE YEAR OF THE WASTE'S RECEIPT AT THE SITE, AND MAINTAIN RECORDS DEMONSTRATING COMPLIANCE WITH THIS REQUIREMENT; AND

(VI) MAINTAIN THE RECORDS REQUIRED BY PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION AND BY SUBPARAGRAPH (V) OF THIS PARAGRAPH ON SITE AND MAKE THEM AVAILABLE FOR AUDIT AND INSPECTION BY THE DEPARTMENT FOR A PERIOD OF THREE YEARS.

(D) A PERSON OPERATING AN ELECTRONIC WASTE CONSOLIDATION FACILITY SHALL NOT ENGAGE IN ELECTRONIC WASTE RECYCLING UNLESS SUCH PERSON IS ALSO REGISTERED AS AN ELECTRONIC WASTE RECYCLING FACILITY, AND COMPLIES WITH THE REQUIREMENTS OF THIS SECTION THAT ARE APPLICABLE TO EACH TYPE OF FACILITY.

(E) A PERSON OPERATING AN ELECTRONIC WASTE CONSOLIDATION FACILITY MAY ACCEPT ELECTRONIC WASTE IN THE SAME MANNER AS AN ELECTRONIC WASTE COLLECTION SITE PROVIDED THAT SUCH PERSON COMPLIES WITH THE REQUIREMENTS OF THIS SECTION THAT ARE APPLICABLE TO ELECTRONIC WASTE COLLECTION FACILITIES.

3. ELECTRONIC WASTE RECYCLING FACILITIES. (A) NO LATER THAN DECEMBER FIRST, TWO THOUSAND TEN, EACH PERSON OPERATING AN ELECTRONIC WASTE RECYCLING FACILITY IN THE STATE SHALL REGISTER WITH THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT. THE REGISTRATION SHALL INCLUDE: (I) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE OWNER AND THE OPERATOR OF THE FACILITY; AND (II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE ELECTRONIC WASTE RECYCLING FACILITY. ANY PERSON WHO COMMENCES THE OPERATION OF AN ELECTRONIC WASTE RECYCLING FACILITY ON OR AFTER DECEMBER SECOND, TWO THOUSAND TEN SHALL REGISTER WITH THE DEPARTMENT AT LEAST THIRTY DAYS PRIOR TO RECEIVING ANY ELECTRONIC WASTE. A REGISTRATION IS EFFECTIVE UPON ACCEPTANCE BY THE DEPARTMENT. ANY REGISTRATION REQUIRED BY THIS PARAGRAPH SHALL BE ACCOMPANIED BY A REGISTRATION FEE OF TWO HUNDRED FIFTY DOLLARS.

(B) BEGINNING MARCH FIRST, TWO THOUSAND ELEVEN, EACH PERSON OPERATING AN ELECTRONIC WASTE RECYCLING FACILITY SHALL SUBMIT TO THE DEPARTMENT A REPORT FOR THE PERIOD DECEMBER FIRST, TWO THOUSAND TEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN, AND THEREAFTER, AN ANNUAL REPORT FOR

1 THE PREVIOUS CALENDAR YEAR, ON A FORM PRESCRIBED BY THE DEPARTMENT,
2 INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING INFORMATION: (I) THE QUAN-
3 TITY, BY WEIGHT, OF ELECTRONIC WASTE RECEIVED FROM CONSUMERS IN THE
4 STATE; (II) THE NAME AND ADDRESS OF EACH ELECTRONIC WASTE COLLECTION
5 SITE AND ELECTRONIC WASTE CONSOLIDATION FACILITY FROM WHICH ELECTRONIC
6 WASTE WAS RECEIVED DURING THE PRECEDING CALENDAR YEAR, ALONG WITH THE
7 QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE RECEIVED FROM EACH PERSON;
8 (III) THE NAME AND ADDRESS OF EACH PERSON TO WHOM THE FACILITY SENT
9 ELECTRONIC WASTE OR COMPONENT MATERIALS DURING THE PRECEDING YEAR, ALONG
10 WITH THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE OR COMPONENT MATERIALS
11 THEREOF SENT TO EACH SUCH PERSON; (IV) THE WEIGHT OF ELECTRONIC WASTE
12 COLLECTED ON BEHALF OF OR PURSUANT TO AN AGREEMENT WITH EACH MANUFACTUR-
13 ER DURING THE PRECEDING CALENDAR YEAR; AND (V) A CERTIFICATION BY THE
14 OWNER OR OPERATOR OF THE FACILITY THAT SUCH FACILITY HAS COMPLIED WITH
15 THE REQUIREMENTS OF THIS TITLE AND ALL OTHER APPLICABLE LAWS, RULES, AND
16 REGULATIONS. ALL QUANTITIES OF ELECTRONIC WASTE REPORTED BY THE RECYCL-
17 ING FACILITY MUST SEPARATELY INCLUDE ELECTRONIC WASTE GENERATED BY NEW
18 YORK STATE CONSUMERS AND ELECTRONIC WASTE RECEIVED FROM OR SHIPPED
19 OUTSIDE THE STATE.

20 (C) EACH PERSON OPERATING AN ELECTRONIC WASTE RECYCLING FACILITY
21 SHALL:

22 (I) MANAGE AND RECYCLE ELECTRONIC WASTE IN A MANNER THAT COMPLIES WITH
23 ALL APPLICABLE LAWS, RULES AND REGULATIONS;

24 (II) STORE ELECTRONIC WASTE (A) IN A FULLY ENCLOSED BUILDING WITH A
25 ROOF, FLOOR AND WALLS, OR (B) IN A SECURE CONTAINER (E.G., PACKAGE OR
26 VEHICLE), THAT IS CONSTRUCTED AND MAINTAINED TO MINIMIZE BREAKAGE OF
27 ELECTRONIC WASTE AND TO PREVENT RELEASES OF HAZARDOUS MATERIALS TO THE
28 ENVIRONMENT;

29 (III) HAVE A MEANS TO CONTROL ENTRY, AT ALL TIMES, THROUGH GATES OR
30 OTHER ENTRANCES TO THE ACTIVE PORTION OF THE FACILITY;

31 (IV) INFORM ALL EMPLOYEES WHO HANDLE OR HAVE RESPONSIBILITY FOR MANAG-
32 ING ELECTRONIC WASTE ABOUT PROPER HANDLING AND EMERGENCY PROCEDURES
33 APPROPRIATE TO THE TYPE OR TYPES OF ELECTRONIC WASTE HANDLED AT THE
34 FACILITY;

35 (V) REMOVE ELECTRONIC WASTE FROM THE SITE WITHIN ONE YEAR OF THE
36 WASTE'S RECEIPT AT THE SITE, AND MAINTAIN RECORDS DEMONSTRATING COMPLI-
37 ANCE WITH THIS REQUIREMENT; AND

38 (VI) MAINTAIN THE RECORDS REQUIRED BY PARAGRAPHS (A) AND (B) OF THIS
39 SUBDIVISION AND BY SUBPARAGRAPH (V) OF THIS PARAGRAPH ON SITE AND MAKE
40 THEM AVAILABLE FOR AUDIT AND INSPECTION BY THE DEPARTMENT FOR A PERIOD
41 OF THREE YEARS.

42 (D) A PERSON OPERATING AN ELECTRONIC WASTE RECYCLING FACILITY MAY ALSO
43 OPERATE SUCH FACILITY AS AN ELECTRONIC WASTE CONSOLIDATION FACILITY
44 PROVIDED THAT SUCH PERSON COMPLIES WITH THE REQUIREMENTS OF THIS SECTION
45 THAT ARE APPLICABLE TO EACH TYPE OF FACILITY. WHERE A FACILITY IS OPER-
46 ATED FOR BOTH PURPOSES, ONLY ONE REGISTRATION FEE MUST BE PAID.

47 (E) A PERSON OPERATING AN ELECTRONIC WASTE RECYCLING FACILITY MAY
48 ACCEPT ELECTRONIC WASTE IN THE SAME MANNER AS AN ELECTRONIC WASTE
49 COLLECTION SITE PROVIDED THAT SUCH PERSON COMPLIES WITH THE REQUIREMENTS
50 OF THIS SECTION THAT ARE APPLICABLE TO ELECTRONIC WASTE COLLECTION
51 FACILITIES.

52 4. EXCEPT TO THE EXTENT OTHERWISE REQUIRED BY LAW, NO MANUFACTURER OR
53 PERSON OPERATING AN ELECTRONIC WASTE COLLECTION SITE, ELECTRONIC WASTE
54 CONSOLIDATION FACILITY OR ELECTRONIC WASTE RECYCLING FACILITY SHALL HAVE
55 ANY RESPONSIBILITY OR LIABILITY FOR ANY DATA IN ANY FORM STORED ON ELEC-
56 TRONIC WASTE SURRENDERED FOR RECYCLING OR REUSE, UNLESS SUCH PERSON

MISUSES OR KNOWINGLY AND INTENTIONALLY, OR WITH GROSS NEGLIGENCE, DISCLOSES THE DATA. THIS PROVISION SHALL NOT PROHIBIT ANY SUCH PERSON FROM ENTERING INTO AGREEMENTS THAT PROVIDE FOR THE DESTRUCTION OF DATA ON COVERED ELECTRONIC EQUIPMENT.

S 27-2615. DEPARTMENT RESPONSIBILITIES.

1. THE DEPARTMENT IS AUTHORIZED TO PROMULGATE RULES AND REGULATIONS NECESSARY TO IMPLEMENT AND ADMINISTER THIS TITLE. AT A MINIMUM, THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS ON: STANDARDS FOR REUSE; ELECTRONIC WASTE ACCEPTANCE CREDITS; WAIVERS OF THE RECYCLING SURCHARGE; AND ACCEPTABLE ALTERNATIVE METHODS FOR THE DETERMINATION OF STATE SALES DATA.

2. THE DEPARTMENT SHALL (A) MAINTAIN A LIST OF MANUFACTURERS WHO ARE REGISTERED PURSUANT TO SECTION 27-2605 OF THIS TITLE, (B) MAINTAIN A LIST OF EACH SUCH MANUFACTURER'S BRANDS, AND (C) POST SUCH LISTS ON THE DEPARTMENT'S WEBSITE.

3. THE DEPARTMENT MAY WAIVE THE RECYCLING SURCHARGE PAYABLE BY A MANUFACTURER UNDER THIS TITLE WHEN THE MANUFACTURER DEMONSTRATES IN AN APPLICATION TO THE DEPARTMENT IT WAS UNABLE TO ACCEPT THE WEIGHT OF ELECTRONIC WASTE REQUIRED BY SECTION 27-2603 OF THIS TITLE DESPITE THE MANUFACTURER'S BEST EFFORTS. THE APPLICATION SHALL BE MADE WITH THE ANNUAL REPORT REQUIRED BY SECTION 27-2617 OF THIS TITLE. THE APPLICATION SHALL INCLUDE SUCH INFORMATION AS THE DEPARTMENT REQUIRES. A WAIVER PROVIDED PURSUANT TO THIS SUBDIVISION SHALL NOT RELIEVE A MANUFACTURER FROM THE OBLIGATION TO COMPLY WITH THE PROVISIONS OF THIS TITLE NOT SPECIFICALLY ADDRESSED IN SUCH WAIVER.

S 27-2617. REPORTING REQUIREMENTS.

1. BEGINNING MARCH FIRST, TWO THOUSAND TWELVE, FOR THE PREVIOUS CALENDAR YEAR AND ANNUALLY THEREAFTER, A MANUFACTURER THAT OFFERS COVERED ELECTRONIC EQUIPMENT FOR SALE IN THIS STATE SHALL SUBMIT A REPORT TO THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT THAT INCLUDES THE FOLLOWING:

(A) SALES DATA REPORTED BY WEIGHT FOR THE MANUFACTURER'S COVERED ELECTRONIC EQUIPMENT SOLD IN THIS STATE FOR THE PREVIOUS THREE CALENDAR YEARS, CATEGORIZED BY TYPE TO THE EXTENT KNOWN. IF THE MANUFACTURER CANNOT PROVIDE ACCURATE STATE SALES DATA, IT MUST EXPLAIN WHY SUCH DATA CANNOT BE PROVIDED, AND ESTIMATE STATE SALES DATA BY (I) DIVIDING ITS NATIONAL SALES DATA BY WEIGHT BY THE NATIONAL POPULATION ACCORDING TO THE MOST RECENT CENSUS AND MULTIPLYING THE RESULT BY THE POPULATION OF THE STATE, OR (II) ANOTHER METHOD APPROVED BY THE DEPARTMENT;

(B) THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE COLLECTED FOR RECYCLING OR REUSE IN THIS STATE, CATEGORIZED BY THE TYPE OF COVERED ELECTRONIC EQUIPMENT COLLECTED DURING THE PRECEDING CALENDAR YEAR, THE METHODS USED TO ACCEPT THE ELECTRONIC WASTE, AND THE APPROXIMATE WEIGHT OF ELECTRONIC WASTE ACCEPTED BY EACH METHOD USED TO THE EXTENT KNOWN;

(C) ALL QUANTITIES OF ELECTRONIC WASTE REPORTED BY THE MANUFACTURER MUST SEPARATELY INCLUDE ELECTRONIC WASTE GENERATED BY NEW YORK STATE CONSUMERS AND ELECTRONIC WASTE RECEIVED FROM OR SHIPPED OUTSIDE THE STATE: (I) THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE RECEIVED DIRECTLY FROM CONSUMERS IN THE STATE THROUGH A MAIL BACK PROGRAM; (II) THE NAME AND ADDRESS OF EACH ELECTRONIC WASTE COLLECTION SITE, ELECTRONIC WASTE CONSOLIDATION FACILITY, AND ELECTRONIC WASTE RECYCLING FACILITY AT WHICH ELECTRONIC WASTE FROM CONSUMERS WAS RECEIVED ON BEHALF OF THE PRODUCER DURING THE PRECEDING CALENDAR YEAR, ALONG WITH THE QUANTITY, BY WEIGHT, OF ELECTRONIC WASTE RECEIVED; AND (III) THE NAME AND ADDRESS OF EACH PERSON TO WHOM THE PRODUCER SENT ELECTRONIC WASTE OR COMPONENT MATERIALS DURING THE PRECEDING YEAR, ALONG WITH THE QUANTITY, BY WEIGHT,

1 OF ELECTRONIC WASTE OR COMPONENT MATERIALS THEREOF SENT TO EACH SUCH
2 PERSON;

3 (D) THE NUMBER OF ELECTRONIC WASTE ACCEPTANCE CREDITS PURCHASED, SOLD,
4 BANKED AND TRADED DURING THE PRECEDING CALENDAR YEAR, THE NUMBER OF
5 ELECTRONIC WASTE ACCEPTANCE CREDITS USED TO MEET THE REQUIREMENTS OF
6 SECTION 27-2603 OF THIS TITLE, AND FROM WHOM THEY WERE PURCHASED AND TO
7 WHOM THEY WERE SOLD OR TRADED, AND THE NUMBER OF ELECTRONIC WASTE
8 ACCEPTANCE CREDITS RETAINED AS OF THE DATE OF THE REPORT;

9 (E) THE AMOUNT OF ANY RECYCLING SURCHARGE OWED FOR THE PRECEDING
10 CALENDAR YEAR, WITH SUFFICIENT INFORMATION TO DEMONSTRATE THE BASIS FOR
11 THE CALCULATION OF THE SURCHARGE;

12 (F) THE NAMES AND LOCATIONS OF ELECTRONIC WASTE RECYCLERS UTILIZED BY
13 THE MANUFACTURER AND ENTITIES TO WHICH ELECTRONIC WASTE IS SENT FOR
14 REUSE, WHETHER IN THE STATE OR OUTSIDE THE STATE, INCLUDING DETAILS ON
15 THE METHODS OF RECYCLING OR REUSE OF ELECTRONIC WASTE, ANY DISASSEMBLY
16 OR PHYSICAL RECOVERY OPERATION USED, AND THE ENVIRONMENTAL MANAGEMENT
17 MEASURES IMPLEMENTED BY SUCH RECYCLER OR ENTITY;

18 (G) INFORMATION DETAILING THE ACCEPTANCE METHODS MADE AVAILABLE TO
19 CONSUMERS IN MUNICIPALITIES WHICH HAVE A POPULATION OF GREATER THAN TEN
20 THOUSAND AND IN EACH COUNTY OF THE STATE TO MEET THE REQUIREMENTS OF
21 PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION 27-2605 OF THIS TITLE;

22 (H) A BRIEF DESCRIPTION OF ITS PUBLIC EDUCATION PROGRAM INCLUDING THE
23 NUMBER OF VISITS TO THE INTERNET WEBSITE AND CALLS TO THE TOLL-FREE
24 TELEPHONE NUMBER PROVIDED BY THE MANUFACTURER AS REQUIRED BY SECTION
25 27-2605 OF THIS TITLE;

26 (I) ANY OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT; AND

27 (J) A SIGNATURE BY AN OFFICER, DIRECTOR, OR OTHER INDIVIDUAL AFFIRMING
28 THE ACCURACY OF THE REPORT.

29 2. THE REPORT SHALL BE ACCOMPANIED BY AN ANNUAL REPORTING FEE OF THREE
30 THOUSAND DOLLARS, AND ANY RECYCLING SURCHARGE DUE PURSUANT TO SECTION
31 27-2603 OF THIS TITLE.

32 3. THE DEPARTMENT SHALL SUBMIT A REPORT ON IMPLEMENTATION OF THE TITLE
33 IN THIS STATE TO THE GOVERNOR AND LEGISLATURE BY APRIL FIRST, TWO THOU-
34 SAND ELEVEN AND EVERY TWO YEARS THEREAFTER. THE REPORT MUST INCLUDE, AT
35 A MINIMUM, AN EVALUATION OF:

36 (A) THE ELECTRONIC WASTE STREAM IN THE STATE;

37 (B) RECYCLING AND REUSE RATES IN THE STATE FOR COVERED ELECTRONIC
38 EQUIPMENT;

39 (C) A DISCUSSION OF COMPLIANCE AND ENFORCEMENT RELATED TO THE REQUIRE-
40 MENTS OF THIS TITLE;

41 (D) RECOMMENDATIONS FOR ANY CHANGES TO THIS TITLE; AND

42 (E) A DISCUSSION OF OPPORTUNITIES FOR BUSINESS DEVELOPMENT IN THE
43 STATE RELATED TO THE ACCEPTANCE, COLLECTION, HANDLING AND RECYCLING OR
44 REUSE OF ELECTRONIC EQUIPMENT IN THIS STATE.

45 S 27-2619. PREEMPTION.

46 JURISDICTION IN ALL MATTERS PERTAINING TO ELECTRONIC WASTE RECYCLING,
47 INCLUDING BUT NOT LIMITED TO THE OBLIGATIONS OF MANUFACTURERS, RETAIL-
48 ERS, ELECTRONIC WASTE COLLECTION SITES, ELECTRONIC WASTE CONSOLIDATION
49 FACILITIES AND ELECTRONIC WASTE RECYCLING FACILITIES WITH RESPECT TO
50 ELECTRONIC WASTE RECYCLING, IS, BY THIS TITLE, VESTED EXCLUSIVELY IN THE
51 STATE. ANY PROVISION OF ANY LOCAL LAW OR ORDINANCE, OR ANY RULE OR REGU-
52 LATION PROMULGATED THERETO, GOVERNING COVERED ELECTRONIC EQUIPMENT AND
53 THE COLLECTION, REUSE, OR RECYCLING OF ELECTRONIC WASTE SHALL UPON THE
54 EFFECTIVE DATE OF THIS TITLE BE PREEMPTED.

55 S 27-2621. DISPOSITION OF FEES.

1 ALL FEES AND CHARGES COLLECTED PURSUANT TO THIS TITLE SHALL BE DEPOS-
2 ITED INTO THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED PURSUANT TO
3 SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

4 S 3. The environmental conservation law is amended by adding a new
5 section 71-2729 to read as follows:

6 S 71-2729. ENFORCEMENT OF TITLE 26 OF ARTICLE 27 OF THIS CHAPTER.

7 1. A. ANY CONSUMER, AS DEFINED IN TITLE TWENTY-SIX OF ARTICLE TWENTY-
8 SEVEN OF THIS CHAPTER, WHO VIOLATES ANY PROVISION OF, OR FAILS TO
9 PERFORM ANY DUTY IMPOSED BY, SECTION 27-2611 OF THIS CHAPTER, SHALL BE
10 LIABLE FOR A CIVIL PENALTY NOT TO EXCEED ONE HUNDRED DOLLARS FOR EACH
11 VIOLATION.

12 B. ANY PERSON, EXCEPT A CONSUMER, MANUFACTURER, OR AN OWNER OR OPERA-
13 TOR OF AN ELECTRONIC WASTE COLLECTION SITE, ELECTRONIC WASTE CONSOL-
14 IDATION FACILITY, OR ELECTRONIC WASTE RECYCLING FACILITY AS THESE TERMS
15 ARE DEFINED IN TITLE TWENTY-SIX OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER,
16 WHO VIOLATES ANY PROVISION, OR FAILS TO PERFORM ANY DUTY IMPOSED BY
17 SECTION 27-2611 OF THIS CHAPTER, SHALL BE LIABLE FOR A CIVIL PENALTY NOT
18 TO EXCEED TWO HUNDRED FIFTY DOLLARS FOR EACH VIOLATION.

19 C. ANY MANUFACTURER, OR ANY PERSON OPERATING AN ELECTRONIC WASTE
20 COLLECTION SITE, AN ELECTRONIC WASTE CONSOLIDATION FACILITY, OR AN ELEC-
21 TRONIC WASTE RECYCLING FACILITY AS THOSE TERMS ARE DEFINED IN TITLE
22 TWENTY-SIX OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER, WHO:

23 I. FAILS TO SUBMIT ANY REPORT, REGISTRATION, FEE, OR SURCHARGE TO THE
24 DEPARTMENT AS REQUIRED BY TITLE TWENTY-SIX OF ARTICLE TWENTY-SEVEN OF
25 THIS CHAPTER SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED ONE THOU-
26 SAND DOLLARS FOR EACH DAY SUCH REPORT, REGISTRATION, FEE, OR SURCHARGE
27 IS NOT SUBMITTED; AND

28 II. VIOLATES ANY OTHER PROVISION OF TITLE TWENTY-SIX OF ARTICLE TWEN-
29 TY-SEVEN OF THIS CHAPTER OR FAILS TO PERFORM ANY DUTY IMPOSED BY SUCH
30 TITLE, EXCEPT FOR SUBDIVISION FOUR OF SECTION 27-2603 OF THIS CHAPTER,
31 SHALL BE LIABLE FOR A CIVIL PENALTY FOR EACH VIOLATION NOT TO EXCEED ONE
32 THOUSAND DOLLARS FOR THE FIRST VIOLATION, TWO THOUSAND FIVE HUNDRED
33 DOLLARS FOR THE SECOND VIOLATION AND FIVE THOUSAND DOLLARS FOR THE THIRD
34 AND SUBSEQUENT VIOLATIONS OF THIS TITLE WITHIN A TWELVE-MONTH PERIOD.

35 D. ANY RETAILER, AS DEFINED BY SECTION 27-2601 OF THIS CHAPTER, WHO
36 VIOLATES ANY PROVISION OF TITLE TWENTY-SIX OF ARTICLE TWENTY-SEVEN OF
37 THIS CHAPTER OR FAILS TO PERFORM ANY DUTY IMPOSED BY SUCH TITLE, SHALL
38 BE LIABLE FOR A CIVIL PENALTY FOR EACH VIOLATION NOT TO EXCEED TWO
39 HUNDRED FIFTY DOLLARS FOR THE FIRST VIOLATION, FIVE HUNDRED DOLLARS FOR
40 THE SECOND VIOLATION AND ONE THOUSAND DOLLARS FOR THE THIRD AND SUBSE-
41 QUENT VIOLATIONS OF THIS TITLE IN A TWELVE-MONTH PERIOD.

42 E. CIVIL PENALTIES UNDER THIS SECTION SHALL BE ASSESSED BY THE COMMIS-
43 SIONER AFTER A HEARING OR OPPORTUNITY TO BE HEARD PURSUANT TO THE
44 PROVISIONS OF SECTION 71-1709 OF THIS ARTICLE, OR BY THE COURT IN ANY
45 ACTION OR PROCEEDING PURSUANT TO THIS SECTION, AND, IN ADDITION THERETO,
46 SUCH PERSON MAY BY SIMILAR PROCESS BE ENJOINED FROM CONTINUING SUCH
47 VIOLATION.

48 2. ALL PENALTIES COLLECTED PURSUANT TO THIS SECTION SHALL BE PAID OVER
49 TO THE COMMISSIONER FOR DEPOSIT TO THE CREDIT OF THE SOLID WASTE ACCOUNT
50 OF THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED PURSUANT TO SECTION
51 NINETY-TWO-S OF THE STATE FINANCE LAW.

52 S 4. Severability. The provisions of this title shall be severable,
53 and if any provision of this title is declared to be void or invalid by
54 a court of competent jurisdiction, the remaining provisions shall not be
55 affected, but shall remain in full force and effect.

56 S 5. This act shall take effect immediately.

1

PART 00

2 Section 1. Section 72-0403 of the environmental conservation law, as
3 added by section 3 of part I of chapter 1 of the laws of 2003, para-
4 graphs m and n of subdivision 1 as added by section 7 of part I of chap-
5 ter 577 of the laws of 2004, is amended to read as follows:

6 S 72-0403. Hazardous waste program surcharges.

7 1. For the period beginning April first, two thousand three, all
8 generators shall submit annually to the department a fee in the amount
9 to be determined as follows:

10 a. Four thousand dollars for generators of equal to or greater than
11 fifteen tons per year and less than or equal to twenty-five tons per
12 year of hazardous waste;

13 b. Nine thousand dollars for generators of greater than twenty-five
14 tons per year and less than or equal to fifty tons per year of hazardous
15 waste;

16 c. Fourteen thousand dollars for generators of greater than fifty tons
17 per year and less than or equal to seventy-five tons per year of hazard-
18 ous waste;

19 d. Nineteen thousand dollars for generators of greater than seventy-
20 five tons per year and less than or equal to one hundred tons per year
21 of hazardous waste;

22 e. Twenty-four thousand dollars for generators of greater than one
23 hundred tons per year and less than or equal to five hundred tons per
24 year of hazardous waste;

25 f. Eighty thousand dollars for generators of greater than five hundred
26 tons per year and less than or equal to one thousand tons per year of
27 hazardous waste;

28 g. Eighty-five thousand dollars for generators of greater than one
29 thousand tons per year and less than or equal to two thousand tons per
30 year of hazardous waste;

31 h. One hundred ten thousand dollars for generators of greater than two
32 thousand tons per year and less than or equal to three thousand tons per
33 year of hazardous waste;

34 i. One hundred thirty-five thousand dollars for generators of greater
35 than three thousand tons per year and less than or equal to five thou-
36 sand tons per year of hazardous waste;

37 j. One hundred sixty thousand dollars for generators of greater than
38 five thousand tons per year and less than or equal to ten thousand tons
39 per year of hazardous waste;

40 k. Three hundred sixty thousand dollars for generators of greater than
41 ten thousand tons per year of hazardous waste;

42 l. Six thousand dollars for generators of equal to or greater than
43 fifteen thousand tons per year of hazardous wastewater, payable in addi-
44 tion to the fees for hazardous wastes, other than wastewater, as
45 required by this subdivision.

46 [m.] 2. FOR THE PERIOD BEGINNING APRIL FIRST, TWO THOUSAND TEN, ALL
47 GENERATORS SHALL SUBMIT ANNUALLY TO THE DEPARTMENT A FEE IN THE AMOUNT
48 TO BE DETERMINED AS FOLLOWS:

49 A. ONE THOUSAND DOLLARS FOR GENERATORS OF EQUAL TO OR GREATER THAN
50 FIFTEEN TONS PER YEAR AND LESS THAN OR EQUAL TO TWENTY-FIVE TONS PER
51 YEAR OF HAZARDOUS WASTE;

52 B. TWO THOUSAND DOLLARS FOR GENERATORS OF GREATER THAN TWENTY-FIVE
53 TONS PER YEAR AND LESS THAN OR EQUAL TO FIFTY TONS PER YEAR OF HAZARDOUS
54 WASTE;

1 C. TWO THOUSAND FIVE HUNDRED DOLLARS FOR GENERATORS OF GREATER THAN
2 FIFTY TONS PER YEAR AND LESS THAN OR EQUAL TO SEVENTY-FIVE TONS PER YEAR
3 OF HAZARDOUS WASTE;

4 D. THREE THOUSAND FIVE HUNDRED DOLLARS FOR GENERATORS OF GREATER THAN
5 SEVENTY-FIVE TONS PER YEAR AND LESS THAN OR EQUAL TO ONE HUNDRED TONS
6 PER YEAR OF HAZARDOUS WASTE;

7 E. FOUR THOUSAND DOLLARS FOR GENERATORS OF GREATER THAN ONE HUNDRED
8 TONS PER YEAR AND LESS THAN OR EQUAL TO FIVE HUNDRED TONS PER YEAR OF
9 HAZARDOUS WASTE;

10 F. FIFTEEN THOUSAND DOLLARS FOR GENERATORS OF GREATER THAN FIVE
11 HUNDRED TONS PER YEAR AND LESS THAN OR EQUAL TO ONE THOUSAND TONS PER
12 YEAR OF HAZARDOUS WASTE;

13 G. FIFTEEN THOUSAND DOLLARS FOR GENERATORS OF GREATER THAN ONE THOU-
14 SAND TONS PER YEAR AND LESS THAN OR EQUAL TO TWO THOUSAND TONS PER YEAR
15 OF HAZARDOUS WASTE;

16 H. TWENTY THOUSAND DOLLARS FOR GENERATORS OF GREATER THAN TWO THOUSAND
17 TONS PER YEAR AND LESS THAN OR EQUAL TO THREE THOUSAND TONS PER YEAR OF
18 HAZARDOUS WASTE;

19 I. TWENTY-FIVE THOUSAND DOLLARS FOR GENERATORS OF GREATER THAN THREE
20 THOUSAND TONS PER YEAR AND LESS THAN OR EQUAL TO FIVE THOUSAND TONS PER
21 YEAR OF HAZARDOUS WASTE;

22 J. THIRTY THOUSAND DOLLARS FOR GENERATORS OF GREATER THAN FIVE THOU-
23 SAND TONS PER YEAR AND LESS THAN OR EQUAL TO TEN THOUSAND TONS PER YEAR
24 OF HAZARDOUS WASTE;

25 K. SIXTY-FIVE THOUSAND DOLLARS FOR GENERATORS OF GREATER THAN TEN
26 THOUSAND TONS PER YEAR OF HAZARDOUS WASTE.

27 3. No fee shall be payable for waste resulting from services which are
28 provided [(i)]: A. under a contract with the department, or with the
29 department's approval and in compliance with department regulations, or
30 pursuant to an order of the department, the United States environmental
31 protection agency or a court, related to the cleanup or remediation of a
32 hazardous materials or hazardous waste spill, discharge, or surficial
33 cleanup, pursuant to this chapter, other than section 27-1313 of this
34 chapter or a removal action pursuant to the Comprehensive Environmental
35 Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.); or

36 [(ii)] B. under a contract for, or with the department's approval and
37 in compliance with department regulations for, the cleanup and removal
38 of a petroleum spill or discharge, pursuant to subdivision seven of
39 section one hundred seventy-six of the navigation law; or

40 [(iii)] C. under the order of a court, the department or the depart-
41 ment of health, or the United States environmental protection agency
42 related to an inactive hazardous waste disposal site pursuant to section
43 27-1313 of this chapter, section thirteen hundred eighty-nine-b of the
44 public health law, or the Comprehensive Environmental Response, Compen-
45 sation and Liability Act (42 U.S.C. 9601 et seq.); or

46 [(iv)] D. voluntarily and without expectation of monetary compensation
47 in accordance with subdivision one of section 27-1321 of this chapter;
48 or

49 [(v)] E. under permit or order requiring corrective action pursuant to
50 title nine of article twenty-seven of this chapter or the Resource
51 Conservation and Recovery Act (42 U.S.C. 6901 et seq.); or

52 [(vi)] F. under a brownfield site cleanup agreement with the depart-
53 ment pursuant to section 27-1409 of this chapter; or

54 [(vii)] G. under an environmental restoration project state assistance
55 contract with the department pursuant to section 56-0503 of this chap-
56 ter.

[n.] 4. Notwithstanding any other provision of this section, no fee shall be payable for the generation of universal wastes. For purposes of this paragraph, "universal wastes" shall mean those defined and listed in regulations promulgated pursuant to this title, provided that such wastes are regulated consistent with rules adopted by the administrator pursuant to RCRA for the management of universal wastes.

[2.] 5. In any case where a generator recycles more than ninety percent of the amount of hazardous waste or more than ninety percent of the amount of hazardous wastewater it produces in any calendar year, as certified to the commissioner, upon which a fee is imposed pursuant to this section, any such fee imposed or to be imposed in such case shall be determined based upon the net amount of hazardous waste or hazardous wastewater generated, as applicable, which is not so recycled in such calendar year, rather than upon the gross amount of hazardous waste or hazardous wastewater generated in such calendar year.

S 2. Paragraph (h) of subdivision 2 of section 97-b of the state finance law, as amended by section 4 of part I of chapter 1 of the laws of 2003, is amended to read as follows:

(h) all fees paid into the fund pursuant to SUBDIVISION ONE OF section 72-0403 of the environmental conservation law which shall be deposited in the fund's industry fee transfer account;

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

3. Such fund shall consist of the amount of revenue collected within the state from the amount of revenue, interest and penalties deposited pursuant to section fourteen hundred twenty-one of the tax law, the amount of fees and penalties received from easements or leases pursuant to subdivision fourteen of section seventy-five of the public lands law [and], the money received as annual service charges pursuant to section four hundred four-1 of the vehicle and traffic law, all moneys required to be deposited therein from the contingency reserve fund pursuant to section two hundred ninety-four of chapter fifty-seven of the laws of nineteen hundred ninety-three, all moneys required to be deposited pursuant to section thirteen of chapter six hundred ten of the laws of nineteen hundred ninety-three, repayments of loans made pursuant to section 54-0511 of the environmental conservation law, all moneys to be deposited from the Northville settlement pursuant to section one hundred twenty-four of chapter three hundred nine of the laws of nineteen hundred ninety-six, provided however, that such moneys shall only be used for the cost of the purchase of private lands in the core area of the central Suffolk pine barrens pursuant to a consent order with the Northville industries signed on October thirteenth, nineteen hundred ninety-four and the related resource restoration and replacement plan, the amount of penalties required to be deposited therein by section 71-2724 of the environmental conservation law, all moneys required to be deposited pursuant to article thirty-three of the environmental conservation law, all fees collected pursuant to subdivision eight of section 70-0117 of the environmental conservation law, [as added by a chapter of the laws of two thousand nine,] all moneys collected pursuant to title thirty-three of article fifteen of the environmental conservation law, [as added by a chapter of the laws of two thousand nine] ALL SURCHARGES COLLECTED PURSUANT TO SUBDIVISION TWO OF SECTION 72-0403 OF THE ENVIRONMENTAL CONSERVATION LAW, and all other moneys credited or transferred thereto from any other fund or source pursuant to law. All such revenue

shall be initially deposited into the environmental protection fund, for application as provided in subdivision five of this section.

S 4. Paragraph e of subdivision 1 of section 72-0201 of the environmental conservation law, as added by section 2 of part I of chapter 1 of the laws of 2003, is amended to read as follows:

e. Notwithstanding any general or special law to the contrary, all monies collected by the department pursuant to SUBDIVISION ONE OF section 72-0403 of this article shall be deposited in the industry fee transfer account of the hazardous waste remedial fund established by subdivision one of section ninety-seven-b of the state finance law.

S 5. Paragraph b of subdivision 9 of section 72-0201 of the environmental conservation law, as added by section 2 of part I of chapter 1 of the laws of 2003, is amended to read as follows:

b. In the event a penalty or interest is collected pursuant to subdivision five or six of this section for fees due under SUBDIVISION ONE OF section 72-0403 of this article, such penalty or interest shall be deposited in the industry fee transfer account of the hazardous waste remedial fund established by subdivision one of section ninety-seven-b of the state finance law.

S 6. This act shall take effect April 1, 2010.

PART PP

Section 1. The purpose of this act is to provide for the consolidation of the responsibilities of the environmental facilities corporation and the department of environmental conservation.

S 1-a. Subdivisions 13, 15 and 28 of section 1281 of the public authorities law, subdivision 13 as amended by chapter 1046 of the laws of 1974, subdivision 15 as amended by chapter 132 of the laws of 1992 and subdivision 28 as added by chapter 166 of the laws of 1991, are amended to read as follows:

13. "Cost" as applied to any project shall include, but not be limited to, cost of construction of the project, the cost of acquisition of all property, including real property and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the costs of all systems, facilities, machinery and equipment, financing charges, interest prior to and during construction, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, the cost of lease guarantee or bond insurance, other expenses necessary or incident to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the corporation providing for the issuance of bonds to be paid into any special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to any municipality, state agency, the state, the United States government, or any other person for expenditures, made with the prior approval of the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, that would be costs of the project hereunder had they been made directly by the corporation.

15. "Project" shall mean any sewage treatment works, sewage collecting systems, solid waste disposal facilities, air pollution control facility, water management facility, industrial hazardous waste treatment, storage, exchange and disposal facility, inactive hazardous waste

1 disposal site remedial program, storm water collecting system, and waste
2 oil recovery, reprocessing and rerefining facilities or any other works
3 or facilities which the corporation UNDER THE GUIDANCE AND SUPPORT OF
4 THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION is authorized to plan,
5 finance, construct, operate or maintain under the provisions of this
6 title including all buildings, systems, facilities, appurtenances,
7 machinery and equipment which the corporation UNDER THE GUIDANCE AND
8 SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION deems necessary
9 for the operation of the project, including the site therefor, together
10 with all property, rights, easements and interests, either on or off
11 such site, which may be required for the operation of the project.

12 28. "Riverbank Park" shall mean a park or parks to be located on a
13 site of approximately twenty-eight acres, on the roof of and adjacent to
14 the North River sewage treatment plant, located at the Hudson River
15 between 137th and 145th Streets in the borough of Manhattan, city of New
16 York, including all buildings, systems, bridges and other means of
17 pedestrian or vehicular access, recreational, cultural and athletic
18 facilities, appurtenances, machinery and equipment which the corporation
19 deems necessary UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
20 ENVIRONMENTAL CONSERVATION for the operation of such park or parks,
21 including the site therefor, together with all property, rights, ease-
22 ments and interests, either on or off such site, which may be required
23 for the operation of such park or parks. Such recreational, cultural and
24 athletic facilities may include, without limitation, swimming pools,
25 gymnasias, athletic fields, skating rinks, tennis courts, theaters or
26 amphitheaters and centers for the performing arts.

27 S 2. Subdivision 1 of section 1283 of the public authorities law, as
28 amended by chapter 55 of the laws of 1992, is amended and a new subdivi-
29 sion 3 is added to read as follows:

30 1. The purposes of the corporation UNDER THE GUIDANCE AND SUPPORT OF
31 THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION shall be the planning,
32 financing, construction, maintenance and operation of sewage treatment
33 works, sewage collecting systems, air pollution control facilities,
34 water management facilities, storm water collecting systems, solid waste
35 disposal facilities and state park infrastructure projects, the
36 construction on behalf of municipalities and state agencies of sewage
37 treatment works, sewage collecting systems, air pollution control facil-
38 ities, water management facilities, storm water collecting systems and
39 solid waste disposal facilities, the financing, for or on behalf of
40 persons, of sewage treatment works, air pollution control facilities,
41 water management facilities, and solid waste disposal facilities and the
42 making of loans which may, but need not, be secured by mortgage,
43 contracts and other instruments to persons for the planning and
44 construction of sewage treatment works, air pollution control facili-
45 ties, water management facilities and solid waste disposal facilities
46 and the assistance of municipalities, state agencies and the state in
47 the planning, financing, construction, maintenance and operation of
48 sewage treatment works, sewage collecting systems, air pollution control
49 facilities, water management facilities, storm water collecting systems
50 and solid waste disposal facilities, in accordance with the provisions
51 of this title. In addition, the purposes of the corporation shall
52 include financing the design, acquisition, construction, improvement and
53 installation of all or any portion of Riverbank Park UNDER THE GUIDANCE
54 AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

55 3. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF LAW, NO FINANCIAL,
56 TECHNICAL OR OTHER ASSISTANCE SHALL BE PROVIDED BY THE CORPORATION

1 UNLESS AND UNTIL THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION HAS
2 REVIEWED AND APPROVED EACH PROJECT.

3 S 3. The opening paragraph of section 1284 of the public authorities
4 law, as amended by chapter 744 of the laws of 1970, is amended to read
5 as follows:

6 Except as otherwise limited by this title, the corporation shall have
7 power, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
8 CONSERVATION:

9 S 4. Section 1285 of the public authorities law, as amended by chapter
10 744 of the laws of 1970, paragraph (d) of subdivision 1 as amended by
11 chapter 83 of the laws of 1995, paragraph (a) of subdivision 3 and
12 subdivision 8 as amended by chapter 551 of the laws of 1974 and subdivi-
13 sion 5 as amended by chapter 234 of the laws of 1991, is amended to read
14 as follows:

15 S 1285. Special powers of the corporation. In order to effectuate the
16 purposes of this title, the corporation UNDER THE GUIDANCE AND SUPPORT
17 OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION shall have the following
18 special powers:

19 1. Construction, operation and maintenance of sewage treatment works,
20 sewage collecting systems and solid waste disposal facilities on behalf
21 of a municipality. (a) The corporation, UNDER THE GUIDANCE AND SUPPORT
22 OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, and any municipality
23 having power to construct sewage treatment works, sewage collecting
24 systems or solid waste disposal facilities by resolution of its govern-
25 ing body may enter into a contract for the construction of sewage treat-
26 ment works, sewage collecting systems or solid waste disposal facilities
27 by the corporation for such municipality upon such terms and conditions
28 as the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
29 ENVIRONMENTAL CONSERVATION, shall determine to be reasonable, including
30 but not limited to the reimbursement of all costs of such construction
31 and claims arising therefrom.

32 (b) The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
33 OF ENVIRONMENTAL CONSERVATION, and any municipality having power to
34 operate and maintain sewage treatment works or solid waste disposal
35 facilities by resolution of its governing body may enter into a contract
36 for the operation and maintenance of sewage treatment works or solid
37 waste disposal facilities by the corporation for such municipality upon
38 such terms and conditions as the corporation shall determine to be
39 reasonable, including but not limited to the reimbursement of all costs
40 of such operation and maintenance and claims arising therefrom.

41 (c) No such contract shall be deemed to be a contract for public work
42 or purchase within the meaning of the general municipal law.

43 (d) The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
44 OF ENVIRONMENTAL CONSERVATION, and any state agency having the power may
45 enter into a contract for the planning, construction, operation and
46 maintenance of sewage treatment works, sewage collecting systems, solid
47 waste disposal facilities, and for the removal, disposal and remediation
48 of petroleum storage tanks and the remediation of the sites thereof, as
49 the case may be, for and on behalf of such state agency; the
50 corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVI-
51 RONMENTAL CONSERVATION, and any such state agency may enter into a
52 contract pursuant to which the corporation, UNDER THE GUIDANCE AND
53 SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may provide for
54 the collection, conveyance, treatment and disposal of sewage, storage,
55 separating, treatment, recycling, reconstituting, compacting, compost-
56 ing, shredding, converting, utilization, processing, pyrolization or

1 final disposal of solid waste by means of sewage collecting systems,
2 sewage treatment works, or solid waste disposal facilities, as the case
3 may be, owned, constructed, operated and maintained by the corporation.
4 Any such contract entered into by any such state agency and the corpo-
5 ration for the purposes of removal, disposal and remediation of petrole-
6 um storage tanks and the remediation of the sites thereof, may provide
7 for ownership, construction, operation and maintenance of such projects
8 by the corporation or by any such state agency and any such contract
9 shall be subject to the approval of the director of the budget. Any such
10 contract or contracts shall be upon such terms and conditions as the
11 corporation and such state agency shall determine to be reasonable,
12 including but not limited to the reimbursement of all costs of planning,
13 financing, construction and operation and maintenance, and any claims
14 arising therefrom. No such contract shall be deemed to be a contract for
15 public work or purchase within the meaning of the state finance law.

16 2. Loans to municipalities and certain state agencies. The
17 corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVI-
18 RONMENTAL CONSERVATION, may make loans to any municipality, or any state
19 agency authorized to issue bonds or notes not constituting a debt or
20 liability within the meaning of section eleven of article seven of the
21 state constitution, for the construction of any sewage treatment works,
22 sewage collecting system or solid waste disposal facility. Any loan by
23 the corporation to any such state agency shall be subject to the
24 approval of the director of the budget. The corporation, UNDER THE GUID-
25 ANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may
26 accept as evidence of the indebtedness of any such municipality or any
27 state agency authorized to issue bonds or notes not constituting a debt
28 or liability of the state within the meaning of section eleven of arti-
29 cle seven of the state constitution, only the municipal bonds or notes
30 of such municipality or bonds or notes of such state agency. Any such
31 loan shall be in an amount or amounts not to exceed the cost of
32 construction of any such sewage treatment works, sewage collecting
33 system or solid waste disposal facility required to be financed by the
34 municipality or such state agency. In connection with the making of any
35 such loans, the corporation may fix and collect such fees and charges,
36 including but not limited to reimbursement of all costs of financing by
37 the corporation, as the corporation shall determine to be reasonable.

38 3. Construction, operation and maintenance of sewage collecting
39 systems, sewage treatment works and solid waste disposal facilities. (a)
40 The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
41 ENVIRONMENTAL CONSERVATION, and a municipality having power to
42 construct, operate and maintain sewage treatment works, sewage collect-
43 ing systems or solid waste disposal facilities, by resolution of its
44 governing body may enter into a contract pursuant to which the corpo-
45 ration, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-
46 MENTAL CONSERVATION, may provide for the collection, conveyance, treat-
47 ment and disposal of sewage or the storage, separating, treatment,
48 recycling, reconstituting, compacting, composting, shredding, convert-
49 ing, utilizing, processing, pyrolization or final disposal of solid
50 wastes by means of sewage treatment works or solid waste disposal facil-
51 ities, as the case may be, owned and constructed by the corporation and
52 operated and maintained by the corporation or, for and on behalf of the
53 corporation, by such municipality or by any person, as may be approved
54 by the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
55 ENVIRONMENTAL CONSERVATION, and such municipality, and by means of
56 sewage collecting systems owned and constructed by the corporation for

1 and on behalf of such municipality pursuant to a contract whereby title
2 to such sewage collecting systems shall vest in such municipality in
3 accordance with the provisions of paragraph (c) of this subdivision, and
4 operated and maintained by such municipality upon such terms and condi-
5 tions as the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPART-
6 MENT OF ENVIRONMENTAL CONSERVATION, shall determine to be reasonable.
7 Such contract or contracts shall, except in the case of a sewer corpo-
8 ration now existing in a city, contain provisions in accordance with the
9 requirements of paragraph (b) or (c) of this subdivision, and, in addi-
10 tion thereto and consistent therewith, may provide for the payment to
11 the corporation by such municipality, annually or otherwise, of such sum
12 or sums of money, computed at fixed amounts or by a formula based on any
13 factors or other matters or in any other manner, as said contract or
14 contracts may provide, and the sum or sums so payable may include
15 provision for all or any part or a share of the amounts necessary (i) to
16 pay or provide for the expense of operation and maintenance of any such
17 project including, without limitation, insurance, extensions, better-
18 ments and replacements and the principal of and interest on any bonds or
19 notes of the corporation, and (ii) to provide for any deficits resulting
20 from failure to secure sums payable to the corporation by such munici-
21 pality, any other municipality or from any other cause, and (iii) to
22 maintain such reserves or sinking funds for any of the foregoing as may
23 be required by the terms of any contract of the corporation or as may be
24 deemed necessary or desirable by the corporation. Such contract or
25 contracts may also contain provisions as to the financing and payment of
26 expenses to be incurred by the corporation and determined by it to be
27 necessary for its purposes prior to the placing in operation of any such
28 project, and may provide for the payment by such municipality to the
29 corporation for application to such expenses or indebtedness therefor
30 such sum or sums of money, not in the aggregate exceeding an amount
31 stated or otherwise limited in said contract or contracts, plus interest
32 thereon, as said contract or contracts may provide and as the governing
33 body of said municipality shall, by virtue of its authorization of and
34 entry into said contract or contracts, determine to be necessary for the
35 purposes of the corporation. Except as otherwise provided in this subdivi-
36 sion, any such contract may be made with or without consideration and
37 for a specified or an unlimited time and on any terms and conditions
38 which may be approved by such municipality and which may be agreed to by
39 the corporation in conformity with its contracts with the holders of any
40 of its bonds or notes, and shall be valid whether or not an appropri-
41 ation with respect thereto is made by such municipality prior to author-
42 ization or execution thereof. The corporation may, UNDER THE GUIDANCE
43 AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, sell,
44 transfer or dispose of, in any manner it deems desirable any materials,
45 substances or sources or forms of energy derived from any corporate
46 activity, including but not limited to sludge, raw materials, by-pro-
47 ducts; heat, oil, steam or electric energy in accordance with any
48 contract pursuant to this paragraph or pursuant to paragraphs (b) and
49 (d) of subdivision one of section twelve hundred eighty-five of this
50 title. Such municipality is hereby authorized to do and perform any and
51 all acts or things necessary, convenient or desirable to carry out and
52 perform every such contract and to provide for the payment or discharge
53 of any obligation thereunder in the same manner as other obligations of
54 such municipality. Subject to any such contracts with the holders of
55 its bonds or notes, the corporation, UNDER THE GUIDANCE AND SUPPORT OF
56 THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, is hereby authorized to do

1 and perform any and all acts or things necessary, convenient or desira-
2 ble to carry out and perform every such contract and, in accordance with
3 any such contract to waive, modify, suspend or reduce charges which
4 would otherwise be charged and collected by the corporation within the
5 municipality.

6 A municipality shall not be liable for any act or omission of the
7 corporation, its officers, agents, servants or contractors in the
8 performance of any such contract by the corporation.

9 (b) Except as provided in paragraph (c) of this subdivision, any
10 contract entered into by the corporation and any municipality, other
11 than a sewer corporation now existing in a city, pursuant to this subdi-
12 vision shall provide that the municipality shall not acquire any vested
13 rights in any such works or facility by reason of such contract, and, in
14 the case of a county, city, or village, that all or any portion of the
15 annual payments, as the case may be, made by such municipality, shall be
16 deemed to be current operating expenses of such municipality within the
17 meaning of section ten of article eight of the state constitution where
18 all or any portion of such payments are or may be required to be raised
19 by tax on real estate in any fiscal year of such municipality.

20 (c) Any contract entered into by the corporation and any municipality
21 pursuant to this subdivision may provide that at the termination thereof
22 the title to the works or facility shall vest in the municipality or its
23 successor in interest, if any, free and clear of any indebtedness
24 contracted by the corporation. Any such contract entered into by the
25 corporation and any municipality which provides that title shall so vest
26 in the municipality or its successor in interest, other than a sewer
27 authority now existing in a city, shall be subject to the following
28 provisions:

29 (1) The term of any such contract shall not exceed the period of prob-
30 able usefulness of the works or facility as provided in section 11.00 of
31 the local finance law, computed from the date of the first indebtedness
32 contracted by the corporation for such works or facility.

33 (2) The annual payments to be made by the municipality to the corpo-
34 ration to enable the corporation to pay the principal of any such
35 indebtedness contracted by it to finance the cost of such works or
36 facility shall commence within two years after any such indebtedness or
37 portion thereof shall have been contracted and no such annual payment
38 shall be more than fifty percentum in excess of the smallest prior annu-
39 al payment for such purpose.

40 (3) The municipality shall pledge its full faith and credit for the
41 payment of such annual payments described in subparagraph two of this
42 paragraph (c) and also for the payments required to be made to the
43 corporation to enable it to pay the interest on any such indebtedness.

44 (4) The total amount of any unpaid annual payments in relation to the
45 principal of any such indebtedness shall be deemed to be indebtedness of
46 the county, city, town or village for a capital improvement within the
47 meaning of subparagraph (b) of subdivision three of paragraph a of
48 section 135.00 of the local finance law or indebtedness contracted by a
49 district corporation pursuant to subdivision seven of paragraph a of
50 such section 135.00, as the case may be.

51 (5) The total amount of any unpaid annual payments in relation to the
52 construction or reconstruction of facilities for the conveyance, treat-
53 ment and disposal of sewage shall be deemed to be indebtedness of the
54 county, city, town or village within the meaning of subdivision four-a
55 of section 136.00 of the local finance law.

1 (6) The annual payments by a county, city or village in relation to
2 such indebtedness and interest shall be deemed to be "indebtedness" and
3 "interest" within the meaning of section ten of article eight of the
4 state constitution.

5 (7) The contract shall not be renegotiated, or amended, in such manner
6 as to constitute a refunding within the meaning of section two of arti-
7 cle eight of the state constitution.

8 (8) The contract shall not be applicable to any works or facility
9 constructed or reconstructed to effectuate the purposes of article eigh-
10 teen of the state constitution.

11 (9) The municipality shall not be liable for a default on the obli-
12 gations of the corporation. If the expenditure of money, or the issuance
13 of obligations, for a project would be subject to the adoption of a
14 proposition pursuant to paragraph b of section 38.00 of the local
15 finance law, a contract between a district corporation and the corpo-
16 ration pursuant to the provisions of this paragraph (c) shall be subject
17 to approval at an election or meeting in the same manner as provided in
18 such section 38.00.

19 In the case of a district corporation subject to the provisions of
20 section 102.00 of the local finance law, the annual payments to be made
21 to the corporation to enable it to pay the principal of any indebtedness
22 contracted by it to finance the cost of the project shall be deemed to
23 be indebtedness within the meaning of such section and section 120.00 of
24 such law and any contract entered into between the district corporation
25 and the corporation pursuant to the provisions of this paragraph (c)
26 shall be subject to the consent of the city, town or village affected as
27 provided in such section 102.00.

28 A contract pursuant to the provisions of this paragraph (c) shall be
29 deemed to be an issuance of bonds, bond anticipation notes or capital
30 notes for the purposes of subdivisions three, four, five, and seven of
31 section 104.10 of the local finance law insofar as the contract shall
32 provide for annual payments to the corporation to enable it to pay the
33 principal of indebtedness contracted by it to finance the cost of any
34 project.

35 (d) Where a county, city, town or village is prevented from utilizing
36 the provisions of this subdivision, by the provision of any general or
37 special law, county, city or village charter which (i) requires that any
38 project must be constructed, operated and maintained by the munici-
39 pality, (ii) limits the period of time for which a municipality may
40 contract, (iii) requires that the cost shall be paid for by taxes levied
41 for the fiscal year in which the expenditure is to be made, (iv)
42 requires that the cost shall be financed pursuant to the local finance
43 law or (v) only permits any such project to be constructed subject to
44 either mandatory or permissive referendum, such county, city, town or
45 village may adopt a local law superseding the provisions of any such
46 general or special law, county, city or village charter. Any such local
47 law shall be subject to mandatory referendum, or referendum on petition
48 in the manner provided in sections twenty-three or twenty-four, as the
49 case may be, of the municipal home rule law, if the issuance, or the
50 resolution authorizing the issuance, of serial bonds having a maturity
51 of more than ten years to finance any such project would be required,
52 under or pursuant to the provisions of sections 33.10, 34.00, 35.00 or
53 36.00 of the local finance law or any other law, to be subject to manda-
54 tory or permissive referendum.

55 4. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
56 OF ENVIRONMENTAL CONSERVATION, is empowered to lease or rent a project

constructed and owned by the corporation pursuant to any contract with a municipality or state agency as herein provided for, to any person, as may be approved by the municipality or state agency. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may make available the use or services of any such project, with the approval of such municipality or state agency, to one or more persons, or any combination thereof, upon such terms and conditions as the corporation may determine reasonable.

5. When requested by the governing body of a municipality, or when requested by a person or state agency, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may advise such municipality, person or state agency on matters relating to the planning, construction, operation and maintenance of sewage treatment works, sewage collecting systems, solid waste disposal facilities, and any other projects which the corporation is authorized to construct pursuant to any provisions of this title, on matters relating to the identification, collection, handling, separation and disposal of waste, and on matters relating to the prevention and control of air emissions and water discharges subject to regulation pursuant to the environmental conservation law, and pursuant to a contract with a municipality, person or state agency, may render technical assistance and may undertake research, planning and testing with respect to any such matter, and the corporation may make a reasonable charge to such municipality, person or state agency for the performance of any such functions authorized by this subdivision.

6. In selecting a location for any projects constructed pursuant to subdivision one or subdivision three of this section, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall take into consideration the character of the area of any proposed location and the zoning regulations, if any, applicable to such area.

7. When requested by the governing body of a municipality or by a state agency, any contract pursuant to either subdivision one or subdivision three of this section, except a contract pursuant to which the municipality shall not acquire a vested interest in the project, may provide as part of a project and upon the site of such project, for the construction and financing, pursuant to the provisions of this title, by the authority of such other facilities, betterments, improvements and appurtenances for which such municipality or state agency has the power to provide. Such construction and financing shall be permitted when necessary to develop or restore such site to a beneficial municipal or public use, and in accordance with the plans or design of the project prepared and approved by such municipality or state agency, or as may be prepared by the corporation on behalf of such municipality or state agency.

8. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, is empowered to enter into one or more contracts with any person designated by the corporation to be a responsible agent for the planning, design, construction and operation of one or more solid waste processing pilot projects. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall require such person to supply it with such plans, estimates of costs, time schedules, designs, and other data as the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall determine to be reasonable to enable proper identification of costs. Such pilot projects are to determine which methods

1 of recycling solid wastes, including, but not limited to shredding,
2 compression, high-temperature incineration, pyrolization, separation or
3 any other new technology for resource recovery in solid waste management
4 are most feasible for large-scale implementation by the corporation and
5 by municipalities in this state, having due regard for the resources to
6 be recovered, net costs, amount of land required, and environmental
7 considerations. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
8 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall issue annual reports as
9 to the results of these projects, containing recommendations not incon-
10 sistent with those findings, and shall make copies of the report, find-
11 ings and supporting data available to any municipality in this state.
12 For this purpose the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
13 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, is authorized to apply to the
14 United States Public Health Service, Environmental Protection Agency,
15 United States Department of Agriculture, or any other appropriate
16 authority for grants of such federal funds as may be available toward
17 the financing of or contracting for such projects.

18 The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
19 ENVIRONMENTAL CONSERVATION, shall transmit a copy of its report to the
20 commissioner of environmental conservation, who shall hold public hear-
21 ings on its recommendations, pursuant to section 3-0301 of the environ-
22 mental conservation law, at which hearings testimony shall be taken from
23 all interested parties. Following the termination of said hearings, the
24 department of environmental conservation may make additional findings,
25 if any, and shall have the power to promulgate rules and regulations
26 and/or propose legislation, consistent with its findings, to implement
27 the report.

28 S 5. Section 1285-a of the public authorities law, as amended by chap-
29 ter 744 of the laws of 1970, is amended to read as follows:

30 S 1285-a. Construction, operation and maintenance of air pollution
31 control facilities, water management facilities and storm water collect-
32 ing systems. 1. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
33 DEPARTMENT OF ENVIRONMENTAL CONSERVATION and any municipality having
34 power to construct air pollution control facilities, water management
35 facilities or storm water collecting systems, by resolution of its
36 governing body may enter into a contract for the construction of air
37 pollution control facilities, water management facilities or storm water
38 collecting systems by the corporation for such municipality upon such
39 terms and conditions as the corporation shall determine to be reason-
40 able, including but not limited to reimbursement of all costs of such
41 construction and claims arising therefrom.

42 2. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
43 OF ENVIRONMENTAL CONSERVATION, and any state agency having power to
44 construct air pollution control facilities, water management facilities,
45 or storm water collecting systems may enter into a contract for the
46 construction of air pollution control facilities, water management
47 facilities or storm water collecting systems by the corporation for such
48 state agency upon such terms and conditions as the authority and such
49 state agency shall determine to be reasonable, including but not limited
50 to reimbursement of all costs of such construction and claims arising
51 therefrom.

52 3. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
53 OF ENVIRONMENTAL CONSERVATION, and any municipality having power to
54 construct, operate and maintain air pollution control facilities or
55 storm water collecting systems, by resolution of its governing body may
56 enter into a contract pursuant to which the corporation may, UNDER THE

1 GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION,
2 provide for the treatment, neutralization and disposal of gaseous wastes
3 and other air pollutants, by means of air pollution control facilities
4 owned and constructed by the corporation and operated and maintained by
5 the corporation or, for and on behalf of the corporation, by such muni-
6 cipality or by any person as may be approved by the corporation, UNDER
7 THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVA-
8 TION, and such municipality, or for the collection and conveyance of
9 storm waters by means of storm water collecting systems owned and
10 constructed by the corporation for and on behalf of such municipality.
11 Such contract or contracts shall be in accordance with the provisions
12 of, and shall contain the same terms, conditions and requirements as are
13 set forth in subdivision three of section twelve hundred eighty-five of
14 this title, provided, however, any such contract providing for the
15 collection and conveyance of storm waters by means of storm water
16 collecting systems owned and constructed by the corporation shall
17 expressly provide for the vesting of title to such storm water collect-
18 ing system in such municipality in accordance with the provisions of
19 paragraph (c) of said subdivision three of section twelve hundred eight-
20 y-five of this title, and that such storm water collecting system shall
21 be operated and maintained by such municipality upon such terms and
22 conditions as the corporation shall determine to be reasonable.

23 4. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
24 OF ENVIRONMENTAL CONSERVATION, and any state agency having power to
25 operate and maintain air pollution control facilities, water management
26 facilities or storm water collecting systems may enter into a contract
27 with the corporation for the operation and maintenance of air pollution
28 control facilities, water management facilities or storm water collect-
29 ing systems by the corporation for and on behalf of such state agency;
30 or the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
31 ENVIRONMENTAL CONSERVATION, and any such state agency may enter into a
32 contract pursuant to which the corporation may provide for the treat-
33 ment, neutralization and disposal of gaseous wastes and other air pollu-
34 tants, the furnishing of a public water supply, the collection and
35 conveyance of storm waters by means of air pollution control facilities,
36 water management facilities or storm water collecting systems, as the
37 case may be, owned and constructed by the corporation and operated and
38 maintained by the corporation or for and on behalf of the corporation,
39 by such state agency or by any person as may be approved by the corpo-
40 ration, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-
41 MENTAL CONSERVATION, and such state agency. Any such contract or
42 contracts shall be upon such terms and conditions as the corporation,
43 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
44 CONSERVATION, and such state agency shall determine to be reasonable,
45 including but not limited to the reimbursement of all costs of planning,
46 financing, construction and operation and maintenance and any claims
47 arising therefrom. No such contract shall be deemed to be a contract for
48 public works or purchase within the meaning of the state finance law.

49 5. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
50 OF ENVIRONMENTAL CONSERVATION, may make loans to any municipality for
51 the construction of any air pollution control facility, water management
52 facility or storm water collecting system or to any state agency author-
53 ized to issue bonds or notes not constituting a debt or liability of the
54 state within the meaning of section eleven of article seven of the state
55 constitution, for the construction of any air pollution control facili-
56 ty, water management facility, or storm water collecting system. The

1 corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVI-
2 RONMENTAL CONSERVATION, may accept as evidence of the indebtedness of
3 any such municipality or any state agency authorized to issue bonds or
4 notes not constituting a debt or liability of the state within the mean-
5 ing of section eleven of article seven of the state constitution, only
6 the municipal bonds or notes of such municipality or bonds or notes of
7 such state agency. Any such loans shall be in an amount or amounts not
8 to exceed the cost of construction of any such project required to be
9 financed by the municipality or such state agency. In connection with
10 the making of any such loans, the corporation, UNDER THE GUIDANCE AND
11 SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may fix and
12 collect fees and charges, including but not limited to reimbursement of
13 all costs of financing by the corporation, as the corporation, UNDER THE
14 GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION,
15 shall determine to be reasonable. Any such loan by the corporation to a
16 state agency as herein provided, shall be subject to the approval of the
17 director of the budget AND THE COMMISSIONER OF THE DEPARTMENT OF ENVI-
18 RONMENTAL CONSERVATION.

19 S 6. Section 1285-b of the public authorities law, as added by chapter
20 1046 of the laws of 1974, is amended to read as follows:

21 S 1285-b. Additional special powers of the corporation with respect to
22 projects and persons. In order to effectuate the purposes of this title,
23 the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
24 ENVIRONMENTAL CONSERVATION, shall have the following additional special
25 powers; (1) to extend credit and make loans to a person or persons for
26 the construction or acquisition of a project or for the reimbursement to
27 a person or persons for costs incurred in connection with a project
28 completed or not completed at the time of such credit or loan, which
29 credits or loans may, but need not, be secured by mortgages, contracts
30 or other instruments, upon such terms and conditions as the corporation
31 shall determine reasonable in connection with such credits or loans, and
32 (2) in the exercise of powers granted in this section in connection with
33 a project for a person or persons, to require the inclusion in any
34 contract, loan agreement or other instrument, of such provisions for the
35 financing of such project and such other financial and other covenants
36 applying to such person or persons, as the corporation may deem neces-
37 sary or desirable and to do all things and to execute all instruments
38 necessary and desirable in connection therewith. In connection with the
39 extension of any such credit or loan, the corporation, UNDER THE GUID-
40 ANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may
41 fix and collect such fees and charges, including but not limited to
42 reimbursement of all costs of financing by the corporation as the corpo-
43 ration shall determine to be reasonable. In connection with such exten-
44 sion of credit or loan to such person or persons for the construction or
45 acquisition of a project as provided above, such person or persons shall
46 submit to the corporation an application for the extension of credit or
47 loan as set forth in the application. The corporation, UNDER THE GUID-
48 ANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may
49 deny such application for any reason it deems appropriate in the public
50 interest. The extension of any such credit or loan is subject to the
51 ability of the corporation to secure the necessary financing and subject
52 to the obtaining by such person or persons of certification by the
53 commissioner of environmental conservation that the project for which
54 such credit or loan is extended is intended to meet or exceed applicable
55 state environmental standards as set forth in law, rules and regu-
56 lations.

1 S 7. Section 1285-c of the public authorities law, as added by chapter
2 639 of the laws of 1978, is amended to read as follows:

3 S 1285-c. Construction, operation and maintenance of industrial
4 hazardous waste treatment, storage and disposal facilities. In addition
5 to its existing powers, the corporation, UNDER THE GUIDANCE AND SUPPORT
6 OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, is hereby empowered to
7 construct, operate and maintain industrial hazardous waste treatment,
8 storage and disposal facilities, including plants, works, instrumentalities,
9 or parts thereof, and appurtenances thereto for the collection,
10 conveyance, treatment, exchange and disposal of hazardous wastes
11 provided such a facility receives a certificate of environmental safety
12 and public necessity as provided in title eleven of article twenty-seven
13 of the environmental conservation law and is located on lands in a municipality
14 where such industrial uses are permitted. The corporation,
15 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
16 CONSERVATION, may subcontract for the construction or operation of such
17 facility.

18 S 8. Section 1285-d of the public authorities law, as added by chapter
19 639 of the laws of 1978 and subdivision 3 as amended by chapter 283 of
20 the laws of 1979, is amended to read as follows:

21 S 1285-d. Studies regarding design, construction and operation of
22 industrial waste treatment, storage and disposal facilities. 1. The
23 purposes of the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
24 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall include research and
25 development of technologies for treatment, storage and disposal of
26 industrial hazardous wastes consistent with economic, social and environmental
27 objectives. In carrying out such purposes the corporation,
28 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
29 CONSERVATION, shall prepare studies regarding the best technology or
30 systems possible for the design, construction and operation of industrial
31 hazardous waste treatment, storage and disposal facilities including
32 methods to recover materials or energy and to detoxify or neutralize
33 wastes. Studies shall also be made of methods to guarantee long-term
34 maintenance, ownership, monitoring, and environmental soundness of long-term
35 hazardous waste storage and disposal sites. With respect to matters
36 of operation and long-term maintenance, consideration shall be given to
37 the various options for locating such storage and disposal sites and for
38 public or private ownership and for public or private operation consistent
39 with the maximum protection of public health, safety and welfare and
40 the natural environment.

41 2. Not later than one year from the effective date of this section,
42 the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
43 ENVIRONMENTAL CONSERVATION, shall submit a report to the governor and
44 the legislature of its studies conducted pursuant to subdivision one of
45 this section.

46 3. To advise the corporation on technical matters, a technical advisory
47 committee shall be constituted to be composed of the commissioners
48 of transportation, commerce, health and environmental conservation, the
49 secretary of state, and five persons representative of affected industries
50 to be appointed by the governor with the advice and consent of the
51 senate. Upon dissolution of the hazardous waste disposal advisory
52 committee pursuant to subdivision three of section twelve hundred eighty-five
53 of this article, two members of that committee designated by
54 the governor shall become members of the committee established by this
55 subdivision which committee shall be expanded by two members.

1 In [exercising] EXERCISING its responsibilities, the corporation,
2 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
3 CONSERVATION, shall also cooperate and act in conjunction with indus-
4 trial, commercial, medical, scientific, public interest and educational
5 organizations within the state, and with agencies of the federal govern-
6 ment, of the state and its political subdivisions, of other states, and
7 joint agencies thereof.

8 S 9. Section 1285-e of the public authorities law, as added by chapter
9 282 of the laws of 1979, is amended to read as follows:

10 S 1285-e. Inactive hazardous waste disposal site remedial programs. In
11 addition to its existing powers, the corporation, UNDER THE GUIDANCE AND
12 SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, is hereby
13 empowered to carry out inactive hazardous waste disposal site remedial
14 programs. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPART-
15 MENT OF ENVIRONMENTAL CONSERVATION, may subcontract for the work
16 included in carrying out such programs.

17 S 10. Subdivision 1, paragraphs c and d of subdivision 3 and subdivi-
18 sions 4, 5, 6 and 7 of section 1285-g of the public authorities law,
19 subdivision 1 and paragraphs c and d of subdivision 3 as added by chap-
20 ter 990 of the laws of 1981 and subdivisions 4, 5, 6 and 7 as amended by
21 chapter 619 of the laws of 1988, are amended to read as follows:

22 1. Applicability. It is the purpose of this section to establish a
23 program within the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
24 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, to encourage the reduction,
25 recovery and recycling of industrial materials otherwise requiring
26 disposal.

27 c. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
28 OF ENVIRONMENTAL CONSERVATION, shall coordinate its activities under
29 this section with the department of environmental conservation with such
30 department's responsibilities pursuant to title four of article twenty-
31 seven of the environmental conservation law.

32 d. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
33 OF ENVIRONMENTAL CONSERVATION, may enter into contracts with private
34 entities for the purpose of having such entities undertake activities
35 called for under this section.

36 4. Trade secrets; confidentiality. a. The corporation, UNDER THE GUID-
37 ANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall
38 ensure that any trade secrets or other proprietary or confidential data
39 or information of a personal nature, required to be utilized pursuant to
40 this section, shall be utilized by the corporation, UNDER THE GUIDANCE
41 AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, in
42 connection with its respective responsibilities pursuant to this
43 section, and that such trade secrets and other proprietary or confiden-
44 tial data or information are not otherwise disseminated without the
45 express consent of the generator furnishing such information.

46 b. For the purposes of this section, trade secrets and other proprie-
47 tary or confidential data or information may include, but are not limit-
48 ed to, any formula, plan, pattern, process, tool, mechanism, compound,
49 procedure, customer lists, production data, or compilation of informa-
50 tion within a commercial concern which is using it to fabricate, produce
51 or compound an article of trade or service having commercial value, and
52 which gives its owner or authorized user an opportunity to obtain a
53 business advantage over competitors who do not know, use or have access
54 to such data and information.

55 c. For the purposes of this section, due to the unique nature of the
56 program, any generator who claims that specified data or information to

1 be utilized pursuant to any requirement of this section contains trade
2 secrets or other proprietary or confidential data or information of a
3 personal nature may set forth such claims in writing to the corporation,
4 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
5 CONSERVATION, for the protection of trade secrets afforded pursuant to
6 this subdivision. Such information shall not be subject to disclosure
7 under the freedom of information law as set forth in article six of the
8 public officers law.

9 d. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
10 OF ENVIRONMENTAL CONSERVATION, shall have rules of conduct for employees
11 and contractors of the corporation, UNDER THE GUIDANCE AND SUPPORT OF
12 THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, involved in the design,
13 development, operation and maintenance of any trade secret record-keep-
14 ing and instruct each such employee or contractor with respect to such
15 rules and the requirements of this subdivision including any other rules
16 and procedures adopted pursuant to this section and the penalties for
17 noncompliance.

18 e. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
19 OF ENVIRONMENTAL CONSERVATION, shall have appropriate administrative,
20 technical, and physical safeguards to insure the security and confiden-
21 tiality of trade secret information and records and to protect against
22 any anticipated threats to their security or integrity which could
23 result in their unauthorized disclosure.

24 5. Improper disclosure of trade secrets or other proprietary or confi-
25 dential data or information of a personal nature. No officer, employee
26 or contractor of the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
27 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall intentionally publish,
28 divulge, disclose or make known in a manner not authorized under the
29 provisions of this section any trade secret or other proprietary or
30 confidential data or information of a personal nature available to him
31 in the course of his employment. Any such official, employee or contrac-
32 tor who violates the provisions of this subdivision shall be liable for
33 a civil penalty not to exceed five thousand dollars. In addition, any
34 official or employee who violates the provisions of this subdivision may
35 be dismissed from his office or employment.

36 6. Report to the legislature. The chairman of the corporation, UNDER
37 THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVA-
38 TION, shall, not later than twelve months after the enactment date of
39 this section and annually thereafter, prepare and submit a report on the
40 status of the reduction, recycling and recovery of industrial materials
41 as facilitated by the provisions of this section to the governor and the
42 legislature. In addition, such report shall include, but not be limited
43 to the quantities, composition and disposition of hazardous waste gener-
44 ated by region in the preceding year and the listing of such wastes
45 feasible to recycle and recover developed pursuant to this section. The
46 chairman of the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
47 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall also report on the
48 scope, status and efficacy of the program, including the small quantity
49 generator hazardous waste audit program, and specific recommendations
50 for continuation of the program; provided, however, such chairman, UNDER
51 THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVA-
52 TION, shall withhold information on the source or nature of particular
53 industrial materials in such a manner as to protect trade secrets or
54 confidential information of the generators.

55 7. Small quantity generator hazardous waste audit program. a. The
56 corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVI-

1 ENVIRONMENTAL CONSERVATION, shall establish and be responsible for a small
2 quantity generator hazardous waste audit program. To carry out such
3 program, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPART-
4 MENT OF ENVIRONMENTAL CONSERVATION, is authorized to obtain the
5 services, as necessary, of waste management specialists to conduct waste
6 audits at the facilities of hazardous waste generators that have
7 produced less than one thousand kilograms of hazardous waste in each of
8 the past twelve calendar months. The purpose of such audits shall be to
9 provide on-site technical assistance to aid such generators in complying
10 with New York state's hazardous waste regulations and to identify and
11 evaluate the potential for reducing the amount and/or toxicity of
12 hazardous waste generated at such facilities.

13 b. Waste audits conducted pursuant to this subdivision may include,
14 but need not be limited to:

15 (i) identification of all hazardous wastes generated at the facility;

16 (ii) identification of the regulatory requirements associated with the
17 storage, treatment, or disposal of all hazardous wastes generated at the
18 facility;

19 (iii) identification of any methodologies, processes, equipment, or
20 production changes which could be utilized by the facility to reduce the
21 amount or toxicity of hazardous wastes generated at the facility;

22 (iv) identification of any on-site recycling or waste treatment tech-
23 nologies which could be utilized to reduce the amount or toxicity of
24 hazardous wastes disposed of by the facility; and

25 (v) identification of any potential markets for hazardous waste gener-
26 ated by the facility, including the use of waste exchange markets.

27 c. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
28 OF ENVIRONMENTAL CONSERVATION, shall establish by rule and regulation,
29 upon consultation with the director of the budget, a sliding fee sched-
30 ule to offset the costs of conducting on-site audits. The fee schedule
31 established pursuant to this section shall be intended to provide reven-
32 ues sufficient to meet solely the costs incurred by the corporation,
33 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
34 CONSERVATION, in performing such audits, provided that the corporation,
35 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
36 CONSERVATION, may use technical assistance grants it receives from the
37 federal government, private foundations, or other institutions to reduce
38 or eliminate fees charged generators for performing such audits, and
39 further provided that monies appropriated to the corporation, UNDER THE
40 GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, to
41 carry out the purposes of this subdivision shall not be used to provide
42 financial assistance to waste generators for the purchase of manufactur-
43 ing plants or equipment, property, real or otherwise, engineering or
44 legal services, or any other cost incident to the actual implementation
45 of a waste reduction or management project. The chairman of the corpo-
46 ration, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-
47 MENTAL CONSERVATION, is authorized and directed to deposit all monies
48 received in payment of fees under this subdivision in an account within
49 the miscellaneous special revenue fund.

50 d. Any person receiving audit services pursuant to this subdivision
51 shall, within ninety days of the completion of such audit, submit to the
52 corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVI-
53 RONMENTAL CONSERVATION, a description of the steps it will take, if any,
54 to implement any recommended waste reduction, recycling, or treatment
55 strategies identified in such audit.

1 e. In implementing the small quantity generator hazardous waste audit
2 program, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPART-
3 MENT OF ENVIRONMENTAL CONSERVATION, is authorized to:

4 (i) hire or contract with an appropriate number of hazardous waste
5 management specialists to conduct on-site waste audits;

6 (ii) employ such public information methods as are appropriate to
7 identify and inform eligible hazardous waste generators of the existence
8 of the waste audit program;

9 (iii) establish a small quantity generator hazardous waste audit
10 program application consistent with the policies and goals of this
11 section; and

12 (iv) establish by rule and regulation a small quantity generator
13 hazardous waste audit program application evaluation procedure consist-
14 ent with the policies and goals of this section.

15 S 11. Section 1285-h of the public authorities law, as amended by
16 chapter 311 of the laws of 1991, is amended to read as follows:

17 S 1285-h. Inactive hazardous waste disposal site remedial programs.

18 1. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
19 ENVIRONMENTAL CONSERVATION, and any owner of an inactive hazardous waste
20 disposal site, or any state agency or any person or municipality identi-
21 fied by the commissioner of the department of environmental conservation
22 pursuant to section 27-1313 of the environmental conservation law as
23 responsible for developing and implementing an inactive hazardous waste
24 disposal site remedial program pursuant to section 27-1313 of the envi-
25 ronmental conservation law or section thirteen hundred eighty-nine-b of
26 the public health law may enter into a contract for the development
27 and/or implementation of such a program upon such terms and conditions
28 as the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
29 ENVIRONMENTAL CONSERVATION, shall determine to be reasonable. Such
30 contract shall include payment to the corporation, UNDER THE GUIDANCE
31 AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, pursuant to
32 the contract. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
33 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may subcontract for the devel-
34 opment or implementation of such a program.

35 2. When requested by the owner of an inactive hazardous waste disposal
36 site, or by any state agency or by any person or municipality identified
37 by the commissioner of the department of environmental conservation
38 pursuant to section 27-1313 of the environmental conservation law as
39 responsible for the disposal of hazardous waste at such site, the corpo-
40 ration, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-
41 MENTAL CONSERVATION, may advise such owner, state agency, person or
42 municipality on matters relating to the development and implementation
43 of an inactive hazardous waste remedial program and pursuant to a
44 contract with such an owner, state agency, person or municipality may
45 render technical assistance and may undertake research, planning and
46 testing with respect to any such program. The corporation, UNDER THE
47 GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION,
48 may make a reasonable charge to any such owner, state agency, person or
49 municipality for the performance of any of the functions authorized by
50 this subdivision.

51 3. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
52 OF ENVIRONMENTAL CONSERVATION, shall have the authority to contract with
53 the department of environmental conservation to perform necessary work
54 in connection with inactive hazardous waste disposal site remedial
55 programs pursuant to section 27-1313 of the environmental conservation
56 law. Such contract shall include payment to the corporation, UNDER THE

GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, pursuant to the contract. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may subcontract for the development or implementation of such a program.

S 12. Section 1285-i of the public authorities law, as added by chapter 70 of the laws of 1988, is amended to read as follows:

S 1285-i. Commercial and industrial waste audits. a. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall establish and be responsible for administration of a commercial and industrial waste audit program to help businesses identify and evaluate the potential at their New York facilities for reducing the amount of solid waste generated, increasing new materials recovery programs and otherwise reducing the amount of waste ultimately requiring disposal. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall in implementing said waste audit program coordinate activities with and actively foster the waste exchange program of the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, and other waste reduction programs as is appropriate, and is further authorized to obtain the services, as necessary, of waste management specialists to conduct such waste audits.

b. In implementing the commercial and industrial waste audit program, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall:

(i) establish an application process consistent with the rules and regulations of the program;

(ii) establish by rule and regulation a commercial and industrial solid waste audit program application evaluation procedure consistent with the requirements of this section; and

(iii) establish by rule and regulation, upon consultation with the director of the budget, a sliding fee schedule to offset the costs of the audit. The fee schedule established pursuant to this section shall be intended to provide revenues sufficient to meet solely the costs incurred by the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, in performing such audits. The chairman, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, is authorized and directed to deposit all money received in payment of fees under this section in an account within the miscellaneous special revenue fund.

c. Waste audits conducted pursuant to this section may include but need not be limited to identification of:

(i) all waste generated within the facility;

(ii) the regulatory requirements associated with the recovery, reuse or disposal of such waste, and the implications of such requirements for various reduction and reuse options;

(iii) any methodologies, processes, equipment, or production changes that could be utilized to reduce the amount of waste generated and consumer waste resulting from the product, process or service manufactured, distributed or sold;

(iv) on site recycling or waste treatment technologies that could be utilized to reduce the need for waste disposal capacity;

(v) potential markets for waste generated by the facility, including local materials recycling programs, and the ability of such markets to readily absorb the wastes generated by such facility; and

(vi) economic practicality of alternative waste reduction strategies.

1 d. Any person for whom a waste audit is prepared shall within one
2 hundred eighty days submit to the corporation, UNDER THE GUIDANCE AND
3 SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, findings with
4 respect to the report and the status of steps to implement any recom-
5 mended strategies identified in such audit.

6 e. Beginning January first, nineteen hundred eighty-nine, the
7 chairman, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-
8 MENTAL CONSERVATION, shall make an annual report concerning the activ-
9 ities undertaken pursuant to this section which shall include, at a
10 minimum (i) the number of businesses which received assistance, (ii) the
11 nature of assistance provided through the programs, (iii) needs and
12 problems confronted by such businesses in establishing and implementing
13 programs, and (iv) the number of businesses which applied for assist-
14 ance. The chairman, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
15 ENVIRONMENTAL CONSERVATION, shall submit to the director of the division
16 of the budget, the chairman and the ranking minority member of the
17 senate finance committee and the chairman and the ranking minority
18 member of the assembly ways and means committee an evaluation of the
19 program prepared by an entity independent of the authority. Such evalu-
20 ation shall be submitted by September first, nineteen hundred ninety and
21 by September first every two years thereafter.

22 S 13. Section 1285-j of the public authorities law, as added by chap-
23 ter 565 of the laws of 1989, paragraph (a) of subdivision 1 as amended
24 by chapter 262 of the laws of 2007, paragraph (b) of subdivision 1,
25 subdivision 2, paragraph (e) of subdivision 4 and subdivision 5 as
26 amended by chapter 134 of the laws of 2007, subdivision 3 and the open-
27 ing paragraph of subdivision 4 as amended by chapter 410 of the laws of
28 2002, paragraph (a) of subdivision 4, subdivisions 9 and 10, paragraph
29 (b) of subdivision 12 as amended and subdivision 13 as added by chapter
30 55 of the laws of 1992, subdivision 6 as amended by chapter 307 of the
31 laws of 2005, subdivision 11 as amended by chapter 264 of the laws of
32 2004 and subdivision 12 as added by chapter 166 of the laws of 1991, is
33 amended to read as follows:

34 S 1285-j. Water pollution control revolving fund. 1. (a) The corpo-
35 ration, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-
36 MENTAL CONSERVATION, shall undertake and provide assistance in support
37 of the program to make financial assistance available to municipalities
38 to encourage and support the planning, development and construction of
39 municipal water pollution control projects in accordance with the
40 provisions of this section, section 17-1909 of the environmental conser-
41 vation law, and to make financial assistance available to eligible
42 borrowers through linked deposits made in accordance with article
43 sixteen of the state finance law.

44 (b) There is hereby established in the custody of the corporation,
45 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
46 CONSERVATION, a special fund to be known as the water pollution control
47 revolving fund. Moneys in the water pollution control revolving fund
48 shall be segregated from all other funds of or in the custody of the
49 corporation subject to any rights of holders of corporation bonds or
50 notes issued for the purposes of this section. Moneys in the water
51 pollution control revolving fund shall only be used in accordance with
52 the provisions of this section and section 17-1909 of the environmental
53 conservation law. The moneys in such fund shall be applied to or paid
54 out for authorized purposes of such fund on the direction of the chair-
55 man of the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
56 OF ENVIRONMENTAL CONSERVATION, in accordance with subdivision four of

1 this section and section 17-1909 of the environmental conservation law,
2 or such other person as the corporation, UNDER THE GUIDANCE AND SUPPORT
3 OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall authorize to make
4 such direction. In consultation with the director of the division of the
5 budget, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPART-
6 MENT OF ENVIRONMENTAL CONSERVATION, may, subject to subparagraph (ii) of
7 paragraph a of subdivision seven of section 17-1909 of the environmental
8 conservation law, and shall, at the direction of the commissioner of
9 environmental conservation pursuant to such subdivision, establish with-
10 in the water pollution control revolving fund additional accounts or
11 subaccounts and specify any conditions applicable to the transfer of
12 moneys between such accounts or subaccounts. With respect to each eligi-
13 ble project, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
14 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall establish and maintain a
15 record of the allocation provided for the benefit of such project in
16 accordance with the terms of the applicable project financing agreement
17 or loan agreement.

18 2. As used in this section, the terms "allocation", "construction",
19 "eligible project", "fund", and "project financing agreement" shall have
20 the meanings set forth in section 17-1909 of the environmental conserva-
21 tion law.

22 3. Such fund shall consist of all of the following: (a) federal
23 capitalization grants and awards or other federal assistance provided
24 pursuant to Title II or Title VI of the Federal Water Pollution Control
25 Act, exclusive of any such grants, awards or assistance available under
26 Title II, except as may be necessary to avoid the loss to New York state
27 of any unobligated Title II money which can not be made available as a
28 grant or grant increase to a municipality, for purposes of deposit in
29 the fund and appropriated by the state for deposit therein, (b) federal
30 capitalization grants and awards or other federal assistance provided
31 pursuant to, or for the purposes of, the Omnibus Consolidated Rescis-
32 sions and Appropriations Act of 1996 (Pub. L. 104-134) or wet weather
33 quality grants as provided in the Consolidated Appropriations Act of
34 2001 (Pub. L. 106-554), (c) moneys appropriated by the state legislature
35 for the purpose of such fund or otherwise transferred by the state for
36 deposit therein by the comptroller as required by law, (d) payments of
37 principal and interest made by municipalities pursuant to loan or other
38 agreements entered into pursuant to subdivisions eight and nine of this
39 section: provided, however, if such loans were financed by the issuance
40 of bonds or notes of the corporation, deposit of such payments into the
41 fund shall be subject to the rights of the holders of such bonds or
42 notes to receive such moneys, (e) investment earnings on amounts in such
43 fund, (f) any other payments received from municipalities pursuant to a
44 loan or other agreement made pursuant to subdivisions eight and nine of
45 this section for costs of managing and administering the program, (g)
46 the proceeds of bonds or notes issued by the corporation, UNDER THE
47 GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION,
48 for purposes of providing financial assistance to municipalities, (h)
49 the balance of any fees or penalties paid pursuant to the terms and
50 conditions of a compliance or enforcement agreement for violations of
51 the federal Marine Protection, Research and Sanctuaries Act, as amended
52 (33 U.S.C. SS 1401 et seq.), occurring prior to December thirty-first,
53 nineteen hundred ninety-four, after payment has been made to the admin-
54 istrator of the United States environmental protection agency, a trust
55 account, the ocean dumping alternatives account, and (i) the balance of
56 any amount in a trust account or, if applicable, municipal trust

1 accounts of the clean oceans fund upon a finding by the administrator of
2 the United States environmental protection agency that fees or penalties
3 were not paid into such trust account or municipal trust account as
4 required by the Marine Protection, Research, and Sanctuaries Act, or an
5 applicable compliance or enforcement agreement.

6 4. Moneys in the water pollution control revolving fund shall be
7 applied by the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
8 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, to provide financial assist-
9 ance to municipalities for construction of eligible projects and, upon
10 consultation with the director of the division of the budget and the
11 commissioner, for such other purposes permitted by the Federal Water
12 Pollution Control Act, as amended, and to provide for the administrative
13 and management costs of the program. All moneys from federal capitaliza-
14 tion grants and awards or other federal assistance made available pursu-
15 ant to, or for the purposes of, the Omnibus Consolidated Rescissions and
16 Appropriations Act of 1996 (Pub. L. 104-134) or wet weather quality
17 grants as provided in the Consolidated Appropriations Act of 2001 (Pub.
18 L. 106-554), which are deposited into the water pollution control fund
19 pursuant to subdivision three of this section, and any corresponding
20 state match moneys, may be used by the corporation, UNDER THE GUIDANCE
21 AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, for the
22 purposes permitted by the Omnibus Consolidated Rescissions and Appropri-
23 ations Act of 1996 (Pub. L. 104-134) or wet weather quality grants as
24 provided in the Consolidated Appropriations Act of 2001 (Pub. L.
25 106-554), and for no other purposes. As used in this section "financial
26 assistance to municipalities" means any one or more of the following:

27 (a) making loans to municipalities for construction of eligible
28 projects, provided such loans (i) are made at market or below market
29 rates, (ii) do not have a final maturity of more than twenty years
30 following scheduled completion of the eligible project, (iii) have prin-
31 cipal and interest payments which commence not later than one year after
32 scheduled completion of the eligible project, and (iv) require the muni-
33 cipality to establish a dedicated source of revenue (which may be a
34 general obligation of the municipality); unless otherwise determined by
35 the corporation or directed by the commissioner of environmental conser-
36 vation pursuant to subdivision eight of section 17-1909 of the environ-
37 mental conservation law, the corporation, UNDER THE GUIDANCE AND SUPPORT
38 OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall make such loans
39 only from the proceeds of the corporation's bonds or notes issued for
40 purposes of this section;

41 (b) buying or refinancing debt obligations of municipalities at market
42 or below market rates, if work was commenced and debt was incurred for
43 the eligible project after March seventh, nineteen hundred eighty-five;

44 (c) guarantying, or purchasing insurance or other credit enhancement
45 for municipal obligations where such action would improve credit market
46 access for or reduce interest rates on such municipal obligations;

47 (d) providing a source of revenue or security for payment of principal
48 and interest on bonds or notes issued by the corporation, UNDER THE
49 GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, if
50 the proceeds of the sale of such bonds or notes will be deposited in the
51 fund;

52 (e) providing interest rate subsidy allocations to subsidize loans to
53 municipalities made from the proceeds of the corporation's bonds or
54 notes;

55 (f) using investment earnings on moneys in the fund to pay, pursuant
56 to subdivision seven of this section, the costs of the corporation,

1 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
2 CONSERVATION, and the department of environmental conservation of admin-
3 istering and managing the program described in this section and section
4 17-1909 of the environmental conservation law.

5 5. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
6 OF ENVIRONMENTAL CONSERVATION, shall make payments to the sewage treat-
7 ment program management and administration fund in accordance with
8 subdivision seven of this section to reimburse such fund for expendi-
9 tures made pursuant to appropriation to pay the cost of the corporation
10 and the department of environmental conservation for administering and
11 managing the water pollution control revolving fund program established
12 in section ninety-seven-1 of the state finance law, for such costs. Such
13 reimbursement shall be made from (a) available investment earnings on
14 all amounts in the water pollution control revolving fund excluding all
15 amounts in the fund which are the subject of allocations or other finan-
16 cial assistance to a municipality; and (b) payments received from a
17 municipality for such purpose pursuant to a project financing agreement
18 or loan agreement; and (c) if the sources of revenue described in this
19 paragraph and paragraphs (a) and (b) of this subdivision are or are
20 anticipated to be insufficient, then from the proceeds of federal
21 capitalization grants, awards or assistance appropriated to the fund for
22 administration and management of such program.

23 Notwithstanding the foregoing, if the sources of revenues described in
24 paragraphs (a), (b) and (c) of this subdivision are at any time insuffi-
25 cient to make a reimbursement to the state pursuant to this subdivision
26 when due, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPART-
27 MENT OF ENVIRONMENTAL CONSERVATION, shall make such reimbursement from
28 any other available amounts in the water pollution control revolving
29 fund, excluding all amounts that are the subject of allocations,
30 provided, that the amounts paid from fund sources other than those
31 described in paragraphs (a), (b) and (c) of this subdivision shall be
32 reimbursed upon a determination by the director of the budget that
33 future revenues obtained from sources described in paragraphs (a), (b)
34 and (c) of this subdivision are in excess of the amounts reasonably
35 needed to make future reimbursements pursuant to this subdivision.

36 6. Moneys in the water pollution control revolving fund may be
37 invested as provided in subdivision four of section twelve hundred
38 eighty-four of this title and may be further invested (a) in investment
39 agreements continuously secured by obligations with any insurance or
40 reinsurance company or corporate affiliate thereof rated by a nationally
41 recognized rating agency in one of its two highest categories, any bank,
42 trust company or broker or dealer, as defined by the securities exchange
43 act of 1934, which is a dealer in government bonds, which reports to,
44 trades with and is recognized as a primary dealer by a federal reserve
45 bank and is a member of the securities investors protection corporation,
46 if, (i) such obligations securing such investment agreements are obli-
47 gations as set forth in section ten of the general municipal law, (ii)
48 such obligations are delivered to a trustee for the benefit of the
49 corporation or, with respect to moneys pledged under an indenture of
50 trust relating to bonds or notes of the corporation, to the trustee
51 under such indenture, or are supported by a safe keeping receipt issued
52 by a depository satisfactory to the corporation as applicable, provided
53 that such investment agreements must provide that the value of the
54 underlying obligations shall be maintained at a current market value,
55 calculated no less frequently than monthly, of not less than the amount
56 deposited thereunder, (iii) a prior perfected security interest in the

obligations which are securing such agreement has been granted to the corporation, as applicable, and (iv) such obligations are free and clear of adverse third party claims, or (b) in obligations as set forth in section ten of the general municipal law that are rated by a nationally recognized rating agency in one of its two highest rating categories.

7. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall transfer to the sewage treatment program management and administration fund established pursuant to section ninety-seven-1 of the state finance law no less frequently than semi-monthly amounts from the fund sufficient to reimburse the sewage treatment program management and administration fund in accordance with the provisions of subdivision five of this section.

8. In addition to the powers of the corporation granted elsewhere in this chapter, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall have the power to enter into project financing agreements authorized by section 17-1909 of the environmental conservation law. Notwithstanding the powers granted to the corporation elsewhere in this title, the corporation's power to finance eligible projects, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, from the fund is limited to eligible projects for which project financing agreements have been executed pursuant to section 17-1909 of the environmental conservation law.

9. In addition to the powers granted to the corporation elsewhere in this chapter, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may make loans to municipalities for purposes of financing eligible projects for which the fund may be used, subject to the limitations of subdivision eight of this section, may accept the obligations of any municipality as security for the repayment of a loan to such municipality, and may assign and pledge such municipal obligations and loan agreements for the benefit of the holder of obligations of the corporation from the proceeds of which such loans are made. Loan proceeds may be disbursed to a municipality in accordance with such restrictions as may be imposed by the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, in connection with such loan or obligations of the corporation from the proceeds of which such loan is made.

10. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, is authorized to arrange for any audits required by law for the purpose of issuing its bonds or notes to provide financial assistance to municipalities, and provide for the implementation of any independently conducted reviews or audits arranged pursuant to subdivision seven of section 17-1909 of the environmental conservation law.

11. In the event a municipality shall fail to make any payment due the corporation pursuant to any loan agreement, financing agreement, or other obligation of the municipality sold to the corporation or issued as security for the undertaking of the municipality thereunder, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall certify to the comptroller, and notify the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the director of the division of the budget and the governing body of the municipality that such municipality has failed to make such payment. Such certificate shall be in such form as may be determined by the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, provided such certificate shall specify the exact amount of debt service and surcharge, if appli-

1 cable, required to satisfy such municipality's unpaid obligation. The
2 comptroller, upon receipt of such certificate from the corporation, is
3 authorized to and shall, to the extent not otherwise prohibited by law
4 and subject to any other provision of law providing for withholding of
5 payments to the municipality which take precedence over this subdivi-
6 sion, withhold from such municipality the next succeeding payments of
7 state aid or local assistance otherwise payable to it to the extent
8 necessary to meet the certified amount of debt service and surcharge, if
9 applicable, due the corporation and shall immediately pay over to the
10 corporation as a debt service payment on behalf of such municipality the
11 amount so withheld.

12 12. (a) Notwithstanding the provisions of any general or special law
13 to the contrary, the commissioner of environmental conservation on
14 behalf of the state and the corporation, subject to the approval of the
15 director of the budget, are each hereby authorized to enter into a state
16 revolving fund service contract or contracts providing for the adminis-
17 tration of the water pollution control revolving fund and the financing
18 by the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
19 ENVIRONMENTAL CONSERVATION, of the contributions made by the state to
20 the water pollution control revolving fund. Any such contract or
21 contracts shall be upon such terms and conditions as the corporation and
22 the commissioner of environmental conservation shall determine to be
23 reasonable, including, but not limited to, provisions relating to the
24 respective obligations of the state and the corporation with respect to
25 the administration of the water pollution control revolving fund and
26 provisions providing for the payment of (i) all fees and other charges
27 of, and expenses incurred by, the corporation in connection with the
28 issuance and administration of special obligation bonds to provide funds
29 to the state or reimburse the state for contributions to the water
30 pollution control revolving fund and (ii) all debt service payments on
31 such bonds.

32 (b) Any such contract entered into pursuant to paragraph (a) of this
33 subdivision shall provide that the obligation of the state to fund or to
34 pay the amounts therein provided for shall not constitute a debt of the
35 state within the meaning of any constitutional or statutory provision
36 and shall be deemed executory only to the extent of moneys available
37 therefore and that no liability shall be incurred by the state beyond
38 the moneys available for such purpose, and that such obligation is
39 subject to annual appropriation by the legislature.

40 (c) Any such contract or any payments made or to be made thereunder
41 may be assigned and pledged by the corporation, UNDER THE GUIDANCE AND
42 SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, as security for
43 its bonds and notes issued for the purpose of financing the state
44 contribution to the water pollution control revolving fund.

45 (d) The comptroller is hereby authorized to receive from the corpo-
46 ration, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-
47 MENTAL CONSERVATION, any portion of special obligation bond proceeds
48 paid to provide funds to or reimburse the state for its contribution to
49 the water pollution control revolving fund and to credit such amounts to
50 the capital projects fund or any other appropriate fund.

51 13. In addition to the powers granted to the corporation in this
52 section, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPART-
53 MENT OF ENVIRONMENTAL CONSERVATION, is authorized to exercise the
54 powers, perform the responsibilities and take the actions assigned to it
55 under section 17-1909 of the environmental conservation law.

1 S 14. Section 1285-k of the public authorities law, as added by chap-
2 ter 166 of the laws of 1991, is amended to read as follows:

3 S 1285-k. Financing of the design, acquisition, construction, improve-
4 ment and installation of Riverbank Park. In order to effectuate the
5 purposes of this title, the corporation, UNDER THE GUIDANCE AND SUPPORT
6 OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall have the follow-
7 ing additional special powers:

8 1. Notwithstanding the provisions of any law to the contrary, the
9 corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVI-
10 RONMENTAL CONSERVATION, and any state agency, subject to the approval of
11 the director of the budget, may enter into a contract for financing the
12 design, acquisition, construction, improvement and installation of all
13 or any portion of Riverbank Park, for and on behalf of such state agen-
14 cy; and the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPART-
15 MENT OF ENVIRONMENTAL CONSERVATION, and any state agency may enter into
16 a contract, lease, easement, license or other instrument pursuant to
17 which the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
18 OF ENVIRONMENTAL CONSERVATION, shall make all or any portion of River-
19 bank Park available to such agency, for use as a park. Any such contract
20 or contracts, lease, easement, license or other instrument shall be upon
21 such terms and conditions as the corporation, UNDER THE GUIDANCE AND
22 SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, and the subject
23 state agency shall determine to be reasonable, including, but not limit-
24 ed to, the payment of, or reimbursement to the corporation for, (a) all
25 costs of the corporation in financing the design, acquisition,
26 construction, improvement and installation of all or any portion of
27 Riverbank Park, and any claims arising therefrom, (b) all fees and other
28 charges of, and all expenses incurred by, the corporation, UNDER THE
29 GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, in
30 connection with the issuance and administration of any bonds or notes
31 issued by the corporation for such purpose, and (c) amounts sufficient
32 to pay all principal, premium, if any, and interest on such bonds or
33 notes. Such payment or reimbursement may be made annually or otherwise,
34 may be in fixed amounts or based on any factors or other matters, or may
35 be made in any other manner, as such contract or contracts shall
36 provide.

37 2. Any contract, lease, easement, license or other instrument entered
38 into by the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPART-
39 MENT OF ENVIRONMENTAL CONSERVATION, pursuant to subdivision one of this
40 section may be assigned or pledged by the corporation, UNDER THE GUID-
41 ANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, as
42 security for its bonds or notes issued for the purpose of financing the
43 design, acquisition, construction, improvement and installation of all
44 or any portion of Riverbank Park.

45 3. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
46 OF ENVIRONMENTAL CONSERVATION, any state agency, the city of New York or
47 any agency or instrumentality thereof, may enter into any leases, ease-
48 ments, licenses, or other instruments, for the purpose of granting to
49 the corporation any interest in real property which the corporation
50 shall deem necessary for the purpose of financing the design, acquisi-
51 tion, construction, improvement and installation of all or any portion
52 of Riverbank Park.

53 4. Notwithstanding the provisions of subdivision one of this section,
54 any contract, lease, easement, license or other instrument entered into
55 by the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
56 ENVIRONMENTAL CONSERVATION, with any state agency, pursuant to subdivi-

sion one of this section, shall (a) provide that the obligation of the state or such state agency to pay the amounts therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision, and (b) be deemed executory only to the extent moneys are available, and provide that the obligation of the state or such state agency to make payments thereunder is subject to annual appropriation by the legislature.

S 15. Section 1285-1 of the public authorities law, as added by chapter 55 of the laws of 1992, is amended to read as follows:

S 1285-1. State park infrastructure projects. In order to effectuate the purposes of this title, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall have the following additional special powers:

1. Notwithstanding the provisions of any general or special law to the contrary, the office of parks, recreation and historic preservation or the division of the budget, with the approval of the director of the budget, and the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, are each hereby authorized to enter into a contract or contracts providing for the financing of the design, acquisition, construction, improvement and installation of all or any portion of any state park infrastructure project or reimbursement to the state for costs incurred in connection with a state park infrastructure project for and on behalf of the state; and the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, and the office of parks, recreation and historic preservation or the division of the budget, with the approval of the director of the budget, may enter into a contract, lease, easement, license or other instrument pursuant to which the corporation shall make all or any portion of any state park infrastructure project available to such state agency. Any such contract or contracts, lease, easement, license or other instrument shall be upon such terms and conditions as the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, and the state shall determine to be reasonable, including, but not limited to, the payment of or reimbursement to the corporation for (a) all costs of the corporation in financing all or any portion of any state park infrastructure project, and any claims arising therefrom, (b) all fees and other charges of, and all expenses incurred by, the corporation in connection with the issuance and administration of any bonds or notes issued by the corporation for such purpose, and (c) amounts sufficient to pay all principal, premium, if any, and interest on such bonds or notes. Such payment or reimbursement may be made annually or otherwise, may be in fixed amounts or based on any factors or other matters, or may be made in any other manner, as such contract or contracts, lease, easement, license or other instrument shall provide. Provided, however, that the net proceeds of any such bonds or notes issued shall not exceed sixteen million dollars, not including issuance costs, capitalized interest and debt service reserve funds.

2. Any such contract or contracts, lease, easement, license or other instrument entered into pursuant to subdivision one of this section shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available therefor and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such obligation is subject to annual appropriation by the legislature.

1 3. Any such contract or contracts, lease, easement, license or other
2 instrument or any payments made or to be made thereunder may be assigned
3 and pledged by the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
4 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, as security for its bonds and
5 notes issued for the purpose of financing all or any part of any state
6 park infrastructure project.

7 4. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
8 OF ENVIRONMENTAL CONSERVATION, and the office of parks, recreation and
9 historic preservation or the division of the budget, with the approval
10 of the director of the budget, may enter into any leases, easements,
11 licenses or other instruments for the purpose of granting to the corpo-
12 ration any interest in real property which the corporation shall deem
13 necessary for the purpose of financing the design, acquisition,
14 construction, improvement and installation of all or any portion of any
15 state park infrastructure project. The corporation shall hold any such
16 interest in real property in trust for the state, shall make and keep
17 such properties accessible to the public, and shall not sell, lease,
18 exchange or donate such properties except to the state.

19 5. The comptroller is hereby authorized to receive from the corpo-
20 ration, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-
21 MENTAL CONSERVATION, any portion of special obligation bond proceeds
22 paid to provide funds for or reimburse the state for its costs associ-
23 ated with any state park infrastructure project and to credit such
24 amounts to the capital projects fund or any other appropriate fund.

25 S 16. Section 1285-m of the public authorities law, as added by chap-
26 ter 413 of the laws of 1996, paragraph (b) of subdivision 1, subdivision
27 2, paragraph (e) of subdivision 4 and subdivision 5 as amended by chap-
28 ter 134 of the laws of 2007, subdivision 6 as amended by chapter 307 of
29 the laws of 2005 and subdivision 11 as amended by chapter 264 of the
30 laws of 2004, is amended to read as follows:

31 S 1285-m. Drinking water revolving fund. 1. (a) The corporation, UNDER
32 THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVA-
33 TION, shall undertake and provide assistance in support of the program
34 to make financial assistance available to recipients to encourage and
35 support the planning, development and construction of water supply
36 facilities in accordance with the provisions of this section and title
37 four of article eleven of the public health law.

38 (b) There is hereby established in the custody of the corporation,
39 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
40 CONSERVATION, a special fund to be known as the drinking water revolving
41 fund. Except as otherwise provided by this paragraph, moneys in the
42 drinking water revolving fund shall be segregated from all other funds
43 of or in the custody of the corporation subject to any rights of holders
44 of corporation bonds or notes issued for the purposes of this section.
45 Moneys in the drinking water revolving fund shall only be used in
46 accordance with the provisions of this section and title four of article
47 eleven of the public health law; provided that, in addition, to the
48 extent permitted by federal or state law, moneys in the drinking water
49 revolving fund may be transferred to and used for the purposes author-
50 ized for the water pollution control revolving fund, and moneys in the
51 water pollution control revolving fund may be transferred to and used
52 for the purposes authorized for the drinking water revolving fund. The
53 moneys in the drinking water revolving fund shall be applied to or paid
54 out for authorized purposes of such fund in accordance with subdivision
55 four of this section and title four of article eleven of the public
56 health law. To the extent approved by the commissioner of health and the

1 commissioner of environmental conservation and notwithstanding the
2 provisions of paragraph (a) of this subdivision, moneys in the drinking
3 water revolving fund and in the water pollution control revolving fund
4 may be held together; provided that all such moneys are segregated from
5 all other funds of or in the custody of the corporation subject to any
6 rights of holders of corporation bonds or notes issued for the purposes
7 of this section; provided further, that the corporation, UNDER THE GUID-
8 ANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall
9 establish and maintain or cause there to be established and maintained a
10 system of tracking the application of such moneys to the purposes of
11 this section. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
12 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may establish within the
13 drinking water revolving fund additional accounts or subaccounts and
14 specify any conditions applicable to the transfer of moneys between such
15 accounts or subaccounts. With respect to each eligible project, the
16 corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVI-
17 RONMENTAL CONSERVATION, shall establish and maintain a record of the
18 allocation provided for the benefit of such project in accordance with
19 the terms of the applicable financing agreement.

20 2. As used in this section, the terms "allocation", "construction",
21 "eligible project", "fund" and "financing agreement" shall have the
22 meanings set forth in section eleven hundred sixty of the public health
23 law.

24 3. Such fund shall consist of all of the following:

25 (a) the proceeds of bonds or notes issued by the state pursuant to the
26 Clean Water/Clean Air Bond Act of 1996; provided that up to two hundred
27 sixty-five million dollars (\$265,000,000) of such proceeds shall be
28 available to finance state assistance payments in the manner set forth
29 in paragraphs (a), (d), (e), (f) and (g) of subdivision four of this
30 section, and up to ninety million dollars (\$90,000,000) shall be avail-
31 able to finance state assistance payments in the manner set forth in
32 paragraphs (d), (f) and (h) of subdivision four of this section;

33 (b) federal capitalization grants and awards or other federal assist-
34 ance provided pursuant to the federal safe drinking water act for
35 purposes of deposit in the fund and appropriated by the state for depos-
36 it therein;

37 (c) moneys appropriated by the state legislature for the purpose of
38 such fund or otherwise transferred by the state for deposit therein by
39 the comptroller as required by law;

40 (d) payments of principal and interest made by recipients pursuant to
41 loan or other financing agreements entered into pursuant to subdivisions
42 eight and nine of this section; provided, however, if financial assist-
43 ance made pursuant to financing agreements were financed by the issuance
44 of bonds or notes of the corporation, deposit of such payments into the
45 fund shall be subject to the rights of the holders of such bonds or
46 notes to receive such moneys;

47 (e) investment earnings on amounts in such fund; and

48 (f) the proceeds of bonds or notes issued by the corporation for
49 purposes of providing financial assistance to recipients.

50 4. Moneys in the drinking water revolving fund shall be applied by the
51 corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVI-
52 RONMENTAL CONSERVATION, in accordance with this section and title four
53 of article eleven of the public health law to provide financial assist-
54 ance to recipients for construction of eligible projects and, upon
55 consultation with the director of the division of the budget, for such
56 other purposes permitted by the federal safe drinking water act, as

1 amended, and to provide for the administrative and management costs of
2 the program, provided however, that proceeds of bonds issued pursuant to
3 the Clean Water/Clean Air Bond Act of 1996, other than proceeds of bonds
4 used to finance the state match for federal capitalization grants for
5 the drinking water revolving fund, shall not be used for administrative
6 and management costs; and provided further, that proceeds of bonds
7 issued pursuant to the Clean Water/Clean Air Bond Act of 1996, other
8 than proceeds of bonds issued to finance the state match for federal
9 capitalization grants for the drinking water revolving fund, shall not
10 be used to finance costs with respect to the Croton filtration project.
11 As used in this section "financial assistance to recipients" means any
12 one or more of the following:

13 (a) making loans to recipients for construction of eligible projects
14 on such terms as the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
15 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may determine, subject to any
16 applicable provisions of federal or state law;

17 (b) buying or refinancing debt obligations of recipients at market or
18 below market rates, subject to any applicable provisions of federal or
19 state law;

20 (c) guarantying, or purchasing insurance or other credit enhancement
21 for municipal obligations where such action would improve credit market
22 access for or reduce interest rates on such municipal obligations;

23 (d) providing a source of revenue or security for payment of principal
24 and interest on bonds or notes issued by the corporation if the proceeds
25 of the sale of such bonds or notes will be deposited in the fund;

26 (e) providing interest rate subsidy allocations to subsidize loans to
27 recipients made from the proceeds of the corporation's bonds or notes;

28 (f) paying, pursuant to subdivision seven of this section, the costs
29 of the corporation and the department of health of administering and
30 managing the program described in this section and title four of article
31 eleven of the public health law and paying the costs of the corporation
32 and the department of health of providing technical assistance with
33 respect to such program; provided, however, that proceeds of bonds
34 issued pursuant to the Clean Water/Clean Air Bond Act of 1996, other
35 than proceeds of bonds used to finance the state match for federal
36 capitalization grants for the drinking water revolving fund, shall not
37 be used for such costs;

38 (g) paying up to seventy-five percent of the principal on loans made
39 to recipients under financing agreements if the corporation, UNDER THE
40 GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION,
41 determines that the recipient would be unable to carry out the eligible
42 project financed with such loan without creating a financial hardship on
43 system users and without the subsidy afforded by such payment of princi-
44 pal, provided that (i) the amounts applied to such purpose shall be paid
45 from interest earned on funds deposited in the fund and from interest
46 received on other loans made from the fund, (ii) the amounts so applied
47 shall not exceed, in the aggregate, the interest earnings received by
48 the fund on fifty percent of the amounts deposited to the fund, and
49 (iii) in accordance with regulations to be promulgated by the corpo-
50 ration, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-
51 MENTAL CONSERVATION, preference shall be given to small and rural commu-
52 nities in providing such principal subsidies; or

53 (h) making state assistance payments for the state share of the cost
54 of an eligible project from up to ninety million dollars (\$90,000,000)
55 of the proceeds of state bonds and notes issued pursuant to the Clean
56 Water/Clean Air Bond Act of 1996; provided that, in accordance with

1 regulations to be promulgated by the corporation, preference shall be
2 given to recipients which would be unable to carry out such eligible
3 projects in the absence of such state assistance payments without creat-
4 ing a financial hardship on system users.

5 5. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
6 OF ENVIRONMENTAL CONSERVATION, may make payments to the state in accord-
7 ance with subdivision seven of this section to reimburse the state for
8 expenditures made pursuant to appropriation to pay the cost of the
9 corporation and the department of health for administering and managing
10 the drinking water revolving fund program, including provision of tech-
11 nical assistance. Such reimbursement may be made from:

12 (a) available investment earnings on all amounts in the drinking water
13 revolving fund excluding all amounts in the fund which are the subject
14 of allocations or other financial assistance to a recipient;

15 (b) payments received from a recipient for such purpose; and

16 (c) the proceeds of federal capitalization grants, awards or assist-
17 ance available for administration and management of such program.

18 Notwithstanding the foregoing, if the sources of revenues described in
19 paragraphs (a), (b) and (c) of this subdivision are at any time insuffi-
20 cient to make a reimbursement to the state pursuant to this subdivision
21 when due, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPART-
22 MENT OF ENVIRONMENTAL CONSERVATION, may make such reimbursement from any
23 other available amounts in the drinking water revolving fund, excluding
24 all amounts that are the subject of allocations, provided, that the
25 amounts paid from fund sources other than those described in paragraphs
26 (a), (b) and (c) of this subdivision shall be reimbursed upon a determi-
27 nation by the director of the budget that future revenues obtained from
28 sources described in paragraphs (a), (b) and (c) of this subdivision are
29 in excess of the amounts reasonably needed to make future reimbursements
30 pursuant to this subdivision.

31 6. Moneys in the drinking water revolving fund may be invested as
32 provided in subdivision four of section twelve hundred eighty-four of
33 this title and may be further invested:

34 (a) in investment agreements continuously secured by obligations with
35 any insurance company or reinsurance company or corporate affiliate
36 thereof rated by a nationally recognized rating agency in one of its two
37 highest categories, any bank, trust company or broker or dealer, as
38 defined by the securities exchange act of 1934, which is a dealer in
39 government bonds, which reports to, trades with and is recognized as a
40 primary dealer by a federal reserve bank and is a member of the securi-
41 ties investors protection corporation, if such investment agreement
42 provides that:

43 (i) such obligations securing such investment agreements are obli-
44 gations as set forth in section ten of the general municipal law;

45 (ii) such obligations are to be delivered to a trustee for the benefit
46 of the corporation or, with respect to moneys pledged under an indenture
47 of trust or trust agreement relating to bonds or notes of the corpo-
48 ration, to the trustee under such indenture or trust agreement, or are
49 supported by a safe keeping receipt issued by a depository satisfactory
50 to the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
51 ENVIRONMENTAL CONSERVATION, as applicable, provided that such investment
52 agreements must provide that the value of the underlying obligations
53 shall be maintained at a current market value, calculated no less
54 frequently than monthly, of not less than the amount deposited there-
55 under;

1 (iii) a prior perfected security interest in the obligations which are
2 securing such agreement has been granted to the corporation, such trustee or such depository as applicable; and

3 (iv) such obligations are free and clear of adverse third party
4 claims; or

5 (b) in obligations as set forth in section ten of the general municipal law that are rated by a nationally recognized rating agency in one
6 of its two highest rating categories.

7 7. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
8 OF ENVIRONMENTAL CONSERVATION, shall transfer to the state on such schedule as the corporation and the department of health shall agree amounts
9 from the fund to reimburse the state in accordance with the provisions
10 of subdivision five of this section.

11 8. In addition to the powers of the corporation granted elsewhere in
12 this chapter, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
13 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, shall have the power to enter
14 into loan and other financing agreements authorized by title four of
15 article eleven of the public health law. Notwithstanding the powers
16 granted to the corporation elsewhere in this title, the corporation's
17 power to finance eligible projects from the fund is limited to eligible
18 projects for which financing agreements have been executed pursuant to
19 title four of article eleven of the public health law.

20 9. In addition to the powers granted to the corporation elsewhere in
21 this chapter, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
22 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may make loans or other financial assistance to recipients for purposes of financing eligible
23 projects for which the fund may be used, subject to the limitations of
24 subdivision eight of this section, may accept the obligations of any
25 recipient as security for the repayment of a loan to such recipient, and
26 may assign and pledge such recipient obligations and financing agreements for the benefit of the holders of obligations of the corporation.
27 Loan proceeds or other financial assistance may be disbursed to a recipient only in connection with facilities that have been certified by the
28 commissioner of health as constituting an eligible project and in
29 accordance with other restrictions as may be imposed in connection with
30 such loan or obligations of the corporation from the proceeds of which
31 such loan is made.

32 10. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
33 OF ENVIRONMENTAL CONSERVATION, is authorized to arrange, in consultation
34 with the department of health, for any audits required by law for the
35 purpose of issuing its bonds or notes to provide financial assistance to
36 recipients, and provide for the implementation of any independently
37 conducted reviews or audits arranged pursuant to subdivision two of
38 section eleven hundred sixty-six of the public health law.

39 11. In the event a municipality participating in the drinking water
40 revolving fund program shall fail to make any payment due the corporation pursuant to any financing agreement or other obligation of the
41 municipality sold to the corporation or issued as security for the
42 undertaking of the municipality thereunder, the corporation shall, UNDER
43 THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, certify to the comptroller, and notify the chairman of the senate
44 finance committee, the chairman of the assembly ways and means committee, the director of the division of the budget and the governing body
45 of the municipality that such municipality has failed to make such
46 payment. Such certificate shall be in such form as may be determined by
47 the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
48

1 ENVIRONMENTAL CONSERVATION, provided such certificate shall specify the
2 exact amount of debt service and surcharge, if applicable, required to
3 satisfy such municipality's unpaid obligation. The comptroller, upon
4 receipt of such certificate from the corporation, is authorized to and
5 shall, to the extent not otherwise prohibited by law and subject to any
6 other provision of law providing for withholding of payments to the
7 municipality which takes precedence over this subdivision, withhold from
8 such municipality the next succeeding payments of state aid or local
9 assistance otherwise payable to it to the extent necessary to meet the
10 certified amount of debt service and surcharge, if applicable, due the
11 corporation and shall immediately pay over to the corporation as a debt
12 service payment on behalf of such municipality the amount so withheld.

13 S 17. Section 1285-n of the public authorities law, as amended by
14 chapter 264 of the laws of 2004, is amended to read as follows:

15 S 1285-n. Issuance and sale of recipient bonds and notes. Notwith-
16 standing subdivision two of section one thousand eighty of this article,
17 or any by-law, rule or regulation requiring the recipient to issue bonds
18 or notes at a public or competitive sale, any recipient of a financing
19 from the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
20 OF ENVIRONMENTAL CONSERVATION, pursuant to section twelve hundred eight-
21 y-five-j, twelve hundred eighty-five-m or twelve hundred eighty-five-o
22 of this title may validly issue its notes or bonds to the corporation,
23 as evidence of its obligation to repay such financing.

24 S 18. The opening paragraph, subdivisions 1 and 3, paragraph (d) of
25 subdivision 4, subdivisions 5 and 6 and paragraphs (a) and (d) of subdi-
26 vision 9 of section 1285-o of the public authorities law, as added by
27 chapter 624 of the laws of 1999, are amended to read as follows:

28 The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF
29 ENVIRONMENTAL CONSERVATION, shall undertake to provide financial assist-
30 ance to recipients to encourage and support the planning, design and
31 construction of eligible projects which provide an economic development
32 benefit to the state.

33 1. There is hereby established in the custody of the corporation,
34 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
35 CONSERVATION, a "pipeline for jobs fund". The purpose of the pipeline
36 for jobs fund shall be to provide financial assistance, as determined by
37 the corporation in consultation with the department of economic develop-
38 ment, to recipients for the planning, design and construction of eligi-
39 ble projects.

40 3. Moneys in the fund shall be segregated from all other funds of or
41 in the custody of the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
42 DEPARTMENT OF ENVIRONMENTAL CONSERVATION. Moneys in the fund shall be
43 used for any authorized purpose of the fund as provided and in accord-
44 ance with the provisions of this section.

45 (d) the proceeds of bonds or notes issued by the corporation, UNDER
46 THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVA-
47 TION, for purposes of providing financial assistance to recipients.

48 5. Moneys in the fund may be invested by the corporation, UNDER THE
49 GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, in
50 accordance with this title and pursuant to guidelines from time to time
51 issued by the corporation.

52 6. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
53 OF ENVIRONMENTAL CONSERVATION, shall request applications from recipi-
54 ents to receive financial assistance from the fund for eligible
55 projects. The corporation shall provide a list of the eligible projects
56 and the amounts available for financial assistance to the department of

1 economic development, which department shall recommend to the corpo-
2 ration projects to be financed from the moneys available. In making such
3 recommendations, the department of economic development shall give
4 consideration to eligible projects which have the potential to enhance
5 the state's technology industry development efforts.

6 (a) Notwithstanding the provisions of any general or special law to
7 the contrary, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
8 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, and the director of the budget
9 are hereby authorized to enter into a pipeline for jobs fund service
10 contract or contracts providing for the administration of the pipeline
11 for jobs fund and the financing by such corporation of the contributions
12 made by the state to the pipeline for jobs fund. Any such contract or
13 contracts shall be upon such terms and conditions as the corporation and
14 the director of the budget shall determine to be reasonable, including,
15 but not limited to, provisions relating to the respective obligations of
16 the state and the corporation with respect to providing for the payment
17 of (i) all fees and other charges of, and expenses incurred by, the
18 corporation in connection with the issuance and administration of bonds
19 to provide funds to the state or reimburse the state for contributions
20 to the pipeline for jobs fund and (ii) all debt service payments and
21 related expenses on such bonds.

22 (d) The comptroller is hereby authorized to receive from the corpo-
23 ration, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-
24 MENTAL CONSERVATION, any portion of bond proceeds paid to provide funds
25 to or reimburse the state for its contribution to the pipeline for jobs
26 fund and to credit such amounts to the capital projects fund.

27 S 19. The opening paragraph and subdivisions 1 and 2 of section 1285-p
28 of the public authorities law, as amended by section 21 of part II of
29 chapter 59 of the laws of 2004, are amended to read as follows:

30 In order to effectuate the purposes of this title, the corporation,
31 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
32 CONSERVATION, shall have the following additional special powers:

33 1. Subject to chapter fifty-nine of the laws of two thousand, but
34 notwithstanding any other provisions of law to the contrary, in order to
35 assist the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
36 OF ENVIRONMENTAL CONSERVATION, in undertaking the administration and the
37 financing of the design, acquisition, construction, improvement, instal-
38 lation, and related work for all or any portion of any of the following
39 environmental infrastructure projects and for the provision of funds to
40 the state for any amounts disbursed therefor: (a) projects authorized
41 under the environmental protection fund, or for which appropriations are
42 made to the environmental protection fund including, but not limited to
43 municipal parks and historic preservation, stewardship, farmland
44 protection, non-point source, pollution control, Hudson River Park, land
45 acquisition, and waterfront revitalization; (b) department of environ-
46 mental conservation capital appropriations for Onondaga Lake for certain
47 water quality improvement projects in the same manner as set forth in
48 paragraph (d) of subdivision one of section 56-0303 of the environmental
49 conservation law; (c) for the purpose of the administration, management,
50 maintenance, and use of the real property at the western New York nucle-
51 ar service center; and (d) department of environmental conservation
52 capital appropriations for the administration, design, acquisition,
53 construction, improvement, installation, and related work on department
54 of environmental conservation environmental infrastructure projects; and
55 (e) office of parks, recreation and historic preservation appropriations
56 or reappropriations from the state parks infrastructure fund, the direc-

1 tor of the division of budget and the corporation are each authorized to
2 enter into one or more service contracts, none of which shall exceed
3 twenty years in duration, upon such terms and conditions as the director
4 and the corporation may agree, so as to annually provide to the corpo-
5 ration in the aggregate, a sum not to exceed the annual debt service
6 payments and related expenses required for any bonds and notes author-
7 ized pursuant to section twelve hundred ninety of this title. Any
8 service contract entered into pursuant to this section shall provide
9 that the obligation of the state to fund or to pay the amounts therein
10 provided for shall not constitute a debt of the state within the meaning
11 of any constitutional or statutory provision and shall be deemed execu-
12 tory only to the extent of moneys available for such purposes, subject
13 to annual appropriation by the legislature. Any such service contract or
14 any payments made or to be made thereunder may be assigned and pledged
15 by the corporation as security for its bonds and notes, as authorized
16 pursuant to section twelve hundred ninety of this title.

17 2. The comptroller is hereby authorized to receive from the corpo-
18 ration, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-
19 MENTAL CONSERVATION, any portion of bond proceeds paid to provide funds
20 for or reimburse the state for its costs associated with any state envi-
21 ronmental infrastructure projects and to credit such amounts to the
22 capital projects fund or any other appropriate fund.

23 S 20. The opening paragraph and subdivisions 1 and 2 of section 1285-q
24 of the public authorities law, as added by section 6 of part I of chap-
25 ter 1 of the laws of 2003, are amended to read as follows:

26 In order to effectuate the purposes of this title, the corporation,
27 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
28 CONSERVATION, shall have the following additional special powers:

29 1. Subject to chapter fifty-nine of the laws of two thousand, but
30 notwithstanding any other provisions of law to the contrary, in order to
31 assist the corporation in undertaking the administration and the financ-
32 ing of hazardous waste site remediation projects for payment of the
33 state's share of the costs of the remediation of hazardous waste sites,
34 in accordance with title thirteen of article twenty-seven of the envi-
35 ronmental conservation law and section ninety-seven-b of the state
36 finance law, and for payment of state costs associated with the remedi-
37 ation of offsite contamination at significant threat sites as provided
38 in section 27-1411 of the environmental conservation law, pursuant to
39 capital appropriations made to the department of environmental conserva-
40 tion, the director of the division of budget and the corporation are
41 each authorized to enter into one or more service contracts, none of
42 which shall exceed twenty years in duration, upon such terms and condi-
43 tions as the director and the corporation, UNDER THE GUIDANCE AND
44 SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may agree, so
45 as to annually provide to the corporation in the aggregate, a sum not to
46 exceed the annual debt service payments and related expenses required
47 for any bonds and notes authorized pursuant to section twelve hundred
48 ninety of this title. Any service contract entered into pursuant to this
49 section shall provide that the obligation of the state to fund or to pay
50 the amounts therein provided for shall not constitute a debt of the
51 state within the meaning of any constitutional or statutory provision
52 and shall be deemed executory only to the extent of moneys available for
53 such purposes, subject to annual appropriation by the legislature. Any
54 such service contract or any payments made or to be made thereunder may
55 be assigned and pledged by the corporation as security for its bonds and

1 notes, as authorized pursuant to section twelve hundred ninety of this
2 title.

3 2. The comptroller is hereby authorized to receive from the corpo-
4 ration, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-
5 MENTAL CONSERVATION, any portion of bond proceeds paid to provide funds
6 for or reimburse the state for its costs associated with any hazardous
7 waste site remediation projects and to credit such amounts to the capi-
8 tal projects fund or any other appropriate fund.

9 S 21. Subdivisions 1, 3, 4, 5 and 7 of section 1285-r of the public
10 authorities law, as added by chapter 366 of the laws of 2004, are
11 amended to read as follows:

12 1. Notwithstanding the provisions of any general or special law to the
13 contrary, the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPART-
14 MENT OF ENVIRONMENTAL CONSERVATION, shall undertake to provide financial
15 assistance to beginning farmers to purchase agricultural land, improve-
16 ments and other agricultural property at or for any agricultural facili-
17 ty as set forth in this section.

18 3. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
19 OF ENVIRONMENTAL CONSERVATION, is hereby authorized to enter into any
20 contract, financing or loan agreement, or other instrument in connection
21 with a loan made by a lender to a beginning farmer for a project.

22 4. In order to effectuate the purposes of this section, the corpo-
23 ration, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-
24 MENTAL CONSERVATION, may extend credit to or on behalf of a beginning
25 farmer for the construction or acquisition of a project, or for the
26 reimbursement for costs incurred by a beginning farmer in connection
27 with a project, provided such beginning farmer has received a commitment
28 to receive from a lender a loan or other financial assistance acceptable
29 to the corporation. In the exercise of the powers granted in this
30 section in connection with a project for a beginning farmer, the corpo-
31 ration may require the inclusion in any contract, loan agreement or
32 other instrument of such provisions for the financing of such project
33 and such other financial and other covenants as may apply to such begin-
34 ning farmers as the corporation may deem desirable and/or appropriate
35 and to do all things necessary to execute any instrument in connection
36 and desirable with such financing.

37 5. In connection with the issuance of any bond or note issued in
38 connection with or for the beginning farmer program, the corporation
39 may, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
40 CONSERVATION, fix and collect any fees and charges, including but not
41 limited to reimbursement of all costs of financing incurred by the
42 corporation, as the corporation shall determine to be reasonable.

43 7. Any bonds or notes issued to finance the provisions of this
44 section, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-
45 MENTAL CONSERVATION, shall be special limited obligations of the corpo-
46 ration payable solely out of the revenue derived from any loan or
47 finance agreement, debt obligation or sales contract, collateral or
48 other property received in connection with the beginning farmer program.
49 All assets and liabilities created through the issuance of bonds or
50 notes under this section shall be separate from all other assets and
51 liabilities of the corporation. The corporation shall have no moral or
52 legal obligation or liability to any beginning farmer or other person
53 under this section except as expressly provided by written contract. No
54 funds in the beginning farmer program may be commingled with any other
55 funds of the corporation.

1 S 22. Subdivisions 1, 4, 5 and 6 of section 1286 of the public author-
2 ities law, as amended by chapter 744 of the laws of 1970, are amended to
3 read as follows:

4 1. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
5 OF ENVIRONMENTAL CONSERVATION, may acquire, by purchase, gift, grant,
6 transfer, contract or lease, or by condemnation pursuant to the [condem-
7 nation] EMINENT DOMAIN PROCEDURE law, any real property it may deem
8 necessary, convenient or desirable to effectuate the purposes of this
9 title, provided however, that any such condemnation proceedings shall be
10 brought only in the supreme court and the compensation to be paid shall
11 be ascertained and determined by the court without a jury.

12 4. Notwithstanding the provisions of any general, special or local law
13 or charter, any municipality, by resolution of its governing body, is
14 hereby empowered without referendum and without the consent of any
15 board, officer or other agency of the state, to sell, lease, lend, grant
16 or convey to the corporation, or to permit the corporation to use, main-
17 tain or operate as part of a sewage treatment works or solid waste
18 disposal facility, any real or personal property owned by it, including
19 all or any part of any such facilities, which may be necessary or useful
20 and convenient for the purposes of the corporation and which may be
21 accepted by the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
22 DEPARTMENT OF ENVIRONMENTAL CONSERVATION. Any such sale, lease, loan,
23 grant, conveyance or permit may be made with or without consideration
24 and for a specified or an unlimited period of time and under any agree-
25 ment and on any terms and conditions which may be approved by such muni-
26 cipality and which may be agreed to by the corporation in conformity
27 with its contracts with the holders of its bonds and notes, the corpo-
28 ration may enter into and perform any and all agreements with respect to
29 property so accepted by it, including agreements for the operation and
30 maintenance of such property as part of a sewage treatment works, or
31 solid waste disposal facility.

32 5. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
33 OF ENVIRONMENTAL CONSERVATION, may, whenever it determines that it is in
34 the interest of the corporation, and subject to any existing agreement,
35 dispose of any real property which it determines is not necessary,
36 convenient or desirable for its purposes.

37 6. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
38 OF ENVIRONMENTAL CONSERVATION, may, whenever it shall determine that it
39 is in the interest of the corporation, rent, lease, or grant easements
40 or other rights in any land or property of the corporation.

41 S 23. Subdivisions 1, 3 and 4 of section 1287 of the public authori-
42 ties law, subdivision 1 as amended by chapter 552 of the laws of 1980,
43 subdivision 3 as amended by chapter 744 of the laws of 1970 and subdivi-
44 sion 4 as added by chapter 769 of the laws of 1978, are amended to read
45 as follows:

46 1. Construction contracts other than for resource recovery facilities
47 let by the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
48 OF ENVIRONMENTAL CONSERVATION, shall be in conformity with the applica-
49 ble provisions of section one hundred thirty-five of the state finance
50 law, but the corporation [in its discretion], UNDER THE GUIDANCE AND
51 SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may assign such
52 contracts for supervision and coordination to the successful bidder for
53 any subdivision of work for which the corporation receives bids.
54 Contracts for resource recovery facilities may be awarded by the corpo-
55 ration, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRON-

1 MENTAL CONSERVATION, in the same manner as by a municipality pursuant to
2 section one hundred twenty-w of the general municipal law.

3 3. Any construction contract awarded by the corporation, UNDER THE
4 GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION,
5 shall contain such other terms and conditions, and such provisions for
6 penalties, as the corporation may deem desirable.

7 4. Notwithstanding the provisions of any other law to the contrary,
8 all contracts for public work awarded by the New York state environ-
9 mental facilities corporation, UNDER THE GUIDANCE AND SUPPORT OF THE
10 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, pursuant to this section shall
11 be in accordance with section one hundred thirty-nine-f of the state
12 finance law.

13 S 24. Section 1288 of the public authorities law, as amended by chap-
14 ter 744 of the laws of 1970, is amended to read as follows:

15 S 1288. Co-operation and assistance of other agencies. To avoid
16 duplication of effort and in the interests of economy, the corporation,
17 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
18 CONSERVATION, may make use of existing studies, surveys, plans, data and
19 other materials in the possession of any state agency or any munici-
20 pality or political subdivision of the state. Each such agency, munici-
21 pality and subdivision is hereby authorized to make the same available
22 to the corporation and otherwise to assist it in the performance of its
23 functions. The officers and personnel of such agencies, municipalities
24 and subdivisions, and of any other government or agency whatever, may
25 serve at the request of the corporation upon such advisory committees as
26 the corporation shall determine to create and such officers and person-
27 nel may serve upon such committees without forfeiture of office or
28 employment and with no loss or diminution in the compensation, status,
29 rights and privileges which they otherwise enjoy.

30 S 25. Section 1289 of the public authorities law, as amended by chap-
31 ter 47 of the laws of 1980, is amended to read as follows:

32 S 1289. Transfer of officers and employees. Officers and employees of
33 state departments and agencies may be transferred to the corporation,
34 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
35 CONSERVATION, and officers and employees of the corporation, UNDER THE
36 GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION,
37 may be transferred to state departments and agencies without examination
38 and without loss of any civil service status or rights. No such transfer
39 may, however, be made except with the approval of the head of the state
40 department or division involved, the director of the budget and the
41 chief executive officer of the corporation, and in compliance with the
42 rules and regulations of the civil service commission of the state.

43 S 26. Paragraphs (a), (b) and (c) of subdivision 1 and subdivisions 2,
44 4, 7 and 8 of section 1290 of the public authorities law, paragraphs (a)
45 and (c) of subdivision 1 as amended by chapter 366 of the laws of 2004,
46 paragraph (b) of subdivision 1 as amended by section 35 of part P2 of
47 chapter 62 of the laws of 2003, subdivision 2 as amended by chapter 55
48 of the laws of 1992, subdivisions 4 and 7 as amended by chapter 744 of
49 the laws of 1970 and subdivision 8 as amended by chapter 1046 of the
50 laws of 1974, are amended to read as follows:

51 (a) The corporation shall, UNDER THE GUIDANCE AND SUPPORT OF THE
52 DEPARTMENT OF ENVIRONMENTAL CONSERVATION, have power and is hereby
53 authorized from time to time to issue its negotiable or non-negotiable
54 bonds and notes in conformity with applicable provisions of the uniform
55 commercial code in such principal amount, as, in the opinion of the
56 corporation, shall be necessary to provide sufficient funds for achiev-

1 ing its purposes, including the acquisition and construction, operation
2 and maintenance of sewage treatment works, sewage collecting systems,
3 solid waste disposal facilities, storm water collecting systems, water
4 management facilities, air pollution control facilities, the removal,
5 disposal and remediation of petroleum storage tanks and the remediation
6 of the sites thereof and any other project or projects authorized pursu-
7 ant to the provisions of this title, and paying the cost thereof; the
8 making of loans to persons and, for purposes of sections twelve hundred
9 eighty-five-j, twelve hundred eighty-five-m and twelve hundred eighty-
10 five-o of this title only, to any municipality or recipient for such
11 purposes; the making of loans, providing of financing or extension of
12 credit to or on behalf of beginning farmers for purposes of section
13 twelve hundred eighty-five-r of this title only; the financing of the
14 design, acquisition, construction, improvement and installation of all
15 or any portion of Riverbank Park, provided however, that any such bonds
16 or notes issued to finance Riverbank Park shall only be issued in such
17 principal amount as shall be necessary to provide sufficient funds for
18 the repayment of amounts disbursed pursuant to appropriations or reap-
19 propriations under chapter fifty-four of the laws of nineteen hundred
20 ninety-one including any subsequent reappropriation of the unexpended
21 balance of such appropriations or reappropriations for the purpose of
22 Riverbank Park, plus an amount sufficient to fund any debt service
23 reserve fund established by the corporation for the purpose of Riverbank
24 Park and to provide for the payment of fees and other charges and
25 expenses of the corporation in connection with such bonds and notes,
26 which principal amount shall constitute the statutory ceiling on the
27 amount of bonds and notes that can be issued for such purpose; the
28 financing of all or any portion of any state park infrastructure project
29 or reimbursement of the state for expenditures relating thereto, plus an
30 amount to provide for the payment of fees and other charges and expenses
31 of the corporation in connection with such bonds and notes; the
32 provision of funds to the state for any amounts contributed or to be
33 contributed to the water pollution control revolving fund, the pipeline
34 for jobs fund or the drinking water revolving fund provided, however,
35 that any such bonds or notes issued to provide funds to the water
36 pollution control revolving fund, the pipeline for jobs fund or the
37 drinking water revolving fund shall only be issued in such principal
38 amount as shall be necessary to provide sufficient funds for the repay-
39 ment of amounts disbursed pursuant to any appropriation or reappropri-
40 ation enacted for the pipeline for jobs fund or for the payment of the
41 state match for federal capitalization grants for the water pollution
42 control revolving fund or the drinking water revolving fund, plus an
43 amount sufficient to fund any debt service reserve fund and to provide
44 for fees, charges and other costs of issuance, which principal amount
45 shall constitute the statutory ceiling on the amount of bonds and notes
46 that can be issued for such purpose; the financing of any environmental
47 infrastructure projects authorized by section twelve hundred eighty-
48 five-p of this title; the purchase of municipal bonds and notes, and
49 bonds and notes of a state agency, the payment of the cost of any
50 project, the payment of interest on bonds and notes of the corporation,
51 the establishment of reserves to secure such bonds and notes; the
52 provision of working capital and all other expenditures of the corpo-
53 ration incident to and necessary or convenient to carry out its purposes
54 and powers;

55 (b) The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
56 OF ENVIRONMENTAL CONSERVATION, shall have power, from time to time, to

1 issue renewal notes, to issue bonds to pay notes and whenever it deems
2 refunding expedient, to refund any bonds by the issuance of new bonds,
3 whether the bonds to be refunded have or have not matured, and to issue
4 bonds partly to refund bonds then outstanding, and partly for any other
5 purpose. The refunding bonds shall be sold and the proceeds applied to
6 the purchase, redemption or payment of the bonds to be refunded.
7 Notwithstanding any statutory ceiling on outstanding bonds, any refund-
8 ing bonds shall be sold in the amount required to pay or redeem
9 outstanding bonds, to fund any reserve, escrow or payment fund, and to
10 provide for the payment of all fees and other charges and expenses,
11 including costs of issuance, incurred in connection with the issuance of
12 such refunding bonds, provided that the present value of the aggregate
13 debt service on the refunding bonds does not exceed the present value of
14 the aggregate debt service on the bonds refunded thereby.

15 (c) Except as may otherwise be expressly provided by the corporation,
16 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
17 CONSERVATION, every issue of its notes or bonds shall be (i) general
18 obligations of the corporation payable out of any revenues or monies of
19 the corporation, subject only to any agreements with the holders of
20 particular notes or bonds pledging any particular receipts or revenues,
21 (ii) special obligations of the corporation payable solely from the
22 revenues, service charges, rentals, proceeds or other payments to be
23 received on account of the mortgage, loan or other agreements and
24 payments, reserve and insurance funds or accounts issuance of special
25 obligations, and fees, charges or other monies to be received by the
26 corporation in respect to loans pursuant to section twelve hundred
27 eighty-five-b or twelve hundred eighty-five-j of this title, or from
28 amounts received by the corporation pursuant to any contract, lease,
29 easement, license or other instrument entered into by the corporation
30 pursuant to sections twelve hundred eighty-five-k and twelve hundred
31 eighty-five-l of this title or, (iii) special obligations of the corpo-
32 ration payable solely from amounts received pursuant to an agreement
33 with the commissioner of environmental conservation pursuant to subdivi-
34 sion twelve of section twelve hundred eighty-five-j of this title, and
35 may, but need not, be secured by mortgages, assignments or pledges of
36 such revenues, service charges, rentals, proceeds, other payments, funds
37 and accounts, fees, charges and other monies, and by mortgages or
38 assignments thereof in respect to projects, and may include pooled
39 financings subject only to any agreements with the holders of particular
40 special obligation notes or bonds issued to finance the cost of, or
41 loans for, a project or projects; no general obligations of the corpo-
42 ration shall be issued to finance the cost of, or loans for, a project
43 or projects authorized to be constructed pursuant to section twelve
44 hundred eighty-five-b or twelve hundred eighty-five-j of this title or
45 to finance (A) the contribution of the state to the water pollution
46 control revolving fund, (B) the design, acquisition, construction,
47 improvement and installation of all or any portion of Riverbank Park or
48 (C) state park infrastructure projects and no funds, monies, revenues or
49 other assets of the corporation shall be used for loans authorized
50 pursuant to section twelve hundred eighty-five-b or twelve hundred
51 eighty-five-j of this title, except as may be available with respect to
52 a project and a contract with a person as aforesaid, or for the payment
53 to the state for amounts contributed by the state to the water pollution
54 control revolving fund, to finance the design, acquisition,
55 construction, improvement and installation of all or any portion of
56 Riverbank Park or state park infrastructure projects. Nor shall any

1 special obligation authorized pursuant hereto be payable from or secured
2 by any debt service reserve fund created pursuant to section twelve
3 hundred ninety-one of this title, and the state shall not be entitled to
4 require the redemption of such special obligations pursuant to section
5 twelve hundred ninety-three of this title; and such special obligation
6 and the security therefor shall not be subject to the provisions of
7 section twelve hundred ninety-four of this title but the remedies of the
8 holders thereof shall be set forth in the terms of such special obli-
9 gations and the instruments constituting such security; the making of
10 loans, providing of financial or extension of credit to or on behalf of
11 beginning farmers for purposes of section twelve hundred eighty-five-r
12 of this title only;

13 2. The notes and bonds shall be authorized by resolution of the direc-
14 tors of the corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPART-
15 MENT OF ENVIRONMENTAL CONSERVATION, shall bear such date or dates, and
16 shall mature at such time or times, in the case of any such note or any
17 renewals thereof not exceeding twelve years from the date of issue of
18 such original note, and in the case of any such bond not exceeding forty
19 years from the date of issue, as such resolution or resolutions may
20 provide; provided, however, that the final maturity of any bond issued
21 for the purpose of financing any amounts deposited or to be deposited by
22 the state in the water pollution control revolving fund shall not exceed
23 thirty years from the date of issue of such bond. The notes and bonds
24 shall bear interest at such rate or rates which may vary from time to
25 time, be in such denominations, be in such form, either coupon or regis-
26 tered, carry such registration privileges, be executed in such manner,
27 be payable in such medium of payment, at such place or places and be
28 subject to such terms of redemption as such resolution or resolutions
29 may provide. The notes and bonds of the corporation may be sold by the
30 corporation, at public or private sale, at such price or prices as the
31 corporation shall determine. No notes or bonds of the corporation may be
32 sold by the corporation at private sale, however, unless such sale and
33 the terms thereof have been approved in writing by (a) the comptroller,
34 where such sale is not to the comptroller, or (b) the director of the
35 budget, where such sale is to the comptroller.

36 4. In addition to the powers herein conferred upon the corporation,
37 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
38 CONSERVATION, to secure its notes and bonds, the corporation, UNDER THE
39 GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION,
40 shall have power in connection with the issuance of notes and bonds to
41 enter into such agreements as the corporation may deem necessary,
42 convenient or desirable concerning the use or disposition of its monies
43 or property including the mortgaging of any such property and the
44 entrusting, pledging or creation of any other security interest in any
45 such monies or property and the doing of any act (including refraining
46 from doing any act) which the corporation would have the right to do in
47 the absence of such agreements. The corporation shall have power to
48 enter into amendments of any such agreements within the powers granted
49 to the corporation by this title and to perform such agreements. The
50 provisions of any such agreements may be made a part of the contract
51 with the holders of the notes and bonds of the corporation.

52 7. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
53 OF ENVIRONMENTAL CONSERVATION, subject to such agreements with notehold-
54 ers or bondholders as may then exist, shall have power out of any funds
55 available therefor to purchase notes or bonds of the corporation, which
56 shall thereupon be cancelled, at a price not exceeding (a) if the notes

1 or bonds are then redeemable, the redemption price then applicable plus
2 accrued interest to the next interest payment thereon, or (b) if the
3 notes or bonds are not then redeemable, the redemption price applicable
4 on the first date after such purchase upon which the notes or bonds
5 become subject to redemption plus accrued interest to such date.

6 8. Neither the state nor any municipality shall be liable on notes or
7 bonds issued as general obligations of the corporation, UNDER THE GUID-
8 ANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, and
9 such notes and bonds shall not be a debt of the state or any munici-
10 pality, and such notes and bonds shall contain on the face thereof a
11 statement to such effect. The state shall not be liable on notes or
12 bonds issued as special obligations of the corporation, and such notes
13 and bonds shall not be a debt of the state and shall be payable solely
14 from the revenues, service charges, rentals, proceeds or other payments
15 to be derived from the extension of credit or the loan for the project
16 for which such notes and bonds were issued, and such notes and bonds
17 shall contain on the face thereof a statement to such effect.

18 S 27. Section 1290-a of the public authorities law, as added by chap-
19 ter 1046 of the laws of 1974, is amended to read as follows:

20 S 1290-a. Insurance and guarantees. The corporation, UNDER THE GUID-
21 ANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, may
22 obtain from any department or agency of the United States of America any
23 available insurance or guaranty for the payment or repayment of interest
24 or principal, or both, or any part thereof, on any bonds or notes issued
25 by the corporation, but notwithstanding any other provisions of this
26 title may not enter into any agreement or contract with respect to any
27 such insurance or guaranty to the extent that it would in any way impair
28 or interfere with the ability of the corporation to perform and fulfill
29 the terms of any agreement made with the holders of the bonds or notes
30 of the corporation.

31 S 28. Subdivisions 1 and 2 of section 1291 of the public authorities
32 law, as amended by chapter 526 of the laws of 1974, are amended to read
33 as follows:

34 1. The corporation, UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
35 OF ENVIRONMENTAL CONSERVATION, may create and establish one or more
36 reserve funds to be known as debt service reserve funds and may pay into
37 such debt service reserve funds (a) any monies appropriated and made
38 available by the state for the purposes of such funds, (b) any proceeds
39 of sale of notes or bonds, to the extent provided in the resolution of
40 the corporation authorizing the issuance thereof, and (c) any other
41 monies which may be made available to the corporation for the purpose of
42 such funds from any other source or sources. The monies held in or cred-
43 ited to any debt service reserve fund established under this section,
44 except as hereinafter provided, shall be used solely for the payment of
45 the principal of bonds of the corporation secured by such debt service
46 reserve fund as the same mature or as payments required by the terms of
47 any contracts therefor as sinking fund payments become due, the purchase
48 of such bonds of the corporation, the payment of interest on such bonds
49 of the corporation or the payment of any redemption premium required to
50 be paid when such bonds are redeemed prior to maturity; provided howev-
51 er, that the corporation shall have power to provide that monies in any
52 such fund shall not be withdrawn therefrom at any time in such amount as
53 would reduce the amount of such fund to less than the maximum amount of
54 any sinking fund payments becoming due and principal and interest matur-
55 ing and becoming due in any succeeding calendar year on the bonds of the
56 corporation then outstanding and secured by such debt service reserve

1 fund, except for the purpose of paying any sinking fund payments becom-
2 ing due and principal of and interest on such bonds of the corporation
3 secured by such debt service reserve fund maturing and becoming due and
4 for the payment of which other monies of the corporation are not avail-
5 able. Any income or interest earned by, or increment to, any such debt
6 service reserve fund due to the investment thereof may be transferred by
7 the corporation to any other fund or account of the corporation and the
8 corporation shall have power to provide that any such transfer shall not
9 reduce the amount of such debt service reserve fund below the maximum
10 amount of any sinking fund payments becoming due and principal and
11 interest maturing and becoming due in any succeeding calendar year on
12 all bonds of the corporation then outstanding and secured by such debt
13 service reserve fund.

14 2. The corporation shall not issue bonds WITHOUT THE GUIDANCE AND
15 SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION at any time if
16 the maximum amount of any sinking fund payments becoming due and princi-
17 pal and interest maturing and becoming due in any succeeding calendar
18 year on the bonds outstanding and then to be issued and secured by a
19 debt service reserve fund will exceed the amount of such debt service
20 reserve fund at the time of issuance, unless the corporation, at the
21 time of the issuance of such bonds, shall deposit in such debt service
22 reserve fund from the proceeds of the bonds so to be issued, or other-
23 wise, an amount which, together with the amount then in such debt
24 service reserve fund, will be not less than the maximum amount of any
25 sinking fund payments becoming due and principal and interest maturing
26 and becoming due in any succeeding calendar year on the bonds then to be
27 issued and on all other bonds of the corporation then outstanding and
28 secured by such debt service reserve fund.

29 S 29. Section 104-a of the executive law, as added by chapter 262 of
30 the laws of 2007, is amended to read as follows:

31 S 104-a. Departmental cooperation regarding water quality. The secre-
32 tary of state shall cooperate with the environmental facilities corpo-
33 ration UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
34 CONSERVATION to establish methods to facilitate loans to eligible
35 borrowers and to develop educational materials for eligible borrowers
36 about the low-interest loans available through the water pollution
37 control linked deposit program, established by article sixteen of the
38 state finance law, and to develop an application form to be provided to
39 lenders for linked deposit loan requests. For residential and small
40 business on-site wastewater treatment systems projects, the department
41 shall require owners of such systems to submit the results of
42 inspections of such systems at the time of an application for financial
43 assistance pursuant to article sixteen of the state finance law. The
44 department may promulgate rules and regulations necessary and reasonable
45 for the operation of the program, including but not limited to standards
46 for the inspection of residential and small business on-site wastewater
47 treatment systems.

48 S 30. Subdivision 3 of section 916 of the executive law, as amended by
49 chapter 202 of the laws of 1992, is amended to read as follows:

50 3. The secretary shall consult and work with state agencies, includ-
51 ing, but not limited to, the urban development corporation, the job
52 development authority, the environmental facilities corporation UNDER
53 THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
54 CONSERVATION, the office of parks, recreation and historic preservation
55 and the departments of economic development and transportation, to seek
56 to identify additional means of effectuating approved waterfront revi-

talization programs. The secretary shall make recommendations to local, state and federal agencies and the legislature, as appropriate.

S 31. Subdivision 4 of section 97-ddd of the state finance law, as added by chapter 432 of the laws of 1997, is amended to read as follows:

4. Moneys in the fund, following appropriation by the legislature, shall be used, for the purpose of paying all costs of the department of health and New York state environmental facilities corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION for management and administration of the drinking water program established by title four of article eleven of the public health law and of the drinking water revolving fund established by section twelve hundred eighty-five-m of the public authorities law.

S 32. Paragraph g of subdivision 3 of section 165 of the state finance law, as amended by chapter 95 of the laws of 2000, is amended to read as follows:

g. In addition to carrying out the provisions of paragraphs e and f of this subdivision, the commissioner shall identify and implement specific steps which will reduce, to the maximum extent practicable, waste generated in state facilities and maximize the recovery and reuse of secondary materials from such facilities. Such steps and their implementation shall be reviewed from time to time but no less frequently than annually or upon receiving recommendations for additional steps from the solid waste management board[,] OR the department of environmental conservation [or the environmental facilities corporation].

S 33. Section 236 of the state finance law, as added by chapter 262 of the laws of 2007, is amended to read as follows:

S 236. Definitions. When used in this article, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

1. "Corporation" means the New York state environmental facilities corporation, as continued by section twelve hundred eighty-two of the public authorities law.

2. "Eligible borrower" means any recipient, including any entity receiving or eligible to receive an agricultural assessment pursuant to article twenty-five-AA of the agriculture and markets law and any individual or small business eligible to undertake an eligible project related to residential and small business on-site wastewater treatment systems.

3. "Eligible project" shall mean a project for the implementation of a management program established under section 319 of the Federal Water Pollution Control Act related to agricultural operations, the upgrade or replacement of residential and small business on-site wastewater treatment systems with a system approved by the state or local department of health, or the abandonment of residential and small business on-site wastewater treatment systems and connection to a sewer, when a sewer becomes available.

4. "Lender" means any state or federally-chartered savings bank, savings and loan association, federal savings bank, federal savings and loan association, farm credit system institution, or commercial bank or trust company designated by the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION to participate in the program.

5. "Linked deposit" means financial assistance undertaken by the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION for the construction of an eligible project through a deposit, or for a farm credit system institution an investment eligi-

ble to be held by such institution, placed with a lender by the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION bearing interest at the linked deposit interest rate, provided the lender has agreed to:

(a) lend the equivalent value of such deposit to an eligible borrower at the linked loan interest rate; and

(b) permit the deposit to be comprised of a series of certificates of deposit each bearing an interest rate equal to the linked deposit interest rate fixed at the time the original linked deposit is placed.

Each linked deposit shall be continuously and fully secured by direct obligations of the state or the United States of America or by obligations the principal and interest on which are guaranteed by the state or the United States of America.

This article and related statutes that refer to this article do not grant savings banks, savings and loan associations, farm credit system institutions, federal savings banks, or federal savings and loan associations eligibility to accept public funds or public moneys from public entities for investment purposes. A linked deposit is intended to enable a lender to make a linked loan to an eligible borrower and such deposit earns a yield lower than posted rates in order to accomplish the goals of this article.

6. "Linked deposit interest rate" means a fixed rate of interest which is below the market rate.

7. "Linked loan" means a loan for purposes of an eligible project, in an amount equal to a linked deposit and bearing interest at the linked loan interest rate.

8. "Linked loan interest rate" means a fixed rate below the fixed interest rate the lender would have charged for the loan in the absence of a linked deposit based on its usual credit considerations.

9. "Program" means the water pollution control linked deposit program.

10. "Recipient" means any person which is: (a) an individual or small business which is eligible to undertake an eligible project related to residential and small business on-site wastewater treatment systems; or (b) an entity receiving or eligible to receive an agricultural assessment pursuant to article twenty-five-AA of the agriculture and markets law which is eligible to undertake an eligible project; or (c) any two or more of the foregoing which are acting jointly in connection with an eligible project.

11. "Residential and small business on-site wastewater treatment system" means a system serving a residence or small business that provides for the treatment and/or disposition of the combination of human and sanitary waste with water not exceeding one thousand gallons per day.

12. "Small business" means any business which is resident in this state, independently owned and operated, not dominant in its field, and employing not more than one hundred individuals.

S 34. The title heading of title 12 of article 5 of the public authorities law, as amended by chapter 744 of the laws of 1970, is amended to read as follows:

PROGRAMS OF THE NEW YORK STATE ENVIRONMENTAL FACILITIES
CORPORATION UNDER THE GUIDANCE AND SUPPORT OF THE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

S 35. Section 17-1909 of the environmental conservation law, as added by chapter 565 of the laws of 1989, paragraph a of subdivision 1, subparagraph (v) of paragraph g of subdivision 4, paragraph a of subdivision 10 as amended and paragraph (c) of subdivision 1 as relettered by

chapter 134 of the laws of 2007, item (c) of subparagraph (ii) of paragraph d of subdivision 1 as amended by chapter 230 of the laws of 1995, paragraph g of subdivision 1 and subdivision 2 as amended by chapter 262 of the laws of 2007, paragraph i of subdivision 1 and paragraph b of subdivision 3 as amended, paragraph c of subdivision 3, subdivisions 5 and 6 as added, subdivisions 7 and 9 as renumbered, and paragraphs b and c of subdivision 7 as relettered by chapter 55 of the laws of 1992, paragraph a of subdivision 3 and paragraph e of subdivision 8 as amended by chapter 279 of the laws of 2009, subdivision 4 as amended by chapter 523 of the laws of 1997, subdivision 8 as amended and subdivision 10 as added by chapter 645 of the laws of 1992, is amended to read as follows: S 17-1909. Water pollution control revolving fund agreements.

1. As used in this section:

a. "Allocation" means the amount of moneys allocated to reduce a municipality's or group of municipalities' total financing costs for one or more eligible projects.

b. "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement, enlargement or extension of an eligible project; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto.

c. "Corporation" means the New York state environmental facilities corporation, continued pursuant to section twelve hundred eighty-two of the public authorities law, or any successor thereto.

d. "Eligible project" means a project for construction of a facility which would be eligible for financing under the Federal Water Pollution Control Act:

(i) for which all required federal and state permits have been issued; and

(ii) which the commissioner has determined:

(a) is in accord with applicable comprehensive studies and reports made pursuant to sections 17-0303 and 17-1901 of this article; and

(b) is necessary for the accomplishment of the state water pollution control program formulated pursuant to sections 17-0303 and 17-1901 of this article; and

(c) represents a reasonable effort to develop economic viability in planning, design and construction; and

(d) is a project for which financial assistance is available from the fund; and

(e) conforms with applicable rules and regulations of the department.

e. "Financial assistance to a municipality" has the same meaning as set forth in subdivision four of section twelve hundred eighty-five-j of the public authorities law.

f. "Fund" means the water pollution control revolving fund established under section twelve hundred eighty-five-j of the public authorities law.

g. "Intended use plan" means the plan prepared pursuant to subdivision two of this section, identifying the intended uses of the amounts available in the fund, including but not limited to: (i) a list of those projects for construction of publicly owned treatment works on the priority list developed pursuant to subdivision two of this section; (ii) a list of projects developed pursuant to subdivision two of this section anticipated to be financed by the fund through the water pollution control linked deposit program; (iii) a description of the short and long term goals and objectives of the fund; (iv) information

on the activities to be supported, including a description of project categories, discharge requirements under the Federal Water Pollution Control Act, terms of financial assistance, and eligible borrowers pursuant to the water pollution control linked deposit program served; (v) the criteria and method established for the distribution of funds; and (vi) the amount of moneys from the fund, not to exceed ten million dollars annually, to be made available for linked loans under the water pollution control linked deposit program during the period covered by such intended use plan.

h. "Municipality" means any county, city, town, village, district corporation, county or town improvement district, Indian reservation wholly within New York state, any public benefit corporation or public authority established pursuant to the laws of New York or any agency of New York state which is empowered to construct and operate an eligible project, or any two or more of the foregoing which are acting jointly in connection with an eligible project.

i. "Project financing agreement" means an agreement between the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT and one or more municipalities meeting the requirements of subdivision four of this section.

2. The commissioner is required to establish and maintain a list of potentially eligible projects and shall establish, pursuant to rules and regulations, a process for listing potentially eligible projects identified by municipalities and eligible borrowers pursuant to article sixteen of the state finance law and a priority ranking system for the purpose of providing financial assistance to municipalities and eligible borrowers for such projects under this section. In establishing such system, the commissioner shall take into account:

a. The environmental significance of such potentially eligible projects which shall include, but need not be limited to, an assessment of (i) public health and safety; (ii) protection of environmental resources; (iii) population affected; (iv) attainment of state water quality goals and standards; and (v) compliance with state and federal law, rules and regulations;

b. A municipality's inability as determined by the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT to pay for such potentially eligible project prior to receipt of such financial assistance;

c. The regional distribution of environmentally significant projects;

d. For agricultural projects funded through the water pollution control linked deposit program, in consultation with the commissioner of agriculture and markets, the extent to which the project will reduce, abate, control, or prevent non-point source pollution originating from agricultural sources and/or propose to implement best management practices, as identified in section three of the soil and water conservation districts law; and

e. For residential and small business on-site wastewater treatment system projects funded through the water pollution control linked deposit program, in consultation with the department of state, the extent to which the project will prevent an increase in nutrients in water bodies or the extent to which the project will enhance source water or watershed protection.

3. a. The corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT is authorized to promulgate regulations, developed in consultation with the commissioner and the director of the division of the budget, for the purpose of carrying out its responsibilities under this section, including establishing criteria and standards for determining the amount of

1 financial assistance to a municipality for an eligible project. To the
2 extent financial assistance to a municipality for an eligible project is
3 provided as a loan from the proceeds of bonds or notes of the corpo-
4 ration UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT, the amount of
5 an allocation applicable to the portion of such eligible project
6 financed with such loan shall be, subject to such maximum financial
7 limitations as may otherwise be necessary and prescribed by the commis-
8 sioner and the director of the division of the budget, thirty-three and
9 one-third percent of the principal amount of such loan outstanding at
10 any time for such eligible project, to the extent reasonably practica-
11 ble, and subject to such deviation as may be necessary, in connection
12 with the administration and investment of moneys in the fund, unless
13 allocations in differing amounts are necessary to preclude a determi-
14 nation by the commissioner [or the corporation] pursuant to paragraph e
15 of subdivision eight of this section or unless an allocation in a
16 differing amount is required for an innovative technology demonstration
17 project; provided, however, that in the case of any municipality which
18 has, during the period commencing on June first, nineteen hundred nine-
19 ty-two and ending on September thirtieth, two thousand twelve, (i)
20 submitted an application for financial assistance in the form of such a
21 loan for an eligible project, which application has been accepted by the
22 corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT, (ii)
23 closed on such loan, and (iii) commenced construction of such eligible
24 project, the allocation applicable to the portion of such project
25 financed with such loan shall be, subject to maximum financial limita-
26 tions as may otherwise be necessary and prescribed by the commissioner
27 and the director of the division of the budget, fifty percent of the
28 principal balance outstanding on such loan at any time for such eligible
29 project, to the extent reasonably practicable, and subject to such devi-
30 ation as may be necessary, in connection with the administration and
31 investment of moneys in the fund, unless allocations in differing
32 amounts are necessary to preclude a determination by the commissioner
33 [or the corporation] pursuant to paragraph e of subdivision eight of
34 this section or unless an allocation in a differing amount is required
35 for an innovative technology demonstration project.

36 b. The corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
37 may enter into a project financing agreement with up to three munici-
38 palities which provides for up to one hundred percent subsidy of the
39 interest on the amount of principal not to exceed three million dollars
40 for the construction of innovative technology demonstration projects
41 which shall be waste water treatment facilities which utilize innovative
42 technology approved by the commissioner as defined in regulations
43 promulgated by the United States environmental protection agency in
44 accordance with the Federal Water Pollution Control Act. The commission-
45 er shall prepare criteria for selection of eligible projects pursuant to
46 this paragraph including, but not limited to, the use of innovative
47 technology which has been proven reasonably effective on at least a
48 demonstration model basis.

49 c. The department is authorized to promulgate regulations, developed
50 in consultation with the director of the division of the budget, for the
51 purpose of carrying out its responsibilities under this section.

52 4. The corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
53 may enter into project financing agreements with municipalities provid-
54 ing for the construction and financing of eligible projects. The corpo-
55 ration UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT shall prepare

each project financing agreement, which shall include but is not limited to the following provisions:

a. A description of the eligible project;
b. An estimate of the reasonable cost of the eligible project and a projected cash flow schedule for meeting that cost;

c. A schedule for construction of the eligible project;

d. A right of the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT to approve all contracts for services and construction funded pursuant to a project financing agreement, and to inspect and review the construction of eligible projects;

e. Notwithstanding the provisions of any other law, general, special or local, inconsistent with this section, a right of the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT to invest proceeds of the corporation's bonds or notes, including proceeds of bonds or notes of the municipality, as provided in subdivision four of section twelve hundred eighty-four and subdivision six of section twelve hundred eighty-five-j of the public authorities law.

Such right shall include the right to invest such monies together with any other monies held by the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT pursuant to the provisions of section twelve hundred eighty-five-j of the public authorities law;

f. Remedies in the event of a municipality's failure to comply with the terms of a project financing agreement;

g. An agreement by the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT to:

(i) lend to the municipality for the construction of an eligible project a specified amount from the proceeds of the corporation's bonds or notes, not to exceed the estimated reasonable cost of construction of the eligible project established in the project financing agreement or any loan agreement, subject to the ability of the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT to provide such financing, including but not limited to the approval of the corporation's board and any other approvals required by state or federal law;

(ii) use all reasonable efforts to issue its bonds or notes in an amount sufficient to finance the estimated reasonable cost of the eligible project, including but not limited to costs of issuance, credit support fees, if any, trustees fees, interest during construction, and such reserve funds, if any, as may be necessary to secure such bonds or notes;

(iii) in the alternative, provide financial assistance to the municipality for the construction of an eligible project in a specified amount from the proceeds of any federal capitalization grant, award, assistance, or any state moneys appropriated to or otherwise transferred into the fund, not to exceed the estimated reasonable cost of construction of the eligible project established in the project financing agreement or any loan agreement, as determined by the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT or as directed by the commissioner pursuant to subdivision eight of this section or subdivision four of section twelve hundred eighty-five-j of the public authorities law;

(iv) make reimbursements for the administrative and management costs of the department and the corporation in accordance with subdivisions five and seven of section twelve hundred eighty-five-j of the public authorities law;

(v) provide to the municipality, for any loan made from the proceeds of the corporation's bonds or notes, an interest rate subsidy allocation

1 for the eligible project in accordance with section twelve hundred
2 eighty-five-j of the public authorities law and this section;
3 (vi) administer any federal rebate requirement in connection with
4 obligations of the corporation and of any municipality issued in accord-
5 ance with a project financing or loan agreement;
6 h. An agreement by the municipality to:
7 (i) proceed expeditiously with and complete the eligible project in
8 accordance with plans approved pursuant to titles seven and eight of
9 this article;
10 (ii) commence operation of the eligible project on completion of the
11 project, and not discontinue operation of or dispose of the eligible
12 project as long as a loan to the municipality for such project remains
13 outstanding, without approval of the commissioner; provided, however,
14 that the commissioner shall not approve disposition of the eligible
15 project without the concurrent approvals, as appropriate, of the [corpo-
16 ration] DEPARTMENT and the state comptroller. None of the foregoing
17 shall limit the commissioner's authority to terminate or impose condi-
18 tions upon the operation of an eligible project pursuant to the
19 provisions of this chapter and any implementing regulations thereto;
20 (iii) operate and maintain the eligible project in accordance with
21 applicable requirements of federal and state law;
22 (iv) establish and maintain project accounts in accordance with the
23 project financing agreement and generally accepted government accounting
24 standards;
25 (v) establish a dedicated source of revenue (which may include a
26 general obligation of the municipality) providing for:
27 (a) operation and maintenance costs of the eligible project and equip-
28 ment renewal and replacement; and
29 (b) loan repayment regardless of whether the eligible project is in
30 operation;
31 (vi) permit any reviews or audits and provide assistance determined to
32 be reasonable and necessary by the department [or the corporation];
33 (vii) retain public ownership of the eligible project; and
34 (viii) notwithstanding the provisions of any other law, general,
35 special or local, inconsistent with this section, delegate to the corpo-
36 ration UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT the authority to
37 invest proceeds of bonds or notes issued by the corporation or the muni-
38 cipality on behalf of the municipality.
39 i. An agreement by the corporation UNDER THE GUIDANCE AND SUPPORT OF
40 THE DEPARTMENT to certify, subject to the availability of funds, payment
41 upon submission of a satisfactory request for disbursement of loan
42 proceeds by a municipality, of an amount equivalent to actual
43 construction costs incurred on or before the date of submission of the
44 request for disbursement of loan proceeds, plus any projected
45 construction costs which will be incurred within ninety days from the
46 date of submission of the request for disbursement of loan proceeds,
47 less any funds already advanced;
48 j. An agreement in regard to financial assistance provided pursuant to
49 paragraph (b) of subdivision four of section twelve hundred
50 eighty-five-j of the public authorities law, to waive programmatic
51 requirements other than those mandated by federal law and subparagraph
52 (i) of paragraph d of subdivision one of this section, provided that the
53 project was in compliance with the goals and requirements of the Federal
54 Water Pollution Control Act, prior to July first, nineteen hundred
55 eighty-eight, or was subject to an administrative or judicial order
56 requiring compliance with the goals and requirements of the Federal

Water Pollution Control Act prior to September thirtieth, nineteen hundred eighty-nine; and

k. Such other agreements or covenants as may be required in connection with the issuance by the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT of its bonds or notes.

5. For the purpose of implementing the program set forth in this section and section twelve hundred eighty-five-j of the public authorities law, and ensuring compliance with the requirements of Title VI of the Federal Water Pollution Control Act, the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT shall ensure compliance with each project financing agreement by:

a. retaining the right to inspect and review work on each eligible project in progress and upon completion, and determining whether such work was undertaken and completed in compliance with all relevant plans and the terms of such project financing agreement;

b. retaining the right to certify or refuse to certify advances and payments to a municipality pursuant to a project financing agreement or any loan agreement executed subsequent thereto to finance an eligible project;

c. retaining the right to certify or refuse to certify advances and payments to a municipality pursuant to a project financing agreement and any loan agreement executed subsequent thereto to finance an eligible project based upon the determinations of any review or audit;

d. establishing remedies if work on an eligible project has not been completed in accordance with all relevant plans and the terms of such project financing agreement due to factors within the municipality's control; and

e. requiring a municipality to maintain project accounts with respect to any eligible project.

Nothing herein shall be construed to affect or diminish the general authority of the department to inspect and review the work on any project financed pursuant to this section, or to inspect the records relating to such project, for the purpose of determining compliance with any other provisions of this chapter.

6. In the event the work completed pursuant to a project financing agreement or loan agreement is deemed not in compliance with such agreements, the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT shall expeditiously notify the municipality of such non-compliance and indicate the reasons for such determination.

7. For the purpose of implementing the program set forth in this section and section twelve hundred eighty-five-j of the public authorities law, and ensuring compliance with the requirements of Title VI of the Federal Water Pollution Control Act, the department shall:

a. Enter into any agreement between the state of New York and the administrator of the United States environmental protection agency and take all other actions necessary to comply with the requirements of Title VI of the Federal Water Pollution Control Act and state law, including but not limited to:

(i) determining a reasonable schedule for financing and construction of eligible projects;

(ii) directing the establishment of systems of records or accounts and subaccounts within the water pollution control revolving fund as the department deems necessary or desirable, and approving or disapproving the establishment of such record systems or accounts and subaccounts as the corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT

1 requests for the operation of the water pollution control revolving loan
2 fund;

3 (iii) determining the accounts or subaccounts within the water
4 pollution control revolving fund which will be used as a source of fund-
5 ing for each eligible project subject to the limitations of subdivision
6 six of this section; and

7 (iv) approving each project for qualification as an eligible project.

8 b. Arrange in consultation with the corporation UNDER THE GUIDANCE AND
9 SUPPORT OF THE DEPARTMENT for independently conducted reviews and audits
10 on at least an annual basis necessary to carry out the objectives of the
11 fund.

12 c. Submit a copy of the draft intended use plan to the governor, the
13 director of the division of the budget, the chairman of the senate
14 finance committee and the chairman of the assembly ways and means
15 committee on or before October thirty-first, nineteen hundred eighty-
16 nine and annually on or before such date thereafter and submit a copy of
17 the final intended use plan to such persons upon its approval by the
18 administrator of the United States environmental protection agency.

19 8. The corporation may or, if so directed by the commissioner, the
20 corporation shall provide financial assistance to municipalities as a
21 loan pursuant to paragraph (a) of subdivision four of section twelve
22 hundred eighty-five-j of the public authorities law from any available
23 moneys in the fund other than the proceeds of the corporation's bonds or
24 notes or moneys needed to comply with subdivision five of section twelve
25 hundred eighty-five-j of the public authorities law if and to the extent
26 any of the following conditions are met:

27 a. The corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT
28 determines that it is unable to, or that it is impracticable to, finance
29 all or a portion of the costs of an eligible project from the proceeds
30 of bonds or notes that are special obligations of the corporation; or

31 b. The total cost of the eligible project and related segments does
32 not exceed four million dollars where such project and related segments
33 service a municipality with a population of three thousand five hundred
34 or less; or

35 c. The commissioner [or the corporation] determines that failure to do
36 so would jeopardize the receipt or maintenance of federal capitalization
37 grant moneys, awards or assistance; or

38 d. A determination is made by the corporation UNDER THE GUIDANCE AND
39 SUPPORT OF THE DEPARTMENT that the issuance of and use of the proceeds
40 of the corporation's bonds to provide financial assistance to munici-
41 palities would cause the loss of the tax-exempt status of any bonds or
42 other obligations of New York state, all or a portion of the proceeds of
43 which are appropriated or otherwise transferred into the fund; or

44 e. Federal capitalization grants are provided in the form of a letter
45 of credit or draws under capitalization grant agreements and the commis-
46 sioner [or the corporation] determines, consistent with the purposes of
47 the fund, that providing financial assistance from the proceeds of
48 corporation bonds or notes would delay receipt of moneys from the feder-
49 al government under the Federal Water Pollution Control Act.

50 The interest rate charged on any loan made by the corporation UNDER
51 THE GUIDANCE AND SUPPORT OF THE DEPARTMENT pursuant to this subdivision
52 shall be no more than two-thirds of the market rate of interest other-
53 wise applicable thereto, provided, however, that in the case of any
54 municipality which has, during the period commencing on June first,
55 nineteen hundred ninety-two and ending on September thirtieth, two thou-
56 sand twelve, (i) submitted an application for financial assistance in

1 the form of a loan from the corporation pursuant to this subdivision,
2 for an eligible project, which application has been accepted by the
3 corporation UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT, (ii)
4 closed on such loan, and (iii) commenced construction of such eligible
5 project, the interest rate charged on such loan shall be no more than
6 one-half of the market rate otherwise applicable thereto.

7 9. The contracts for the construction of eligible projects constructed
8 and financed pursuant to a project financing agreement shall be subject
9 to the requirements and provisions of article 15-A of the executive law
10 and, for such purposes, any such contract shall be considered a "state
11 contract" and the department shall be the "contracting agency" for each
12 such contract.

13 10. Notwithstanding the provisions of any other law, general, special
14 or local, the following determinations shall be made by the corporation
15 [in its sole and absolute discretion] UNDER THE GUIDANCE AND SUPPORT OF
16 THE DEPARTMENT:

17 (a) In connection with any application for financial assistance from
18 the fund in the form of a loan from the proceeds of bonds or notes of
19 the corporation, the determination as to whether the municipality
20 receiving such loan has qualified for an allocation of fifty percent of
21 the principal amount of such loan outstanding at any time, pursuant to
22 subdivision three of this section; and

23 (b) In connection with any application for financial assistance from
24 the fund in the form of a loan from the corporation UNDER THE GUIDANCE
25 AND SUPPORT OF THE DEPARTMENT pursuant to subdivision eight of this
26 section, where the municipality receiving such loan is not qualified for
27 an interest rate of zero percent, the determination as to whether such
28 municipality has qualified for an interest rate of one-half of the
29 market rate otherwise applicable thereto, pursuant to subdivision eight
30 of this section.

31 S 36. Section 56-0305 of the environmental conservation law, as added
32 by chapter 413 of the laws of 1996, is amended to read as follows:
33 S 56-0305. Application procedure.

34 1. Any municipality or soil and water conservation district may make
35 an application for such state assistance payment, in a manner, form, and
36 time frame and containing such information as the respective commission-
37 er, the president of the environmental facilities corporation UNDER THE
38 GUIDANCE AND SUPPORT OF THE COMMISSIONER or the secretary of state may
39 require. Subject to the provisions of section thirty-two of the chapter
40 of the laws of 1996 which added this section, the respective commission-
41 er, the president of the environmental facilities corporation or the
42 secretary of state shall review such application and may approve, disap-
43 prove, or recommend modifications thereto consistent with applicable
44 law, criteria, standards, or rules and regulations relative to such
45 projects.

46 2. In reviewing such applications for eligibility, the respective
47 commissioner, the president of the environmental facilities corporation
48 UNDER THE GUIDANCE AND SUPPORT OF THE COMMISSIONER or the secretary of
49 state shall give due consideration to:

50 (a) the suitability and feasibility of the project in relation to the
51 goals of the applicable program or plan;

52 (b) the priority of the project in relationship to other projects
53 proposed under the same program or plan. Highest priority shall be
54 granted to projects which will provide the greatest reduction in pollu-
55 tants or most significant habitat improvement. For water quality
56 improvement projects which have been developed with the assistance of,

1 or by any other state agencies, the respective commissioner, the presi-
2 dent of the environmental facilities corporation UNDER THE GUIDANCE AND
3 SUPPORT OF THE COMMISSIONER or secretary of state shall be consulted
4 with when determining the priority of the project;

5 (c) the availability of matching funds on the part of the municipality
6 or the soil and water conservation district to finance the munici-
7 pality's or soil and water conservation district's share of the project
8 cost. In submitting the application, the municipality or soil and water
9 conservation district shall submit proof to the satisfaction of the
10 respective commissioner, the president of the environmental facilities
11 corporation UNDER THE GUIDANCE AND SUPPORT OF THE COMMISSIONER or secre-
12 tary of state of the availability of such matching funds; and

13 (d) the urgency of the need to provide state assistance payments for
14 the project in relation to the availability of other funding sources and
15 the municipality's or soil and water conservation district's ability to
16 finance such project based on the availability of other moneys including
17 federal funds.

18 3. Upon approval of an application for such assistance payment, the
19 respective commissioner, the president of the environmental facilities
20 corporation UNDER THE GUIDANCE AND SUPPORT OF THE COMMISSIONER or the
21 secretary of state and the municipality or soil and water conservation
22 district shall enter into a contract for such payment toward the cost of
23 the approved project which shall include the following provisions:

24 (a) A current estimate of the cost of the project as determined by the
25 respective commissioner, the president of the environmental facilities
26 corporation UNDER THE GUIDANCE AND SUPPORT OF THE COMMISSIONER or the
27 secretary of state at the time of the execution of the contract and a
28 specific timetable for progress and completion of the project;

29 (b) An agreement by the respective commissioner, the president of the
30 environmental facilities corporation UNDER THE GUIDANCE AND SUPPORT OF
31 THE COMMISSIONER or secretary of state to make state assistance payments
32 toward the cost of the project by periodically reimbursing the munici-
33 pality or soil and water conservation district for costs incurred during
34 the progress of the project to the maximum agreed upon state share.
35 Such costs are subject to final computation and determination by the
36 respective commissioner, the president of the environmental facilities
37 corporation UNDER THE GUIDANCE AND SUPPORT OF THE COMMISSIONER or secre-
38 tary of state upon completion of the project; and

39 (c) An agreement by the municipality or soil and water conservation
40 district to proceed expeditiously with the project and to complete the
41 project in accordance with the timetable set out in the contract as so
42 approved by the respective department or authority and with the condi-
43 tions of applicable permits, administrative orders, or judicial orders.
44 A finding by the respective commissioner, the president of the environ-
45 mental facilities corporation UNDER THE GUIDANCE AND SUPPORT OF THE
46 COMMISSIONER or secretary of state that the municipality or soil and
47 water conservation district has not met the conditions of the contract
48 in good faith shall constitute a material breach of the contract.

49 S 37. Section 56-0611 of the environmental conservation law, as added
50 by chapter 413 of the laws of 1996, is amended to read as follows:
51 S 56-0611. Environmental compliance projects.

52 Of moneys made available under this title thirty million dollars
53 (\$30,000,000) shall be made available for state assistance payments
54 through the environmental facilities corporation UNDER THE GUIDANCE AND
55 SUPPORT OF THE DEPARTMENT to villages, towns, and cities with a popu-
56 lation of less than one million, for small business environmental

1 compliance assistance projects which enhance the quality of the air of
2 the state through compliance with environmental laws and regulations, or
3 by remedy or prevention of environmental deficiencies.

4 1. The president of the environmental facilities corporation UNDER THE
5 GUIDANCE AND SUPPORT OF THE COMMISSIONER is authorized to provide state
6 assistance payments to villages, towns, and cities with a population of
7 less than one million, for implementation of small business environ-
8 mental compliance assistance projects which enhance the quality of the
9 air of the state.

10 2. A village, town, and city with a population of less than one
11 million may submit an application to the president, in such form and
12 manner as the president may require, for state assistance payments
13 toward the cost of environmental compliance assistance projects.

14 3. Upon receipt of a request for a state assistance application, the
15 president UNDER THE GUIDANCE AND SUPPORT OF THE COMMISSIONER shall
16 review the request and, within ninety days from the receipt of a
17 complete application, may approve, disapprove, or recommend modifica-
18 tions thereto consistent with applicable law criteria, standards, or
19 rules and regulations relative to such projects.

20 S 38. Subdivision 5-e of section 234 of the banking law, as added by
21 chapter 262 of the laws of 2007, is amended to read as follows:

22 5-e. To accept moneys deposited by the New York state environmental
23 facilities corporation as linked deposits pursuant to article sixteen of
24 the state finance law and to enter into agreements, pledge assets or
25 furnish other security, satisfactory in form and amount to the New York
26 state environmental facilities corporation UNDER THE GUIDANCE AND
27 SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, for the repay-
28 ment of such moneys.

29 S 39. Section 169.00 of the local finance law, as amended by chapter
30 304 of the laws of 1997, is amended to read as follows:

31 S 169.00 Installment loans and obligations evidencing installment
32 loans. a. Notwithstanding the provisions of any other law, general,
33 special or local, inconsistent with this section, relating to the power
34 of municipalities to enter into contracts and to contract indebtedness,
35 the finance board of any municipality selling bonds or notes at private
36 sale to the New York state environmental facilities corporation in order
37 to obtain financial assistance pursuant to section twelve hundred eight-
38 y-five-j or twelve hundred eighty-five-m of the public authorities law
39 is hereby authorized and empowered to contract with such corporation
40 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
41 CONSERVATION to receive from time to time advances of a loan up to a
42 stated maximum principal sum and to issue to such corporation, in order
43 to evidence the obligation of such municipality to repay such advances,
44 its bonds or notes in the form and in the manner provided by this
45 section. Any such bond or note may provide that the municipality issuing
46 such bond or note shall pay to such corporation or its assigns the stat-
47 ed maximum principal sum or, if less, the aggregate principal amount of
48 the advances of the corresponding loan made to such municipality by the
49 ENVIRONMENTAL FACILITIES corporation UNDER THE GUIDANCE AND SUPPORT OF
50 THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION. The principal amounts of
51 advances and the timing and manner of the payment and repayment of such
52 advances and the interest rate applicable to such advances may be
53 provided for in the related contract or loan agreement or in any obli-
54 gations evidencing such loan advances.

55 b. Any obligation issued by a municipality pursuant to this section
56 shall be deemed indebtedness of such municipality (i) only as of the

1 date and to the extent that the corporation UNDER THE GUIDANCE AND
2 SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION makes or has
3 made each loan advance available to such municipality and (ii) only in
4 the amount of each such loan advance. Any such advance shall be consid-
5 ered a separate borrowing for purposes of determining compliance with
6 the constitution and laws of the state.

7 c. Any obligation issued by a municipality pursuant to this section
8 shall provide for the payment of principal and interest without presen-
9 tation.

10 d. The finance board, by resolution, may delegate its power to
11 contract and to issue indebtedness pursuant to this section to the chief
12 fiscal officer of such municipality, in which event the chief fiscal
13 officer shall exercise such power until the finance board, by resol-
14 ution, shall elect to resume the same.

15 e. On or before the first day of January, in any given year, beginning
16 on January first, nineteen hundred ninety-four, the president of the New
17 York state environmental facilities corporation UNDER THE GUIDANCE AND
18 SUPPORT OF THE COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVA-
19 TION shall submit to the director of the division of the budget, the
20 chairperson of the senate finance committee, the chairperson of the
21 assembly ways and means committee, and the chairpersons of the senate
22 and assembly committees on local government, a comprehensive report
23 detailing the activities undertaken pursuant to this section, which
24 shall include, at a minimum, (i) all project applicants; (ii) the amount
25 of the state revolving fund bond or note for each project; (iii) the
26 amount advanced; (iv) the repayment terms and conditions; and (v) the
27 interest rate savings to the project applicant.

28 S 40. Section 120-bb of the general municipal law, as added by chapter
29 80 of the laws of 1989, subdivision 1 as amended and subdivision 1-a as
30 added by chapter 92 of the laws of 1989, is amended to read as follows:

31 S 120-bb. Town of Huntington solid waste management resource recovery
32 facility; tax exemption; other contractual provisions related to towns
33 of Huntington and Smithtown. 1. Notwithstanding any inconsistent
34 provision of article twenty-eight of the tax law, or of any other gener-
35 al, special or local law respecting taxation, the receipts from the sale
36 of all tangible personal property purchased by a contractor, subcontrac-
37 tor or repairman for use in erecting, repairing, replacing, improving or
38 altering a solid waste management resource recovery facility within the
39 town of Huntington, as such term is defined in section one hundred twen-
40 ty-w of this article, where such property becomes an integral component
41 part of such facility, shall be exempt from the tax on retail sales
42 imposed under subdivision (a) of section eleven hundred five and the
43 compensating use tax imposed under section eleven hundred ten of the tax
44 law provided that:

45 (a) title to the real property upon which the solid waste management
46 resource recovery facility is to be situated is held by the town of
47 Huntington;

48 (b) the environmental facilities corporation has caused to be issued
49 bonds of the corporation for financing in whole or in part the
50 construction of such solid waste management resource recovery facility;

51 (c) the vendor has entered into a site lease, easement or rental
52 agreement with such town relating to the site of the proposed facility;

53 (d) prior to the issuance of a permit by the department of environ-
54 mental conservation authorizing the operation of the facility, the town
55 of Huntington and the town of Smithtown shall each have adopted and put
56 into effect and maintained in effect a local ordinance providing for the

1 separation of solid waste into recyclable, reusable and other components
2 pursuant to section one hundred twenty-aa of this article.

3 1-a. As long as the criteria set forth in paragraphs (a), (b), (c) and
4 (d) of subdivision one of this section are satisfied, a vendor under
5 this section, shall be afforded the same treatment, with respect to the
6 imposition of the sales and compensating use taxes imposed under article
7 twenty-eight of the tax law as the environmental facilities corporation
8 is pursuant to subdivision eight of section twelve hundred ninety-six of
9 the public authorities law, on any purchase or use of tangible personal
10 property.

11 2. Notwithstanding any provision of law, general, special or local,
12 relating to taxation to the contrary, any mortgage, security interest or
13 other lien granted on any interest in the real or personal property
14 comprising the solid waste management resource recovery facility by the
15 owner, lessee or sublessee thereof shall be exempt from any mortgage,
16 recording, stamp or other similar tax imposed by the state or any muni-
17 cipality or political subdivision thereof, with the same effect as if
18 the environmental facilities corporation were the owner of such facility
19 and the mortgagor or grantor of such mortgage, security interest or
20 lien, as the case may be, and section twelve hundred ninety-six of the
21 public authorities law were applicable to such facility.

22 3. (a) Pursuant to a joint agreement under article five-G of this
23 chapter, the town of Huntington and the town of Smithtown, without any
24 new or additional competitive procurement which would otherwise be
25 required by section one hundred twenty-w of this article, may enter into
26 a contract, amendment or supplement with the vendor with which the town
27 of Huntington has previously executed a contract on or before the effec-
28 tive date of this section, for the design, construction, operation,
29 financing, ownership or maintenance of a solid waste management-resource
30 recovery facility within the town of Huntington as may be necessary for
31 the purpose of expanding the facility and the services contemplated by
32 such original contract in order to accommodate the disposal of solid
33 waste from the town of Smithtown.

34 (b) The waiver of compliance with the competitive procurement
35 provisions of such section one hundred twenty-w shall be strictly limit-
36 ed in application to the undertaking and completion of such additional
37 design and construction at such facility as is necessary to accommodate
38 the disposal of solid waste from the town of Smithtown. Notwithstanding
39 such waiver, the provisions of section two hundred twenty of the labor
40 law shall be applicable to construction work undertaken pursuant to such
41 contract amendment or supplementation.

42 (c) Any expansion of the proposed Huntington resource recovery facili-
43 ty pursuant to this section shall be in full accordance with the rules
44 and regulations promulgated by the department of environmental conserva-
45 tion for the construction and operation of municipal solid waste incin-
46 eration facilities permitted on or after the effective date of this
47 section.

48 4. The town of Smithtown shall have the power to adopt and amend local
49 laws imposing appropriate and reasonable limitations on competition with
50 respect to collecting, receiving, transporting, delivering, storing,
51 processing and disposing of solid waste or the recovery by any means of
52 any material or energy product or resource therefrom, including local
53 laws requiring that all solid waste generated, originated or brought
54 within its boundaries, subject to such exceptions as may be determined
55 to be in the public interest, shall be delivered to a specified solid
56 waste management-resource recovery facility; provided, however, that any

1 such local law enacted by the town shall take precedence and shall
2 supersede any inconsistent provisions of any local law enacted by a
3 municipality within the town. Any such local law shall be adopted in
4 accordance with the procedure provided by the municipal home rule law,
5 except that no such local law shall be subject to either mandatory or
6 permissive referendum. For purposes of this section solid waste shall
7 not include any scrap or other material of value separated from the
8 waste stream and held for purposes of materials recycling.

9 5. Notwithstanding the provisions of any other law, general, special
10 or local, relating to the length, duration and terms of contracts a
11 municipality may enter into, or relating to the method by which
12 contracts may be entered into, the town of Huntington may enter into a
13 lease, easement or rental agreement relating to the site of the proposed
14 Huntington resource recovery facility and to the proposed facilities to
15 be constructed thereon with the vendor upon such terms and conditions,
16 for such consideration and for such term and duration, not to exceed
17 forty years, as may be agreed upon by the town of Huntington and the
18 vendor, provided that any agreement providing for payment by the town of
19 Huntington for resource recovery services to be provided at such site
20 may not exceed twenty-five years in duration, except as such agreement
21 may be extended in accordance with section one hundred twenty-w of this
22 article.

23 6. Notwithstanding any inconsistent provision of section twelve
24 hundred ninety of the public authorities law or of any other provision
25 of state law, the bonds and any renewals thereof [to be] issued by the
26 environmental facilities corporation OR TO BE ISSUED BY SUCH CORPORATION
27 UNDER THE GUIDANCE AND SUPPORT OF THE DEPARTMENT OF ENVIRONMENTAL
28 CONSERVATION for the purposes of constructing the solid waste management
29 resource recovery facility in the town of Huntington shall mature at
30 such time as the resolution authorizing such issuance provides but not
31 exceeding twenty-five years from the date of the original issuance of
32 such bonds.

33 7. For purposes of this section, the term "vendor" shall mean any
34 constructor or operator together with any successors or assigns, of a
35 solid waste management-resource recovery facility located in the town of
36 Huntington and intended to dispose of municipal solid waste pursuant to
37 an agreement with the town of Huntington.

38 S 41. Upon the transfer of the functions of the environmental facili-
39 ties corporation to the appropriate department or authority, all of the
40 employees of the environmental facilities corporation shall become
41 employees of the respective department or authority assuming the respon-
42 sibilities of each person's employment unit. The positions held by such
43 employees shall be classified pursuant to section 45 of the civil
44 service law in the same manner as if the state had acquired a private
45 enterprise, and such positions shall be assigned to collective bargain-
46 ing units in the same manner as other positions within each department
47 or authority.

48 S 42. a. The powers, duties, and unfinished business of the environ-
49 mental facilities corporation are transferred to the department of envi-
50 ronmental conservation. All assets, liabilities, and records of the
51 environmental facilities corporation are transferred to the department
52 of environmental conservation. For the purposes of succession to func-
53 tions, powers, duties, and obligations transferred and assigned to,
54 devolved upon and assumed by it pursuant to this act, the department of
55 environmental conservation shall be deemed and held to constitute the

1 continuation of the environmental facilities corporation except where
2 otherwise provided in this act.

3 b. Every officer and employee of the environmental facilities corpo-
4 ration is hereby transferred to the department of environmental conser-
5 vation. Transfers of such employees will be made pursuant to subdivi-
6 sion 2 of section 70 of the civil service law.

7 c. All rules, regulations, acts, determinations and decisions of the
8 environmental facilities corporation at the time of the effective date
9 of this act shall continue in force and effect as rules, regulations,
10 acts, determinations, and decisions of the commissioner of the depart-
11 ment of environmental conservation until duly modified or abrogated by
12 the commissioner of the department of environmental conservation.

13 d. All appropriations and reappropriations heretofore made to the
14 environmental facilities corporation, to the extent of remaining unex-
15 pended or unencumbered balances thereof, whether allocated or unallo-
16 cated and whether obligated or unobligated, shall be transferred to and
17 made available for use and expenditure by the department of environ-
18 mental conservation.

19 S 43. Environmental facilities corporation transfer to department of
20 environmental conservation. Upon the transfer of the functions of the
21 environmental facilities corporation to the department of environmental
22 conservation pursuant to this act, all of the employees of the environ-
23 mental faculties corporation shall become employees of the department of
24 environmental conservation. The positions held by such employees shall
25 be classified pursuant to section forty-five of the civil service law in
26 the same manner as if the state had acquired a private enterprise, and
27 such positions shall be assigned to collective bargaining units in the
28 same manner as other positions within the department of environmental
29 conservation.

30 S 44. This act shall take effect immediately; provided, however, that:

31 1. the amendments to subdivision 6 of section 1285-j of the public
32 authorities law made by section thirteen of this act shall survive the
33 expiration and reversion of such subdivision as provided in section 3 of
34 chapter 307 of the laws of 2005 provided further, that the amendments to
35 subdivision 6 of section 1285-m of the public authorities law, made by
36 section sixteen of this act shall survive the expiration and reversion
37 of such subdivision as provided in section 3 of chapter 307 of the laws
38 of 2005; and

39 2. the amendments to section 169.00 of the local finance law made by
40 section thirty-nine of this act shall not affect the repeal of such
41 section and shall expire and be deemed repealed therewith.

42 PART QQ

43 Section 1. There is hereby created a department of financial services.
44 The head of the department of financial services shall be the super-
45 intendent of financial services, who shall be appointed by the governor,
46 by and with the advice and consent of the senate, and who shall hold
47 office until the end of the term of the governor by whom he or she was
48 appointed and until his or her successor is appointed and qualified.

49 S 2. There shall be established within the department of financial
50 services a division of banking to carry out the duties and responsibil-
51 ities imposed under the banking law. There shall also be established
52 within the department of financial services a division of insurance to
53 carry out the duties and responsibilities imposed under the insurance
54 law.

1 S 3. Transfer of powers of the banking department. The functions and
2 powers possessed by and all of the obligations and duties of the banking
3 department, as established pursuant to the banking law, shall be trans-
4 ferred and assigned to, and assumed by and devolved upon the department
5 of financial services.

6 S 4. Transfer of powers of the insurance department. The functions and
7 powers possessed by and all of the obligations and duties of the depart-
8 ment of insurance, as established pursuant to the insurance law, shall
9 be transferred and assigned to, and assumed by and devolved upon the
10 department of financial services.

11 S 5. Abolition of the banking department. Upon the transfer pursuant
12 to this act of the functions and powers possessed by and all of the
13 obligations and duties of the banking department, as established pursu-
14 ant to the banking law and other laws, the banking department shall be
15 abolished.

16 S 6. Abolition of the insurance department. Upon the transfer pursuant
17 to this act of the functions and powers possessed by and all of the
18 obligations and duties of the insurance department, as established
19 pursuant to the insurance law and other laws, the insurance department
20 shall be abolished.

21 S 7. Continuity of authority of the banking department. Except as
22 herein otherwise provided, upon the transfer pursuant to this act of the
23 functions and powers possessed by and all of the obligations and duties
24 of the banking department as established pursuant to the banking law and
25 other laws, to the department of financial services as prescribed by
26 this act for the purpose of succession of all functions, powers, duties
27 and obligations of the department of financial services shall be deemed
28 and be held to constitute the continuation of such functions, powers,
29 duties and obligations and not a different agency.

30 S 8. Continuity of authority of the insurance department. Except as
31 herein otherwise provided, upon the transfer pursuant to this act of the
32 functions and powers possessed by and all of the obligations and duties
33 of the insurance department as established pursuant to the insurance law
34 and other laws, to the department of financial services as prescribed by
35 this act for the purpose of succession of all functions, powers, duties
36 and obligations of the department of financial services shall be deemed
37 and be held to constitute the continuation of such functions, powers,
38 duties and obligations and not a different agency.

39 S 9. Transfer of records of the banking department. Upon the transfer
40 pursuant to this act of the functions and powers possessed by and all of
41 the obligations and duties of the banking department as established
42 pursuant to the banking law and other laws, to the department of finan-
43 cial services as prescribed by this act, all books, papers, records and
44 property pertaining to the banking department shall be transferred to
45 and maintained by the department of financial services.

46 S 10. Transfer of records of the insurance department. Upon the trans-
47 fer pursuant to this act of the functions and powers possessed by and
48 all of the obligations and duties of the insurance department as estab-
49 lished pursuant to the insurance law and other laws, to the department
50 of financial services as prescribed by this act, all books, papers,
51 records and property pertaining to the insurance department shall be
52 transferred to and maintained by the department of financial services.

53 S 11. Completion of unfinished business of the banking department.
54 Upon the transfer pursuant to this act of the functions and powers
55 possessed by and all of the obligations and duties of the banking
56 department as established pursuant to the banking law and other laws, to

1 the department of financial services as prescribed by this act, any
2 business or other matter undertaken or commenced by the banking depart-
3 ment pertaining to or connected with the functions, powers, obligations
4 and duties so transferred and assigned to the department of financial
5 services may be conducted or completed by the department of financial
6 services.

7 S 12. Completion of unfinished business of the insurance department.
8 Upon the transfer pursuant to this act of the functions and powers
9 possessed by and all of the obligations and duties of the insurance
10 department as established pursuant to the insurance law and other laws,
11 to the department of financial services as prescribed by this act, any
12 business or other matter undertaken or commenced by the insurance
13 department pertaining to or connected with the functions, powers, obli-
14 gations and duties so transferred and assigned to the department of
15 financial services may be conducted or completed by the department of
16 financial services.

17 S 13. Terms occurring in laws, contracts or other documents of or
18 pertaining to the banking department. Upon the transfer pursuant to this
19 act of the functions and powers possessed by and all of the obligations
20 and duties of the banking department as established pursuant to the
21 banking law and other laws, as prescribed by this act, whenever the
22 banking department and the superintendent thereof, the functions,
23 powers, obligations and duties of which are transferred to the depart-
24 ment of financial services are referred to or designated in any law,
25 contract or document pertaining to the functions, powers, obligations
26 and duties transferred and assigned pursuant to this act, such reference
27 or designation shall be deemed to refer to the department of financial
28 services and its superintendent.

29 S 14. Terms occurring in laws, contracts or other documents of or
30 pertaining to the insurance department. Upon the transfer pursuant to
31 this act of the functions and powers possessed by and all of the obli-
32 gations and duties of the insurance department as established pursuant
33 to the insurance law and other laws, as prescribed by this act, whenever
34 the insurance department or the superintendent thereof, the functions,
35 powers, obligations and duties of which are transferred to the depart-
36 ment of financial services are referred to or designated in any law,
37 contract or document pertaining to the functions, powers, obligations
38 and duties transferred and assigned pursuant to this act, such reference
39 or designation shall be deemed to refer to the department of financial
40 services and its superintendent.

41 S 15. Existing rights and remedies of or pertaining to the banking
42 department preserved. Upon the transfer pursuant to this act of the
43 functions and powers possessed by and all of the obligations and duties
44 of the banking department as established pursuant to the banking law and
45 other laws, to the department of financial services as prescribed by
46 this act, no existing right or remedy of the state, including the bank-
47 ing department, shall be lost, impaired or affected by reason of this
48 act.

49 S 16. Existing rights and remedies of or pertaining to the insurance
50 department preserved. Upon the transfer pursuant to this act of the
51 functions and powers possessed by and all of the obligations and duties
52 of the insurance department as established pursuant to the insurance law
53 and other laws, to the department of financial services as prescribed by
54 this act, no existing right or remedy of the insurance department shall
55 be lost, impaired or affected by reason of this act.

1 S 17. Pending actions and proceedings of or pertaining to the banking
2 department. Upon the transfer pursuant to this act of the functions and
3 powers possessed by and all of the obligations and duties of the banking
4 department as established pursuant to the banking law and other laws, to
5 the department of financial services as prescribed by this act, no
6 action or proceeding pending on the effective date of this act, brought
7 by or against the banking department or the superintendent thereof shall
8 be affected by any provision of this act, but the same may be prosecuted
9 or defended in the name of the New York state department of financial
10 services. In all such actions and proceedings, the New York state
11 department of financial services, upon application to the court, shall
12 be substituted as a party.

13 S 18. Pending actions and proceedings of or pertaining to the insur-
14 ance department. Upon the transfer pursuant to this act of the func-
15 tions and powers possessed by and all of the obligations and duties of
16 the insurance department as established pursuant to the insurance law
17 and other laws, to the department of financial services as prescribed by
18 this act, no action or proceeding pending on the effective date of this
19 act, brought by or against the insurance department or the superinten-
20 dent thereof shall be affected by any provision of this act, but the
21 same may be prosecuted or defended in the name of the New York state
22 department of financial services. In all such actions and proceedings,
23 the New York state department of financial services, upon application to
24 the court, shall be substituted as a party.

25 S 19. Continuation of rules and regulations of or pertaining to the
26 banking department. Upon the transfer pursuant to this act of the func-
27 tions and powers possessed by and all the obligations and duties of the
28 banking department as established pursuant to the banking law and other
29 laws, to the department of financial services as prescribed by this act,
30 all rules, regulations, acts, determinations and decisions of the bank-
31 ing department, pertaining to the functions transferred and assigned by
32 this act to the department of financial services in force at the time of
33 such transfer, assignment, assumption or devolution shall continue in
34 force and effect as rules, regulations, acts, determinations and deci-
35 sions of the department of financial services until duly modified or
36 repealed.

37 S 20. Continuation of rules and regulations of or pertaining to the
38 insurance department. Upon the transfer pursuant to this act of the
39 functions and powers possessed by and all the obligations and duties of
40 the banking department as established pursuant to the insurance law and
41 other laws, to the department of financial services as prescribed by
42 this act, all rules, regulations, acts, determinations and decisions of
43 the insurance department, pertaining to the functions transferred and
44 assigned by this act to the department of financial services in force at
45 the time of such transfer, assignment, assumption or devolution shall
46 continue in force and effect as rules, regulations, acts, determinations
47 and decisions of the department of financial services until duly modi-
48 fied or repealed.

49 S 21. Transfer of appropriations heretofore made to the banking
50 department. Upon the transfer pursuant to this act of the functions and
51 powers possessed by and all of the obligations and duties of the banking
52 department as established pursuant to the banking law and other laws, to
53 the department of financial services as prescribed by this act, all
54 appropriations and reappropriations which shall have been made available
55 as of the date of such transfer to the banking department or segregated
56 pursuant to law, to the extent of remaining unexpended or unencumbered

1 balances thereof, whether allocated or unallocated and whether obligated
2 or unobligated, shall be transferred to and made available for use and
3 expenditure by the department of financial services and shall be payable
4 on vouchers certified or approved by the commissioner of taxation and
5 finance, on audit and warrant of the comptroller. Payments of liabil-
6 ities for expenses of personnel services, maintenance and operation
7 which shall have been incurred as of the date of such transfer by the
8 banking department, and for liabilities incurred and to be incurred in
9 completing its affairs shall also be made on vouchers certified or
10 approved by the superintendent of the department of financial services,
11 on audit and warrant of the comptroller.

12 S 22. Transfer of appropriations heretofore made to the insurance
13 department. Upon the transfer pursuant to this act of the functions and
14 powers possessed by and all of the obligations and duties of the insur-
15 ance department as established pursuant to the insurance law and other
16 laws, to the department of financial services as prescribed by this act,
17 all appropriations and reappropriations which shall have been made
18 available as of the date of such transfer to the insurance department or
19 segregated pursuant to law, to the extent of remaining unexpended or
20 unencumbered balances thereof, whether allocated or unallocated and
21 whether obligated or unobligated, shall be transferred to and made
22 available for use and expenditure by the department of financial
23 services and shall be payable on vouchers certified or approved by the
24 commissioner of taxation and finance, on audit and warrant of the comp-
25 troller. Payments of liabilities for expenses of personnel services,
26 maintenance and operation which shall have been incurred as of the date
27 of such transfer by the banking department, and for liabilities incurred
28 and to be incurred in completing its affairs shall also be made on
29 vouchers certified or approved by the superintendent of the department
30 of financial services, on audit and warrant of the comptroller.

31 S 23. Transfer of employees. Provision shall be made for the transfer
32 of all employees from the banking department and the department of
33 insurance into the department of financial services. Employees so trans-
34 ferred shall be transferred without further examination or qualification
35 to the same or similar titles and shall remain in the same collective
36 bargaining unit and shall retain their respective civil service classi-
37 fication, status and rights pursuant to their collective bargaining unit
38 and collective bargaining agreement.

39 S 24. Coordination of services. In an effort to create greater cost
40 efficiencies and cost savings, the superintendent of financial services
41 shall coordinate administrative, clerical and human resource functions,
42 or any other resources and functions, including but not limited to
43 office space and materials and supplies in accordance with the transfer
44 of powers set forth in this act.

45 S 25. Section 11 of the banking law, as amended by chapter 684 of the
46 laws of 1938, the section heading as amended by chapter 777 of the laws
47 of 1939, subdivisions 1 and 4 as amended by chapter 566 of the laws of
48 2004 and subdivision 3 as amended by chapter 276 of the laws of 1990, is
49 amended to read as follows:

50 S 11. [Banking department; official] OFFICIAL documents; destruction
51 of documents; official communications. 1. The [banking] department shall
52 be charged with the execution of the laws relating to the individuals,
53 partnerships, corporations and other entities to which this chapter is
54 applicable and shall exercise such powers and perform such duties as are
55 conferred and imposed upon it by this chapter or by any law of this

1 state. [The principal office of the department shall be in the city of
2 Albany.]

3 2. SUITABLE OFFICES FOR CONDUCTING THE BUSINESS OF THE DEPARTMENT
4 SHALL BE LOCATED IN THE CITIES OF ALBANY AND NEW YORK. NECESSARY ADDI-
5 TIONAL OFFICE, FILING, AND STORAGE SPACE THAT CANNOT BE SUPPLIED BY THE
6 STATE COMMISSIONER OF GENERAL SERVICES MAY BE LEASED BY THE SUPERINTEN-
7 DENT, AND RENT OR EXPENSES INCURRED PURSUANT TO ANY SUCH LEASE SHALL,
8 UNLESS OTHERWISE PROVIDED FOR, BE PAID ON THE CERTIFICATE OF THE SUPER-
9 INTENDENT AND THE AUDIT AND WARRANT OF THE COMPTROLLER.

10 3. Every paper executed by an officer of the department in pursuance
11 of authority conferred by law and sealed with the official seal of the
12 department shall be received in evidence, and may be recorded in the
13 proper recording offices in the same manner and with the same effect as
14 a deed regularly acknowledged.

15 [3.] 4. (a) Except as specified in paragraph (b) or (c) of this subdi-
16 vision, any report expressly required to be rendered to the superinten-
17 dent under any provision of this chapter, any report of an examination
18 made in accordance with any provision of this chapter, and any oath or
19 declaration of office received by the department shall be retained in
20 such form and for such period as the superintendent finds necessary and
21 proper. After such period the superintendent shall recommend disposal of
22 such material in accordance with the provisions of the arts and cultural
23 affairs law.

24 (b) Reports made in accordance with section twenty-eight-b of this
25 [chapter] ARTICLE or pursuant to the rules and regulations of the bank-
26 ing board promulgated in connection with assessing a banking organiza-
27 tion's record of performance in meeting the credit needs of local commu-
28 nities within the meaning of section twenty-eight-b of this [chapter]
29 ARTICLE, including reports expressly required to be rendered to the
30 superintendent and reports of examinations may be destroyed at the
31 direction of the superintendent and in accordance with the provisions of
32 the arts and cultural affairs law after three years from date of receipt
33 thereof, provided any such report has first been photographed, micropho-
34 tographed or otherwise reproduced. Each such reproduction shall be
35 retained in the files of the department for a period of at least fifteen
36 years from the date of the last received report, oath or declaration
37 appearing thereon. After the expiration of such period, such reprod-
38 uction may be destroyed at the direction of the superintendent and in
39 accordance with the provisions of the arts and cultural affairs law.
40 Such reproduction thereof shall be deemed, for any purpose, the equiv-
41 alent of the original of such report. Any such report not so reproduced
42 shall be retained in the files of the department for a period of at
43 least fifteen years from the date of receipt thereof, after which it may
44 be destroyed at the direction of the superintendent and in accordance
45 with the provisions of the arts and cultural affairs law.

46 (c) This subdivision shall not apply to any records, documents or
47 correspondence referred to in subdivision four of section six hundred
48 twenty-seven of this chapter.

49 [4.] 5. Any communication from the [banking] department to any person,
50 partnership, corporation or other entity may contain a direction that
51 such communication shall be presented to the controlling owners or prin-
52 cipal management of such entity, members of such partnership or to the
53 board of directors or trustees of such corporation. A communication
54 containing such direction shall be for the purposes of this chapter an
55 official communication. The superintendent may, in his or her
56 discretion, notify in writing each owner or principal manager of such

entity, every member of such partnership and every director or trustee of such corporation of the sending of such a communication and, in that event the notification shall state the date of such communication.

S 26. Paragraphs 17 and 41 of subsection (a) of section 107 of the insurance law are amended to read as follows:

(17) "Department" means the [insurance] department OF FINANCIAL SERVICES of this state.

(41) "Superintendent" means the superintendent of [insurance] FINANCIAL SERVICES of this state.

S 27. Paragraph (b) of subdivision 1 of section 169 of the executive law, as amended by section 1 of part F of chapter 56 of the laws of 2005, is amended to read as follows:

(b) commissioner of labor, chairman of public service commission, commissioner of taxation and finance, superintendent of [banks] FINANCIAL SERVICES, commissioner of criminal justice services, [superintendent of insurance,] and commissioner of parks, recreation and historic preservation;

S 28. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 29. This act shall take effect January 1, 2011.

PART RR

Section 1. Temporary task force for the creation of an authority for energy and economic development. 1. There is hereby created the temporary task force for energy and economic development to study and make recommendations on the feasibility of a merger and consolidation of the urban development corporation, the empire state development corporation, the job development authority, the New York state energy research and development authority, and the New York state foundation for science, technology and innovation. Such task force shall conduct a thorough study, research, and inquiry into: (a) how the coordination of the state's effort in areas of energy consumption, renewable energy exploration, economic development, environmental conservation, and job creation could be maximized by the creation of a single authority; and (b) how an authority with oversight over these areas could be a more efficient and effective mechanism in the utilization of available resources and provide a new model of statewide development, growth, and cooperation that will advance stronger programs to further the state's goals.

2. Not later than thirty days from the effective date of this act, there shall be a temporary task force for energy and economic development established by the governor and legislature, consisting of eleven board members. The governor shall appoint five members. Additionally, two members shall be appointed by the temporary president of the senate, two members by the speaker of the assembly, and one member each by the minority leader of the senate and the minority leader of the assembly.

3. No board member shall be an officer, director, or employee of: the urban development corporation, the empire state development corporation, the job development authority, the New York state energy research and development authority, or the New York state foundation for science, technology and innovation. Furthermore, no board member, officer, or employee of the task force shall be a party to or have any financial

1 interest in any project that receives financial assistance from any of
2 the entities listed in this subdivision.

3 4. The board shall designate one chair from among its members. The
4 board members of the task force, including the chair, shall serve with-
5 out compensation, but shall be compensated for their reasonable and
6 necessary expenses.

7 5. During its study and review, the task force may consider the
8 comments of advocates and experts from the following government and
9 private sectors, including but not limited to: energy, economic develop-
10 ment, banking, labor, engineering, agriculture, scientific research,
11 higher education, seed and high risk venture investment, environmental
12 conservation, renewable energy, public utility, manufacturing,
13 construction, and transportation.

14 6. In compiling its final report, the task force shall review and
15 evaluate: (a) the key programs and services of each of the entities
16 listed in subdivision three of this section, and the opportunities and
17 barriers to restructuring, merging, or consolidating such programs and
18 services; (b) the impact of such programs or services and the potential
19 opportunities for the coordination of efforts, prevention of duplication
20 of services, and sharing and maximization of resources; (c) the poten-
21 tial to enhance or facilitate the effectiveness of current or planned
22 renewable energy, economic development, job creation, and environmental
23 conservation programs; and (d) the increased ability to promote and
24 facilitate statewide planning of economic, energy, and environmental
25 needs.

26 7. Not later than November 15, 2010, the temporary task force shall
27 submit a final report to the governor, speaker of the assembly, and
28 temporary president of the senate.

29 S 2. This act shall take effect immediately and shall expire and be
30 deemed repealed June 30, 2011.

31 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
32 sion, section or part of this act shall be adjudged by any court of
33 competent jurisdiction to be invalid, such judgment shall not affect,
34 impair, or invalidate the remainder thereof, but shall be confined in
35 its operation to the clause, sentence, paragraph, subdivision, section
36 or part thereof directly involved in the controversy in which such judg-
37 ment shall have been rendered. It is hereby declared to be the intent of
38 the legislature that this act would have been enacted even if such
39 invalid provisions had not been included herein.

40 S 3. This act shall take effect immediately provided, however, that
41 the applicable effective date of Parts A through RR of this act shall be
42 as specifically set forth in the last section of such Parts.