

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

S. 6609--B

A. 9709--C

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

January 19, 2010

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

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- 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 Intentionally omitted (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); to amend the vehicle and traffic law, in relation to the mailing of suspension and revocation orders (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); Intentionally omitted (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); Intentionally omitted (Part S); to amend the agriculture and markets law, the general municipal law, the administrative code of the city of New

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

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York and 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 animal population control; to amend the state finance law, in relation to the animal population control fund; and to repeal certain provisions of the agriculture and markets law relating to animal population control (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); Intentionally omitted (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); Intentionally omitted (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); Intentionally omitted (Part FF); Intentionally omitted (Part GG); Intentionally omitted (Part HH); to amend the vehicle and traffic law and the public officers law, in relation to establishing a bus rapid transit demonstration program to restrict the use of bus lanes by means of bus lane photo devices; and providing for the repeal of such provisions upon expiration thereof (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); relating to shared service initiatives of the division of the lottery and the racing and wagering board (Part LL); to amend the economic development law and the tax law, in relation to creating the excelsior jobs program (Part MM); to amend the public authorities law, in relation to the amount of bonds, notes or other obligations issued by the metropolitan transportation authority, the Triborough bridge and tunnel authority and the New York city transit authority (Part NN); and to amend the legislative law, in relation to critical transportation choices for the state (Part OO)

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 OO. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

1 PART A

2 Intentionally omitted.

3 PART B

4 Intentionally omitted.

5 PART C

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

9 5. IN ADDITION TO ANY WAIVER WHICH MAY BE ISSUED PURSUANT TO SUBDIVI-
10 SION FOUR OF THIS SECTION, THE DEPARTMENT SHALL ISSUE A WAIVER TO A
11 STATE AGENCY, A STATE OR REGIONAL PUBLIC AUTHORITY, OR A PERSON OPERAT-
12 ING ANY DIESEL-POWERED HEAVY DUTY VEHICLE ON BEHALF OF A STATE AGENCY,
13 STATE OR REGIONAL PUBLIC AUTHORITY, UPON A REQUEST IN A FORM ACCEPTABLE
14 TO THE DEPARTMENT FOR A WAIVER FROM THE PROVISIONS OF SUBDIVISION THREE
15 OF THIS SECTION FOR A VEHICLE ENGINE PROVIDED THAT SUCH VEHICLE ENGINE
16 WILL CEASE TO BE USED IN THE STATE ON OR BEFORE DECEMBER THIRTY-FIRST,
17 TWO THOUSAND THIRTEEN. ANY WAIVER ISSUED PURSUANT TO THIS SUBDIVISION
18 SHALL EXPIRE WHEN A STATE AGENCY, A STATE OR REGIONAL PUBLIC AUTHORITY,
19 OR A PERSON OPERATING ANY DIESEL-POWERED HEAVY DUTY VEHICLE ON BEHALF OF
20 A STATE AGENCY, STATE OR REGIONAL PUBLIC AUTHORITY CEASES TO USE THE
21 ENGINE IN THE STATE BUT NOT LATER THAN DECEMBER THIRTY-FIRST, TWO THOU-
22 SAND THIRTEEN.

23 S 2. This act shall take effect immediately.

24 PART D

25 Intentionally omitted.

26 PART E

27 Section 1. Section 2 of chapter 279 of the laws of 1998, amending the
28 transportation law relating to enabling the commissioner of transporta-
29 tion to establish a single audit pilot program, as amended by section 1
30 of part A of chapter 59 of the laws of 2009, is amended to read as
31 follows:

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

37 S 2. This act shall take effect immediately.

38 PART F

39 Intentionally omitted.

40 PART G

41 Intentionally omitted.

42 PART H

1 Intentionally omitted.

2 PART I

3 Intentionally omitted.

4 PART J

5 Intentionally omitted.

6 PART K

7 Section 1. Section 214 of the vehicle and traffic law, as amended by
8 chapter 568 of the laws of 1994, is amended to read as follows:

9 S 214. Proof of mailing of notice or order. The production of a copy
10 of a notice or order issued by the department, together with an elec-
11 tronically-generated record of entry of such order or notice upon the
12 appropriate driver's license or registration file of the department and
13 an affidavit by an employee designated by the commissioner as having
14 responsibility for the issuance of such order or notice issued by the
15 department setting forth the procedure for the issuance and the mailing
16 of such notice or order AT THE ADDRESS OF SUCH PERSON ON FILE WITH THE
17 DEPARTMENT OR AT THE CURRENT ADDRESS PROVIDED BY THE UNITED STATES
18 POSTAL SERVICE shall be presumptive evidence that such notice of suspen-
19 sion, revocation or order was produced and mailed in accordance with
20 such procedures. The foregoing procedure shall not preclude the use of
21 an affidavit of service by mail, a certificate of mailing or proof of
22 certified or registered mail as proof of mailing of any such order or
23 notice.

24 S 2. Paragraph (b) of subdivision 3 of section 226 of the vehicle and
25 traffic law, as added by chapter 607 of the laws of 1993, is amended to
26 read as follows:

27 (b) Failure to answer or appear in accordance with the requirements of
28 this section and any regulations promulgated hereunder shall be deemed
29 an admission to the violation as charged, and an appropriate order may
30 be entered in the department's records, and a fine consistent with the
31 provisions of this chapter and regulations of the commissioner may be
32 imposed by the commissioner or person designated by the commissioner.
33 Prior to entry of an order and imposition of a fine, the commissioner
34 shall notify such person by mail at the address of such person on file
35 with the department OR AT THE CURRENT ADDRESS PROVIDED BY THE UNITED
36 STATES POSTAL SERVICE in accordance with section two hundred fourteen of
37 this chapter: (i) of the violation charged; (ii) of the impending entry
38 of such order and fine; (iii) that such order and fine may be filed as a
39 judgment with the county clerk of the county in which the operator or
40 registrant is located; and (iv) that entry of such order and imposition
41 of such fine may be avoided by entering a plea or making an appearance
42 within thirty days of the sending of such notice. In no case shall such
43 an order and fine be entered and imposed more than two years after the
44 date of the alleged violation. Upon application in such manner and form
45 as the commissioner shall prescribe an order and fine shall be vacated
46 upon the ground of excusable default.

47 S 3. Paragraph b of subdivision 4 of section 227 of the vehicle and
48 traffic law, as amended by chapter 221 of the laws of 1985, such subdi-
49 vision as renumbered by chapter 288 of the laws of 1989, is amended to
50 read as follows:

1 b. Unpaid fines may be recovered by the commissioner in a civil action
2 in the name of the commissioner. In addition, as an alternative to such
3 civil action, and provided that no appeal is pending, the commissioner
4 may file with the county clerk of the county in which the person resides
5 a final order of the commissioner containing the amount of the fine or
6 fines. The filing of such final order shall have the full force and
7 effect of a judgment duly docketed in the office of such clerk and may
8 be enforced in the same manner and with the same effect as that provided
9 by law in respect to execution issued against property upon judgments of
10 a court of record. No such civil action shall be commenced nor shall
11 such final order be filed until at least thirty days after the depart-
12 ment has posted by ordinary mail to the person at the address of such
13 person on file with the department OR AT THE CURRENT ADDRESS PROVIDED BY
14 THE UNITED STATES POSTAL SERVICE notice of the amount of such fine or
15 fines and that such fine or fines are due and owing.

16 S 4. Subdivision 6 of section 318 of the vehicle and traffic law is
17 amended to read as follows:

18 6. Notice of revocation pursuant to this section may be given to the
19 owner of a vehicle registered in this state or to a driver licensed in
20 this state, by mailing the same to such owner or licensee at the address
21 contained in the certificate of registration for the vehicle owned by
22 such person or to the address contained [in] ON his OR HER driving
23 license OR TO THE CURRENT ADDRESS PROVIDED BY THE UNITED STATES POSTAL
24 SERVICE.

25 S 5. Subdivision 7 of section 510 of the vehicle and traffic law, as
26 amended by chapter 606 of the laws of 1993, is amended to read as
27 follows:

28 7. Miscellaneous provisions. Except as expressly provided, a court
29 conviction shall not be necessary to sustain a revocation or suspension.
30 Revocation or suspension hereunder shall be deemed an administrative act
31 reviewable by the supreme court as such. Notice of revocation or suspen-
32 sion, as well as any required notice of hearing, where the holder is not
33 present, may be given by mailing the same in writing to him OR HER at
34 the address contained in his OR HER license [or], certificate of regis-
35 tration OR AT THE CURRENT ADDRESS PROVIDED BY THE UNITED STATES POSTAL
36 SERVICE, as the case may be. Proof of such mailing by certified mail to
37 the holder shall be presumptive evidence of the holder's receipt and
38 actual knowledge of such notice. Attendance of witnesses may be
39 compelled by subpoena. Failure of the holder or any other person
40 possessing the license card or number plates, to deliver the same to the
41 suspending or revoking officer is a misdemeanor. Suspending or revoking
42 officers shall place such license cards and number plates in the custody
43 of the commissioner except where the commissioner shall otherwise
44 direct. If any person shall fail to deliver a license card or number
45 plates as provided herein, any police officer, bridge and tunnel officer
46 of the Triborough bridge and tunnel authority, or agent of the commis-
47 sioner having knowledge of such facts shall have the power to secure
48 possession thereof and return the same to the commissioner, and the
49 commissioner may forthwith direct any police officer, bridge and tunnel
50 officer of the Triborough bridge and tunnel authority, acting pursuant
51 to his OR HER special duties, or agent of the commissioner to secure
52 possession thereof and to return the same to the commissioner. Failure
53 of the holder or of any person possessing the license card or number
54 plates to deliver to any police officer, bridge and tunnel officer of
55 the Triborough bridge and tunnel authority, or agent of the commissioner
56 who requests the same pursuant to this subdivision shall be a misdemea-

nor. Notice of revocation or suspension of any license or registration shall be transmitted forthwith by the commissioner [of motor vehicles] to the chief of police of the city or prosecuting officer of the locality in which the person whose license or registration so revoked or suspended resides. In case any license or registration shall expire before the end of any period for which it has been revoked or suspended, and before it shall have been restored as provided in this chapter, then and in that event any renewal thereof may be withheld until the end of such period of suspension or until restoration, as the case may be.

The revocation of a learner's permit shall automatically cancel the application for a license of the holder of such permit.

No suspension or revocation of a license or registration shall be made because of a judgment of conviction if the suspending or revoking officer is satisfied that the magistrate who pronounced the judgment failed to comply with subdivision one of section eighteen hundred seven of this chapter. In case a suspension or revocation has been made and the commissioner is satisfied that there was such failure, [he] THE COMMISSIONER shall restore the license or registration or both as the case may be.

S 6. This act shall take effect immediately.

PART L

Intentionally omitted.

PART M

Section 1. Paragraph (a) of subdivision 1 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 the New York state higher education capital 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:

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

S 2. Paragraph (h) of subdivision 4 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:

(h) If a college [does] DID not apply for a POTENTIAL grant by March 31, 2009, funds associated with such potential grant shall be awarded, on a competitive basis, to other colleges, ACCORDING TO THE PRIORITIES SET FORTH BELOW. Colleges shall be eligible to apply for unutilized grants. IN SUCH CASES, THE FOLLOWING PRIORITIES SHALL APPLY: FIRST,

1 PRIORITY SHALL BE GIVEN TO OTHERWISE ELIGIBLE COLLEGES THAT EITHER WERE,
2 OR WOULD HAVE BEEN, DEEMED INELIGIBLE FOR THE PROGRAM PRIOR TO MARCH 31,
3 2009, DUE TO MISSED DEADLINES, INSUFFICIENT MATCHING FUNDS, LACK OF
4 ACCREDITATION OR OTHER DISQUALIFYING REASONS; AND SECOND, AFTER THE
5 BOARD HAS ACTED UPON ALL SUCH FIRST-PRIORITY APPLICATIONS FOR UNUSED
6 FUNDS, IF ANY SUCH FUNDS REMAIN, THOSE FUNDS SHALL BE AVAILABLE FOR
7 DISTRIBUTION TO ELIGIBLE COLLEGES THAT ARE LOCATED WITHIN THE SAME
8 REGENTS OF THE STATE OF NEW YORK REGION FOR WHICH SUCH FUNDS WERE
9 ORIGINALLY ALLOCATED. The dormitory authority shall develop a request
10 for proposals and application process, in consultation with the board,
11 for such grants and shall develop criteria, subject to review by the
12 board, for the awarding of such grants. Such criteria shall incorporate
13 the matching criteria contained in paragraph (c) of this subdivision,
14 and the application criteria set forth in paragraph (e) of this subdivi-
15 sion. The dormitory authority shall require all applications in response
16 to the request for proposals to be submitted by September 1, [2009]
17 2010, and the board shall act on each application for such matching
18 grants by November 1, [2009] 2010.

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

25 (A) Notwithstanding the provision of any general or special law to the
26 contrary, and subject to the provisions of chapter 59 of the laws of
27 2000 and to the making of annual appropriations therefor by the legisla-
28 ture, in order to assist the dormitory authority in providing such high-
29 er education capital matching grants, the director of the budget is
30 authorized in any state fiscal year commencing April 1, 2005 or any
31 state fiscal year thereafter for a period ending on March 31, [2010]
32 2011, to enter into one or more service contracts, none of which shall
33 exceed 30 years in duration, with the dormitory authority, upon such
34 terms as the director of the budget and the dormitory authority agree.

35 S 4. Paragraph (b) of subdivision 7 of section 1 of part U of chapter
36 57 of the laws of 2005 amending the labor law and other laws implement-
37 ing the state fiscal plan for the 2005-2006 state fiscal year, relating
38 to New York state higher education matching grant program for independ-
39 ent colleges, as added by section 1 of part D of chapter 63 of the laws
40 of 2005, is amended to read as follows:

41 (b) Any eligible institution receiving a grant pursuant to this arti-
42 cle shall report to the dormitory authority no later than June 1, [2008]
43 2011, on the use of funding received and its programmatic and economic
44 impact. The dormitory authority shall submit a report no later than
45 November 1, [2008] 2011 to the board, the governor, the director of the
46 budget, the temporary president of the senate, and the speaker of the
47 assembly on the aggregate impact of the higher education capital match-
48 ing grant program. Such report shall provide information on the progress
49 and economic impact of [each] SUCH project.

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

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

4 S 16-T. SMALL BUSINESS REVOLVING LOAN FUND. 1. THE SMALL BUSINESS
5 REVOLVING LOAN FUND PROGRAM IS HEREBY CREATED. THE CORPORATION IS
6 AUTHORIZED, WITHIN AVAILABLE APPROPRIATIONS, TO PROVIDE LOW INTEREST
7 LOANS TO COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS, IN ORDER TO
8 PROVIDE FUNDING FOR THOSE LENDING ORGANIZATIONS' LOANS TO SMALL BUSI-
9 NESSES, LOCATED WITHIN NEW YORK STATE, THAT GENERATE ECONOMIC GROWTH AND
10 JOB CREATION WITHIN NEW YORK STATE BUT THAT ARE UNABLE TO OBTAIN
11 ADEQUATE CREDIT OR ADEQUATE TERMS FOR SUCH CREDIT. IF IN THE DISCRETION
12 OF THE CORPORATION THE USE OF A COMMUNITY DEVELOPMENT FINANCIAL INSTITU-
13 TION IS NOT PRACTICABLE BASED UPON THE APPLICATION OF RULES AND REGU-
14 LATIONS DEVELOPED BY THE CORPORATION, INCLUDING, BUT NOT LIMITED TO,
15 ASSESSMENTS OF GEOGRAPHIC AND ADMINISTRATIVE CAPACITY, THEN THE CORPO-
16 RATION IS AUTHORIZED, WITHIN AVAILABLE APPROPRIATIONS, TO PROVIDE LOW
17 INTEREST LOANS TO THE FOLLOWING OTHER LOCAL COMMUNITY BASED LENDING
18 ORGANIZATIONS: SMALL BUSINESS LENDING CONSORTIA, CERTIFIED DEVELOPMENT
19 COMPANIES, PROVIDERS OF UNITED STATES DEPARTMENT OF AGRICULTURE BUSINESS
20 AND INDUSTRIAL GUARANTEED LOANS, UNITED STATES SMALL BUSINESS ADMINIS-
21 TRATION LOAN PROVIDERS, CREDIT UNIONS AND COMMUNITY BANKS. AS USED IN
22 THIS SECTION "SMALL BUSINESS" MEANS A BUSINESS THAT IS RESIDENT IN NEW
23 YORK STATE, INDEPENDENTLY OWNED AND OPERATED, NOT DOMINANT IN ITS FIELD,
24 AND EMPLOYS ONE HUNDRED OR FEWER PERSONS.

25 2. IN ORDER FOR A LENDING ORGANIZATION TO BE ELIGIBLE TO RECEIVE
26 PROGRAM FUNDS, IT MUST HAVE ESTABLISHED SUFFICIENT EXPERTISE TO ANALYZE
27 SMALL BUSINESS APPLICATIONS FOR PROGRAM LOANS, EVALUATE THE CREDITWOR-
28 THINESS OF SMALL BUSINESSES, AND REGULARLY MONITOR PROGRAM LOANS. THE
29 LENDING ORGANIZATION SHALL REVIEW EVERY PROGRAM LOAN APPLICATION IN
30 ORDER TO DETERMINE, AMONG OTHER THINGS, THE FEASIBILITY OF THE PROPOSED
31 USE OF THE REQUESTED FINANCING BY THE SMALL BUSINESS APPLICANT, THE
32 LIKELIHOOD OF REPAYMENT AND THE POTENTIAL THAT THE LOAN WILL GENERATE
33 ECONOMIC DEVELOPMENT AND JOBS WITHIN NEW YORK STATE. THE CORPORATION
34 SHALL IDENTIFY ELIGIBLE LENDING ORGANIZATIONS THROUGH ONE OR MORE
35 COMPETITIVE STATEWIDE OR LOCAL SOLICITATIONS.

36 3. PROGRAM LOANS TO SMALL BUSINESSES SHALL BE TARGETED AND MARKETING TO
37 MINORITY AND WOMEN-OWNED ENTERPRISES AND OTHER SMALL BUSINESSES THAT ARE
38 HAVING DIFFICULTY ACCESSING TRADITIONAL CREDIT MARKETS. PROGRAM LOANS
39 TO SMALL BUSINESSES SHALL BE USED FOR THE CREATION AND RETENTION OF
40 JOBS, AS DEFINED BY THE CORPORATION, INCLUDING: (A) WORKING CAPITAL;
41 (B) THE ACQUISITION AND/OR IMPROVEMENT OF REAL PROPERTY; (C) THE ACQUI-
42 SITION OF MACHINERY AND EQUIPMENT, PROPERTY OR IMPROVEMENT; OR (D) THE
43 REFINANCING OF DEBT OBLIGATIONS. THERE SHALL BE TWO CATEGORIES OF LOANS
44 TO SMALL BUSINESSES: A MICRO LOAN THAT SHALL HAVE A PRINCIPAL AMOUNT
45 THAT IS LESS THAN TWENTY-FIVE THOUSAND DOLLARS AND A REGULAR LOAN THAT
46 SHALL HAVE A PRINCIPAL AMOUNT NOT LESS THAN TWENTY-FIVE THOUSAND
47 DOLLARS. PRIOR TO RECEIVING PROGRAM FUNDS, THE LENDING ORGANIZATION MUST
48 CERTIFY TO THE CORPORATION THAT SUCH LOAN COMPLIES WITH THIS SECTION AND
49 RULES AND REGULATIONS PROMULGATED FOR THE PROGRAM AND THAT THE LENDING
50 ORGANIZATION HAS PERFORMED ITS OBLIGATIONS PURSUANT TO AND IS IN COMPLI-
51 ANCE WITH THIS SECTION, THE PROGRAM RULES AND REGULATIONS AND ALL AGREE-
52 MENTS ENTERED INTO BETWEEN THE CORPORATION AND THE LENDING ORGANIZATION.
53 THE PROGRAM FUNDS AMOUNT USED BY THE LENDING ORGANIZATION TO FUND A
54 PROGRAM APPLICANT LOAN SHALL NOT BE MORE THAN FIFTY PERCENT OF THE PRIN-
55 CIPAL AMOUNT OF SUCH LOAN. THE PROGRAM FUNDS AMOUNT USED BY THE LENDING

1 ORGANIZATION TO FUND A PROGRAM APPLICANT LOAN SHALL NOT BE GREATER THAN
2 ONE HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS.

3 4. PROGRAM FUNDS SHALL NOT BE USED FOR: (A) PROJECTS THAT WOULD RESULT
4 IN THE RELOCATION OF ANY BUSINESS OPERATION FROM ONE MUNICIPALITY WITHIN
5 THE STATE TO ANOTHER, EXCEPT UNDER ONE OF THE FOLLOWING CONDITIONS: (I)
6 WHEN A BUSINESS IS RELOCATING WITHIN A MUNICIPALITY WITH A POPULATION OF
7 AT LEAST ONE MILLION WHERE THE GOVERNING BODY OF SUCH MUNICIPALITY
8 APPROVES SUCH RELOCATION; OR (II) THE LENDING ORGANIZATION NOTIFIES EACH
9 MUNICIPALITY FROM WHICH SUCH BUSINESS OPERATION WILL BE RELOCATED AND
10 EACH MUNICIPALITY AGREES TO SUCH RELOCATION; (B) PROJECTS OF NEWSPAPERS,
11 BROADCASTING OR OTHER NEWS MEDIA; MEDICAL FACILITIES, LIBRARIES, COMMU-
12 NITY OR CIVIC CENTERS; OR PUBLIC INFRASTRUCTURE IMPROVEMENTS; AND (C)
13 PROVIDING FUNDS, DIRECTLY OR INDIRECTLY, FOR PAYMENT, DISTRIBUTION, OR
14 AS A LOAN, TO OWNERS, MEMBERS, PARTNERS OR SHAREHOLDERS OF THE APPLICANT
15 BUSINESS, EXCEPT AS ORDINARY INCOME FOR SERVICES RENDERED.

16 5. WITH RESPECT TO ITS PROGRAM LOANS, THE LENDING ORGANIZATION MAY
17 CHARGE APPLICATION, COMMITMENT AND LOAN GUARANTEE FEES PURSUANT TO A
18 SCHEDULE OF FEES ADOPTED BY THE LENDING ORGANIZATION AND APPROVED BY THE
19 CORPORATION.

20 6. PROGRAM FUNDS SHALL BE DISBURSED TO A LENDING ORGANIZATION BY THE
21 CORPORATION IN THE FORM OF A LOAN TO THE LENDING ORGANIZATION. THE TERM
22 OF THE LOAN SHALL COMMENCE UPON DISBURSEMENT OF THE PROGRAM FUNDS BY THE
23 CORPORATION TO THE LENDING ORGANIZATION. THE LOAN SHALL CARRY A LOW
24 INTEREST RATE DETERMINED BY THE CORPORATION BASED ON THEN PREVAILING
25 INTEREST RATES AND THE CIRCUMSTANCES OF THE LENDING ORGANIZATION.
26 NOTWITHSTANDING THE PERFORMANCE OF THE LOANS MADE BY THE LENDING ORGAN-
27 IZATION USING PROGRAM FUNDS, THE LENDING ORGANIZATION SHALL REMAIN
28 LIABLE TO THE CORPORATION WITH RESPECT TO ANY UNPAID AMOUNTS DUE FROM
29 THE LENDING ORGANIZATION PURSUANT TO THE TERMS OF THE CORPORATION'S
30 LOANS TO THE LENDING ORGANIZATION. IN ADDITION, A PORTION OF PROGRAM
31 FUNDS MAY BE DISBURSED TO A LENDING ORGANIZATION IN THE FORM OF A GRANT
32 OR FORGIVABLE LOAN, PROVIDED THOSE FUNDS ARE USED BY THE LENDING ORGAN-
33 IZATION FOR ADMINISTRATIVE EXPENSES ASSOCIATED WITH THE FUND, LOAN-LOSS
34 RESERVES, OR OTHER ELIGIBLE EXPENSES AS DETERMINED BY THE CORPORATION.

35 7. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION, THE
36 CORPORATION SHALL PROVIDE AT LEAST FIVE HUNDRED THOUSAND DOLLARS IN
37 PROGRAM FUNDS PURSUANT TO THIS SECTION TO LENDING ORGANIZATIONS FOR THE
38 PURPOSE OF MAKING LOANS TO SMALL BUSINESS LOCATED IN NIAGARA COUNTY.

39 8. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION, THE
40 CORPORATION SHALL PROVIDE AT LEAST FIVE HUNDRED THOUSAND DOLLARS IN
41 PROGRAM FUNDS PURSUANT TO THIS SECTION TO LENDING ORGANIZATIONS FOR THE
42 PURPOSE OF MAKING LOANS TO SMALL BUSINESS LOCATED IN ST. LAWRENCE COUN-
43 TY.

44 9. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION, THE
45 CORPORATION SHALL PROVIDE AT LEAST FIVE HUNDRED THOUSAND DOLLARS IN
46 PROGRAM FUNDS PURSUANT TO THIS SECTION TO LENDING ORGANIZATIONS FOR THE
47 PURPOSE OF MAKING LOANS TO SMALL BUSINESS LOCATED IN ERIE COUNTY.

48 10. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION, THE
49 CORPORATION SHALL PROVIDE AT LEAST FIVE HUNDRED THOUSAND DOLLARS IN
50 PROGRAM FUNDS PURSUANT TO THIS SECTION TO LENDING ORGANIZATIONS FOR THE
51 PURPOSE OF MAKING LOANS TO SMALL BUSINESS LOCATED IN JEFFERSON COUNTY.

52 11. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE CORPO-
53 RATION MAY ESTABLISH A PROGRAM FUND FOR PROGRAM USE AND PAY INTO SUCH
54 FUND ANY FUNDS AVAILABLE TO THE CORPORATION FROM ANY SOURCE THAT ARE
55 ELIGIBLE FOR PROGRAM USE, INCLUDING MONEYS APPROPRIATED BY THE STATE.

12. 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.

13. 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.

14. 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.

15. UPON TERMINATION OF A LENDING ORGANIZATION'S PARTICIPATION IN THE PROGRAM, THE LENDING ORGANIZATION SHALL RETURN TO THE CORPORATION, PROMPTLY AFTER ITS DEMAND THEREFOR, ALL PROGRAM FUND PROCEEDS HELD BY THE LENDING ORGANIZATION; AND PROVIDE TO THE CORPORATION, PROMPTLY AFTER ITS DEMAND THEREFOR, AN ACCOUNTING OF ALL PROGRAM FUNDS RECEIVED BY THE LENDING ORGANIZATION, INCLUDING ALL CURRENTLY OUTSTANDING LOANS THAT WERE MADE USING PROGRAM FUNDS. NOTWITHSTANDING SUCH TERMINATION, THE LENDING ORGANIZATION SHALL REMAIN LIABLE TO THE CORPORATION WITH RESPECT TO ANY UNPAID AMOUNTS DUE FROM THE LENDING ORGANIZATION PURSUANT TO THE TERMS OF THE CORPORATION'S LOANS TO THE LENDING ORGANIZATION.

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

Intentionally omitted.

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.

1 PART Q

2 Intentionally omitted.

3 PART R

4 Intentionally omitted.

5 PART S

6 Intentionally omitted.

7 PART T

8 Section 1. Section 107 of the agriculture and markets law, as added by
9 chapter 220 of the laws of 1978, subdivision 1 as amended by chapter 473
10 of the laws of 1995, subdivision 3 as amended by chapter 619 of the laws
11 of 1987 and subdivision 5 as added by chapter 530 of the laws of 1997,
12 is amended to read as follows:

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

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

24 3. This article shall not apply to any dog confined to the premises of
25 any public or private hospital devoted solely to the treatment of sick
26 animals, or confined for the purposes of research to the premises of any
27 college or other educational or research institution.

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

35 5. Nothing contained in this article shall prevent a municipality from
36 adopting its own program for the control of dangerous dogs; provided,
37 however, that no such program shall be less stringent than this article,
38 and no such program shall regulate such dogs in a manner that is specif-
39 ic as to breed. Notwithstanding the provisions of subdivision one of
40 this section, this subdivision and [section one hundred twenty-one]
41 SECTIONS ONE HUNDRED TWENTY-THREE, ONE HUNDRED TWENTY-THREE-A AND ONE
42 HUNDRED TWENTY-THREE-B of this article shall apply to all municipalities
43 including cities of two million or more.

44 6. NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT A
45 COUNTY FROM ADMINISTERING A DOG LICENSING PROGRAM FOR THE MUNICIPALITIES
46 WITHIN ITS JURISDICTION.

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

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

4 3. "Clerk" means the clerk of any COUNTY, town, city or village where
5 licenses are validated or issued pursuant to this article.

6 11. "Identification tag" means a tag ISSUED BY THE LICENSING MUNICI-
7 PALITY which sets forth an [official] identification number [as required
8 by the provisions], TOGETHER WITH THE NAME of [this article] THE MUNICI-
9 PALITY, THE STATE OF NEW YORK, CONTACT INFORMATION, INCLUDING TELEPHONE
10 NUMBER, FOR THE MUNICIPALITY AND SUCH OTHER INFORMATION AS THE LICENSING
11 MUNICIPALITY DEEMS APPROPRIATE.

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

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

25 S 4. Section 109 of the agriculture and markets law, as added by chap-
26 ter 220 of the laws of 1978, subdivision 1 as amended by chapter 645 of
27 the laws of 1988, paragraph (a) of subdivision 1 as amended by chapter
28 86 of the laws of 2006, paragraph (b) of subdivision 1 as amended by
29 chapter 562 of the laws of 1995, paragraphs (f) and (h) of subdivision 1
30 and paragraphs (f) and (h) of subdivision 2 as amended by chapter 39 of
31 the laws of 2002, paragraph (c) of subdivision 2 as amended by chapter
32 180 of the laws of 2002, and subdivision 3 as amended by chapter 269 of
33 the laws of 2005, is amended to read as follows:

34 S 109. Licensing of dogs REQUIRED; rabies vaccination [requirement]
35 REQUIRED. 1. [Licensing of dogs.] (a) The owner of any dog reaching the
36 age of four months shall immediately make application for a dog license.
37 No license shall be required for any dog which is under the age of four
38 months and which is not at large, OR THAT IS RESIDING IN A POUND OR
39 SHELTER MAINTAINED BY OR UNDER CONTRACT OR AGREEMENT WITH THE STATE OR
40 ANY COUNTY, CITY, TOWN OR VILLAGE, DULY INCORPORATED SOCIETY FOR THE
41 PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY OR
42 DULY INCORPORATED DOG PROTECTIVE ASSOCIATION. Except as otherwise
43 provided in this subdivision, a license shall be issued or renewed for a
44 period of AT LEAST one year, provided[, that at the option of the
45 governing board of the municipality, a license may be issued or renewed
46 for a period of one, two or three years, and provided further], that no
47 license shall be issued for a period expiring after the last day of the
48 eleventh month following the expiration date of the current rabies
49 certificate for the dog being licensed. All licenses shall expire on the
50 last day of the last month of the period for which they are issued. In
51 the event an applicant for a license presents, in lieu of a rabies
52 certificate, a statement certified by a licensed veterinarian, as
53 provided in subdivision [three] TWO of this section, a license shall be
54 issued or renewed for a period of one year from the date of said state-
55 ment. Any municipality[, authorized to issue licenses pursuant to this
56 article, which has a population not exceeding two thousand five hundred]

1 may[, upon the approval of and pursuant to rules and regulations promul-
2 gated by the commissioner,] establish a common renewal date for all such
3 licenses. A license issued by a municipality that has established a
4 common renewal date shall expire no later than the common renewal date
5 prior to the expiration date of the rabies certificate for the dog being
6 licensed.

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

55 (c) The application shall state the sex, actual or approximate age,
56 breed, color, and [official] MUNICIPAL identification number of the dog,

1 and other identification marks, if any, and the name, address, telephone
2 number, county and town, city or village of residence of the owner.
3 MUNICIPALITIES MAY ALSO REQUIRE ADDITIONAL INFORMATION ON SUCH APPLICA-
4 TION AS DEEMED APPROPRIATE.

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

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

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

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

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

49 2. [Purebred license. (a) The owner of one or more purebred dogs
50 registered by a recognized registry association may annually make an
51 application for a purebred license, in lieu of or in addition to the
52 individual licenses required by subdivision one of this section. A pure-
53 bred license shall be valid for a period of one year beginning with the
54 first day of the month following the date of issuance and shall be
55 renewable annually thereafter prior to the expiration date.

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

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

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

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

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

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

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

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

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

13 3. MUNICIPALITIES MAY PROVIDE FOR THE ESTABLISHMENT AND ISSUANCE OF
14 PUREBRED LICENSES AND, IN THE EVENT THEY DO SO, SHALL PROVIDE FOR THE
15 ASSESSMENT OF A SURCHARGE OF AT LEAST THREE DOLLARS FOR THE PURPOSES OF
16 CARRYING OUT ANIMAL POPULATION CONTROL EFFORTS AS PROVIDED IN SECTION
17 ONE HUNDRED SEVENTEEN-A OF THIS ARTICLE.

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

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

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

39 3. IN ADDITION TO THE FEE CHARGED PURSUANT TO SUBDIVISION ONE OF THIS
40 SECTION, ALL MUNICIPALITIES ISSUING DOG LICENSES PURSUANT TO THIS ARTI-
41 CLE ARE REQUIRED TO PROVIDE FOR THE ASSESSMENT OF AN ADDITIONAL
42 SURCHARGE OF AT LEAST ONE DOLLAR FOR ALTERED DOGS AND AT LEAST THREE
43 DOLLARS FOR UNALTERED DOGS FOR THE PURPOSES OF CARRYING OUT ANIMAL POPU-
44 LATION CONTROL EFFORTS AS PROVIDED IN SECTION ONE HUNDRED SEVENTEEN-A OF
45 THIS ARTICLE.

46 4. IN ADDITION TO THE FEE CHARGED PURSUANT TO SUBDIVISION ONE OF THIS
47 SECTION, ANY MUNICIPALITY ISSUING DOG LICENSES PURSUANT TO THIS ARTICLE
48 IS HEREBY AUTHORIZED TO PROVIDE FOR THE ASSESSMENT OF ADDITIONAL
49 SURCHARGES FOR THE PURPOSE OF:

50 (A) RECOVERING COSTS ASSOCIATED WITH ENUMERATION CONDUCTED PURSUANT TO
51 SUBDIVISION SIX OF SECTION ONE HUNDRED THIRTEEN OF THIS ARTICLE SHOULD A
52 DOG BE IDENTIFIED AS UNLICENSED DURING SUCH ENUMERATION. SUCH ADDITIONAL
53 FEE SHALL BE THE PROPERTY OF THE LICENSING MUNICIPALITY AND SHALL BE
54 USED TO PAY THE EXPENSES INCURRED BY THE MUNICIPALITY IN CONDUCTING THE
55 ENUMERATION. IN THE EVENT THE ADDITIONAL FEES COLLECTED EXCEED THE
56 EXPENSES INCURRED BY THE MUNICIPALITY IN CONDUCTING AN ENUMERATION IN

1 ANY YEAR, SUCH EXCESS FEES MAY BE USED BY THE MUNICIPALITY FOR ENFORCING
2 THIS ARTICLE AND FOR SPAYING OR NEUTERING ANIMALS; AND

3 (B) OFFSETTING COSTS ASSOCIATED WITH THE PROVISION AND REPLACEMENT OF
4 IDENTIFICATION TAGS PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS ARTI-
5 CLE.

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

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

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

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

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

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

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

44 7. The applicant for] 4. A MUNICIPALITY OFFERING a license for any
45 guide dog, service dog, hearing dog or detection dog may [procure] ISSUE
46 a special tag for identifying such dog[. This special], PROVIDED THAT
47 SUCH tag shall be in addition to the identification tag required by
48 subdivision one of this section. The [commissioner shall] MUNICIPALITY
49 MAY prescribe the shape, size, color, and form of imprint of the tag
50 which shall be a different color and shape than the [official] STANDARD
51 identification tag. Upon application, the commissioner shall furnish
52 such tags without payment of a fee.

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

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

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

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

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

30 S 8. Section 114 of the agriculture and markets law, as added by chap-
31 ter 220 of the laws of 1978, subdivisions 2 and 4 as amended by chapter
32 714 of the laws of 1980, subdivision 4 as separately amended and subdi-
33 vision 5 as amended by chapter 843 of the laws of 1980 and subdivision 7
34 as amended by chapter 180 of the laws of 2002, is renumbered section 113
35 and amended to read as follows:

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

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

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

53 4.] Every dog control officer shall have the power to issue an appear-
54 ance ticket pursuant to section 150.20 of the criminal procedure law, to
55 serve a summons and to serve and execute any other order or process in
56 the execution of the provisions of this article. In addition, any dog

1 control officer or any peace officer, when acting pursuant to his
2 special duties, or police officer, who is authorized by a municipality
3 to assist in the enforcement of this article may serve any process,
4 including an appearance ticket, a uniform appearance ticket and a
5 uniform appearance ticket and simplified information, related to any
6 proceeding, whether criminal or civil in nature undertaken in accord
7 with the provisions of this article or any local law or ordinance
8 promulgated pursuant thereto.

9 [5] 4. Every dog control officer, peace officer, when acting pursuant
10 to his special duties or police officer shall promptly make and maintain
11 a complete record of any seizure and subsequent disposition of any dog.
12 Such record shall include, but not be limited to, a description of the
13 dog, the date and hour of seizure, the official identification number of
14 such dog, if any, the location where seized, the reason for seizure, and
15 the owner's name and address, if known.

16 [6] 5. Every dog control officer shall file and maintain[, in the
17 manner prescribed by the commissioner,] such records [as may be required
18 by this article or rules and regulations promulgated pursuant thereto]
19 FOR NOT LESS THAN THREE YEARS FOLLOWING THE CREATION OF SUCH RECORD, and
20 shall make such reports AVAILABLE to the commissioner [as may be
21 required thereby] UPON REQUEST.

22 [7] 6. The governing body of any municipality in which licenses are
23 issued, may, either individually or in cooperation with other municipal
24 entities, require its dog control officer or animal control officer or
25 any other authorized agent to ascertain and list the names of all
26 persons in the municipality owning or harboring dogs, or in lieu there-
27 of, such municipality may contract to have the same done.

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

30 S 10. Section 117 of the agriculture and markets law is renumbered
31 section 116.

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

37 S 117-a. Animal population control program. 1. [The department shall
38 establish and implement an animal population control program. The
39 purpose of this program shall be to reduce the population of unwanted
40 and stray dogs and cats thereby reducing potential threats to public
41 health and safety posed by the large population of these animals. This
42 program shall seek to accomplish its purpose by encouraging residents of
43 New York state who are the owners of dogs and cats to have them spayed
44 or neutered by providing low-cost spaying and neutering services to such
45 owners meeting the criteria enumerated in subdivision two of this
46 section. The department shall use its best efforts to encourage every
47 adoption facility that qualifies for participation in the low-cost spay-
48 neuter program to do so to the maximum possible extent.] THE COMMISSION-
49 ER SHALL SUBMIT A REQUEST FOR PROPOSALS FROM NOT-FOR-PROFIT ENTITIES AS
50 DESCRIBED HEREIN FOR THE PURPOSE OF ADMINISTERING A STATE ANIMAL POPU-
51 LATION CONTROL PROGRAM. THE ENTITY CHOSEN TO ADMINISTER SUCH PROGRAM
52 SHALL ENTER INTO A CONTRACT WITH THE STATE FOR A TERM OF FIVE YEARS,
53 WHICH MAY BE RENEWED SUBJECT TO THE APPROVAL OF THE COMMISSIONER. THE
54 PURPOSE OF THIS PROGRAM SHALL BE TO REDUCE THE POPULATION OF UNWANTED
55 AND STRAY DOGS AND CATS THEREBY REDUCING INCIDENCE OF EUTHANASIA AND
56 POTENTIAL THREATS TO PUBLIC HEALTH AND SAFETY POSED BY THE LARGE POPU-

1 LATION OF THESE ANIMALS. THIS PROGRAM SHALL SEEK TO ACCOMPLISH ITS
2 PURPOSE BY ENCOURAGING RESIDENTS OF NEW YORK STATE WHO ARE THE OWNERS OF
3 DOGS AND CATS TO HAVE THEM SPAYED OR NEUTERED BY PROVIDING LOW-COST
4 SPAYING AND NEUTERING SERVICES TO SUCH OWNERS MEETING THE CRITERIA
5 ENUMERATED IN SUBDIVISION THREE OF THIS SECTION. FOR PURPOSES OF THIS
6 SECTION, "LOW-COST" SHALL MEAN SUBSTANTIALLY LESS THAN THE AVERAGE COST
7 IN A PARTICULAR REGION OF THE STATE FOR SPAYING OR NEUTERING SERVICES,
8 INCLUDING ANY AND ALL ANCILLARY CHARGES FOR SERVICES, INCLUDING BUT NOT
9 LIMITED TO, PRESURGICAL EXAMINATIONS, TESTS AND IMMUNIZATIONS, AND OTHER
10 SERVICES RELATED TO THE SPAY OR NEUTER PROCEDURE. ALL VETERINARY
11 SERVICES PROVIDED PURSUANT TO THIS SECTION MUST BE PERFORMED BY A VETER-
12 INARIAN LICENSED IN THIS STATE.

13 2. ELIGIBLE NOT-FOR-PROFIT ENTITIES SHALL CONSIST OF DULY INCORPORATED
14 SOCIETIES FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED
15 HUMANE SOCIETIES, DULY INCORPORATED ANIMAL PROTECTIVE ASSOCIATIONS, OR
16 DULY INCORPORATED NON-PROFIT CORPORATIONS THAT HAVE RECEIVED DESIGNATION
17 AS 501(C)(3) ENTITIES BY THE INTERNAL REVENUE SERVICE AND WHICH ENTITIES
18 ARE OPERATING AS ANIMAL RESCUE ORGANIZATIONS, ANIMAL ADOPTION ORGANIZA-
19 TIONS, SPAY/NEUTER CLINICS, OR OTHER ENTITIES WHOSE CORE MISSION PREDOM-
20 INANTLY INCLUDES STATEWIDE EFFORTS TO MANAGE THE COMPANION ANIMAL POPU-
21 LATION IN NEW YORK STATE. IN AWARDING THE CONTRACT, THE COMMISSIONER
22 MUST CONSIDER THE FOLLOWING CRITERIA WITH RESPECT TO EACH APPLICANT: ITS
23 EXPERIENCE IN PROVIDING LOW-COST SPAY-NEUTER SERVICES, THE SCOPE OF
24 SERVICES IT PROVIDES, THE LENGTH OF TIME IT HAS BEEN OPERATING, ITS
25 FINANCIAL HISTORY, ITS DEMONSTRATED ABILITY TO WORK WITH OUTSIDE ORGAN-
26 IZATIONS AND COMMUNITY GROUPS, AND THE PROPOSED COST OF ADMINISTERING
27 AND PROMOTING THE PROGRAM. IN CHOOSING SUCH ENTITY, THE COMMISSIONER
28 MAY ESTABLISH OTHER CRITERIA FOR MAKING HIS OR HER SELECTION IN CONSUL-
29 TATION WITH VETERINARIANS, REPRESENTATIVES FROM ANIMAL ADVOCACY AND
30 WELFARE ORGANIZATIONS, AND MUNICIPALITIES. THE SELECTION OF THE ADMINIS-
31 TRATIVE ENTITY OVERSEEING THE STATE ANIMAL POPULATION CONTROL FUND MUST
32 BE COMPLETED NO LATER THAN DECEMBER THIRTY-FIRST, TWO THOUSAND TEN.

33 (A) THE ADMINISTRATIVE ENTITY CHOSEN BY THE COMMISSIONER SHALL REVIEW
34 PLANS SUBMITTED FOR APPROVAL AND FUNDING OF LOW-COST SPAY-NEUTER
35 PROGRAMS AND AWARD GRANTS FOR THE ANIMAL POPULATION CONTROL FUND FOR
36 IMPLEMENTATION OF SUCH PLANS. IN REVIEWING THE PLANS, THE ENTITY SHALL
37 CONSIDER THE FOLLOWING CRITERIA: THE METHOD OF PROVIDING LOW-COST SPAY-
38 NEUTER SERVICES, INCLUDING AN ANTICIPATED FEE SCHEDULE FOR SUCH
39 SERVICES, THE SIZE AND NEED OF THE POPULATION SERVED, THE PLAN FOR
40 OUTREACH AND PROMOTION OF SUCH SERVICES, EXPERIENCE IN PROVIDING
41 LOW-COST SPAY-NEUTER SERVICES AND COST-EFFECTIVENESS OF THE OVERALL
42 PLAN. IN AWARDING GRANTS, THE ENTITY SHALL USE BEST EFFORTS TO PROVIDE
43 STATEWIDE DISTRIBUTION OF FUNDING.

44 (B) (I) UPON APPROVING A PLAN SUBMITTED PURSUANT TO THIS SECTION, THE
45 ADMINISTRATIVE ENTITY SHALL AWARD A GRANT FOR THE CREATION AND IMPLEMEN-
46 TATION OF SUCH PLAN.

47 (II) UPON APPROVING A PLAN SUBMITTED FOR APPROVAL AND FUNDING OF ALL
48 OTHER SPAY-NEUTER PROGRAMS, THE ADMINISTRATIVE ENTITY SHALL AWARD GRANTS
49 FOR THE ONGOING ADMINISTRATION OF LOW-COST SPAY-NEUTER SERVICES.
50 PAYMENTS AGAINST SUCH GRANTS SHALL BE ADVANCED QUARTERLY. ANY REMAINING
51 FUNDS AT THE END OF THE GRANT PERIOD SHALL BE REMITTED TO THE ANIMAL
52 POPULATION CONTROL FUND.

53 (III) ANY GRANTS MADE PURSUANT TO THIS SECTION MAY BE DISCONTINUED IF
54 IT IS FOUND BY THE ADMINISTRATIVE ENTITY THAT FUNDS PREVIOUSLY DISBURSED
55 WERE NOT USED FOR THEIR INTENDED PURPOSE OR THAT SERVICES PERFORMED WERE

1 NOT PROVIDED ACCORDING TO THE TERMS AND CONDITIONS AS THE ADMINISTRATIVE
2 ENTITY SHALL PROVIDE.

3 (C) AN ADMINISTRATIVE ENTITY SELECTED PURSUANT TO THIS SECTION SHALL
4 USE PROCEEDS FROM THE ANIMAL POPULATION CONTROL FUND TO PAY FOR REASON-
5 ABLE EXPENSES INCURRED IN OPERATING THE LOW-COST SPAY-NEUTER PROGRAM,
6 BUT IS HEREBY AUTHORIZED TO SOLICIT FUNDS FROM OTHER PUBLIC AND PRIVATE
7 SOURCES.

8 (D) SUCH ADMINISTRATIVE ENTITY SHALL SUBMIT AN ANNUAL REPORT TO THE
9 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE
10 ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE
11 ASSEMBLY, AND THE COMMISSIONER. SUCH REPORT SHALL INCLUDE BUT NOT BE
12 LIMITED TO THE BALANCE OF THE FUND, ANNUAL EXPENDITURES, ANNUAL INCOME,
13 THE NUMBER OF ENTITIES RECEIVING FUNDING AND THE AMOUNT RECEIVED BY EACH
14 ENTITY, THE TOTAL NUMBER AND TYPE OF LOW-COST SPAY-NEUTER SERVICES
15 PROVIDED BY EACH ENTITY, THE METHOD OF PROVIDING SUCH SERVICES BY EACH
16 ENTITY, THE EXPENDITURE MADE FOR PROMOTING THE FUND AND DESCRIPTION OF
17 MARKETING EFFORTS, AND RECOMMENDATIONS REGARDING THE IMPLEMENTATION AND
18 FINANCIAL VIABILITY OF THE FUND.

19 (E) THE ADMINISTRATIVE ENTITY SHALL PERFORM SUCH OTHER TASKS AS MAY BE
20 REASONABLE AND NECESSARY FOR THE ADMINISTRATION OF SUCH FUND.

21 (F) IF THE ADMINISTRATIVE ENTITY CANNOT PERFORM ITS OBLIGATIONS PURSU-
22 ANT TO ITS CONTRACT, OR IF IT IS DETERMINED BY THE COMMISSIONER THAT IT
23 IS NOT PERFORMING ITS OBLIGATIONS IN A SATISFACTORY MANNER, THE COMMIS-
24 SIONER MAY CANCEL SUCH CONTRACT AND ISSUE ANOTHER REQUEST FOR PROPOSALS
25 FROM OTHER ENTITIES TO ADMINISTER THE PROGRAM.

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

31 (a) in the form of an adoption agreement that their dog or cat was
32 adopted from a pound, shelter MAINTAINED BY OR UNDER CONTRACT OR AGREE-
33 MENT WITH THE STATE OR ANY COUNTY, CITY, TOWN, OR VILLAGE, duly incorpo-
34 rated society for the prevention of cruelty to animals, DULY INCORPO-
35 RATED humane society or DULY INCORPORATED dog or cat protective
36 association; or

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

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

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

42 (iii) the low income housing assistance program authorized pursuant to
43 42 U.S.C. 1437(f);

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

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

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

50 (vii) [the food assistance program authorized pursuant to subdivision
51 ten of section ninety-five of the social services law;] OTHER SIMILAR
52 PROGRAMS IDENTIFIED BY THE ADMINISTRATIVE ENTITY AND APPROVED BY THE
53 COMMISSIONER; and

54 (c) in any city, town, village, or county which has enacted a local
55 law or ordinance requiring spay/neuter of all dogs and cats prior to
56 adoption from shelters, pounds, duly incorporated societies for the

1 prevention of cruelty to animals, humane societies and duly incorporated
2 dog or cat protective associations within such city, town, village or
3 county, eligibility for participation in the animal population control
4 program shall be determined based solely on the provisions of paragraph
5 (b) of this subdivision.

6 [2-a.] 4. Notwithstanding the provisions of paragraph (a) of subdivi-
7 sion [two] THREE of this section, no resident, otherwise qualified
8 pursuant to such paragraph, shall be entitled to participate in the low
9 cost spay/neuter program implemented by this section if the animal to be
10 spayed or neutered:

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

12 (b) was adopted from an otherwise qualifying pound, shelter, duly
13 incorporated society for the prevention of cruelty to animals, DULY
14 INCORPORATED humane society or DULY INCORPORATED dog or cat protective
15 association which included the cost of a spaying or neutering procedure
16 in the cost of the adoption[;

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

24 (d) was adopted from any facility that as a condition of adoption,
25 required or encouraged the utilization of a specific veterinarian or
26 veterinary facility to perform such spay or neuter procedure. The estab-
27 lishment of such conditions by a facility shall constitute grounds for
28 the disqualification of such facility to participate in the program.
29 Nothing contained in this section shall be construed as precluding a
30 facility from informing a person adopting an animal of the identity of
31 those participating veterinarians in the vicinity of such facility in
32 addition to providing them with the voucher provided under this section
33 and any accompanying materials.

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

36 (a) Furnish any licensed veterinarian of this state participating in
37 the program with proof that the owner meets the eligibility criteria
38 pursuant to the provisions of subdivisions two and two-a of this
39 section;

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

43 (c) Pay a fee of thirty dollars to the veterinarian participating in
44 the program if such dog or cat was adopted from a duly incorporated
45 pound, shelter, duly incorporated society for the prevention of cruelty
46 to animals, humane society or duly incorporated dog or cat protective
47 association, or pay a fee of twenty dollars to the veterinarian partic-
48 ipating in the program if such person participates in any of the
49 programs enumerated in paragraph (b) of subdivision two of this section.
50 When eligibility to participate in the animal population control program
51 is based upon participation in a program enumerated in paragraph (b) of
52 subdivision two of this section, the department shall issue vouchers to
53 dog and cat owners upon provision of requisite proof required under
54 paragraph (b) of subdivision two of this section and in accordance with
55 any rules and regulations promulgated by the commissioner.

1 4. (a) Any licensed veterinarian of this state including, but not
2 limited to, licensed veterinarians working at municipal facilities which
3 provide dog and cat spaying and neutering services, other than with
4 respect to animals who would not be eligible pursuant to subdivision
5 two-a of this section may participate in the program upon filing with
6 the commissioner an application therefor, on forms prescribed by the
7 commissioner, which application shall certify, in addition to any other
8 information requested by the commissioner, an animal sterilization fee
9 schedule listing the fees charged for spaying and neutering in the
10 normal course of business and for the presurgical immunization of dogs
11 against distemper, hepatitis, leptospirosis, parvovirus and rabies, or
12 if deemed necessary for the presurgical immunization of cats against
13 feline panleukopenia, calici, pneumonitis, rhinotracheitis and rabies,
14 as the case may be on the first day of January two thousand one and the
15 first day of January each third year thereafter and the number of
16 spay/neuter procedures done by such facility during such period. Addi-
17 tionally, such licensed veterinarian shall certify that the fees charged
18 for procedures and vaccinations for which reimbursement is sought are
19 equal to or less than the lowest fees charged to a private client for
20 such procedures during the previous year. The veterinarian shall also
21 provide the name of the veterinarian, animal hospital, veterinary clinic
22 or other entity to which such reimbursement is to be made. These fees
23 may vary with the animal's weight, sex and species. The commissioner
24 may, however, disqualify from participation in the program any veterina-
25 rian whose fees are deemed unreasonable. Nothing contained in this
26 subdivision shall limit the right of the state education department to
27 undertake such actions as it may deem necessary to enforce the
28 provisions of article one hundred thirty-five of the education law.

29 (b) Licensed veterinarians of this state participating in the program
30 shall provide, if deemed necessary, for the presurgical immunization of
31 dogs against distemper, hepatitis, leptospirosis, parvovirus and rabies,
32 or if deemed necessary, for the presurgical immunization of cats against
33 feline panleukopenia, calici, pneumonitis, rhinotracheitis and rabies,
34 as the case may be. Charges for such services to the owner or person
35 submitting the dog or cat for spaying or neutering shall be no more than
36 fifty percent of the amount certified pursuant to paragraph (a) of this
37 subdivision. In addition to other reimbursement to which a licensed
38 veterinarian may be entitled under this section, a veterinarian may seek
39 reimbursement for expenses incurred as a direct result of extraordinary
40 circumstances which occurred during the course of a spay/neuter proce-
41 dure up to an amount approved by the department which shall not exceed
42 twenty percent of such veterinarian's fee for performing such procedure.

43 (c) The state comptroller upon the submission of vouchers by the
44 commissioner shall, to the extent that monies are available from the
45 animal population control fund, reimburse participating veterinarians
46 for eighty percent of the balance of the fee charged pursuant to para-
47 graph (a) of this subdivision, and after deducting that portion of the
48 fee already paid to the veterinarian by those persons participating in
49 the program pursuant to paragraph (c) of subdivision three of this
50 section, for each animal spaying and neutering procedure administered
51 after the submission to the commissioner of an animal sterilization
52 certificate, prescribed by the commissioner, signed by the veterinarian
53 and the owner of the animal or person authorized by the owner, for each
54 spaying and neutering procedure performed in conjunction with the animal
55 population control program. Notwithstanding the foregoing provisions,
56 the state comptroller shall not reimburse veterinarians for any voucher

1 which shall have been issued by the commissioner more than one year
2 prior to the date upon which it is submitted to the commissioner unless
3 the commissioner shall indicate good cause for the payment of such
4 voucher. If the moneys are not immediately available from such fund, the
5 commissioner shall give priority to approving reimbursement to partic-
6 ipating veterinarians from counties from which the amount of fees depos-
7 ited in such fund, after taking into consideration the administrative
8 expenses to which the department is entitled, exceeds the money paid out
9 to participating veterinarians in such counties. The participating
10 veterinarian shall submit to the commissioner within sixty days of each
11 animal spaying and neutering procedure an animal sterilization certifi-
12 cate for the purposes of reimbursement. Notwithstanding the provisions
13 of this paragraph, the commissioner shall not approve reimbursement to
14 municipal facilities, not-for-profit organizations, pounds, shelters,
15 duly incorporated societies for the prevention of cruelty to animals,
16 humane societies or dog or cat protective associations except to the
17 extent that they shall have performed spay/neuter procedures in excess
18 of the number of such procedures done by it during nineteen hundred
19 ninety-four.

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

22 6. All fees collected pursuant to this section and paragraph c of
23 subdivision four of section one hundred ten of this article shall be
24 deposited in a miscellaneous special revenue fund known as the animal
25 population control fund. An amount not to exceed fifteen percent of the
26 balance of the fund at the beginning of each fiscal year, following
27 appropriation by the legislature and allocation by the director of the
28 budget, shall be available for the purposes of implementation and
29 promotion of the program. Such promotion shall include educating the
30 public about the benefits associated with spaying and neutering. The
31 remaining monies shall be used exclusively for the reimbursement to
32 participating veterinarians pursuant to paragraph (b) of subdivision
33 four of this section.

34 7. The commissioner shall, in consultation with such professional
35 organizations as the commissioner deems appropriate, develop a list of
36 veterinarians approved by the commissioner to participate in the low-
37 cost spay/neuter program who provide care, including, but not limited
38 to, spay/neuter procedures, to dogs and cats. Any otherwise qualifying
39 pound, shelter, duly incorporated society for the prevention of cruelty
40 to animals, humane society, or dog or cat protective association shall
41 distribute such list of approved veterinarians to persons adopting a dog
42 or a cat as a precondition to reimbursement under the low-cost
43 spay/neuter program established in this section. In addition to such
44 distribution, such pound, shelter, duly incorporated society for the
45 prevention of cruelty to animals, humane society or dog or cat protec-
46 tive association shall not discriminate against any veterinarian on such
47 list or directly or indirectly require, direct or recommend the utiliza-
48 tion or non-utilization of any such veterinarian for any procedure for
49 which reimbursement is to be sought under this program. Such discrimi-
50 nation may, in the discretion of the commissioner, constitute grounds
51 for the revocation of the right of such facility to participate in the
52 program].

53 5. ANY COUNTY IS HEREBY AUTHORIZED TO ESTABLISH AND IMPLEMENT AN
54 ANIMAL POPULATION CONTROL PROGRAM WITHIN ITS JURISDICTION. ANY COUNTY
55 CREATING ITS OWN PROGRAM MAY SUBMIT A PLAN TO THE ADMINISTRATIVE ENTITY
56 FOR SUCH PROGRAM FOR APPROVAL AND TO RECEIVE FUNDING FROM THE ANIMAL

1 POPULATION CONTROL PROGRAM. SUCH PLAN SHALL INCLUDE BUT NOT BE LIMITED
2 TO THE CRITERIA DESCRIBED IN PARAGRAPH (A) OF SUBDIVISION TWO OF THIS
3 SECTION.

4 6. ANY COUNTY WHICH HAS CREATED ITS OWN PROGRAM, WHICH HAS BEEN
5 APPROVED BY THE ADMINISTRATIVE ENTITY PURSUANT TO THIS SECTION, MAY
6 RECEIVE THE FUNDS COLLECTED BY THE MUNICIPALITIES WITHIN THE COUNTY
7 PURSUANT TO SUBDIVISION THREE OF SECTION ONE HUNDRED TEN OF THIS ARTICLE
8 FOR THE SOLE PURPOSE OF ADMINISTERING SUCH PROGRAM. SUCH COUNTY PROGRAM
9 SHALL BE SUBJECT TO THIS ARTICLE AND THE TERMS AND CONDITIONS OF THE
10 ANIMAL POPULATION CONTROL PROGRAM, AS MAY BE AMENDED FROM TIME TO TIME.

11 7. ANY MUNICIPALITY WITHIN A COUNTY THAT DOES NOT HAVE ITS OWN PROGRAM
12 APPROVED BY THE ADMINISTRATIVE ENTITY PURSUANT TO SUBDIVISION TWO OF
13 THIS SECTION MUST SUBMIT THE FUNDS COLLECTED PURSUANT TO SUBDIVISION
14 THREE OF SECTION ONE HUNDRED TEN OF THIS ARTICLE TO THE ANIMAL POPU-
15 LATION CONTROL FUND PURSUANT TO SECTION NINETY-SEVEN-XX OF THE STATE
16 FINANCE LAW.

17 8. IN THE ABSENCE OF A COUNTY ANIMAL POPULATION CONTROL PROGRAM, ENTI-
18 TIES DESCRIBED BELOW WITHIN SUCH COUNTY MAY, PURSUANT TO SUBDIVISION TWO
19 OF THIS SECTION, APPLY FOR FUNDS FROM THE ANIMAL POPULATION CONTROL FUND
20 DESCRIBED IN SECTION NINETY-SEVEN-XX OF THE STATE FINANCE LAW FOR THE
21 SOLE PURPOSE OF PROVIDING LOW-COST SPAY AND NEUTER SERVICES IN THEIR
22 SERVICE AREA. IN THE EVENT THAT THE SERVICE AREA OF AN ENTITY ENCOM-
23 PASSES TWO OR MORE COUNTIES, SUCH ENTITY MAY APPLY AND RECEIVE FUNDING
24 FROM THE ANIMAL POPULATION CONTROL FUND TO SERVE SUCH PORTION OF THEIR
25 SERVICE AREA THAT IS NOT COVERED BY AN EXISTING COUNTY ANIMAL POPULATION
26 CONTROL PROGRAM. SUCH ENTITIES SHALL INCLUDE POUNDS, DULY INCORPORATED
27 SOCIETIES FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED
28 HUMANE SOCIETIES, DULY INCORPORATED ANIMAL PROTECTIVE ASSOCIATIONS AND
29 DULY INCORPORATED NONPROFIT CORPORATIONS THAT HAVE RECEIVED DESIGNATION
30 AS A 501(C)(3) ORGANIZATION BY THE INTERNAL REVENUE SERVICE, WHICH ENTI-
31 TIES ARE OPERATING AS ANIMAL RESCUE OR ADOPTION ORGANIZATIONS. ANY SUCH
32 ENTITY MUST ALSO BE IN GOOD STANDING WITH THE CHARITIES BUREAU OF THE
33 OFFICE OF THE ATTORNEY GENERAL AND WITH THE SECRETARY OF STATE.

34 9. THE ADMINISTRATIVE ENTITY SHALL ESTABLISH REPORTING REQUIREMENTS
35 FOR ANY ENTITY AWARDED FUNDING THROUGH THE ANIMAL POPULATION CONTROL
36 PROGRAM, AND ANY OTHER PROTOCOLS NECESSARY TO ENSURE APPROPRIATE AND
37 EFFECTIVE USE OF MONIES DISBURSED PURSUANT TO THIS SECTION.

38 S 12. Section 118 of the agriculture and markets law is renumbered
39 section 117 and subdivisions 1, 4, 5 and 7, subdivision 1 as amended by
40 chapter 843 of the laws of 1980, paragraphs (c) and (d) of subdivision 1
41 as added by chapter 530 of the laws of 1997 and the closing paragraph of
42 subdivision 1 as amended by chapter 392 of the laws of 2004, subdivi-
43 sions 4 and 5 as added by chapter 220 of the laws of 1978, and subdivi-
44 sion 7 as amended by chapter 645 of the laws of 1988, are amended to
45 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 7. An owner shall forfeit title to any dog unredeemed at the expira-
47 tion of the appropriate redemption period, and the dog shall then be
48 made available for adoption or euthanized subject to subdivisions six,
49 eight and nine of this section and subject to the provisions of section
50 three hundred seventy-four of this chapter. [Provided that no dog in the
51 custody of a pound or shelter shall be delivered for adoption unless it
52 has been licensed pursuant to the provisions of this article prior to
53 its release from the custody of a pound or shelter.] Any municipality
54 may by local law or ordinance establish additional conditions for
55 adoption including the requirement that adopted dogs shall be spayed or

1 neutered before or after release from custody upon such terms and condi-
2 tions as the municipality may establish.

3 S 14. Section 119 of the agriculture and markets law, as added by
4 chapter 220 of the laws of 1978, paragraph (c) of subdivision 1 as
5 amended by chapter 404 of the laws of 1986, paragraph (g) of subdivision
6 1 as amended and paragraph (h) of subdivision 1 as added by chapter 263
7 of the laws of 2000, subdivision 2 as amended by chapter 221 of the laws
8 of 1978, subdivision 3 as added and subdivision 4 as renumbered by chap-
9 ter 714 of the laws of 1980, subdivisions 5 and 6 as added by chapter
10 473 of the laws of 1995, paragraphs (a) and (b) of subdivision 5 as
11 amended by chapter 534 of the laws of 2005 and subdivision 7 as added by
12 chapter 494 of the laws of 2002, is renumbered section 118 and amended
13 to read as follows:

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

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

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

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

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

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

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

32 (G) ANY OWNER OF A DOG TO FAIL TO NOTIFY THE MUNICIPALITY IN WHICH HIS
33 OR HER DOG IS LICENSED OF ANY CHANGE OF OWNERSHIP OR ADDRESS AS REQUIRED
34 BY SECTION ONE HUNDRED TWELVE OF THIS ARTICLE.

35 2. It shall be the duty of the dog control officer of any municipality
36 to bring an action against any person who has committed within such
37 municipality any violation set forth in subdivision one of this section.
38 Any municipality may elect either to prosecute such action as a
39 violation under the penal law or to commence an action to recover a
40 civil penalty.

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

43 (a) where prosecuted pursuant to the penal law, by a fine of not
44 [more] LESS than twenty-five dollars, except that (i) where the person
45 was found to have violated this section or former article seven of this
46 chapter within the preceding five years, the fine may be not [more] LESS
47 than fifty dollars, and (ii) where the person was found to have commit-
48 ted two or more such violations within the preceding five years, it
49 shall be punishable by a fine of not [more] LESS than one hundred
50 dollars or imprisonment for not more than fifteen days, or both; or

51 (b) where prosecuted as an action to recover a civil penalty, by a
52 civil penalty of not [more] LESS than twenty-five dollars, except that
53 (i) when the person was found to have violated this section or [former]
54 THIS article [seven of this chapter] within the preceding five years,
55 the civil penalty may be not [more] LESS than fifty dollars, and (ii)
56 where the person was found to have committed two or more such violations

1 within the preceding five years, the civil penalty may be not [more]
2 LESS than one hundred dollars.

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

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

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

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

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

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

44 (b) any person to furnish any licensed veterinarian of this state with
45 inaccurate information concerning his or her residency or the ownership
46 of an animal or such person's authority to submit an animal for a spay-
47 ing or neutering procedure pursuant to section one hundred seventeen-a
48 of this article or to knowingly furnish the department or any licensed
49 veterinarian of this state with inaccurate information concerning his or
50 her participation in any of the programs enumerated in paragraph (b) of
51 subdivision two of section one hundred seventeen-a of this article;

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

6. Any person or veterinarian who violates the provisions of subdivision five of this section or any rule or regulation promulgated by the commissioner to carry out the provisions of section one hundred seventeen-a of this article shall be subject to a fine of not more than two hundred fifty dollars where prosecuted pursuant to the penal law, or where prosecuted as an action to recover a civil penalty of not more than two hundred fifty dollars.

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

5. ANY PERSON WHO FOR THE PURPOSE OF PARTICIPATING IN THE ANIMAL POPULATION CONTROL PROGRAM SHALL FALSIFY PROOF OF ADOPTION FROM A POUND, SHELTER, DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY OR DULY INCORPORATED DOG OR CAT PROTECTIVE ASSOCIATION OR WHO SHALL FURNISH ANY LICENSED VETERINARIAN OF THIS STATE WITH INACCURATE INFORMATION CONCERNING HIS OR HER RESIDENCY OR THE OWNERSHIP OF AN ANIMAL OR SUCH PERSON'S AUTHORITY TO SUBMIT AN ANIMAL FOR A SPAYING OR NEUTERING PROCEDURE PURSUANT TO SECTION ONE HUNDRED SEVENTEEN-A OF THIS ARTICLE, AND ANY VETERINARIAN WHO SHALL FURNISH FALSE INFORMATION CONCERNING ANIMAL STERILIZATION FEES SHALL BE GUILTY OF A VIOLATION PUNISHABLE BY A FINE OF NOT LESS THAN TWO HUNDRED FIFTY DOLLARS WHERE PROSECUTED PURSUANT TO THE PENAL LAW, OR WHERE PROSECUTED AS AN ACTION TO RECOVER A CIVIL PENALTY OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS.

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

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

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

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

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

1. Any person who witnesses an attack or threatened attack, or in the case of a minor, an adult acting on behalf of such minor, may make a complaint of an attack or threatened attack upon a person, companion animal AS DEFINED IN SECTION THREE HUNDRED FIFTY OF THIS CHAPTER, farm animal as defined in [subdivision twenty-four of] SUCH section [one hundred eight of this article] THREE HUNDRED FIFTY, or a domestic animal

1 as defined in subdivision seven of section one hundred eight of this
2 article to a dog control officer or police officer of the appropriate
3 municipality. Such officer shall immediately inform the complainant of
4 his OR HER right to commence a proceeding as provided in subdivision two
5 of this section and, if there is reason to believe the dog is a danger-
6 ous dog, the officer shall forthwith commence such proceeding himself OR
7 HERSELF.

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

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

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

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

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

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

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

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

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

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

6 S 21-a. Section 125 of the agriculture and markets law is REPEALED.

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

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

12 (a) supervise the enforcement of this article;

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

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

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

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

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

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

28 2.] The commissioner is hereby authorized to:

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

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

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

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

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

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

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

4 (d) the term "dangerous dog" means a dog found dangerous pursuant to
5 the provisions of section one hundred [twenty-one] TWENTY-THREE of the
6 agriculture and markets law.

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

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

13 2. Such fund shall consist of all moneys collected pursuant to [para-
14 graph c of] subdivision [four] THREE of section one hundred ten of the
15 agriculture and markets law, [subdivision five of] AND section one
16 hundred seventeen-a of the agriculture and markets law, [and section
17 three-a of chapter one hundred fifteen of the laws of eighteen hundred
18 ninety-four,] and all other moneys credited or transferred thereto from
19 any other fund or source pursuant to law.

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

28 4. THE COMPTROLLER SHALL DISPERSE THE FULL BALANCE OF FUNDS ACCRUED
29 PURSUANT TO SUBDIVISION TWO OF THIS SECTION TO THE ADMINISTERING ENTITY
30 SELECTED PURSUANT TO SUBDIVISION ONE OF SECTION ONE HUNDRED SEVENTEEN-A
31 OF THE AGRICULTURE AND MARKETS LAW ON A QUARTERLY BASIS FOR THE PURPOSES
32 OF ADMINISTERING THE ANIMAL POPULATION CONTROL PROGRAM ESTABLISHED
33 PURSUANT TO SUCH SECTION.

34 S 27. The administrative code of the city of New York is amended by
35 adding a new section 17-811 to read as follows:

36 S 17-811 ANIMAL POPULATION CONTROL PROGRAM. THE DEPARTMENT SHALL
37 PROMULGATE RULES AND REGULATIONS TO ESTABLISH AND IMPLEMENT AN ANIMAL
38 POPULATION CONTROL PROGRAM WITHIN ONE HUNDRED EIGHTY DAYS FROM THE
39 EFFECTIVE DATE OF THIS SECTION. THE PURPOSE OF THIS PROGRAM SHALL BE TO
40 REDUCE THE POPULATION OF UNWANTED STRAY DOGS AND CATS THEREBY REDUCING
41 POTENTIAL THREATS TO PUBLIC HEALTH AND SAFETY AND REDUCING THE COSTS OF
42 CARING FOR THESE ANIMALS. THIS PROGRAM SHALL SEEK TO ACCOMPLISH ITS
43 PURPOSE BY ENCOURAGING RESIDENTS OF THE CITY OF NEW YORK WHO ARE THE
44 OWNERS OF DOGS AND CATS TO HAVE THEM SPAYED OR NEUTERED BY PROVIDING NO
45 OR LOW-COST SPAYING AND NEUTERING SERVICES TO SUCH OWNERS. THE DEPART-
46 MENT SHALL PROMULGATE RULES AND REGULATIONS NECESSARY TO ESTABLISH AN
47 ANIMAL POPULATION CONTROL PROGRAM INCLUDING, BUT NOT LIMITED, TO CREAT-
48 ING CLINICS OR MOBILE UNITS WHERE SUCH SERVICES SHALL BE PERFORMED AND
49 ESTABLISHING CRITERIA FOR PET OWNER ELIGIBILITY TO USE SUCH SERVICES.
50 INDICIA OF ELIGIBILITY FOR PET OWNERS SEEKING NO OR LOW-COST SPAY AND
51 NEUTER SERVICES SHALL INCLUDE BUT NOT BE LIMITED TO ANY CRITERIA DEEMED
52 ACCEPTABLE BY THE AGENCIES PERFORMING THE SERVICES. THE COMMISSIONER
53 MAY SOLICIT AND ACCEPT FUNDS FROM THE ANIMAL POPULATION CONTROL FUND
54 ESTABLISHED PURSUANT TO SECTION 17-812 OF THIS CHAPTER AND ANY OTHER
55 PUBLIC OR PRIVATE SOURCE TO HELP CARRY OUT THE PROVISIONS OF THIS
56 SECTION.

1 S 28. The administrative code of the city of New York is amended by
2 adding a new section 17-812 to read as follows:

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

8 2. SUCH FUND SHALL CONSIST OF ALL MONEYS COLLECTED FROM THE ANIMAL
9 POPULATION CONTROL PROGRAM ESTABLISHED PURSUANT TO SECTION 17-811 OF
10 THIS CHAPTER AND SECTION THREE-A OF CHAPTER ONE HUNDRED FIFTEEN OF THE
11 LAWS OF EIGHTEEN HUNDRED NINETY-FOUR, AND ALL OTHER MONEYS CREDITED OR
12 TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

13 3. MONEYS OF THE FUND SHALL BE MADE AVAILABLE TO THE DEPARTMENT AND
14 SHALL BE EXPENDED FOR THE PURPOSES OF CARRYING OUT ANIMAL POPULATION
15 CONTROL PROGRAMS PURSUANT TO THE PROVISIONS OF SECTION 17-811 OF THIS
16 CHAPTER. MONEYS SHALL BE PAID OUT OF THE FUND ON THE AUDIT AND WARRANT
17 OF THE CITY COMPTROLLER AND APPROVED BY THE COMMISSIONER. ANY INTEREST
18 RECEIVED BY THE CITY COMPTROLLER ON MONEYS ON DEPOSIT IN THE ANIMAL
19 POPULATION CONTROL FUND SHALL BE RETAINED IN AND BECOME PART OF SUCH
20 FUND.

21 S 29. Section 3-a of chapter 115 of the laws of 1894 relating to the
22 better protection of lost and strayed animals and for securing the
23 rights of owners thereof, as amended by chapter 180 of the laws of 2002,
24 is amended to read as follows:

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

39 S 30. Any unspent moneys collected in prior fiscal years attributable
40 to dog licensing fees in cities having a population of two million or
41 more and collected and deposited in the New York state animal population
42 control fund pursuant to section 97-xx of the state finance law shall be
43 transferred to and retained in the animal population control fund
44 created pursuant to section 17-812 of the administrative code of the
45 city of New York as added by section twenty-eight of this act.

46 S 31. Any funds in the state animal population control fund described
47 in section 97-xx of the state finance law as of the effective date of
48 this act that were derived from cities having a population of two
49 million or more shall be transferred to the animal population control
50 fund as described in section 17-812 of the administrative code of the
51 city of New York as added by section twenty-eight of this act, to the
52 extent practicable.

53 S 32. Section 9 of chapter 115 of the laws of 1894 relating to the
54 better protection of lost and strayed animals, and for securing the
55 rights of owners thereof, as amended by chapter 473 of the laws of 1995,
56 is amended to read as follows:

1 S 9. Any person or persons, who shall hinder or molest or interfere
2 with any officer or agent of said society in the performance of any duty
3 enjoined by this act, or who shall use a license tag on a dog for which
4 it was not issued, shall be deemed guilty of a misdemeanor. Any person
5 who owns or harbors a dog without complying with the provisions of this
6 act shall be deemed guilty of disorderly conduct, and upon conviction
7 thereof before any magistrate shall be fined for such offense any sum
8 not exceeding ten dollars, and in default of payment of such fine may be
9 committed to prison by such magistrate until the same be paid, but such
10 imprisonment shall not exceed ten days. Any person who for the purpose
11 of participating in the "animal population control program" shall falsi-
12 fy proof of adoption from a pound, shelter, duly incorporated society
13 for the prevention of cruelty to animals, humane society or dog or cat
14 protective association or who shall furnish any licensed veterinarian of
15 this state with inaccurate information concerning his or her residency
16 or the ownership of an animal or such person's authority to submit an
17 animal for a spaying or neutering procedure ESTABLISHED pursuant to
18 section [117-a of the agriculture and markets law] 17-812 OF THE ADMIN-
19 ISTRATIVE CODE OF THE CITY OF NEW YORK and any veterinarian who shall
20 furnish [the commissioner with] false information concerning an animal
21 sterilization fee schedule or an animal sterilization certificate
22 [submitted pursuant to subdivision 4 of section 117-a of the agriculture
23 and markets law] shall be guilty of a violation punishable by a fine of
24 not more than two hundred fifty dollars where prosecuted pursuant to the
25 penal law, or where prosecuted as an action to recover a civil penalty
26 of not more than two hundred fifty dollars.

27 S 33. This act shall take effect January 1, 2011; provided, however
28 that if chapter 479 of the laws of 2009 is not in effect on such date
29 then section thirteen of this act shall take effect on the same date and
30 in the same manner as such chapter takes effect.

31 PART U

32 Intentionally omitted.

33 PART V

34 Section 1. Notwithstanding any other law, rule or regulation to the
35 contrary, expenses of the department of health public service education
36 program incurred pursuant to appropriations from the cable television
37 account of the state miscellaneous special revenue funds shall be deemed
38 expenses of the department of public service.

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

41 PART W

42 Intentionally omitted.

43 PART X

44 Intentionally omitted.

45 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 Intentionally omitted.

7 PART BB

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

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 CC

15 Section 1. Expenditures of moneys appropriated in a chapter of the
16 laws of 2010 to the energy research and development authority, under the
17 research, development and demonstration program, from the special reven-
18 ue funds - other/state operations, miscellaneous special revenue
19 fund-339, energy research and planning account, and special revenue
20 funds - other/aid to localities, miscellaneous special revenue fund -
21 339, energy research and planning account shall be subject to the
22 provisions of this section. Notwithstanding the provisions of subdivi-
23 sion 4-a of section 18-a of the public service law, all moneys committed
24 or expended shall be reimbursed by assessment against gas corporations
25 and electric corporations as defined in section 2 of the public service
26 law, and the total amount which may be charged to any gas corporation
27 and any electric corporation shall not exceed one cent per one thousand
28 cubic feet of gas sold and .010 cent per kilowatt-hour of electricity
29 sold by such corporations in their intrastate utility operations in
30 calendar year 2008. Such amounts shall be excluded from the general
31 assessment provisions of subdivision 2 of section 18-a of the public
32 service law, but shall be billed and paid in the manner set forth in
33 such subdivision and upon receipt shall be paid to the state comptroller
34 for deposit in the state treasury for credit to the miscellaneous
35 special revenue fund. The director of the budget shall not issue a
36 certificate of approval with respect to the commitment and expenditure
37 of moneys hereby appropriated until the chair of such authority shall
38 have submitted, and the director of the budget shall have approved, a
39 comprehensive financial plan encompassing all moneys available to and
40 all anticipated commitments and expenditures by such authority from any
41 source for the operations of such authority. Copies of the approved
42 comprehensive financial plan shall be immediately submitted by the
43 director of the budget to the chairs and secretaries of the legislative
44 fiscal committees.

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

47 PART DD

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

5 1. Until December thirty-first, two thousand [ten] THIRTEEN, accept
6 from a customer, waste tires of approximately the same size and in a
7 quantity equal to the number of new tires purchased or installed by the
8 customer; and

9 2. Until December thirty-first, two thousand [ten] THIRTEEN, post
10 written notice in a prominent location, which must be at least eight and
11 one-half inches by fourteen inches in size and contain the following
12 language:

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

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

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

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

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

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

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

40 3. No later than two years from the effective date of this title, the
41 department shall publish requests for proposals to seek contractors to
42 prepare whole and mechanically processed waste tires situated at noncom-
43 pliant waste tire stockpiles for arrangement in accordance with fire
44 safety requirements and for removal for appropriate processing, recycl-
45 ing or beneficial use. Disposal will be considered only as a last
46 option. The expenses of remedial and fire safety activities at a noncom-
47 pliant waste tire stockpile shall be paid by the person or persons who
48 owned, operated or maintained the noncompliant waste tire stockpile, or
49 from the waste [tire] management and [recycling] CLEANUP fund and shall
50 be a debt recoverable by the state from all persons who owned, operated
51 or maintained the noncompliant waste tire stockpile, and a lien and
52 charge may be placed on the premises upon which the noncompliant waste
53 tire stockpile is maintained and upon any real or personal property,
54 equipment, vehicles, and inventory controlled by such person or persons.
55 Moneys recovered shall be paid to the waste [tire] management and [recy-

cling] CLEANUP fund established pursuant to section ninety-two-bb of the state finance law.

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

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

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

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

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

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

(a) recapped or resold tires;

(b) mail-order sales; or

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

2. Until December thirty-first, two thousand [ten] THIRTEEN, the tire service shall collect the waste tire management and recycling fee from the purchaser at the time of the sale and shall remit such fee to the department of taxation and finance with the quarterly report filed pursuant to subdivision three of this section.

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

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

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

1 4. All waste tire management and recycling fees collected by the
2 department of taxation and finance shall be transferred to the waste
3 [tire] management and [recycling] CLEANUP fund pursuant to section nine-
4 ty-two-bb of the state finance law.

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

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

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

26 1. costs of the department for the following:

27 (a) first-year costs:

28 (i) enumeration and assessment of noncompliant waste tire stockpiles;
29 and

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

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

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

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

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

43 2. The waste [tire] management and [recycling] CLEANUP fund shall
44 consist of all revenue collected from waste tire management and recycl-
45 ing fees pursuant to section 27-1913 of the environmental conservation
46 law and any cost recoveries or other revenues collected pursuant to
47 title nineteen of article twenty-seven of the environmental conservation
48 law, AND ANY OTHER MONIES DEPOSITED INTO THE FUND PURSUANT TO LAW.

49 3. Moneys of the fund, following appropriation by the legislature,
50 shall be used for execution of waste tire management and recycling
51 pursuant to title nineteen of article twenty-seven of the environmental
52 conservation law, and expended for the purposes as set forth in section
53 27-1915 of the environmental conservation law.

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

1 PART EE

2 Intentionally omitted.

3 PART FF

4 Intentionally omitted.

5 PART GG

6 Intentionally omitted.

7 PART HH

8 Intentionally omitted.

9 PART II

10 Section 1. Subdivision 1 of section 235 of the vehicle and traffic
11 law, as separately amended by sections 1 of chapters 20, 21, 22 and 383
12 of the laws of 2009, is amended to read as follows:

13 1. Notwithstanding any inconsistent provision of any general, special
14 or local law or administrative code to the contrary, in any city which
15 heretofore or hereafter is authorized to establish an administrative
16 tribunal to hear and determine complaints of traffic infractions consti-
17 tuting parking, standing or stopping violations, or to adjudicate the
18 liability of owners for violations of subdivision (d) of section eleven
19 hundred eleven of this chapter in accordance with section eleven hundred
20 eleven-a of this chapter, or to adjudicate the liability of owners for
21 violations of subdivision (d) of section eleven hundred eleven of this
22 chapter in accordance with [section] SECTIONS eleven hundred eleven-b of
23 this chapter as added by [section] SECTIONS sixteen of [the chapter]
24 CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand
25 nine [which amended this subdivision], or to adjudicate the liability of
26 owners for violations of toll collection regulations as defined in and
27 in accordance with the provisions of section two thousand nine hundred
28 eighty-five of the public authorities law and sections sixteen-a,
29 sixteen-b and sixteen-c of chapter seven hundred seventy-four of the
30 laws of nineteen hundred fifty, OR TO ADJUDICATE LIABILITY OF OWNERS IN
31 ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR
32 VIOLATIONS OF BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION, such
33 tribunal and the rules and regulations pertaining thereto shall be
34 constituted in substantial conformance with the following sections.

35 S 1-a. Section 235 of the vehicle and traffic law, as separately
36 amended by sections 2 of chapters 20, 21, 22 and 383 of the laws of
37 2009, is amended to read as follows:

38 S 235. Jurisdiction. Notwithstanding any inconsistent provision of any
39 general, special or local law or administrative code to the contrary, in
40 any city which heretofore or hereafter is authorized to establish an
41 administrative tribunal to hear and determine complaints of traffic
42 infractions constituting parking, standing or stopping violations, or to
43 adjudicate the liability of owners for violations of subdivision (d) of
44 section eleven hundred eleven of this chapter in accordance with section
45 eleven hundred eleven-a of this chapter, or to adjudicate the liability
46 of owners for violations of subdivision (d) of section eleven hundred
47 eleven of this chapter in accordance with [section] SECTIONS eleven

1 hundred eleven-b of this chapter as added by [section] SECTIONS sixteen
2 of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws
3 of two thousand nine [which amended this section], or to adjudicate the
4 liability of owners for violations of toll collection regulations as
5 defined in and in accordance with the provisions of section two thousand
6 nine hundred eighty-five of the public authorities law and sections
7 sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four
8 of the laws of nineteen hundred fifty, OR TO ADJUDICATE LIABILITY OF
9 OWNERS IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAP-
10 TER FOR VIOLATIONS OF BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION,
11 such tribunal and the rules and regulations pertaining thereto shall be
12 constituted in substantial conformance with the following sections.

13 S 1-b. Section 235 of the vehicle and traffic law, as separately
14 amended by sections 3 of chapters 20, 21, 22 and 383 of the laws of
15 2009, is amended to read as follows:

16 S 235. Jurisdiction. Notwithstanding any inconsistent provision of any
17 general, special or local law or administrative code to the contrary, in
18 any city which heretofore or hereafter is authorized to establish an
19 administrative tribunal to hear and determine complaints of traffic
20 infractions constituting parking, standing or stopping violations, or to
21 adjudicate the liability of owners for violations of subdivision (d) of
22 section eleven hundred eleven of this chapter in accordance with
23 [section] SECTIONS eleven hundred eleven-b of this chapter as added by
24 [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE,
25 AND TWENTY-TWO of the laws of two thousand nine [which amended this
26 section], or to adjudicate the liability of owners for violations of
27 toll collection regulations as defined in and in accordance with the
28 provisions of section two thousand nine hundred eighty-five of the
29 public authorities law and sections sixteen-a, sixteen-b and sixteen-c
30 of chapter seven hundred seventy-four of the laws of nineteen hundred
31 fifty, OR TO ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION
32 ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE
33 RESTRICTIONS AS DEFINED IN SUCH SECTION, such tribunal and the rules and
34 regulations pertaining thereto shall be constituted in substantial
35 conformance with the following sections.

36 S 1-c. Section 235 of the vehicle and traffic law, as separately
37 amended by chapter 715 of the laws of 1972 and chapter 379 of the laws
38 of 1992, is amended to read as follows:

39 S 235. Jurisdiction. Notwithstanding any inconsistent provision of any
40 general, special or local law or administrative code to the contrary, in
41 any city which heretofore or hereafter is authorized to establish an
42 administrative tribunal to hear and determine complaints of traffic
43 infractions constituting parking, standing or stopping violations, or to
44 adjudicate the liability of owners for violations of toll collection
45 regulations as defined in and in accordance with the provisions of
46 section two thousand nine hundred eighty-five of the public authorities
47 law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven
48 hundred seventy-four of the laws of nineteen hundred fifty, OR TO ADJU-
49 DICATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
50 ELEVEN-C OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE RESTRICTIONS AS
51 DEFINED IN SUCH SECTION, such tribunal and the rules and regulations
52 pertaining thereto shall be constituted in substantial conformance with
53 the following sections.

54 S 2. Subdivision 1 of section 236 of the vehicle and traffic law, as
55 separately amended by sections 4 of chapters 20, 21, 22 and 383 of the
56 laws of 2009, is amended to read as follows:

1 1. Creation. In any city as hereinbefore or hereafter authorized such
2 tribunal when created shall be known as the parking violations bureau
3 and shall have jurisdiction of traffic infractions which constitute a
4 parking violation and, where authorized by local law adopted pursuant to
5 subdivision (a) of section eleven hundred eleven-a of this chapter or
6 [subdivision] SUBDIVISIONS (a) of [section] SECTIONS eleven hundred
7 eleven-b of this chapter as added by [section] SECTIONS sixteen of [the
8 chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two
9 thousand nine [which amended this subdivision], shall adjudicate the
10 liability of owners for violations of subdivision (d) of section eleven
11 hundred eleven of this chapter in accordance with such section eleven
12 hundred eleven-a or such [section] SECTIONS eleven hundred eleven-b as
13 added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY,
14 TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which
15 amended this subdivision] and shall adjudicate the liability of owners
16 for violations of toll collection regulations as defined in and in
17 accordance with the provisions of section two thousand nine hundred
18 eighty-five of the public authorities law and sections sixteen-a,
19 sixteen-b and sixteen-c of chapter seven hundred seventy-four of the
20 laws of nineteen hundred fifty AND SHALL ADJUDICATE LIABILITY OF OWNERS
21 IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR
22 VIOLATIONS OF BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION. Such
23 tribunal, except in a city with a population of one million or more,
24 shall also have jurisdiction of abandoned vehicle violations. For the
25 purposes of this article, a parking violation is the violation of any
26 law, rule or regulation providing for or regulating the parking, stop-
27 ping or standing of a vehicle. In addition for purposes of this article,
28 "commissioner" shall mean and include the commissioner of traffic of the
29 city or an official possessing authority as such a commissioner.

30 S 2-a. Subdivision 1 of section 236 of the vehicle and traffic law, as
31 separately amended by sections 5 of chapters 20, 21, 22 and 383 of the
32 laws of 2009, is amended to read as follows:

33 1. Creation. In any city as hereinbefore or hereafter authorized such
34 tribunal when created shall be known as the parking violations bureau
35 and shall have jurisdiction of traffic infractions which constitute a
36 parking violation and, where authorized by local law adopted pursuant to
37 [subdivision] SUBDIVISIONS (a) of [section] SECTIONS eleven hundred
38 eleven-b of this chapter as added by [section] SECTIONS sixteen of [the
39 chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two
40 thousand nine [which amended this subdivision], shall adjudicate the
41 liability of owners for violations of subdivision (d) of section eleven
42 hundred eleven of this chapter in accordance with such [section]
43 SECTIONS eleven hundred eleven-b as added by [section] SECTIONS sixteen
44 of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws
45 of two thousand nine [which amended this subdivision]; AND SHALL ADJUDI-
46 CATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
47 ELEVEN-C OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE RESTRICTIONS AS
48 DEFINED IN SUCH SECTION. For the purposes of this article, a parking
49 violation is the violation of any law, rule or regulation providing for
50 or regulating the parking, stopping or standing of a vehicle. In addi-
51 tion for purposes of this article, "commissioner" shall mean and include
52 the commissioner of traffic of the city or an official possessing
53 authority as such a commissioner.

54 S 2-b. Subdivision 1 of section 236 of the vehicle and traffic law, as
55 added by chapter 715 of the laws of 1972, is amended to read as follows:

1 1. Creation. In any city as hereinbefore or hereafter authorized such
2 tribunal when created shall be known as the parking violations bureau
3 and shall have jurisdiction of traffic infractions which constitute a
4 parking violation AND SHALL ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE
5 WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR VIOLATIONS OF
6 BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION. For the purposes of
7 this article, a parking violation is the violation of any law, rule or
8 regulation providing for or regulating the parking, stopping or standing
9 of a vehicle. In addition for purposes of this article, "commissioner"
10 shall mean and include the commissioner of traffic of the city or an
11 official possessing authority as such a commissioner.

12 S 3. Subdivision 11 of section 237 of the vehicle and traffic law, as
13 added by chapter 379 of the laws of 1992, is amended and a new subdivi-
14 sion 12 is added to read as follows:

15 11. To adjudicate the liability of owners for violations of toll
16 collection regulations as defined in and in accordance with the
17 provisions of section two thousand nine hundred eighty-five of the
18 public authorities law and sections sixteen-a, sixteen-b and sixteen-c
19 of chapter seven hundred seventy-four of the laws of nineteen hundred
20 fifty[.];

21 12. TO ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION
22 ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE
23 RESTRICTIONS AS DEFINED IN SUCH SECTION.

24 S 4. Paragraph f of subdivision 1 of section 239 of the vehicle and
25 traffic law, as separately amended by sections 8 of chapters 20, 21, 22
26 and 383 of the laws of 2009, is amended to read as follows:

27 f. "Notice of violation" means a notice of violation as defined in
28 subdivision nine of section two hundred thirty-seven of this article,
29 but shall not be deemed to include a notice of liability issued pursuant
30 to authorization set forth in section eleven hundred eleven-a of this
31 chapter or [section] SECTIONS eleven hundred eleven-b of this chapter as
32 added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY,
33 TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which
34 amended this paragraph], and shall not be deemed to include a notice of
35 liability issued pursuant to section two thousand nine hundred eighty-
36 five of the public authorities law and sections sixteen-a, sixteen-b and
37 sixteen-c of chapter seven hundred seventy-four of the laws of nineteen
38 hundred fifty AND SHALL NOT BE DEEMED TO INCLUDE A NOTICE OF LIABILITY
39 ISSUED PURSUANT TO SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER.

40 S 4-a. Paragraph f of subdivision 1 of section 239 of the vehicle and
41 traffic law, as separately amended by sections 9 of chapters 20, 21, 22
42 and 383 of the laws of 2009, is amended to read as follows:

43 f. "Notice of violation" means a notice of violation as defined in
44 subdivision nine of section two hundred thirty-seven of this article but
45 shall not be deemed to include a notice of liability issued pursuant to
46 authorization set forth in [section] SECTIONS eleven hundred eleven-b of
47 this chapter as added by [section] SECTIONS sixteen of [the chapter]
48 CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand
49 nine [which amended this paragraph] AND SHALL NOT BE DEEMED TO INCLUDE A
50 NOTICE OF LIABILITY ISSUED PURSUANT TO SECTION ELEVEN HUNDRED ELEVEN-C
51 OF THIS CHAPTER.

52 S 4-b. Paragraph f of subdivision 1 of section 239 of the vehicle and
53 traffic law, as added by chapter 180 of the laws of 1980, is amended to
54 read as follows:

55 f. "Notice of violation" means a notice of violation as defined in
56 subdivision nine of section two hundred thirty-seven of this article AND

1 SHALL NOT BE DEEMED TO INCLUDE A NOTICE OF LIABILITY ISSUED PURSUANT TO
2 SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER.

3 S 5. Subdivisions 1 and 1-a of section 240 of the vehicle and traffic
4 law, as separately amended by sections 10 of chapters 20, 21, 22 and 383
5 of the laws of 2009, are amended to read as follows:

6 1. Notice of hearing. Whenever a person charged with a parking
7 violation enters a plea of not guilty or a person alleged to be liable
8 in accordance with section eleven hundred eleven-a of this chapter or
9 [section] SECTIONS eleven hundred eleven-b of this chapter as added by
10 [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE,
11 AND TWENTY TWO of the laws of two thousand nine [which amended this
12 paragraph subdivision], for a violation of subdivision (d) of section
13 eleven hundred eleven of this chapter contests such allegation, or a
14 person alleged to be liable in accordance with the provisions of section
15 two thousand nine hundred eighty-five of the public authorities law or
16 sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred
17 seventy-four of the laws of nineteen hundred fifty, OR A PERSON ALLEGED
18 TO BE LIABLE IN ACCORDANCE WITH THE PROVISIONS OF SECTION ELEVEN HUNDRED
19 ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF A BUS LANE RESTRICTION AS
20 DEFINED IN SUCH SECTION CONTESTS SUCH ALLEGATION, the bureau shall
21 advise such person personally by such form of first class mail as the
22 director may direct of the date on which he or she must appear to answer
23 the charge at a hearing. The form and content of such notice of hearing
24 shall be prescribed by the director, and shall contain a warning to
25 advise the person so pleading or contesting that failure to appear on
26 the date designated, or on any subsequent adjourned date, shall be
27 deemed an admission of liability, and that a default judgment may be
28 entered thereon.

29 1-a. Fines and penalties. Whenever a plea of not guilty has been
30 entered, or the bureau has been notified that an allegation of liability
31 in accordance with section eleven hundred eleven-a of this chapter or
32 [section] SECTIONS eleven hundred eleven-b of this chapter as added by
33 [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE,
34 AND TWENTY-TWO of the laws of two thousand nine [which amended this
35 subdivision] or an allegation of liability in accordance with section
36 two thousand nine hundred eighty-five of the public authorities law or
37 sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred
38 seventy-four of the laws of nineteen hundred fifty OR AN ALLEGATION OF
39 LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS
40 CHAPTER, is being contested, by a person in a timely fashion and a hear-
41 ing upon the merits has been demanded, but has not yet been held, the
42 bureau shall not issue any notice of fine or penalty to that person
43 prior to the date of the hearing.

44 S 5-a. Subdivisions 1 and 1-a of section 240 of the vehicle and traf-
45 fic law, as separately amended by sections 11 of chapters 20, 21, 22 and
46 383 of the laws of 2009, are amended to read as follows:

47 1. Notice of hearing. Whenever a person charged with a parking
48 violation enters a plea of not guilty or a person alleged to be liable
49 in accordance with [section] SECTIONS eleven hundred eleven-b of this
50 chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS
51 TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine
52 [which amended this subdivision] for a violation of subdivision (d) of
53 section eleven hundred eleven of this chapter, OR A PERSON ALLEGED TO BE
54 LIABLE IN ACCORDANCE WITH THE PROVISIONS OF SECTION ELEVEN HUNDRED
55 ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF A BUS LANE RESTRICTION AS
56 DEFINED IN SUCH SECTION contests such allegation, the bureau shall

1 advise such person personally by such form of first class mail as the
2 director may direct of the date on which he or she must appear to answer
3 the charge at a hearing. The form and content of such notice of hearing
4 shall be prescribed by the director, and shall contain a warning to
5 advise the person so pleading or contesting that failure to appear on
6 the date designated, or on any subsequent adjourned date, shall be
7 deemed an admission of liability, and that a default judgment may be
8 entered thereon.

9 1-a. Fines and penalties. Whenever a plea of not guilty has been
10 entered, or the bureau has been notified that an allegation of liability
11 in accordance with [section] SECTIONS eleven hundred eleven-b of this
12 chapter, as added by [section] SECTIONS sixteen of [the chapter] CHAP-
13 TERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine
14 [which amended this subdivision], OR AN ALLEGATION OF LIABILITY IN
15 ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER is being
16 contested, by a person in a timely fashion and a hearing upon the merits
17 has been demanded, but has not yet been held, the bureau shall not issue
18 any notice of fine or penalty to that person prior to the date of the
19 hearing.

20 S 5-b. Subdivisions 1 and 1-a of section 240 of the vehicle and traf-
21 fic law, subdivision 1 as added by chapter 715 of the laws of 1972, and
22 subdivision 1-a as added by chapter 365 of the laws of 1978, are amended
23 to read as follows:

24 1. Notice of hearing. Whenever a person charged with a parking
25 violation enters a plea of not guilty OR A PERSON ALLEGED TO BE LIABLE
26 IN ACCORDANCE WITH THE PROVISIONS OF SECTION ELEVEN HUNDRED ELEVEN-C OF
27 THIS CHAPTER FOR A VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN
28 SUCH SECTION, CONTESTS SUCH ALLEGATION, the bureau shall advise such
29 person personally by such form of first class mail as the director may
30 direct of the date on which he OR SHE must appear to answer the charge
31 at a hearing. The form and content of such notice of hearing shall be
32 prescribed by the director, and shall contain a warning to advise the
33 person so pleading that failure to appear on the date designated, or on
34 any subsequent adjourned date, shall be deemed an admission of liabil-
35 ity, and that a default judgment may be entered thereon.

36 1-a. Fines and penalties. Whenever a plea of not guilty has been
37 entered, OR THE BUREAU HAS BEEN NOTIFIED THAT AN ALLEGATION OF LIABILITY
38 IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER IS
39 BEING CONTESTED, by a person in a timely fashion and a hearing upon the
40 merits has been demanded, but has not yet been held, the bureau shall
41 not issue any notice of fine or penalty to that person prior to the date
42 of the hearing.

43 S 6. Paragraphs a and g of subdivision 2 of section 240 of the vehicle
44 and traffic law, as separately amended by sections 10 of chapters 20,
45 21, 22 and 383 of the laws of 2009, are amended to read as follows:

46 a. Every hearing for the adjudication of a charge of parking violation
47 or an allegation of liability in accordance with section eleven hundred
48 eleven-a of this chapter or in accordance with [section] SECTIONS eleven
49 hundred eleven-b of this chapter as added by [section] SECTIONS sixteen
50 of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws
51 of two thousand nine [which amended this paragraph] or an allegation of
52 liability in accordance with section two thousand nine hundred eighty-
53 five of the public authorities law or sections sixteen-a, sixteen-b and
54 sixteen-c of chapter seven hundred seventy-four of the laws of nineteen
55 hundred fifty OR AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION
56 ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER, shall be held before a hearing

1 examiner in accordance with rules and regulations promulgated by the
2 bureau.

3 g. A record shall be made of a hearing on a plea of not guilty or of a
4 hearing at which liability in accordance with section eleven hundred
5 eleven-a of this chapter or in accordance with [section] SECTIONS eleven
6 hundred eleven-b of this chapter as added by [section] SECTIONS sixteen
7 of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws
8 of two thousand nine [which amended this paragraph] is contested or of a
9 hearing at which liability in accordance with section two thousand nine
10 hundred eighty-five of the public authorities law or sections sixteen-a,
11 sixteen-b and sixteen-c of chapter seven hundred seventy-four of the
12 laws of nineteen hundred fifty is contested OR OF A HEARING AT WHICH
13 LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS
14 CHAPTER IS CONTESTED. Recording devices may be used for the making of
15 the record.

16 S 6-a. Paragraphs a and g of subdivision 2 of section 240 of the vehi-
17 cle and traffic law, as separately amended by sections 11 of chapters
18 20, 21, 22 and 383 of the laws of 2009, are amended to read as follows:

19 a. Every hearing for the adjudication of a charge of parking violation
20 or an allegation of liability in accordance with [section] SECTIONS
21 eleven hundred eleven-b of this chapter, as added by [section] SECTIONS
22 sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of
23 the laws of two thousand nine [which amended this paragraph] OR AN ALLE-
24 GATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C
25 OF THIS CHAPTER, shall be held before a hearing examiner in accordance
26 with rules and regulations promulgated by the bureau.

27 g. A record shall be made of a hearing on a plea of not guilty or of a
28 hearing at which liability in accordance with [section] SECTIONS eleven
29 hundred eleven-b of this chapter, as added by [section] SECTIONS sixteen
30 of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws
31 of two thousand nine [which amended this paragraph] OR OF A HEARING AT
32 WHICH LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF
33 THIS CHAPTER IS CONTESTED. Recording devices may be used for the making
34 of the record.

35 S 6-b. Paragraphs a and g of subdivision 2 of section 240 of the vehi-
36 cle and traffic law, as added by chapter 715 of the laws of 1972, are
37 amended to read as follows:

38 a. Every hearing for the adjudication of a charge of parking violation
39 OR AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
40 ELEVEN-C OF THIS CHAPTER shall be held before a hearing examiner in
41 accordance with rules and regulations promulgated by the bureau.

42 g. A record shall be made of a hearing on a plea of not guilty OR OF A
43 HEARING AT WHICH LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
44 ELEVEN-C OF THIS CHAPTER IS CONTESTED. Recording devices may be used
45 for the making of the record.

46 S 7. Subdivisions 1 and 2 of section 241 of the vehicle and traffic
47 law, as separately amended by sections 12 of chapters 20, 21, 22 and 383
48 of the laws of 2009, are amended to read as follows:

49 1. The hearing examiner shall make a determination on the charges,
50 either sustaining or dismissing them. Where the hearing examiner deter-
51 mines that the charges have been sustained he or she may examine either
52 the prior parking violations record or the record of liabilities
53 incurred in accordance with section eleven hundred eleven-a of this
54 chapter or in accordance with [section] SECTIONS eleven hundred eleven-b
55 of this chapter as added by [section] SECTIONS sixteen of [the chapter]
56 CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand

1 nine [which amended this subdivision] or the record of liabilities
2 incurred in accordance with section two thousand nine hundred eighty-
3 five of the public authorities law or sections sixteen-a, sixteen-b and
4 sixteen-c of chapter seven hundred seventy-four of the laws of nineteen
5 hundred fifty of the person charged, OR THE RECORD OF LIABILITIES
6 INCURRED IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS
7 CHAPTER, as applicable prior to rendering a final determination. Final
8 determinations sustaining or dismissing charges shall be entered on a
9 final determination roll maintained by the bureau together with records
10 showing payment and nonpayment of penalties.

11 2. Where an operator or owner fails to enter a plea to a charge of a
12 parking violation or contest an allegation of liability in accordance
13 with section eleven hundred eleven-a of this chapter or in accordance
14 with [section] SECTIONS eleven hundred eleven-b of this chapter as added
15 by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-
16 ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this
17 subdivision] or fails to contest an allegation of liability in accord-
18 ance with section two thousand nine hundred eighty-five of the public
19 authorities law or sections sixteen-a, sixteen-b and sixteen-c of chap-
20 ter seven hundred seventy-four of the laws of nineteen hundred fifty, OR
21 FAILS TO CONTEST AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION
22 ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER or fails to appear on a desig-
23 nated hearing date or subsequent adjourned date or fails after a hearing
24 to comply with the determination of a hearing examiner, as prescribed by
25 this article or by rule or regulation of the bureau, such failure to
26 plead or contest, appear or comply shall be deemed, for all purposes, an
27 admission of liability and shall be grounds for rendering and entering a
28 default judgment in an amount provided by the rules and regulations of
29 the bureau. However, after the expiration of the original date
30 prescribed for entering a plea and before a default judgment may be
31 rendered, in such case the bureau shall pursuant to the applicable
32 provisions of law notify such operator or owner, by such form of first
33 class mail as the commission may direct; (1) of the violation charged,
34 or liability in accordance with section eleven hundred eleven-a of this
35 chapter or in accordance with [section] SECTIONS eleven hundred eleven-b
36 of this chapter as added by [section] SECTIONS sixteen of [the chapter]
37 CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand
38 nine [which amended this subdivision] alleged or liability in accordance
39 with section two thousand nine hundred eighty-five of the public author-
40 ities law or sections sixteen-a, sixteen-b and sixteen-c of chapter
41 seven hundred seventy-four of the laws of nineteen hundred fifty alleged
42 OR LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS
43 CHAPTER, (2) of the impending default judgment, (3) that such judgment
44 will be entered in the Civil Court of the city in which the bureau has
45 been established, or other court of civil jurisdiction or any other
46 place provided for the entry of civil judgments within the state of New
47 York, and (4) that a default may be avoided by entering a plea or
48 contesting an allegation of liability in accordance with section eleven
49 hundred eleven-a of this chapter or in accordance with [section]
50 SECTIONS eleven hundred eleven-b of this chapter as added by [section]
51 SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWEN-
52 TY-TWO of the laws of two thousand nine [which amended this subdivision]
53 or contesting an allegation of liability in accordance with section two
54 thousand nine hundred eighty-five of the public authorities law or
55 sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred
56 seventy-four of the laws of nineteen hundred fifty OR CONTESTING AN

1 ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
2 ELEVEN-C OF THIS CHAPTER, as appropriate, or making an appearance within
3 thirty days of the sending of such notice. Pleas entered and allegations
4 contested within that period shall be in the manner prescribed in the
5 notice and not subject to additional penalty or fee. Such notice of
6 impending default judgment shall not be required prior to the rendering
7 and entry thereof in the case of operators or owners who are non-resi-
8 dents of the state of New York. In no case shall a default judgment be
9 rendered or, where required, a notice of impending default judgment be
10 sent, more than two years after the expiration of the time prescribed
11 for entering a plea or contesting an allegation. When a person has
12 demanded a hearing, no fine or penalty shall be imposed for any reason,
13 prior to the holding of the hearing. If the hearing examiner shall make
14 a determination on the charges, sustaining them, he OR SHE shall impose
15 no greater penalty or fine than those upon which the person was
16 originally charged.

17 S 7-a. Subdivisions 1 and 2 of section 241 of the vehicle and traffic
18 law, as separately amended by sections 13 of chapters 20, 21, 22 and 383
19 of the laws of 2009, are amended to read as follows:

20 1. The hearing examiner shall make a determination on the charges,
21 either sustaining or dismissing them. Where the hearing examiner deter-
22 mines that the charges have been sustained he or she may examine either
23 the prior parking violations record or the record of liabilities
24 incurred in accordance with [section] SECTIONS eleven hundred eleven-b
25 of this chapter as added by [section] SECTIONS sixteen of [the chapter]
26 CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand
27 nine [which amended this subdivision] of the person charged, OR THE
28 RECORD OF LIABILITIES INCURRED IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
29 ELEVEN-C OF THIS CHAPTER, as applicable prior to rendering a final
30 determination. Final determinations sustaining or dismissing charges
31 shall be entered on a final determination roll maintained by the bureau
32 together with records showing payment and nonpayment of penalties.

33 2. Where an operator or owner fails to enter a plea to a charge of a
34 parking violation or contest an allegation of liability in accordance
35 with [section] SECTIONS eleven hundred eleven-b of this chapter as added
36 by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-
37 ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this
38 subdivision] OR FAILS TO CONTEST AN ALLEGATION OF LIABILITY IN ACCORD-
39 ANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER, or fails to
40 appear on a designated hearing date or subsequent adjourned date or
41 fails after a hearing to comply with the determination of a hearing
42 examiner, as prescribed by this article or by rule or regulation of the
43 bureau, such failure to plead, contest, appear or comply shall be
44 deemed, for all purposes, an admission of liability and shall be grounds
45 for rendering and entering a default judgment in an amount provided by
46 the rules and regulations of the bureau. However, after the expiration
47 of the original date prescribed for entering a plea and before a default
48 judgment may be rendered, in such case the bureau shall pursuant to the
49 applicable provisions of law notify such operator or owner, by such form
50 of first class mail as the commission may direct; (1) of the violation
51 charged, or liability in accordance with [section] SECTIONS eleven
52 hundred eleven-b of this chapter, as added by [section] SECTIONS sixteen
53 of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws
54 of two thousand nine [which amended this subdivision], OR LIABILITY IN
55 ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER alleged,
56 (2) of the impending default judgment, (3) that such judgment will be

1 entered in the Civil Court of the city in which the bureau has been
2 established, or other court of civil jurisdiction or any other place
3 provided for the entry of civil judgments within the state of New York,
4 and (4) that a default may be avoided by entering a plea or contesting
5 an allegation of liability in accordance with [section] SECTIONS eleven
6 hundred eleven-b of this chapter as added by [section] SECTIONS sixteen
7 of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws
8 of two thousand nine [which amended this subdivision], OR CONTESTING AN
9 ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
10 ELEVEN-C OF THIS CHAPTER as appropriate, or making an appearance within
11 thirty days of the sending of such notice. Pleas entered and allegations
12 contested within that period shall be in the manner prescribed in the
13 notice and not subject to additional penalty or fee. Such notice of
14 impending default judgment shall not be required prior to the rendering
15 and entry thereof in the case of operators or owners who are non-resi-
16 dents of the state of New York. In no case shall a default judgment be
17 rendered or, where required, a notice of impending default judgment be
18 sent, more than two years after the expiration of the time prescribed
19 for entering a plea or contesting an allegation. When a person has
20 demanded a hearing, no fine or penalty shall be imposed for any reason,
21 prior to the holding of the hearing. If the hearing examiner shall make
22 a determination on the charges, sustaining them, he or she shall impose
23 no greater penalty or fine than those upon which the person was
24 originally charged.

25 S 7-b. Subdivisions 1 and 2 of section 241 of the vehicle and traffic
26 law, subdivision 1 as added by chapter 715 of the laws of 1972 and
27 subdivision 2 as amended by chapter 365 of the laws of 1978, are amended
28 to read as follows:

29 1. The hearing examiner shall make a determination on the charges,
30 either sustaining or dismissing them. Where the hearing examiner deter-
31 mines that the charges have been sustained he OR SHE may examine the
32 prior parking violations record of the person charged, OR THE RECORD OF
33 LIABILITIES INCURRED IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C
34 OF THIS CHAPTER, AS APPLICABLE, prior to rendering a final determi-
35 nation. Final determinations sustaining or dismissing charges shall be
36 entered on a final determination roll maintained by the bureau together
37 with records showing payment and nonpayment of penalties.

38 2. Where an operator or owner fails to enter a plea to a charge of a
39 parking violation, OR FAILS TO CONTEST AN ALLEGATION OF LIABILITY IN
40 ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER, or
41 fails to appear on a designated hearing date or subsequent adjourned
42 date or fails after a hearing to comply with the determination of a
43 hearing examiner, as prescribed by this article or by rule or regulation
44 of the bureau, such failure to plead, appear or comply shall be deemed,
45 for all purposes, an admission of liability and shall be grounds for
46 rendering and entering a default judgment in an amount provided by the
47 rules and regulations of the bureau. However, after the expiration of
48 the original date prescribed for entering a plea and before a default
49 judgment may be rendered, in such case the bureau shall pursuant to the
50 applicable provisions of law notify such operator or owner, by such form
51 of first class mail as the commission may direct; (1) of the violation
52 charged OR ALLEGED LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
53 ELEVEN-C OF THIS CHAPTER, (2) of the impending default judgment, (3)
54 that such judgment will be entered in the Civil Court of the city in
55 which the bureau has been established, or other court of civil jurisdic-
56 tion or any other place provided for the entry of civil judgments within

1 the state of New York, and (4) that a default may be avoided by entering
2 a plea OR CONTESTING AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH
3 SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER or making an appearance
4 within thirty days of the sending of such notice. Pleas entered within
5 that period shall be in the manner prescribed in the notice and not
6 subject to additional penalty or fee. Such notice of impending default
7 judgment shall not be required prior to the rendering and entry thereof
8 in the case of operators or owners who are non-residents of the state of
9 New York. In no case shall a default judgment be rendered or, where
10 required, a notice of impending default judgment be sent, more than two
11 years after the expiration of the time prescribed for entering a plea.
12 When a person has demanded a hearing, no fine or penalty shall be
13 imposed for any reason, prior to the holding of the hearing. If the
14 hearing examiner shall make a determination on the charges, sustaining
15 them, he OR SHE shall impose no greater penalty or fine than those upon
16 which the person was originally charged.

17 S 8. Subparagraph (i) of paragraph a of subdivision 5-a of section 401
18 of the vehicle and traffic law, as separately amended by sections 1 of
19 chapters 19 and 23 and sections 14 of chapters 20, 21, 22 and 383 of the
20 laws of 2009, is amended to read as follows:

21 (i) If at the time of application for a registration or renewal there-
22 of there is a certification from a court, parking violations bureau,
23 traffic and parking violations agency or administrative tribunal of
24 appropriate jurisdiction or administrative tribunal of appropriate
25 jurisdiction that the registrant or his or her representative failed to
26 appear on the return date or any subsequent adjourned date or failed to
27 comply with the rules and regulations of an administrative tribunal
28 following entry of a final decision in response to a total of three or
29 more summonses or other process in the aggregate, issued within an eigh-
30 teen month period, charging either that: (i) such motor vehicle was
31 parked, stopped or standing, or that such motor vehicle was operated for
32 hire by the registrant or his or her agent without being licensed as a
33 motor vehicle for hire by the appropriate local authority, in violation
34 of any of the provisions of this chapter or of any law, ordinance, rule
35 or regulation made by a local authority; or (ii) the registrant was
36 liable in accordance with section eleven hundred eleven-a of this chap-
37 ter or section eleven hundred eleven-b of this chapter for a violation
38 of subdivision (d) of section eleven hundred eleven of this chapter; OR
39 (III) THE REGISTRANT WAS LIABLE IN ACCORDANCE WITH SECTION ELEVEN
40 HUNDRED ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF A BUS LANE
41 RESTRICTION AS AS DEFINED IN SUCH SECTION, the commissioner or his or
42 her agent shall deny the registration or renewal application until the
43 applicant provides proof from the court, traffic and parking violations
44 agency or administrative tribunal wherein the charges are pending that
45 an appearance or answer has been made or in the case of an administra-
46 tive tribunal that he or she has complied with the rules and regulations
47 of said tribunal following entry of a final decision. Where an applica-
48 tion is denied pursuant to this section, the commissioner may, in his or
49 her discretion, deny a registration or renewal application to any other
50 person for the same vehicle and may deny a registration or renewal
51 application for any other motor vehicle registered in the name of the
52 applicant where the commissioner has determined that such registrant's
53 intent has been to evade the purposes of this subdivision and where the
54 commissioner has reasonable grounds to believe that such registration or
55 renewal will have the effect of defeating the purposes of this subdivi-
56 sion. Such denial shall only remain in effect as long as the summonses

1 remain unanswered, or in the case of an administrative tribunal, the
2 registrant fails to comply with the rules and regulations following
3 entry of a final decision.

4 S 8-a. Paragraph a of subdivision 5-a of section 401 of the vehicle
5 and traffic law, as separately amended by sections 2 of chapters 19 and
6 23 and sections 15 of chapters 20, 21, 22 and 383 of the laws of 2009,
7 is amended to read as follows:

8 a. If at the time of application for a registration or renewal thereof
9 there is a certification from a court or administrative tribunal of
10 appropriate jurisdiction that the registrant or his or her represen-
11 tative failed to appear on the return date or any subsequent adjourned
12 date or failed to comply with the rules and regulations of an adminis-
13 trative tribunal following entry of a final decision in response to a
14 total of three or more summonses or other process in the aggregate,
15 issued within an eighteen month period, charging either that: (i) such
16 motor vehicle was parked, stopped or standing, or that such motor vehi-
17 cle was operated for hire by the registrant or his or her agent without
18 being licensed as a motor vehicle for hire by the appropriate local
19 authority, in violation of any of the provisions of this chapter or of
20 any law, ordinance, rule or regulation made by a local authority; or
21 (ii) the registrant was liable in accordance with section eleven hundred
22 eleven-b of this chapter for a violation of subdivision (d) of section
23 eleven hundred eleven of this chapter; OR (III) THE REGISTRANT WAS
24 LIABLE IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAP-
25 TER FOR A VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN SUCH
26 SECTION, the commissioner or his or her agent shall deny the registra-
27 tion or renewal application until the applicant provides proof from the
28 court or administrative tribunal wherein the charges are pending that an
29 appearance or answer has been made or in the case of an administrative
30 tribunal that he or she has complied with the rules and regulations of
31 said tribunal following entry of a final decision. Where an application
32 is denied pursuant to this section, the commissioner may, in his or her
33 discretion, deny a registration or renewal application to any other
34 person for the same vehicle and may deny a registration or renewal
35 application for any other motor vehicle registered in the name of the
36 applicant where the commissioner has determined that such registrant's
37 intent has been to evade the purposes of this subdivision and where the
38 commissioner has reasonable grounds to believe that such registration or
39 renewal will have the effect of defeating the purposes of this subdivi-
40 sion. Such denial shall only remain in effect as long as the summonses
41 remain unanswered, or in the case of an administrative tribunal, the
42 registrant fails to comply with the rules and regulations following
43 entry of a final decision.

44 S 8-b. Paragraph a of subdivision 5-a of section 401 of the vehicle
45 and traffic law, as separately amended by chapters 339 and 592 of the
46 laws of 1987, is amended to read as follows:

47 a. If at the time of application for a registration or renewal thereof
48 there is a certification from a court or administrative tribunal of
49 appropriate jurisdiction that the registrant or his OR HER represen-
50 tative failed to appear on the return date or any subsequent adjourned
51 date or failed to comply with the rules and regulations of an adminis-
52 trative tribunal following entry of a final decision in response to
53 three or more summonses or other process, issued within an eighteen
54 month period, charging that such motor vehicle was parked, stopped or
55 standing, or that such motor vehicle was operated for hire by the regis-
56 trant or his OR HER agent without being licensed as a motor vehicle for

1 hire by the appropriate local authority, in violation of any of the
2 provisions of this chapter or of any law, ordinance, rule or regulation
3 made by a local authority OR THE REGISTRANT WAS LIABLE IN ACCORDANCE
4 WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF
5 A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION, the commissioner or
6 his OR HER agent shall deny the registration or renewal application
7 until the applicant provides proof from the court or administrative
8 tribunal wherein the charges are pending that an appearance or answer
9 has been made or in the case of an administrative tribunal that he OR
10 SHE has complied with the rules and regulations of said tribunal follow-
11 ing entry of a final decision. Where an application is denied pursuant
12 to this section, the commissioner may, in his OR HER discretion, deny a
13 registration or renewal application to any other person for the same
14 vehicle and may deny a registration or renewal application for any other
15 motor vehicle registered in the name of the applicant where the commis-
16 sioner has determined that such registrant's intent has been to evade
17 the purposes of this subdivision and where the commissioner has reason-
18 able grounds to believe that such registration or renewal will have the
19 effect of defeating the purposes of this subdivision. Such denial shall
20 only remain in effect as long as the summonses remain unanswered, or in
21 the case of an administrative tribunal, the registrant fails to comply
22 with the rules and regulations following entry of a final decision.

23 S 9. The vehicle and traffic law is amended by adding a new section
24 1111-c to read as follows:

25 S 1111-C. OWNER LIABILITY FOR FAILURE OF OPERATOR TO COMPLY WITH BUS
26 LANE RESTRICTIONS. (A) 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
27 THE CITY OF NEW YORK IS HEREBY AUTHORIZED AND EMPOWERED TO ESTABLISH A
28 BUS RAPID TRANSIT DEMONSTRATION PROGRAM IMPOSING MONETARY LIABILITY ON
29 THE OWNER OF A VEHICLE FOR FAILURE OF AN OPERATOR THEREOF TO COMPLY WITH
30 BUS LANE RESTRICTIONS IN SUCH CITY IN ACCORDANCE WITH THE PROVISIONS OF
31 THIS SECTION. THE NEW YORK CITY DEPARTMENT OF TRANSPORTATION OR APPLICA-
32 BLE MASS TRANSIT AGENCY, FOR PURPOSES OF THE IMPLEMENTATION OF SUCH
33 PROGRAM, SHALL OPERATE BUS LANE PHOTO DEVICES ONLY WITHIN SUCH BUS RAPID
34 TRANSIT DEMONSTRATION PROGRAM AND ON SELECT BUS SERVICE LANES IN SUCH
35 CITY. SUCH BUS LANE PHOTO DEVICES MAY BE STATIONARY OR MOBILE AND SHALL
36 BE ACTIVATED AT LOCATIONS DETERMINED BY SUCH DEPARTMENT OF TRANSPORTA-
37 TION AND/OR ON BUSES SELECTED BY SUCH DEPARTMENT OF TRANSPORTATION IN
38 CONSULTATION WITH THE APPLICABLE MASS TRANSIT AGENCY.

39 2. ANY IMAGE OR IMAGES CAPTURED BY BUS LANE PHOTO DEVICES SHALL BE
40 INADMISSIBLE IN ANY DISCIPLINARY PROCEEDING CONVENED BY THE APPLICABLE
41 MASS TRANSIT AGENCY OR ANY SUBSIDIARY THEREOF AND ANY PROCEEDING INITI-
42 ATED BY THE DEPARTMENT INVOLVING LICENSURE PRIVILEGES OF BUS OPERATORS.
43 ANY MOBILE BUS LANE PHOTO DEVICE MOUNTED ON A BUS SHALL BE DIRECTED
44 OUTWARDLY FROM SUCH BUS TO CAPTURE IMAGES OF VEHICLES OPERATED IN
45 VIOLATION OF BUS LANE RESTRICTIONS, AND IMAGES PRODUCED BY SUCH DEVICE
46 SHALL NOT BE USED FOR ANY OTHER PURPOSE IN THE ABSENCE OF A COURT ORDER
47 REQUIRING SUCH IMAGES TO BE PRODUCED.

48 3. THE CITY OF NEW YORK SHALL ADOPT AND ENFORCE MEASURES TO PROTECT
49 THE PRIVACY OF DRIVERS, PASSENGERS, PEDESTRIANS AND CYCLISTS WHOSE IDEN-
50 TITY AND IDENTIFYING INFORMATION MAY BE CAPTURED BY A BUS LANE PHOTO
51 DEVICE. SUCH MEASURES SHALL INCLUDE:

52 (I) UTILIZATION OF NECESSARY TECHNOLOGIES TO ENSURE, TO THE EXTENT
53 PRACTICABLE, THAT IMAGES PRODUCED BY SUCH BUS LANE PHOTO DEVICES SHALL
54 NOT INCLUDE IMAGES THAT IDENTIFY THE DRIVER, THE PASSENGERS, OR THE
55 CONTENTS OF THE VEHICLE, PROVIDED, HOWEVER, THAT NO NOTICE OF LIABILITY
56 ISSUED PURSUANT TO THIS SECTION SHALL BE DISMISSED SOLELY BECAUSE AN

1 IMAGE ALLOWS FOR THE IDENTIFICATION OF THE DRIVER, THE PASSENGERS OR
2 OTHER CONTENTS OF A VEHICLE;

3 (II) A PROHIBITION ON THE USE OR DISSEMINATION OF VEHICLES' LICENSE
4 PLATE INFORMATION AND OTHER INFORMATION AND IMAGES CAPTURED BY BUS LANE
5 PHOTO DEVICES EXCEPT: (A) AS REQUIRED TO ESTABLISH LIABILITY UNDER THIS
6 SECTION OR COLLECT PAYMENT OF PENALTIES; (B) AS REQUIRED BY COURT ORDER;
7 OR (C) AS OTHERWISE REQUIRED BY LAW;

8 (III) THE INSTALLATION OF SIGNAGE AT REGULAR INTERVALS WITHIN
9 RESTRICTED BUS LANES STATING THAT BUS LANE PHOTO DEVICES ARE USED TO
10 ENFORCE RESTRICTIONS ON VEHICULAR TRAFFIC IN BUS LANES; AND

11 (IV) OVERSIGHT PROCEDURES TO ENSURE COMPLIANCE WITH THE AFOREMENTIONED
12 PRIVACY PROTECTION MEASURES.

13 4. WITHIN THE CITY OF NEW YORK, SUCH BUS LANE PHOTO DEVICES SHALL ONLY
14 BE OPERATED ON DESIGNATED BUS LANES THAT ARE SELECT BUS SERVICE LANES
15 WITHIN THE BUS RAPID TRANSIT DEMONSTRATION PROGRAM AND ONLY DURING WEEK-
16 DAYS FROM 7:00 A.M. TO 7:00 P.M.

17 (B) IF THE CITY OF NEW YORK HAS ESTABLISHED A BUS RAPID TRANSIT DEMON-
18 STRATION PROGRAM PURSUANT TO SUBDIVISION (A) OF THIS SECTION, THE OWNER
19 OF A VEHICLE SHALL BE LIABLE FOR A PENALTY IMPOSED PURSUANT TO THIS
20 SECTION IF SUCH VEHICLE WAS USED OR OPERATED WITH THE PERMISSION OF THE
21 OWNER, EXPRESS OR IMPLIED, IN VIOLATION OF ANY BUS LANE RESTRICTIONS
22 THAT APPLY TO ROUTES WITHIN SUCH DEMONSTRATION PROGRAM, AND SUCH
23 VIOLATION IS EVIDENCED BY INFORMATION OBTAINED FROM A BUS LANE PHOTO
24 DEVICE; PROVIDED HOWEVER THAT NO OWNER OF A VEHICLE SHALL BE LIABLE FOR
25 A PENALTY IMPOSED PURSUANT TO THIS SECTION WHERE THE OPERATOR OF SUCH
26 VEHICLE HAS BEEN CONVICTED OF THE UNDERLYING VIOLATION OF ANY BUS LANE
27 RESTRICTIONS.

28 (C) FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
29 FOLLOWING MEANINGS:

30 1. "OWNER" SHALL HAVE THE MEANING PROVIDED IN ARTICLE TWO-B OF THIS
31 CHAPTER.

32 2. "BUS LANE PHOTO DEVICE" SHALL MEAN A DEVICE THAT IS CAPABLE OF
33 OPERATING INDEPENDENTLY OF AN ENFORCEMENT OFFICER AND PRODUCES ONE OR
34 MORE IMAGES OF EACH VEHICLE AT THE TIME IT IS IN VIOLATION OF BUS LANE
35 RESTRICTIONS.

36 3. "BUS LANE RESTRICTIONS" SHALL MEAN RESTRICTIONS ON THE USE OF
37 DESIGNATED TRAFFIC LANES BY VEHICLES OTHER THAN BUSES IMPOSED ON ROUTES
38 WITHIN A BUS RAPID TRANSIT DEMONSTRATION PROGRAM BY LOCAL LAW AND SIGNS
39 ERECTED BY THE DEPARTMENT OF TRANSPORTATION OF A CITY THAT ESTABLISHES
40 SUCH A DEMONSTRATION PROGRAM PURSUANT TO THIS SECTION.

41 4. "BUS RAPID TRANSIT PHASE I PLAN" SHALL MEAN THE FOLLOWING FIVE BUS
42 RAPID TRANSIT ROUTES AS DESIGNATED BY THE NEW YORK CITY DEPARTMENT OF
43 TRANSPORTATION: FORDHAM ROAD, FIRST/SECOND AVENUE, NOSTRAND AVENUE,
44 THIRTY-FOURTH STREET, HYLAN BOULEVARD, AND AN UNDESIGNATED ROUTE IN THE
45 BOROUGH OF QUEENS NOT TO EXCEED TEN MILES. FOR PURPOSES OF THE FORDHAM
46 ROAD AND FIRST/SECOND AVENUE ROUTES, THE AUTHORIZATION OF THIS PILOT
47 PROGRAM IS LIMITED TO THE DESIGNATED BUS LANES AS MAPPED AND POSTED ON
48 THE OFFICIAL METROPOLITAN TRANSPORTATION AUTHORITY WEBSITE AS OF JUNE
49 SEVENTEENTH, TWO THOUSAND TEN. SUCH DESIGNATED BUS LANES SHALL NOT BE
50 EXTENDED, SHIFTED TO ANOTHER ROADWAY OR ALTERED IN ANY OTHER WAY.
51 PROVIDED, HOWEVER, THAT NOTHING SHALL PROHIBIT THE ALTERATION OR ADDI-
52 TION OF ANY BUS STOPS WITHIN SUCH MAPPED ROUTES.

53 5. "SELECT BUS SERVICE LANE" SHALL MEAN A DESIGNATED BUS LANE THAT
54 INCLUDES UPGRADED SIGNAGE, ENHANCED ROAD MARKINGS, AND MINIMUM BUS STOP
55 SPACING, AND MAY INCLUDE OFF-BOARD FARE PAYMENT, TRAFFIC SIGNAL PRIORITY

1 FOR BUSES, AND ANY OTHER ENHANCEMENT THAT INCREASES BUS SPEED OR RELI-
2 ABILITY WITHIN THE "BUS RAPID TRANSIT PHASE I" PLAN.

3 6. "BUS RAPID TRANSIT DEMONSTRATION PROGRAM" SHALL MEAN A PILOT
4 PROGRAM THAT OPERATES EXCLUSIVELY ON SELECT BUS SERVICE LANES WITHIN THE
5 "BUS RAPID TRANSIT PHASE I" PLAN PURSUANT TO THIS SECTION. PROVIDED,
6 HOWEVER, TO UTILIZE A BUS LANE PHOTO DEVICE PURSUANT TO THIS PROGRAM,
7 THE ROADWAY, EXCEPT FOR THE 34TH STREET AND NOSTRAND AVENUE BUS RAPID
8 TRANSIT ROUTES, MUST HAVE AT LEAST TWO LANES OF TRAFFIC IN THE SAME
9 DIRECTION IN ADDITION TO THE SELECT BUS SERVICE LANE.

10 7. "DESIGNATED BUS LANE" SHALL MEAN AN EXCLUSIVE BUS ONLY TRAFFIC
11 LANE.

12 (D) A CERTIFICATE, SWORN TO OR AFFIRMED BY A TECHNICIAN EMPLOYED BY
13 THE CITY IN WHICH THE CHARGED VIOLATION OCCURRED, OR A FACSIMILE THERE-
14 OF, BASED UPON INSPECTION OF PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR
15 OTHER RECORDED IMAGES PRODUCED BY A BUS LANE PHOTO DEVICE, SHALL BE
16 PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN. ANY PHOTOGRAPHS,
17 MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES EVIDENCING SUCH A
18 VIOLATION SHALL BE AVAILABLE FOR INSPECTION IN ANY PROCEEDING TO ADJUDI-
19 CATE THE LIABILITY FOR SUCH VIOLATION PURSUANT TO THIS SECTION.

20 (E) AN OWNER LIABLE FOR A VIOLATION OF A BUS LANE RESTRICTION IMPOSED
21 ON ANY ROUTE WITHIN A BUS RAPID TRANSIT DEMONSTRATION PROGRAM SHALL BE
22 LIABLE FOR MONETARY PENALTIES IN ACCORDANCE WITH A SCHEDULE OF FINES AND
23 PENALTIES PROMULGATED BY THE PARKING VIOLATIONS BUREAU OF THE CITY OF
24 NEW YORK; PROVIDED, HOWEVER, THAT THE MONETARY PENALTY FOR VIOLATING A
25 BUS LANE RESTRICTION SHALL NOT EXCEED ONE HUNDRED FIFTEEN DOLLARS;
26 PROVIDED, FURTHER, THAT AN OWNER SHALL BE LIABLE FOR AN ADDITIONAL
27 PENALTY NOT TO EXCEED TWENTY-FIVE DOLLARS FOR EACH VIOLATION FOR THE
28 FAILURE TO RESPOND TO A NOTICE OF LIABILITY WITHIN THE PRESCRIBED TIME
29 PERIOD.

30 (F) AN IMPOSITION OF LIABILITY PURSUANT TO THIS SECTION SHALL NOT BE
31 DEEMED A CONVICTION OF AN OPERATOR AND SHALL NOT BE MADE PART OF THE
32 OPERATING RECORD OF THE PERSON UPON WHOM SUCH LIABILITY IS IMPOSED, NOR
33 SHALL IT BE USED FOR INSURANCE PURPOSES IN THE PROVISION OF MOTOR VEHI-
34 CLE INSURANCE COVERAGE.

35 (G) 1. A NOTICE OF LIABILITY SHALL BE SENT BY FIRST CLASS MAIL TO EACH
36 PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF A BUS LANE
37 RESTRICTION. PERSONAL DELIVERY TO THE OWNER SHALL NOT BE REQUIRED. A
38 MANUAL OR AUTOMATIC RECORD OF MAILING PREPARED IN THE ORDINARY COURSE OF
39 BUSINESS SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN.

40 2. A NOTICE OF LIABILITY SHALL CONTAIN THE NAME AND ADDRESS OF THE
41 PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF A BUS LANE
42 RESTRICTION, THE REGISTRATION NUMBER OF THE VEHICLE INVOLVED IN SUCH
43 VIOLATION, THE LOCATION WHERE SUCH VIOLATION TOOK PLACE INCLUDING THE
44 STREET ADDRESS OR CROSS STREETS, ONE OR MORE IMAGES IDENTIFYING THE
45 VIOLATION, THE DATE AND TIME OF SUCH VIOLATION AND THE IDENTIFICATION
46 NUMBER OF THE BUS LANE PHOTO DEVICE WHICH RECORDED THE VIOLATION OR
47 OTHER DOCUMENT LOCATOR NUMBER.

48 3. THE NOTICE OF LIABILITY SHALL CONTAIN INFORMATION ADVISING THE
49 PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH HE OR SHE MAY CONTEST
50 THE LIABILITY ALLEGED IN THE NOTICE. SUCH NOTICE OF LIABILITY SHALL ALSO
51 CONTAIN A WARNING TO ADVISE THE PERSONS CHARGED THAT FAILURE TO CONTEST
52 IN THE MANNER AND TIME PROVIDED SHALL BE DEEMED AN ADMISSION OF LIABIL-
53 ITY AND THAT A DEFAULT JUDGMENT MAY BE ENTERED THEREON.

54 4. THE NOTICE OF LIABILITY SHALL BE PREPARED AND MAILED BY THE AGENCY
55 OR AGENCIES DESIGNATED BY THE CITY OF NEW YORK, OR ANY OTHER ENTITY

1 AUTHORIZED BY SUCH CITY TO PREPARE AND MAIL SUCH NOTIFICATION OF
2 VIOLATION.

3 5. ADJUDICATION OF THE LIABILITY IMPOSED UPON OWNERS BY THIS SECTION
4 SHALL BE BY THE NEW YORK CITY PARKING VIOLATIONS BUREAU.

5 (H) IF AN OWNER OF A VEHICLE RECEIVES A NOTICE OF LIABILITY PURSUANT
6 TO THIS SECTION FOR ANY TIME PERIOD DURING WHICH SUCH VEHICLE WAS
7 REPORTED TO THE POLICE DEPARTMENT AS HAVING BEEN STOLEN, IT SHALL BE A
8 VALID DEFENSE TO AN ALLEGATION OF LIABILITY FOR A VIOLATION OF A BUS
9 LANE RESTRICTION THAT THE VEHICLE HAD BEEN REPORTED TO THE POLICE AS
10 STOLEN PRIOR TO THE TIME THE VIOLATION OCCURRED AND HAD NOT BEEN RECOV-
11 ERED BY SUCH TIME. FOR PURPOSES OF ASSERTING THE DEFENSE PROVIDED BY
12 THIS SUBDIVISION IT SHALL BE SUFFICIENT THAT A CERTIFIED COPY OF THE
13 POLICE REPORT ON THE STOLEN VEHICLE BE SENT BY FIRST CLASS MAIL TO THE
14 PARKING VIOLATIONS BUREAU OF SUCH CITY.

15 (I) 1. AN OWNER WHO IS A LESSOR OF A VEHICLE TO WHICH A NOTICE OF
16 LIABILITY WAS ISSUED PURSUANT TO SUBDIVISION (G) OF THIS SECTION SHALL
17 NOT BE LIABLE FOR THE VIOLATION OF A BUS LANE RESTRICTION, PROVIDED
18 THAT:

19 (I) PRIOR TO THE VIOLATION, THE LESSOR HAS FILED WITH SUCH PARKING
20 VIOLATIONS BUREAU IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWO
21 HUNDRED THIRTY-NINE OF THIS CHAPTER; AND

22 (II) WITHIN THIRTY-SEVEN DAYS AFTER RECEIVING NOTICE FROM SUCH BUREAU
23 OF THE DATE AND TIME OF A LIABILITY, TOGETHER WITH THE OTHER INFORMATION
24 CONTAINED IN THE ORIGINAL NOTICE OF LIABILITY, THE LESSOR SUBMITS TO
25 SUCH BUREAU THE CORRECT NAME AND ADDRESS OF THE LESSEE OF THE VEHICLE
26 IDENTIFIED IN THE NOTICE OF LIABILITY AT THE TIME OF SUCH VIOLATION,
27 TOGETHER WITH SUCH OTHER ADDITIONAL INFORMATION CONTAINED IN THE RENTAL,
28 LEASE OR OTHER CONTRACT DOCUMENT, AS MAY BE REASONABLY REQUIRED BY SUCH
29 BUREAU PURSUANT TO REGULATIONS THAT MAY BE PROMULGATED FOR SUCH PURPOSE.

30 2. FAILURE TO COMPLY WITH SUBPARAGRAPH (II) OF PARAGRAPH ONE OF THIS
31 SUBDIVISION SHALL RENDER THE LESSOR LIABLE FOR THE PENALTY PRESCRIBED IN
32 THIS SECTION.

33 3. WHERE THE LESSOR COMPLIES WITH THE PROVISIONS OF PARAGRAPH ONE OF
34 THIS SUBDIVISION, THE LESSEE OF SUCH VEHICLE ON THE DATE OF SUCH
35 VIOLATION SHALL BE DEEMED TO BE THE OWNER OF SUCH VEHICLE FOR PURPOSES
36 OF THIS SECTION, SHALL BE SUBJECT TO LIABILITY FOR SUCH VIOLATION PURSU-
37 ANT TO THIS SECTION AND SHALL BE SENT A NOTICE OF LIABILITY PURSUANT TO
38 SUBDIVISION (G) OF THIS SECTION.

39 (J) IF THE OWNER LIABLE FOR A VIOLATION OF A BUS LANE RESTRICTION WAS
40 NOT THE OPERATOR OF THE VEHICLE AT THE TIME OF THE VIOLATION, THE OWNER
41 MAY MAINTAIN AN ACTION FOR INDEMNIFICATION AGAINST THE OPERATOR.

42 (K) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE LIABILITY
43 OF AN OPERATOR OF A VEHICLE FOR ANY VIOLATION OF BUS LANE RESTRICTIONS.

44 (L) IF THE CITY OF NEW YORK ADOPTS A BUS RAPID TRANSIT DEMONSTRATION
45 PROGRAM PURSUANT TO SUBDIVISION (A) OF THIS SECTION IT SHALL SUBMIT A
46 REPORT ON THE RESULTS OF THE USE OF BUS LANE PHOTO DEVICES TO THE GOVER-
47 NOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEM-
48 BLY BY APRIL FIRST, TWO THOUSAND TWELVE AND EVERY TWO YEARS THEREAFTER.
49 SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO:

50 1. A DESCRIPTION OF THE LOCATIONS AND/OR BUSES WHERE BUS LANE PHOTO
51 DEVICES WERE USED;

52 2. THE TOTAL NUMBER OF VIOLATIONS RECORDED ON A MONTHLY AND ANNUAL
53 BASIS;

54 3. THE TOTAL NUMBER OF NOTICES OF LIABILITY ISSUED;

55 4. THE NUMBER OF FINES AND TOTAL AMOUNT OF FINES PAID AFTER THE FIRST
56 NOTICE OF LIABILITY;

1 5. THE NUMBER OF VIOLATIONS ADJUDICATED AND RESULTS OF SUCH ADJUDI-
2 CATIONS INCLUDING BREAKDOWNS OF DISPOSITIONS MADE;

3 6. THE TOTAL AMOUNT OF REVENUE REALIZED BY SUCH CITY AND ANY PARTIC-
4 IPATING MASS TRANSIT AGENCY;

5 7. THE QUALITY OF THE ADJUDICATION PROCESS AND ITS RESULTS;

6 8. THE TOTAL NUMBER OF CAMERAS BY TYPE OF CAMERA;

7 9. THE TOTAL COST TO THE CITY AND THE TOTAL COST TO ANY PARTICIPATING
8 MASS TRANSIT AGENCY; AND

9 10. A DETAILED REPORT ON THE BUS SPEEDS, RELIABILITY, AND RIDERSHIP
10 BEFORE AND AFTER IMPLEMENTATION OF THE BUS RAPID TRANSIT DEMONSTRATION
11 PROGRAM FOR EACH BUS ROUTE, INCLUDING CURRENT STATISTICS.

12 S 10. The opening paragraph and paragraph (c) of subdivision 1 of
13 section 1809 of the vehicle and traffic law, as separately amended by
14 sections 4 of chapters 19 and 23 and sections 17 of chapters 20, 21, 22
15 and 383 of the laws of 2009, are amended to read as follows:

16 Whenever proceedings in an administrative tribunal or a court of this
17 state result in a conviction for an offense under this chapter or a
18 traffic infraction under this chapter, or a local law, ordinance, rule
19 or regulation adopted pursuant to this chapter, other than a traffic
20 infraction involving standing, stopping, or parking or violations by
21 pedestrians or bicyclists, or other than an adjudication of liability of
22 an owner for a violation of subdivision (d) of section eleven hundred
23 eleven of this chapter in accordance with section eleven hundred
24 eleven-a of this chapter, or other than an adjudication of liability of
25 an owner for a violation of subdivision (d) of section eleven hundred
26 eleven of this chapter in accordance with section eleven hundred
27 eleven-b of this chapter, OR OTHER THAN AN ADJUDICATION IN ACCORDANCE
28 WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF
29 A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION, there shall be levied
30 a crime victim assistance fee and a mandatory surcharge, in addition to
31 any sentence required or permitted by law, in accordance with the
32 following schedule:

33 (c) Whenever proceedings in an administrative tribunal or a court of
34 this state result in a conviction for an offense under this chapter
35 other than a crime pursuant to section eleven hundred ninety-two of this
36 chapter, or a traffic infraction under this chapter, or a local law,
37 ordinance, rule or regulation adopted pursuant to this chapter, other
38 than a traffic infraction involving standing, stopping, or parking or
39 violations by pedestrians or bicyclists, or other than an adjudication
40 of liability of an owner for a violation of subdivision (d) of section
41 eleven hundred eleven of this chapter in accordance with section eleven
42 hundred eleven-a of this chapter, or other than an adjudication of
43 liability of an owner for a violation of subdivision (d) of section
44 eleven hundred eleven of this chapter in accordance with section eleven
45 hundred eleven-b of this chapter, or other than an infraction pursuant
46 to article nine of this chapter or other than an adjudication of liabil-
47 ity of an owner for a violation of toll collection regulations pursuant
48 to section two thousand nine hundred eighty-five of the public authori-
49 ties law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven
50 hundred seventy-four of the laws of nineteen hundred fifty OR OTHER THAN
51 AN ADJUDICATION IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF
52 THIS CHAPTER FOR A VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN
53 SUCH SECTION, there shall be levied a crime victim assistance fee in the
54 amount of five dollars and a mandatory surcharge, in addition to any
55 sentence required or permitted by law, in the amount of fifty-five
56 dollars.

1 S 10-a. Subdivision 1 of section 1809 of the vehicle and traffic law,
2 as separately amended by sections 5 of chapters 19 and 23 and sections
3 18 of chapters 20, 21, 22 and 383 of the laws of 2009, is amended to
4 read as follows:

5 1. Whenever proceedings in an administrative tribunal or a court of
6 this state result in a conviction for a crime under this chapter or a
7 traffic infraction under this chapter, or a local law, ordinance, rule
8 or regulation adopted pursuant to this chapter, other than a traffic
9 infraction involving standing, stopping, parking or motor vehicle equip-
10 ment or violations by pedestrians or bicyclists, or other than an adju-
11 dication of liability of an owner for a violation of subdivision (d) of
12 section eleven hundred eleven of this chapter in accordance with section
13 eleven hundred eleven-a of this chapter, or other than an adjudication
14 of liability of an owner for a violation of subdivision (d) of section
15 eleven hundred eleven of this chapter in accordance with section eleven
16 hundred eleven-b of this chapter, OR OTHER THAN AN ADJUDICATION IN
17 ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR A
18 VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION, there
19 shall be levied a mandatory surcharge, in addition to any sentence
20 required or permitted by law, in the amount of twenty-five dollars.

21 S 10-b. Subdivision 1 of section 1809 of the vehicle and traffic law,
22 as separately amended by chapter 16 of the laws of 1983 and chapter 62
23 of the laws of 1989, is amended to read as follows:

24 1. Whenever proceedings in an administrative tribunal or a court of
25 this state result in a conviction for a crime under this chapter or a
26 traffic infraction under this chapter other than a traffic infraction
27 involving standing, stopping, parking or motor vehicle equipment or
28 violations by pedestrians or bicyclists, OR OTHER THAN AN ADJUDICATION
29 IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR A
30 VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION, there
31 shall be levied a mandatory surcharge, in addition to any sentence
32 required or permitted by law, in the amount of seventeen dollars.

33 S 11. Paragraph a of subdivision 1 of section 1809-e of the vehicle
34 and traffic law, as separately amended by sections 6 of chapters 19 and
35 23 and sections 19 of chapters 20, 21, 22 and 383 of the laws of 2009,
36 is amended to read as follows:

37 a. Notwithstanding any other provision of law, whenever proceedings in
38 a court or an administrative tribunal of this state result in a
39 conviction for an offense under this chapter, except a conviction pursu-
40 ant to section eleven hundred ninety-two of this chapter, or for a traf-
41 fic infraction under this chapter, or a local law, ordinance, rule or
42 regulation adopted pursuant to this chapter, except a traffic infraction
43 involving standing, stopping, or parking or violations by pedestrians or
44 bicyclists, and except an adjudication of liability of an owner for a
45 violation of subdivision (d) of section eleven hundred eleven of this
46 chapter in accordance with section eleven hundred eleven-a of this chap-
47 ter, and except an adjudication of liability of an owner for a violation
48 of subdivision (d) of section eleven hundred eleven of this chapter in
49 accordance with section eleven hundred eleven-b of this chapter, AND
50 EXCEPT AN ADJUDICATION IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
51 ELEVEN-C OF THIS CHAPTER OF A VIOLATION OF A BUS LANE RESTRICTION AS
52 DEFINED IN SUCH SECTION, and except an adjudication of liability of an
53 owner for a violation of toll collection regulations pursuant to section
54 two thousand nine hundred eighty-five of the public authorities law or
55 sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred
56 seventy-four of the laws of nineteen hundred fifty, there shall be

1 levied in addition to any sentence, penalty or other surcharge required
2 or permitted by law, an additional surcharge of twenty dollars.

3 S 11-a. Paragraph a of subdivision 1 of section 1809-e of the vehicle
4 and traffic law, as added by section 1 of part EE of chapter 56 of the
5 laws of 2008, is amended to read as follows:

6 a. Notwithstanding any other provision of law, whenever proceedings in
7 a court or an administrative tribunal of this state result in a
8 conviction for an offense under this chapter, except a conviction pursu-
9 ant to section eleven hundred ninety-two of this chapter, or for a traf-
10 fic infraction under this chapter, or a local law, ordinance, rule or
11 regulation adopted pursuant to this chapter, except a traffic infraction
12 involving standing, stopping, or parking or violations by pedestrians or
13 bicyclists, and except an adjudication of liability of an owner for a
14 violation of subdivision (d) of section eleven hundred eleven of this
15 chapter in accordance with section eleven hundred eleven-a of this chap-
16 ter, AND EXCEPT AN ADJUDICATION IN ACCORDANCE WITH SECTION ELEVEN
17 HUNDRED ELEVEN-C OF THIS CHAPTER OF A VIOLATION OF A BUS LANE
18 RESTRICTION AS DEFINED IN SUCH SECTION, and except an adjudication of
19 liability of an owner for a violation of toll collection regulations
20 pursuant to section two thousand nine hundred eighty-five of the public
21 authorities law or sections sixteen-a, sixteen-b and sixteen-c of chap-
22 ter seven hundred seventy-four of the laws of nineteen hundred fifty,
23 there shall be levied in addition to any sentence, penalty or other
24 surcharge required or permitted by law, an additional surcharge of twen-
25 ty dollars.

26 S 12. Subdivision 2 of section 87 of the public officers law is
27 amended by adding a new paragraph (l) to read as follows:

28 (L) ARE PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED
29 IMAGES PRODUCED BY A BUS LANE PHOTO DEVICE PREPARED UNDER AUTHORITY OF
30 SECTION ELEVEN HUNDRED ELEVEN-C OF THE VEHICLE AND TRAFFIC LAW.

31 S 13. The purchase or lease of equipment for the bus rapid transit
32 demonstration program established pursuant to section 1111-c of the
33 vehicle and traffic law shall be subject to the provisions of section
34 103 of the general municipal law.

35 S 14. This act shall take effect on the ninetieth day after it shall
36 have become a law and shall expire 5 years after such effective date
37 when upon such date the provisions of this act shall be deemed repealed;
38 and provided that any rules and regulations related to this act shall be
39 promulgated on or before such effective date, provided that:

40 (a) the amendments to subdivision 1 of section 235 of the vehicle and
41 traffic law made by section one of this act shall be subject to the
42 expiration and reversion of such section pursuant to subdivision (p) of
43 section 406 of chapter 166 of the laws of 1991, as amended, when upon
44 such date the provisions of section one-a of this act shall take effect;

45 (b) the amendments to section 235 of the vehicle and traffic law made
46 by section one-a of this act shall be subject to the expiration and
47 reversion of such section pursuant to section 17 of chapter 746 of the
48 laws of 1988, as amended, when upon such date the provisions of section
49 one-b of this act shall take effect;

50 (c) the amendments to section 235 of the vehicle and traffic law made
51 by section one-b of this act shall be subject to the expiration and
52 reversion of such section pursuant to section 18 of chapter 379 of the
53 laws of 1992, as amended, when upon such date the provisions of section
54 one-c of this act shall take effect;

55 (d) the amendments to subdivision 1 of section 236 of the vehicle and
56 traffic law made by section two of this act shall be subject to the

1 expiration and reversion of such subdivision pursuant to section 17 of
2 chapter 746 of the laws of 1988, as amended, when upon such date the
3 provisions of section two-a of this act shall take effect;

4 (e) the amendments to subdivision 1 of section 236 of the vehicle and
5 traffic law made by section two-a of this act shall be subject to the
6 expiration and reversion of such subdivision pursuant to chapters 20,
7 21, 22 and 383 of the laws of 2009, as amended, when upon such date the
8 provisions of section two-b of this act shall take effect;

9 (f) the amendments to paragraph f of subdivision 1 of section 239 of
10 the vehicle and traffic law made by section four of this act shall be
11 subject to the expiration and reversion of such paragraph pursuant to
12 section 17 of chapter 746 of the laws of 1988, as amended, when upon
13 such date the provisions of section four-a of this act shall take
14 effect;

15 (g) the amendments to paragraph f of subdivision 1 of section 239 of
16 the vehicle and traffic law made by section four-a of this act shall be
17 subject to the expiration and reversion of such paragraph pursuant to
18 chapters 20, 21, 22 and 383 of the laws of 2009, as amended, when upon
19 such date the provisions of section four-b of this act shall take
20 effect;

21 (h) the amendments to subdivisions 1 and 1-a of section 240 of the
22 vehicle and traffic law made by section five of this act shall be
23 subject to the expiration and reversion of such subdivisions pursuant to
24 section 17 of chapter 746 of the laws of 1988, as amended, when upon
25 such date the provisions of section five-a of this act shall take
26 effect;

27 (i) the amendments to subdivisions 1 and 1-a of section 240 of the
28 vehicle and traffic law made by section five-a of this act shall be
29 subject to the expiration and reversion of such subdivisions pursuant to
30 chapters 20, 21, 22 and 383 of the laws of 2009, as amended, when upon
31 such date the provisions of section five-b of this act shall take
32 effect;

33 (j) the amendments to paragraphs a and g of subdivision 2 of section
34 240 of the vehicle and traffic law made by section six of this act shall
35 be subject to the expiration and reversion of such paragraphs pursuant
36 to section 17 of chapter 746 of the laws of 1988, as amended, when upon
37 such date the provisions of section six-a of this act shall take effect;

38 (k) the amendments to paragraphs a and g of subdivision 2 of section
39 240 of the vehicle and traffic law made by section six-a of this act
40 shall be subject to the expiration and reversion of such paragraphs
41 pursuant to chapters 20, 21, 22 and 383 of the laws of 2009, as amended,
42 when upon such date the provisions of section six-b of this act shall
43 take effect;

44 (l) the amendments to subdivisions 1 and 2 of section 241 of the vehi-
45 cle and traffic law made by section seven of this act shall be subject
46 to the expiration and reversion of such subdivisions pursuant to section
47 17 of chapter 746 of the laws of 1988, as amended, when upon such date
48 the provisions of section seven-a of this act shall take effect;

49 (m) the amendments to subdivisions 1 and 2 of section 241 of the vehi-
50 cle and traffic law made by section seven-a of this act shall be subject
51 to the expiration and reversion of such subdivisions pursuant to chap-
52 ters 20, 21, 22 and 383 of the laws of 2009, as amended, when upon such
53 date the provisions of section seven-b of this act shall take effect;

54 (n) the amendments to subparagraph (i) of paragraph a of subdivision
55 5-a of section 401 of the vehicle and traffic law made by section eight
56 of this act shall be subject to the expiration and reversion of such

1 subparagraph pursuant to section 17 of chapter 746 of the laws of 1988,
2 as amended, when upon such date the provisions of section eight-a of
3 this act shall take effect;

4 (o) the amendments to paragraph a of subdivision 5-a of section 401 of
5 the vehicle and traffic law made by section eight-a of this act shall be
6 subject to the expiration and reversion of such paragraph pursuant to
7 chapters 19, 20, 21, 22, 23 and 383 of the laws of 2009, as amended,
8 when upon such date the provisions of section eight-b of this act shall
9 take effect;

10 (p) the amendments to the opening paragraph and paragraph (c) of
11 subdivision 1 of section 1809 of the vehicle and traffic law made by
12 section ten of this act shall be subject to the expiration and reversion
13 of such paragraphs pursuant to subdivision (p) of section 406 of chapter
14 166 of the laws of 1991, section 10 of chapter 19 of the laws of 2009,
15 sections 24 of chapters 20 and 383 of the laws of 2009, sections 22 of
16 chapters 21 and 22 of the laws of 2009 and section 9 of chapter 23 of
17 the laws of 2009, as amended, when upon such date the provisions of
18 section ten-a of this act shall take effect;

19 (q) the amendments to subdivision 1 of section 1809 of the vehicle and
20 traffic law made by section ten-a of this act shall be subject to the
21 expiration and reversion of such subdivision pursuant to section 17 of
22 chapter 746 of the laws of 1988, section 10 of chapter 19 of the laws of
23 2009, sections 24 of chapters 20 and 383 of the laws of 2009, sections
24 22 of chapters 21 and 22 of the laws of 2009, section 9 of chapter 23 of
25 the laws of 2009, as amended, when upon such date the provisions of
26 section ten-b of this act shall take effect; and

27 (r) the amendments to paragraph a of subdivision 1 of section 1809-e
28 of the vehicle and traffic law made by section eleven of this act shall
29 be subject to the expiration and reversion of such paragraph when upon
30 such date the provisions of section eleven-a of this act shall take
31 effect.

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 DEPARTMENT 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 DEPARTMENT 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,
49 CERTIFICATES OF DEPOSIT, AND OTHER RECEIVABLES AVAILABLE. THE BOARD AND
50 DEPARTMENT SHALL MEET ANNUALLY PRIOR TO THE CLOSE OF THE AUTHORITY'S
51 FISCAL YEAR TO EVALUATE THE EFFECTIVENESS OF THE USE OF FUNDS FOR THAT
52 FISCAL YEAR, REVIEW THE GOALS AND OBJECTIVES OF THE PLAN, AND PROPERLY
53 PREPARE FOR THE ALLOCATION AND USE OF SUCH FUNDS FOR THE NEXT FISCAL
54 YEAR. THE PLAN SHALL BE UPDATED ANNUALLY TO MAKE APPROPRIATE MODIFICA-

TIONS TO SUCH PLAN FOR THE NEXT FISCAL YEAR. PRIOR TO ANY SUCH FUNDS BEING EXPENDED, BOTH THE BOARD AND THE DEPARTMENT MUST APPROVE SUCH PLAN, ITS GOALS AND OBJECTIVES AS WELL AS THE PROJECTED REVENUES AND PROPOSED ALLOCATIONS.

THE GENESEE VALLEY REGIONAL MARKET AUTHORITY SHALL FURNISH AN ANNUAL REAL ESTATE REPORT DETAILING ALL REAL ESTATE HOLDINGS AND DETAILED PROPERTY INFORMATION, INCLUDING BUT NOT LIMITED TO THE TENANTS, IMPORTANT LEASE TERMS, RENTS, DURATIONS OF LEASES, AS WELL AS COPIES OF EACH LEASE. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE GENESEE VALLEY REGIONAL MARKET AUTHORITY SHALL FURNISH ALL REQUIRED REPORTS, AUDITS, AND REVIEWS, INCLUDING THE ANNUAL REAL ESTATE REPORT, TO ALL PARTIES ENUMERATED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED OF THIS CHAPTER AS WELL AS TO THE DEPARTMENT OF AGRICULTURE AND MARKETS, WITHIN NINETY DAYS AFTER THE END OF ITS FISCAL YEAR.

S 2. Notwithstanding any provision of law to the contrary, the Genesee Valley Regional Market Authority is authorized and directed to make a contribution to the state treasury to the credit of the general fund in the amount of \$12,000,000 by December 1, 2010, for the fiscal year commencing April 1, 2010.

S 3. 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 KK

Intentionally omitted.

PART LL

Section 1. The director of the division of the lottery and the chairman of the racing and wagering board, shall, to the greatest extent possible, coordinate and centralize administrative functions, including but not limited to, clerical, payroll, bookkeeping, procurement and human resource functions in an effort to create greater efficiencies and cost savings. The director of the division of the lottery and the chairman of the racing and wagering board shall report on the progress of such shared services initiatives undertaken during the 2010-11 fiscal year, including such savings achieved thereby, as well as the identification of future shared services opportunities, to the governor, the temporary president of the senate, and the speaker of the assembly on or before January 1, 2011.

S 2. This act shall take effect immediately.

PART MM

Section 1. The economic development law is amended by adding a new article 17 to read as follows:

ARTICLE 17

EXCELSIOR JOBS PROGRAM ACT

SECTION 350. SHORT TITLE.

351. STATEMENT OF LEGISLATIVE FINDINGS AND DECLARATION.

352. DEFINITIONS.

353. ELIGIBILITY CRITERIA.

354. APPLICATION AND APPROVAL PROCESS.

355. EXCELSIOR JOBS PROGRAM CREDIT.

356. POWERS AND DUTIES OF THE COMMISSIONER.

1 357. MAINTENANCE OF RECORDS.

2 358. REPORTING.

3 359. CAP ON TAX CREDIT.

4 S 350. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
5 THE "EXCELSIOR JOBS PROGRAM ACT".

6 S 351. STATEMENT OF LEGISLATIVE FINDINGS AND DECLARATION. IT IS HERE-
7 BY FOUND AND DECLARED THAT NEW YORK STATE NEEDS, AS A MATTER OF PUBLIC
8 POLICY, TO CREATE COMPETITIVE FINANCIAL INCENTIVES FOR BUSINESSES TO
9 CREATE JOBS AND INVEST IN THE NEW ECONOMY. THE EXCELSIOR JOBS PROGRAM
10 ACT IS CREATED TO SUPPORT THE GROWTH OF THE STATE'S TRADITIONAL ECONOMIC
11 PILLARS INCLUDING THE MANUFACTURING AND FINANCIAL INDUSTRIES AND TO
12 ENSURE THAT NEW YORK EMERGES AS THE LEADER IN THE KNOWLEDGE, TECHNOLOGY
13 AND INNOVATION BASED ECONOMY. THE PROGRAM WILL ENCOURAGE THE EXPANSION
14 IN AND RELOCATION TO NEW YORK OF BUSINESSES IN GROWTH INDUSTRIES SUCH AS
15 CLEAN-TECH, BROADBAND, INFORMATION SYSTEMS, RENEWABLE ENERGY AND
16 BIOTECHNOLOGY.

17 THIS LEGISLATION CREATES THE EXCELSIOR JOBS PROGRAM, WHICH HAS FOUR
18 COMPONENTS: THE EXCELSIOR JOBS TAX CREDIT, THE EXCELSIOR INVESTMENT TAX
19 CREDIT, THE EXCELSIOR RESEARCH AND DEVELOPMENT TAX CREDIT AND THE
20 EXCELSIOR REAL PROPERTY TAX CREDIT. THESE CREDITS ARE DESIGNED TO
21 PROMOTE BUSINESS EXPANSION IN NEW YORK STATE AND INCREASE JOBS IN THE
22 NEW ECONOMY. AT THE SAME TIME, THE PROGRAM PROTECTS STATE TAXPAYERS'
23 DOLLARS BY ENSURING THAT NEW YORK PROVIDES TAX BENEFITS ONLY TO BUSI-
24 NESSES THAT HAVE CREATED THE PROMISED JOBS AND MADE THE PROMISED INVEST-
25 MENTS.

26 S 352. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

27 1. "AGRICULTURE" MEANS BOTH AGRICULTURAL PRODUCTION (ESTABLISHMENTS
28 PERFORMING THE COMPLETE FARM OR RANCH OPERATION, SUCH AS FARM OWNER-OP-
29 ERATORS, TENANT FARM OPERATORS, AND SHARECROPPERS) AND AGRICULTURAL
30 SUPPORT (ESTABLISHMENTS THAT PERFORM ONE OR MORE ACTIVITIES ASSOCIATED
31 WITH FARM OPERATION, SUCH AS SOIL PREPARATION, PLANTING, HARVESTING, AND
32 MANAGEMENT, ON A CONTRACT OR FEE BASIS).

33 2. "BACK OFFICE OPERATIONS" MEANS A BUSINESS FUNCTION THAT MAY INCLUDE
34 ONE OR MORE OF THE FOLLOWING ACTIVITIES: CUSTOMER SERVICE, INFORMATION
35 TECHNOLOGY AND DATA PROCESSING, HUMAN RESOURCES, ACCOUNTING AND RELATED
36 ADMINISTRATIVE FUNCTIONS.

37 3. "BENEFIT-COST RATIO" MEANS THE FOLLOWING CALCULATION: THE NUMERATOR
38 IS THE SUM OF (I) THE VALUE OF ALL REMUNERATION PROJECTED TO BE PAID FOR
39 ALL NET NEW JOBS DURING THE PERIOD OF PARTICIPATION IN THE PROGRAM, AND
40 (II) THE VALUE OF CAPITAL INVESTMENTS TO BE MADE BY THE BUSINESS ENTER-
41 PRISE DURING THE PERIOD OF PARTICIPATION IN THE PROGRAM, AND THE DENOMI-
42 NATOR IS THE AMOUNT OF TOTAL TAX BENEFITS UNDER THIS ARTICLE THAT WILL
43 BE USED AND REFUNDED.

44 4. "CERTIFICATE OF ELIGIBILITY" MEANS THE DOCUMENT ISSUED BY THE
45 DEPARTMENT TO AN APPLICANT THAT HAS COMPLETED AN APPLICATION TO BE
46 ADMITTED INTO THE EXCELSIOR JOBS PROGRAM AND HAS BEEN ACCEPTED INTO THE
47 PROGRAM BY THE DEPARTMENT. POSSESSION OF A CERTIFICATE OF ELIGIBILITY
48 DOES NOT BY ITSELF GUARANTEE THE ELIGIBILITY TO CLAIM THE TAX CREDIT.

49 5. "CERTIFICATE OF TAX CREDIT" MEANS THE DOCUMENT ISSUED TO A PARTIC-
50 IPANT BY THE DEPARTMENT, AFTER THE DEPARTMENT HAS VERIFIED THAT THE
51 PARTICIPANT HAS MET ALL APPLICABLE ELIGIBILITY CRITERIA IN THIS ARTICLE.
52 THE CERTIFICATE SHALL BE ISSUED ANNUALLY IF SUCH CRITERIA ARE SATISFIED
53 AND SHALL SPECIFY THE EXACT AMOUNT OF EACH OF THE TAX CREDIT COMPONENTS
54 UNDER THIS ARTICLE THAT A PARTICIPANT MAY CLAIM, PURSUANT TO SECTION
55 THREE HUNDRED FIFTY-FIVE OF THIS ARTICLE, AND SHALL SPECIFY THE TAXABLE
56 YEAR IN WHICH SUCH CREDIT MAY BE CLAIMED.

1 6. "DISTRIBUTION CENTER" MEANS A LARGE SCALE FACILITY INVOLVING PROC-
2 ESSING, REPACKAGING AND/OR MOVEMENT OF FINISHED OR SEMI-FINISHED GOODS
3 TO RETAIL LOCATIONS ACROSS A MULTI-STATE AREA.

4 7. "FINANCIAL SERVICES DATA CENTERS OR FINANCIAL SERVICES CUSTOMER
5 BACK OFFICE OPERATIONS" MEANS OPERATIONS THAT MANAGE THE DATA OR
6 ACCOUNTS OF EXISTING CUSTOMERS OR PROVIDE PRODUCT OR SERVICE INFORMATION
7 AND SUPPORT TO CUSTOMERS OF FINANCIAL SERVICES COMPANIES, INCLUDING
8 BANKS, OTHER LENDERS, SECURITIES AND COMMODITIES BROKERS AND DEALERS,
9 INVESTMENT BANKS, PORTFOLIO MANAGERS, TRUST OFFICES, AND INSURANCE
10 COMPANIES.

11 8. "INVESTMENT ZONE" SHALL MEAN AN AREA WITHIN THE STATE THAT HAD BEEN
12 DESIGNATED UNDER PARAGRAPH (I) OF SUBDIVISION (A) AND SUBDIVISION (D) OF
13 SECTION NINE HUNDRED FIFTY-EIGHT OF THE GENERAL MUNICIPAL LAW THAT WAS
14 WHOLLY CONTAINED WITHIN UP TO FOUR DISTINCT AND SEPARATE CONTIGUOUS
15 AREAS AS OF THE DATE IMMEDIATELY PRECEDING THE DATE THE DESIGNATION OF
16 SUCH AREA EXPIRED PURSUANT TO SECTION NINE HUNDRED SIXTY-NINE OF THE
17 GENERAL MUNICIPAL LAW.

18 9. "MANUFACTURING" MEANS THE PROCESS OF WORKING RAW MATERIALS INTO
19 PRODUCTS SUITABLE FOR USE OR WHICH GIVES NEW SHAPES, NEW QUALITY OR NEW
20 COMBINATIONS TO MATTER WHICH HAS ALREADY GONE THROUGH SOME ARTIFICIAL
21 PROCESS BY THE USE OF MACHINERY, TOOLS, APPLIANCES, OR OTHER SIMILAR
22 EQUIPMENT. "MANUFACTURING" DOES NOT INCLUDE AN OPERATION THAT INVOLVES
23 ONLY THE ASSEMBLY OF COMPONENTS, PROVIDED, HOWEVER, THE ASSEMBLY OF
24 MOTOR VEHICLES OR OTHER HIGH VALUE-ADDED PRODUCTS SHALL BE CONSIDERED
25 MANUFACTURING.

26 10. "NET NEW JOBS" MEANS JOBS CREATED IN THIS STATE THAT:

27 (A) ARE NEW TO THE STATE;

28 (B) HAVE NOT BEEN TRANSFERRED FROM EMPLOYMENT WITH ANOTHER BUSINESS
29 LOCATED IN THIS STATE INCLUDING FROM A RELATED PERSON IN THIS STATE;

30 (C) ARE EITHER FULL-TIME WAGE-PAYING JOBS OR EQUIVALENT TO A FULL-TIME
31 WAGE-PAYING JOB REQUIRING AT LEAST THIRTY-FIVE HOURS PER WEEK; AND

32 (D) ARE FILLED FOR MORE THAN SIX MONTHS.

33 11. "PARTICIPANT" MEANS A BUSINESS ENTITY THAT:

34 (A) HAS COMPLETED AN APPLICATION PRESCRIBED BY THE DEPARTMENT TO BE
35 ADMITTED INTO THE PROGRAM;

36 (B) HAS BEEN ISSUED A CERTIFICATE OF ELIGIBILITY BY THE DEPARTMENT;

37 (C) HAS DEMONSTRATED THAT IT MEETS THE ELIGIBILITY CRITERIA IN SECTION
38 THREE HUNDRED FIFTY-THREE AND SUBDIVISION TWO OF SECTION THREE HUNDRED
39 FIFTY-FOUR OF THIS ARTICLE; AND

40 (D) HAS BEEN CERTIFIED AS A PARTICIPANT BY THE COMMISSIONER.

41 12. "PRELIMINARY SCHEDULE OF BENEFITS" MEANS THE MAXIMUM AGGREGATE
42 AMOUNT OF EACH COMPONENT OF THE TAX CREDIT THAT A PARTICIPANT IN THE
43 EXCELSIOR JOBS PROGRAM IS ELIGIBLE TO RECEIVE PURSUANT TO THIS ARTICLE.
44 THE SCHEDULE SHALL INDICATE THE ANNUAL AMOUNT OF EACH COMPONENT OF THE
45 CREDIT A PARTICIPANT MAY CLAIM IN EACH OF ITS FIVE YEARS OF ELIGIBILITY.
46 THE PRELIMINARY SCHEDULE OF BENEFITS SHALL BE ISSUED BY THE DEPARTMENT
47 WHEN THE DEPARTMENT APPROVES THE APPLICATION FOR ADMISSION INTO THE
48 PROGRAM. THE COMMISSIONER MAY AMEND THAT SCHEDULE, PROVIDED THAT THE
49 COMMISSIONER COMPLIES WITH THE CREDIT CAPS IN SECTION THREE HUNDRED
50 FIFTY-NINE OF THIS ARTICLE.

51 13. "QUALIFIED INVESTMENT" MEANS AN INVESTMENT IN TANGIBLE PROPERTY
52 (INCLUDING A BUILDING OR A STRUCTURAL COMPONENT OF A BUILDING) OWNED BY
53 A BUSINESS ENTERPRISE WHICH:

54 (A) IS DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE
55 INTERNAL REVENUE CODE;

56 (B) HAS A USEFUL LIFE OF FOUR YEARS OR MORE;

1 (C) IS ACQUIRED BY PURCHASE AS DEFINED IN SECTION ONE HUNDRED SEVEN-
2 TY-NINE (D) OF THE INTERNAL REVENUE CODE;

3 (D) HAS A SITUS IN THIS STATE; AND

4 (E) IS PLACED IN SERVICE IN THE STATE ON OR AFTER THE DATE THE CERTIF-
5 ICATE OF ELIGIBILITY IS ISSUED TO THE BUSINESS ENTERPRISE.

6 14. "REGIONALLY SIGNIFICANT PROJECT" MEANS (A) A MANUFACTURER CREATING
7 AT LEAST FIFTY NET NEW JOBS IN THE STATE AND MAKING SIGNIFICANT CAPITAL
8 INVESTMENT IN THE STATE; (B) A BUSINESS CREATING AT LEAST TWENTY NET NEW
9 JOBS IN AGRICULTURE IN THE STATE AND MAKING SIGNIFICANT CAPITAL INVEST-
10 MENT IN THE STATE, (C) A FINANCIAL SERVICES FIRM, DISTRIBUTION CENTER,
11 OR BACK OFFICE OPERATION CREATING AT LEAST THREE HUNDRED NET NEW JOBS IN
12 THE STATE AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE, OR (D)
13 A SCIENTIFIC RESEARCH AND DEVELOPMENT FIRM CREATING AT LEAST TWENTY NET
14 NEW JOBS IN THE STATE, AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE
15 STATE. OTHER BUSINESSES CREATING THREE HUNDRED OR MORE NET NEW JOBS IN
16 THE STATE AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE MAY BE
17 CONSIDERED ELIGIBLE AS A REGIONALLY SIGNIFICANT PROJECT BY THE COMMIS-
18 SIONER AS WELL. THE COMMISSIONER SHALL PROMULGATE REGULATIONS PURSUANT
19 TO SECTION THREE HUNDRED FIFTY-SIX OF THIS ARTICLE TO DETERMINE WHAT
20 CONSTITUTES SIGNIFICANT CAPITAL INVESTMENT FOR EACH OF THE PROJECT CATE-
21 GORIES INDICATED IN THIS SUBDIVISION AND WHAT ADDITIONAL CRITERIA A
22 BUSINESS MUST MEET TO BE ELIGIBLE AS A REGIONALLY SIGNIFICANT PROJECT,
23 INCLUDING, BUT NOT LIMITED TO, WHETHER A BUSINESS EXPORTS A SUBSTANTIAL
24 PORTION OF ITS PRODUCTS OR SERVICES OUTSIDE OF THE STATE OR OUTSIDE OF A
25 METROPOLITAN STATISTICAL AREA OR COUNTY WITHIN THE STATE.

26 15. "RELATED PERSON" MEANS A "RELATED PERSON" PURSUANT TO SUBPARAGRAPH
27 (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-
28 FIVE OF THE INTERNAL REVENUE CODE.

29 16. "REMUNERATION" MEANS WAGES AND BENEFITS PAID TO AN EMPLOYEE BY A
30 PARTICIPANT IN THE EXCELSIOR JOBS PROGRAM.

31 17. "RESEARCH AND DEVELOPMENT EXPENDITURES" MEAN THE EXPENSES OF THE
32 BUSINESS ENTERPRISE THAT ARE QUALIFIED RESEARCH EXPENSES UNDER THE
33 FEDERAL RESEARCH AND DEVELOPMENT CREDIT UNDER SECTION FORTY-ONE OF THE
34 INTERNAL REVENUE CODE AND ARE ATTRIBUTABLE TO ACTIVITIES CONDUCTED IN
35 THE STATE. IF THE FEDERAL RESEARCH AND DEVELOPMENT CREDIT HAS EXPIRED,
36 THEN THE RESEARCH AND DEVELOPMENT EXPENDITURES SHALL BE CALCULATED AS IF
37 THE FEDERAL RESEARCH AND DEVELOPMENT CREDIT STRUCTURE AND DEFINITION IN
38 EFFECT IN FEDERAL TAX YEAR TWO THOUSAND NINE WERE STILL IN EFFECT.

39 18. "SCIENTIFIC RESEARCH AND DEVELOPMENT" MEANS CONDUCTING RESEARCH
40 AND EXPERIMENTAL DEVELOPMENT IN THE PHYSICAL, ENGINEERING, AND LIFE
41 SCIENCES, INCLUDING BUT NOT LIMITED TO AGRICULTURE, ELECTRONICS, ENVI-
42 RONMENTAL, BIOLOGY, BOTANY, BIOTECHNOLOGY, COMPUTERS, CHEMISTRY, FOOD,
43 FISHERIES, FORESTS, GEOLOGY, HEALTH, MATHEMATICS, MEDICINE, OCEANOGRA-
44 PHY, PHARMACY, PHYSICS, VETERINARY, AND OTHER ALLIED SUBJECTS. FOR THE
45 PURPOSES OF THIS ARTICLE, SCIENTIFIC RESEARCH AND DEVELOPMENT DOES NOT
46 INCLUDE MEDICAL OR VETERINARY LABORATORY TESTING FACILITIES.

47 19. "SOFTWARE DEVELOPMENT" MEANS THE CREATION OF CODED COMPUTER
48 INSTRUCTIONS AND INCLUDES NEW MEDIA AS DEFINED BY THE COMMISSIONER IN
49 REGULATIONS.

50 S 353. ELIGIBILITY CRITERIA. 1. TO BE A PARTICIPANT IN THE EXCELSIOR
51 JOBS PROGRAM, A BUSINESS ENTITY SHALL OPERATE IN NEW YORK STATE PREDOMI-
52 NANTLY:

53 (A) AS A FINANCIAL SERVICES DATA CENTER OR A FINANCIAL SERVICES BACK
54 OFFICE OPERATION;

55 (B) IN MANUFACTURING;

56 (C) IN SOFTWARE DEVELOPMENT AND NEW MEDIA;

1 (D) IN SCIENTIFIC RESEARCH AND DEVELOPMENT;

2 (E) IN AGRICULTURE;

3 (F) IN THE CREATION OR EXPANSION OF BACK OFFICE OPERATIONS IN THE
4 STATE;

5 (G) IN A DISTRIBUTION CENTER; OR

6 (H) IN AN INDUSTRY WITH SIGNIFICANT POTENTIAL FOR PRIVATE-SECTOR
7 ECONOMIC GROWTH AND DEVELOPMENT IN THIS STATE AS ESTABLISHED BY THE
8 COMMISSIONER IN REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE. IN
9 PROMULGATING SUCH REGULATIONS THE COMMISSIONER SHALL INCLUDE JOB AND
10 INVESTMENT CRITERIA.

11 2. FOR THE PURPOSES OF THIS ARTICLE, IN ORDER TO PARTICIPATE IN THE
12 EXCELSIOR JOBS PROGRAM, A BUSINESS ENTITY OPERATING PREDOMINANTLY IN
13 MANUFACTURING MUST CREATE AT LEAST TWENTY-FIVE NET NEW JOBS; A BUSINESS
14 ENTITY OPERATING PREDOMINATELY IN AGRICULTURE MUST CREATE AT LEAST TEN
15 NET NEW JOBS; A BUSINESS ENTITY OPERATING PREDOMINANTLY AS A FINANCIAL
16 SERVICE DATA CENTER OR FINANCIAL SERVICES CUSTOMER BACK OFFICE OPERATION
17 MUST CREATE AT LEAST ONE HUNDRED NET NEW JOBS; A BUSINESS ENTITY OPERAT-
18 ING PREDOMINANTLY IN SCIENTIFIC RESEARCH AND DEVELOPMENT MUST CREATE AT
19 LEAST TEN NET NEW JOBS; A BUSINESS ENTITY OPERATING PREDOMINANTLY IN
20 SOFTWARE DEVELOPMENT MUST CREATE AT LEAST TEN NET NEW JOBS; A BUSINESS
21 ENTITY CREATING OR EXPANDING BACK OFFICE OPERATIONS OR A DISTRIBUTION
22 CENTER IN THE STATE MUST CREATE AT LEAST ONE HUNDRED FIFTY NET NEW JOBS,
23 NOTWITHSTANDING SUBDIVISION FOUR OF THIS SECTION; OR A BUSINESS ENTITY
24 MUST BE A REGIONALLY SIGNIFICANT PROJECT AS DEFINED IN THIS ARTICLE; OR

25 3. A BUSINESS ENTITY OPERATING PREDOMINANTLY IN ONE OF THE INDUSTRIES
26 REFERENCED IN PARAGRAPHS (A) THROUGH (H) OF SUBDIVISION ONE OF THIS
27 SECTION BUT WHICH DOES NOT MEET THE JOB REQUIREMENTS OF SUBDIVISION TWO
28 OF THIS SECTION MUST HAVE AT LEAST FIFTY FULL-TIME JOB EQUIVALENTS AND
29 MUST DEMONSTRATE THAT ITS BENEFIT-COST RATIO IS AT LEAST TEN TO ONE.

30 4. A NOT-FOR-PROFIT BUSINESS ENTITY, A BUSINESS ENTITY WHOSE PRIMARY
31 FUNCTION IS THE PROVISION OF SERVICES INCLUDING PERSONAL SERVICES, BUSI-
32 NESS SERVICES, OR THE PROVISION OF UTILITIES, AND A BUSINESS ENTITY
33 ENGAGED PREDOMINANTLY IN THE RETAIL OR ENTERTAINMENT INDUSTRY, AND A
34 COMPANY ENGAGED IN THE GENERATION OR DISTRIBUTION OF ELECTRICITY, THE
35 DISTRIBUTION OF NATURAL GAS, OR THE PRODUCTION OF STEAM ASSOCIATED WITH
36 THE GENERATION OF ELECTRICITY ARE NOT ELIGIBLE TO RECEIVE THE TAX CREDIT
37 DESCRIBED IN THIS ARTICLE.

38 5. A BUSINESS ENTITY MUST BE IN COMPLIANCE WITH ALL WORKER PROTECTION
39 AND ENVIRONMENTAL LAWS AND REGULATIONS. IN ADDITION, A BUSINESS ENTITY
40 MAY NOT OWE PAST DUE STATE TAXES OR LOCAL PROPERTY TAXES.

41 S 354. APPLICATION AND APPROVAL PROCESS. 1. A BUSINESS ENTERPRISE
42 MUST SUBMIT A COMPLETED APPLICATION AS PRESCRIBED BY THE COMMISSIONER.
43 AN APPLICATION MAY BE RECOMMENDED BY ENTITIES, INCLUDING BUT NOT LIMITED
44 TO, THOSE CREATED PURSUANT TO SUBDIVISION (E) OF SECTION NINE HUNDRED
45 FIFTY-SEVEN OF THE GENERAL MUNICIPAL LAW.

46 2. AS PART OF SUCH APPLICATION, EACH BUSINESS ENTERPRISE MUST:

47 (A) AGREE TO ALLOW THE DEPARTMENT OF TAXATION AND FINANCE TO SHARE ITS
48 TAX INFORMATION WITH THE DEPARTMENT. HOWEVER, ANY INFORMATION SHARED AS
49 A RESULT OF THIS AGREEMENT SHALL NOT BE AVAILABLE FOR DISCLOSURE OR
50 INSPECTION UNDER THE STATE FREEDOM OF INFORMATION LAW.

51 (B) AGREE TO ALLOW THE DEPARTMENT OF LABOR TO SHARE ITS TAX AND
52 EMPLOYER INFORMATION WITH THE DEPARTMENT. HOWEVER, ANY INFORMATION
53 SHARED AS A RESULT OF THIS AGREEMENT SHALL NOT BE AVAILABLE FOR DISCLO-
54 SURE OR INSPECTION UNDER THE STATE FREEDOM OF INFORMATION LAW.

55 (C) ALLOW THE DEPARTMENT AND ITS AGENTS ACCESS TO ANY AND ALL BOOKS
56 AND RECORDS THE DEPARTMENT MAY REQUIRE TO MONITOR COMPLIANCE.

(D) AGREE TO BE PERMANENTLY DECERTIFIED FROM THE EMPIRE ZONES PROGRAM IF ADMITTED INTO THE EXCELSIOR JOBS PROGRAM, EFFECTIVE FOR THE FIRST TAXABLE YEAR THAT THE BUSINESS ENTERPRISE MAY CLAIM THE EXCELSIOR JOBS PROGRAM CREDIT AND FOR ALL SUBSEQUENT TAXABLE YEARS.

(E) PROVIDE THE FOLLOWING INFORMATION TO THE DEPARTMENT UPON REQUEST:

(I) A PLAN OUTLINING THE SCHEDULE FOR MEETING THE JOB AND INVESTMENT REQUIREMENTS AS SET FORTH IN SUBDIVISIONS TWO AND THREE OF SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE. SUCH PLAN MUST INCLUDE DETAILS ON JOB TITLES AND EXPECTED SALARIES;

(II) THE PRIOR THREE YEARS OF FEDERAL AND STATE INCOME OR FRANCHISE TAX RETURNS, UNEMPLOYMENT INSURANCE QUARTERLY RETURNS, REAL PROPERTY TAX BILLS AND AUDITED FINANCIAL STATEMENTS;

(III) THE AMOUNT AND DESCRIPTION OF PROJECTED QUALIFIED INVESTMENTS FOR WHICH IT PLANS TO CLAIM THE EXCELSIOR INVESTMENT TAX CREDIT;

(IV) AN ESTIMATE OF THE PORTION OF ANY FEDERAL RESEARCH AND DEVELOPMENT TAX CREDITS, ATTRIBUTABLE TO RESEARCH AND DEVELOPMENT ACTIVITIES CONDUCTED IN NEW YORK STATE, THAT IT ANTICIPATES CLAIMING FOR THE YEARS IT EXPECTS TO CLAIM THE EXCELSIOR RESEARCH AND DEVELOPMENT CREDIT; AND

(V) THE EMPLOYER IDENTIFICATION OR SOCIAL SECURITY NUMBERS FOR ALL RELATED PERSONS TO THE APPLICANT, INCLUDING THOSE OF ANY MEMBERS OF A LIMITED LIABILITY COMPANY OR PARTNERS IN A PARTNERSHIP.

(F) PROVIDE A CLEAR AND DETAILED PRESENTATION OF ALL RELATED PERSONS TO THE APPLICANT TO ASSURE THE DEPARTMENT THAT JOBS ARE NOT BEING SHIFTED WITHIN THE STATE.

(G) CERTIFY, UNDER PENALTY OF PERJURY, THAT IT IS IN SUBSTANTIAL COMPLIANCE WITH ALL ENVIRONMENTAL, WORKER PROTECTION, AND LOCAL, STATE, AND FEDERAL TAX LAWS.

3. AFTER REVIEWING A BUSINESS ENTERPRISE'S COMPLETED APPLICATION AND DETERMINING THAT THE BUSINESS ENTERPRISE WILL MEET THE CONDITIONS SET FORTH IN SUBDIVISIONS TWO AND THREE OF SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE, THE DEPARTMENT MAY ADMIT THE APPLICANT INTO THE PROGRAM AND PROVIDE THE APPLICANT WITH A CERTIFICATE OF ELIGIBILITY AND A PRELIMINARY SCHEDULE OF BENEFITS BY YEAR BASED ON THE APPLICANT'S PROJECTIONS AS SET FORTH IN ITS APPLICATION. THIS PRELIMINARY SCHEDULE OF BENEFITS DELINEATES THE MAXIMUM POSSIBLE BENEFITS AN APPLICANT MAY RECEIVE.

4. IN ORDER TO BECOME A PARTICIPANT IN THE PROGRAM, AN APPLICANT MUST SUBMIT EVIDENCE OF ACHIEVING JOB AND INVESTMENT REQUIREMENTS IN SUCH FORM AS THE COMMISSIONER MAY PRESCRIBE. AFTER REVIEWING SUCH EVIDENCE AND FINDING IT SUFFICIENT, THE DEPARTMENT SHALL CERTIFY THE APPLICANT AS A PARTICIPANT AND ISSUE TO THAT PARTICIPANT A CERTIFICATE OF TAX CREDIT FOR ONE TAXABLE YEAR. TO RECEIVE A CERTIFICATE OF TAX CREDIT FOR SUBSEQUENT TAXABLE YEARS, THE PARTICIPANT MUST SUBMIT TO THE DEPARTMENT A PERFORMANCE REPORT. A PARTICIPANT'S INCREASE IN EMPLOYMENT, QUALIFIED INVESTMENT, OR FEDERAL RESEARCH AND DEVELOPMENT TAX CREDIT ATTRIBUTABLE TO RESEARCH AND DEVELOPMENT ACTIVITIES IN NEW YORK STATE ABOVE ITS PROJECTIONS LISTED IN ITS APPLICATION SHALL NOT RESULT IN AN INCREASE IN TAX BENEFITS UNDER THIS ARTICLE. HOWEVER, IF THE PARTICIPANT'S EXPENDITURES ARE LESS THAN THE ESTIMATED AMOUNTS, THE CREDIT SHALL BE LESS THAN THE ESTIMATE.

5. A PARTICIPANT MAY CLAIM TAX BENEFITS COMMENCING IN THE FIRST TAXABLE YEAR THAT THE BUSINESS ENTERPRISE RECEIVES A CERTIFICATE OF TAX CREDIT OR THE FIRST TAXABLE YEAR LISTED ON ITS PRELIMINARY SCHEDULE OF BENEFITS, WHICHEVER IS LATER. A PARTICIPANT MAY CLAIM SUCH BENEFITS FOR THE NEXT FOUR CONSECUTIVE TAXABLE YEARS, PROVIDED THAT THE PARTICIPANT DEMONSTRATES TO THE DEPARTMENT THAT IT CONTINUES TO SATISFY THE ELIGI-

1 BILITY CRITERIA SPECIFIED IN SECTION THREE HUNDRED FIFTY-THREE OF THIS
2 ARTICLE AND SUBDIVISION TWO OF THIS SECTION IN EACH OF THOSE TAXABLE
3 YEARS.

4 S 355. EXCELSIOR JOBS PROGRAM CREDIT. 1. EXCELSIOR JOBS TAX CREDIT
5 COMPONENT. A PARTICIPANT IN THE EXCELSIOR JOBS PROGRAM SHALL BE ELIGIBLE
6 TO CLAIM A CREDIT FOR EACH NET NEW JOB IT CREATES IN NEW YORK STATE. THE
7 AMOUNT OF SUCH CREDIT PER JOB SHALL BE EQUAL TO THE SUM OF THE FOLLOW-
8 ING: FIVE PERCENT OF THE AMOUNT OF REMUNERATION EQUAL TO OR LESS THAN
9 FIFTY THOUSAND DOLLARS; FOUR PERCENT OF THE AMOUNT OF REMUNERATION IN
10 EXCESS OF FIFTY THOUSAND DOLLARS AND EQUAL TO OR LESS THAN SEVENTY-FIVE
11 THOUSAND DOLLARS; AND 1.33 PERCENT OF THE AMOUNT OF REMUNERATION IN
12 EXCESS OF SEVENTY-FIVE THOUSAND DOLLARS. HOWEVER, THE AMOUNT OF THE
13 CREDIT FOR EACH NET NEW JOB SHALL NOT EXCEED FIVE THOUSAND DOLLARS.

14 2. EXCELSIOR INVESTMENT TAX CREDIT COMPONENT. A PARTICIPANT IN THE
15 EXCELSIOR JOBS PROGRAM SHALL BE ELIGIBLE TO CLAIM A CREDIT ON QUALIFIED
16 INVESTMENTS. THE CREDIT SHALL BE EQUAL TO TWO PERCENT OF THE COST OR
17 OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF THE QUALIFIED INVESTMENT.
18 A PARTICIPANT MAY NOT CLAIM BOTH THE EXCELSIOR INVESTMENT TAX CREDIT
19 COMPONENT AND THE INVESTMENT TAX CREDIT SET FORTH IN SUBDIVISION TWELVE
20 OF SECTION TWO HUNDRED TEN, SUBSECTION (A) OF SECTION SIX HUNDRED SIX,
21 OR SUBSECTION (I) OF SECTION FOURTEEN HUNDRED FIFTY-SIX OF THE TAX LAW
22 FOR THE SAME PROPERTY IN ANY TAXABLE YEAR. IN ADDITION, A TAXPAYER WHO
23 OR WHICH IS QUALIFIED TO CLAIM THE EXCELSIOR INVESTMENT TAX CREDIT
24 COMPONENT AND IS ALSO QUALIFIED TO CLAIM THE BROWNFIELD TANGIBLE PROPER-
25 TY CREDIT COMPONENT UNDER SECTION TWENTY-ONE OF THE TAX LAW MAY CLAIM
26 EITHER THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT OR SUCH TANGIBLE
27 PROPERTY CREDIT COMPONENT, BUT NOT BOTH WITH REGARD TO A PARTICULAR
28 PIECE OF PROPERTY. A CREDIT MAY NOT BE CLAIMED UNTIL A BUSINESS ENTER-
29 PRISE HAS RECEIVED A CERTIFICATE OF TAX CREDIT, PROVIDED THAT QUALIFIED
30 INVESTMENTS MADE ON OR AFTER THE ISSUANCE OF THE CERTIFICATE OF ELIGI-
31 BILITY BUT BEFORE THE ISSUANCE OF THE CERTIFICATE OF TAX CREDIT TO THE
32 BUSINESS ENTERPRISE, MAY BE CLAIMED IN THE FIRST TAXABLE YEAR FOR WHICH
33 THE BUSINESS ENTERPRISE IS ALLOWED TO CLAIM THE CREDIT. EXPENSES
34 INCURRED PRIOR TO THE DATE THE CERTIFICATE OF ELIGIBILITY IS ISSUED ARE
35 NOT ELIGIBLE TO BE INCLUDED IN THE CALCULATION OF THE CREDIT.

36 3. EXCELSIOR RESEARCH AND DEVELOPMENT TAX CREDIT COMPONENT. A PARTIC-
37 IPANT IN THE EXCELSIOR JOBS PROGRAM SHALL BE ELIGIBLE TO CLAIM A CREDIT
38 EQUAL TO TEN PERCENT OF THE PORTION OF THE PARTICIPANT'S FEDERAL
39 RESEARCH AND DEVELOPMENT TAX CREDIT THAT RELATES TO THE PARTICIPANT'S
40 RESEARCH AND DEVELOPMENT EXPENDITURES IN NEW YORK STATE DURING THE TAXA-
41 BLE YEAR. IF THE FEDERAL RESEARCH AND DEVELOPMENT CREDIT HAS EXPIRED,
42 THEN THE RESEARCH AND DEVELOPMENT EXPENDITURES RELATING TO THE FEDERAL
43 RESEARCH AND DEVELOPMENT CREDIT SHALL BE CALCULATED AS IF THE FEDERAL
44 RESEARCH AND DEVELOPMENT CREDIT STRUCTURE AND DEFINITION IN EFFECT IN
45 TWO THOUSAND NINE WERE STILL IN EFFECT.

46 4. EXCELSIOR REAL PROPERTY TAX CREDIT. A PARTICIPANT IN THE EXCELSIOR
47 JOBS PROGRAM WHO EITHER QUALIFIED AS A REGIONALLY SIGNIFICANT PROJECT OR
48 IS LOCATED IN AN INVESTMENT ZONE SHALL BE ELIGIBLE TO CLAIM A CREDIT FOR
49 A PERIOD OF FIVE YEARS. THE CREDIT SHALL BE EQUAL TO FIFTY PERCENT OF
50 THE ELIGIBLE REAL PROPERTY TAXES ON THE REAL PROPERTY COMPRISING THE
51 REGIONALLY SIGNIFICANT PROJECT OR LOCATED IN THE INVESTMENT ZONE THAT
52 WERE ASSESSED AND PAID IN THE YEAR IMMEDIATELY PRIOR TO APPLICATION. IN
53 THE REMAINING YEARS THE CREDIT SHALL BE COMPUTED ACCORDING TO THE
54 FOLLOWING SCHEDULE:

55 YEAR TWO: FORTY PERCENT OF ELIGIBLE REAL PROPERTY TAXES ON THE REAL
56 PROPERTY COMPRISING THE REGIONALLY SIGNIFICANT PROJECT OR LOCATED IN THE

1 INVESTMENT ZONE THAT WERE ASSESSED AND PAID IN THE YEAR IMMEDIATELY
2 PRIOR TO APPLICATION;

3 YEAR THREE: THIRTY PERCENT OF ELIGIBLE REAL PROPERTY TAXES ON THE REAL
4 PROPERTY COMPRISING THE REGIONALLY SIGNIFICANT PROJECT OR LOCATED IN THE
5 INVESTMENT ZONE THAT WERE ASSESSED AND PAID IN THE YEAR IMMEDIATELY
6 PRIOR TO APPLICATION;

7 YEAR FOUR: TWENTY PERCENT OF ELIGIBLE REAL PROPERTY TAXES ON REAL
8 PROPERTY COMPRISING THE REGIONALLY SIGNIFICANT PROJECT OR LOCATED IN THE
9 INVESTMENT ZONE THAT WERE ASSESSED AND PAID IN THE YEAR IMMEDIATELY
10 PRIOR TO APPLICATION; AND

11 YEAR FIVE: TEN PERCENT OF ELIGIBLE REAL PROPERTY TAXES ON THE REAL
12 PROPERTY COMPRISING THE REGIONALLY SIGNIFICANT PROJECT OR LOCATED IN THE
13 INVESTMENT ZONE THAT WERE ASSESSED AND PAID IN THE YEAR IMMEDIATELY
14 PRIOR TO APPLICATION.

15 FOR PURPOSES OF THIS CREDIT, THE TERM "ELIGIBLE REAL PROPERTY TAXES"
16 SHALL HAVE THE SAME MEANING AS IN SUBDIVISION (E) OF SECTION FIFTEEN OF
17 THE TAX LAW, PROVIDED THAT SUCH SUBDIVISION (E) SHALL BE READ AS IF IT
18 SPECIFICALLY REFERENCED THE EXCELSIOR JOBS PROGRAM AND PARTICIPANTS IN
19 THAT PROGRAM.

20 5. REFUNDABILITY OF CREDITS. THE TAX CREDIT COMPONENTS ESTABLISHED IN
21 THIS SECTION SHALL BE REFUNDABLE AS PROVIDED IN THE TAX LAW. IF A
22 PARTICIPANT FAILS TO SATISFY THE ELIGIBILITY CRITERIA IN ANY ONE YEAR,
23 IT WILL LOSE THE ABILITY TO CLAIM CREDIT FOR THAT YEAR. THE EVENT OF
24 SUCH FAILURE SHALL NOT EXTEND THE ORIGINAL FIVE-YEAR ELIGIBILITY PERIOD.

25 6. CLAIM OF TAX CREDIT. THE BUSINESS ENTERPRISE SHALL BE ALLOWED TO
26 CLAIM THE CREDIT AS PRESCRIBED IN SECTION THIRTY-ONE OF THE TAX LAW.

27 S 356. POWERS AND DUTIES OF THE COMMISSIONER. 1. THE COMMISSIONER
28 SHALL PROMULGATE REGULATIONS ESTABLISHING AN APPLICATION PROCESS AND
29 ELIGIBILITY CRITERIA, THAT WILL BE APPLIED CONSISTENT WITH THE PURPOSES
30 OF THIS ARTICLE, SO AS NOT TO EXCEED THE ANNUAL CAP ON TAX CREDITS SET
31 FORTH IN SECTION THREE HUNDRED FIFTY-NINE OF THIS ARTICLE WHICH,
32 NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY IN THE STATE ADMINISTRA-
33 TIVE PROCEDURE ACT, MAY BE ADOPTED ON AN EMERGENCY BASIS.

34 2. THE COMMISSIONER SHALL, IN CONSULTATION WITH THE DEPARTMENT OF
35 TAXATION AND FINANCE, DEVELOP A CERTIFICATE OF TAX CREDIT THAT SHALL BE
36 ISSUED BY THE COMMISSIONER TO PARTICIPANTS. PARTICIPANTS MUST INCLUDE
37 THE CERTIFICATE OF TAX CREDIT WITH THEIR TAX RETURN TO RECEIVE ANY TAX
38 BENEFITS UNDER THIS ARTICLE.

39 3. THE COMMISSIONER SHALL SOLELY DETERMINE THE ELIGIBILITY OF ANY
40 APPLICANT APPLYING FOR ENTRY INTO THE PROGRAM AND SHALL REMOVE ANY
41 PARTICIPANT FROM THE PROGRAM FOR FAILING TO MEET ANY OF THE REQUIREMENTS
42 SET FORTH IN SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-FOUR OF THIS
43 ARTICLE, OR FOR FAILING TO MEET THE MINIMUM JOB OR INVESTMENT REQUIRE-
44 MENTS SET FORTH IN SUBDIVISIONS TWO AND THREE OF SECTION THREE HUNDRED
45 FIFTY-THREE OF THIS ARTICLE.

46 S 357. MAINTENANCE OF RECORDS. EACH PARTICIPANT SHALL KEEP ALL RELE-
47 VANT RECORDS FOR THEIR DURATION OF PROGRAM PARTICIPATION PLUS THREE
48 YEARS.

49 S 358. REPORTING. 1. EACH PARTICIPANT MUST SUBMIT A PERFORMANCE
50 REPORT ANNUALLY, IN SUCH FORM AS THE COMMISSIONER MAY REQUIRE, WITHIN
51 THIRTY DAYS OF THE END OF THEIR TAXABLE YEAR.

52 2. THE COMMISSIONER SHALL PREPARE ON A QUARTERLY BASIS A PROGRAM
53 REPORT FOR POSTING ON THE DEPARTMENT'S WEBSITE. THE FIRST REPORT WILL
54 BE DUE JUNE THIRTIETH, TWO THOUSAND ELEVEN, AND EVERY THREE MONTHS THEREAFTER.
55 SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOW-
56 ING: NUMBER OF APPLICANTS; NUMBER OF PARTICIPANTS APPROVED; NAMES OF

PARTICIPANTS; TOTAL AMOUNT OF BENEFITS CERTIFIED; BENEFITS RECEIVED PER PARTICIPANT; TOTAL NUMBER OF NET NEW JOBS CREATED; NUMBER OF NET NEW JOBS CREATED PER PARTICIPANT; AGGREGATE NEW INVESTMENT IN THE STATE; NEW INVESTMENT PER PARTICIPANT; AND SUCH OTHER INFORMATION AS THE COMMISSIONER DETERMINES.

S 359. CAP ON TAX CREDIT. THE TOTAL AMOUNT OF TAX CREDITS LISTED ON CERTIFICATES OF TAX CREDIT ISSUED BY THE COMMISSIONER FOR ANY TAXABLE YEAR MAY NOT EXCEED THE LIMITATIONS SET FORTH IN THIS SECTION. ANY AMOUNT OF TAX CREDITS NOT AWARDED FOR A PARTICULAR TAXABLE YEAR MAY NOT BE USED BY THE COMMISSIONER TO AWARD TAX CREDITS IN ANOTHER TAXABLE YEAR.

CREDIT COMPONENTS IN THE AGGREGATE SHALL NOT EXCEED:	WITH RESPECT TO TAXABLE YEARS BEGINNING IN:
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\$ 50 MILLION	2011
\$ 100 MILLION	2012
\$ 150 MILLION	2013
\$ 200 MILLION	2014
\$ 250 MILLION	2015
\$ 200 MILLION	2016
\$ 150 MILLION	2017
\$ 100 MILLION	2018
\$ 50 MILLION	2019

TWENTY-FIVE PERCENT OF TAX CREDITS SHALL BE ALLOCATED TO BUSINESSES ACCEPTED INTO THE PROGRAM UNDER SUBDIVISION THREE OF SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE AND SEVENTY-FIVE PERCENT OF TAX CREDITS SHALL BE ALLOCATED TO BUSINESSES ACCEPTED INTO THE PROGRAM UNDER SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE.

PROVIDED, HOWEVER, IF BY SEPTEMBER THIRTIETH OF A CALENDAR YEAR, THE DEPARTMENT HAS NOT ALLOCATED THE FULL AMOUNT OF CREDITS AVAILABLE IN THAT YEAR TO EITHER: (I) BUSINESSES ACCEPTED INTO THE PROGRAM UNDER SUBDIVISION THREE OF SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE OR (II) BUSINESSES ACCEPTED INTO THE PROGRAM UNDER SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE, THE COMMISSIONER MAY ALLOCATE ANY REMAINING TAX CREDITS TO BUSINESSES REFERENCED IN PARAGRAPHS (I) AND (II) OF THIS SECTION AS NEEDED; PROVIDED, HOWEVER, THAT UNDER NO CIRCUMSTANCES MAY THE STATUTORY CAP BE EXCEEDED.

S 2. The tax law is amended by adding a new section 31 to read as follows:

S 31. EXCELSIOR JOBS PROGRAM CREDIT. (A) GENERAL. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE-A, TWENTY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (G) OF THIS SECTION. THE AMOUNT OF THE CREDIT, ALLOWABLE FOR UP TO FIVE CONSECUTIVE TAXABLE YEARS, IS THE SUM OF THE FOLLOWING FOUR CREDIT COMPONENTS:

- (1) THE EXCELSIOR JOBS TAX CREDIT;
- (2) THE EXCELSIOR INVESTMENT TAX CREDIT;
- (3) THE EXCELSIOR RESEARCH AND DEVELOPMENT TAX CREDIT; AND
- (4) THE EXCELSIOR REAL PROPERTY TAX CREDIT.

(B) TO BE ELIGIBLE FOR THE EXCELSIOR JOBS PROGRAM CREDIT, THE TAXPAYER SHALL HAVE BEEN ISSUED A "CERTIFICATE OF TAX CREDIT" BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT PURSUANT TO SUBDIVISION FOUR OF SECTION THREE HUNDRED FIFTY-FOUR OF THE ECONOMIC DEVELOPMENT LAW, WHICH CERTIFICATE SHALL SET FORTH THE AMOUNT OF EACH CREDIT COMPONENT THAT MAY BE CLAIMED

FOR THE TAXABLE YEAR. A TAXPAYER MAY CLAIM SUCH CREDIT FOR FIVE CONSECUTIVE TAXABLE YEARS COMMENCING IN THE FIRST TAXABLE YEAR THAT THE TAXPAYER RECEIVES A CERTIFICATE OF TAX CREDIT OR THE FIRST TAXABLE YEAR LISTED ON ITS PRELIMINARY SCHEDULE OF BENEFITS, WHICHEVER IS LATER. THE TAXPAYER SHALL BE ALLOWED TO CLAIM ONLY THE AMOUNT LISTED ON THE CERTIFICATE OF TAX CREDIT FOR THAT TAXABLE YEAR. SUCH CERTIFICATE SHOULD BE ATTACHED TO THE TAXPAYER'S RETURN. NO COST OR EXPENSE PAID OR INCURRED BY THE TAXPAYER SHALL BE THE BASIS FOR MORE THAN ONE COMPONENT OF THIS CREDIT OR ANY OTHER TAX CREDIT.

(C) ELECTION OF CREDIT. A TAXPAYER WHO OR WHICH IS QUALIFIED TO CLAIM THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT AND IS ALSO QUALIFIED TO CLAIM THE INVESTMENT TAX CREDIT PROVIDED FOR UNDER SUBDIVISION TWELVE OF SECTION TWO HUNDRED TEN, SUBSECTION (A) OF SECTION SIX HUNDRED SIX, OR SUBSECTION (I) OF SECTION FOURTEEN HUNDRED FIFTY-SIX OF THIS CHAPTER, MAY CLAIM EITHER THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT OR THE INVESTMENT TAX CREDIT, BUT NOT BOTH WITH REGARD TO A PARTICULAR PIECE OF PROPERTY. IN ADDITION, A TAXPAYER WHO OR WHICH IS QUALIFIED TO CLAIM THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT AND IS ALSO QUALIFIED TO CLAIM THE BROWNFIELD TANGIBLE PROPERTY CREDIT COMPONENT UNDER SECTION TWENTY-ONE OF THIS ARTICLE, AS ADDED BY CHAPTER ONE OF THE LAWS OF TWO THOUSAND THREE, MAY CLAIM EITHER THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT OR SUCH TANGIBLE PROPERTY CREDIT COMPONENT, BUT NOT BOTH WITH REGARD TO A PARTICULAR PIECE OF PROPERTY. THE ELECTION TO CLAIM THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT, THE INVESTMENT TAX CREDIT OR THE BROWNFIELD TANGIBLE PROPERTY CREDIT COMPONENT, WITH REGARD TO THE SAME PROPERTY, IS IRREVOCABLE.

(D) INFORMATION SHARING. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, EMPLOYEES AND OFFICERS OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE DEPARTMENT SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE:

(1) INFORMATION DERIVED FROM TAX RETURNS OR REPORTS THAT IS RELEVANT TO A TAXPAYER'S ELIGIBILITY TO PARTICIPATE IN THE EXCELSIOR JOBS PROGRAM;

(2) INFORMATION REGARDING THE COMPONENT OR COMPONENTS OF THE CREDIT APPLIED FOR, ALLOWED, OR CLAIMED PURSUANT TO THIS SECTION AND TAXPAYERS WHO ARE APPLYING FOR THE CREDIT OR WHO ARE CLAIMING THE CREDIT; AND

(3) INFORMATION CONTAINED IN OR DERIVED FROM CREDIT CLAIM FORMS SUBMITTED TO THE DEPARTMENT AND APPLICATIONS FOR ADMISSION INTO THE EXCELSIOR JOBS PROGRAM.

OTHER THAN THE INFORMATION REQUIRED TO BE CONTAINED IN THE REPORT ISSUED PURSUANT TO SUBDIVISION (E) OF THIS SECTION, ALL INFORMATION EXCHANGED BETWEEN THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE DEPARTMENT SHALL NOT BE SUBJECT TO DISCLOSURE OR INSPECTION UNDER THE STATE'S FREEDOM OF INFORMATION LAW.

(E) EXCELSIOR JOBS PROGRAM CREDIT REPORT. (1) THE COMMISSIONER MUST PUBLISH AN EXCELSIOR JOBS PROGRAM TAX CREDIT REPORT ANNUALLY BY JUNE THIRTIETH. THE FIRST REPORT MUST BE PUBLISHED BY JUNE THIRTIETH, TWO THOUSAND TWELVE.

(2) THE CREDIT REPORT MUST CONTAIN THE FOLLOWING INFORMATION ABOUT THE EXCELSIOR JOBS PROGRAM TAX CREDIT CLAIMED UNDER THIS CHAPTER DURING THE PREVIOUS CALENDAR YEAR:

(I) THE NAME OF EACH TAXPAYER CLAIMING A CREDIT; PROVIDED HOWEVER, IF THE TAXPAYER CLAIMS A CREDIT BECAUSE THE TAXPAYER IS A MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER IN A SUBCHAPTER S CORPORATION, THE NAME OF EACH LIMITED LIABILITY COMPANY, PARTNERSHIP OR SUBCHAPTER S CORPORATION EARNING ANY OF THE CREDIT

1 MUST BE INCLUDED IN THE REPORT INSTEAD OF INFORMATION ABOUT THE TAXPAYER
2 CLAIMING THE CREDIT; AND

3 (II) THE AMOUNT OF EACH CREDIT COMPONENT EARNED BY EACH TAXPAYER;
4 PROVIDED HOWEVER, IF THE TAXPAYER CLAIMS A CREDIT BECAUSE THE TAXPAYER
5 IS A MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP
6 OR A SHAREHOLDER IN A SUBCHAPTER S CORPORATION, THE AMOUNT OF CREDIT
7 EARNED BY EACH ENTITY MUST BE INCLUDED IN THE REPORT INSTEAD OF INFORMA-
8 TION ABOUT THE TAXPAYER CLAIMING THE CREDIT.

9 (3) THE CREDIT REPORT MAY ALSO CONTAIN ANY OTHER INFORMATION RECEIVED
10 BY THE COMMISSIONER WITH REGARD TO THE EXCELSIOR JOBS PROGRAM CREDIT
11 THAT THE COMMISSIONER DEEMS TO BE USEFUL IN EVALUATING THE USE OF THE
12 CREDIT. THE INFORMATION INCLUDED IN THE CREDIT REPORT WILL BE BASED ON
13 THE INFORMATION FILED WITH THE DEPARTMENT DURING THE PREVIOUS CALENDAR
14 YEAR, TO THE EXTENT THAT IT IS PRACTICABLE TO USE THAT INFORMATION.

15 (F) CREDIT RECAPTURE. IF A CERTIFICATE OF ELIGIBILITY OR A CERTIFICATE
16 OF TAX CREDIT ISSUED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT UNDER
17 ARTICLE SEVENTEEN OF THE ECONOMIC DEVELOPMENT LAW IS REVOKED BY SUCH
18 DEPARTMENT, THE AMOUNT OF CREDIT DESCRIBED IN THIS SECTION AND CLAIMED
19 BY THE TAXPAYER PRIOR TO THAT REVOCATION SHALL BE ADDED BACK TO INCOME
20 IN THE TAXABLE YEAR IN WHICH ANY SUCH REVOCATION BECOMES FINAL.

21 (G) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN
22 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

23 (1) ARTICLE 9-A: SECTION 210: SUBDIVISION 41.

24 (2) ARTICLE 22: SECTION 606: SUBSECTION (QQ).

25 (3) ARTICLE 32: SECTION 1456: SUBSECTION (U).

26 (4) ARTICLE 33: SECTION 1511: SUBDIVISION (Y).

27 S 3. Section 210 of the tax law is amended by adding a new subdivision
28 41 to read as follows:

29 41. EXCELSIOR JOBS PROGRAM CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER
30 WILL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-
31 ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

32 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
33 FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
34 THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF
35 SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT
36 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
37 SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE
38 YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED
39 IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF
40 THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF
41 SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO
42 INTEREST WILL BE PAID THEREON.

43 S 4. Section 606 of the tax law is amended by adding a new subsection
44 (qq) to read as follows:

45 (QQ) EXCELSIOR JOBS PROGRAM CREDIT. (1) A TAXPAYER WILL BE ALLOWED A
46 CREDIT, TO THE EXTENT ALLOWED UNDER SECTION THIRTY-ONE OF THIS CHAPTER,
47 AGAINST THE TAX IMPOSED BY THIS ARTICLE.

48 (2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER
49 THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH
50 YEAR, THE EXCESS WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED
51 OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED
52 EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST WILL BE
53 PAID THEREON.

54 S 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
55 of the tax law is amended by adding a new clause (xxxi) to read as
56 follows:

(XXXI) EXCELSIOR JOBS PROGRAM TAX CREDIT UNDER SUBSECTION (QQ) AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN OR UNDER SUBDIVISION (U) OF SECTION FOURTEEN HUNDRED FIFTY-SIX

S 6. Section 1456 of the tax law is amended by adding a new subsection (u) to read as follows:

(U) EXCELSIOR JOBS PROGRAM TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER WILL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED BY PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

S 7. Section 1511 of the tax law is amended by adding a new subdivision (y) to read as follows:

(Y) EXCELSIOR JOBS PROGRAM TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER WILL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-ONE OF THIS CHAPTER, AGAINST THE TAXES IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED BY THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

S 8. This act shall take effect July 1, 2010.

PART NN

Section 1. Subdivision 12 of section 1269 of the public authorities law, as amended by section 1 of part K of chapter 59 of the laws of 2006, is amended to read as follows:

12. The aggregate principal amount of bonds, notes or other obligations issued after the first day of January, nineteen hundred ninety-three by the authority, the Triborough bridge and tunnel authority and the New York city transit authority to fund projects contained in capital program plans approved pursuant to section twelve hundred sixty-nine-b of this article for the period nineteen hundred ninety-two through two thousand [nine] FOURTEEN shall not exceed [twenty-eight] THIRTY-FOUR billion eight hundred seventy-seven million dollars. Such aggregate principal amount of bonds, notes or other obligations or the expenditure thereof shall not be subject to any limitation contained in any other provision of law on the principal amount of bonds, notes or other obligations or the expenditure thereof applicable to the authority, the Triborough bridge and tunnel authority or the New York city

1 transit authority. The aggregate limitation established by this subdivi-
2 sion shall not include (i) obligations issued to refund, redeem or
3 otherwise repay, including by purchase or tender, obligations thereto-
4 fore issued either by the issuer of such refunding obligations or by the
5 authority, the New York city transit authority or the Triborough bridge
6 and tunnel authority, (ii) obligations issued to fund any debt service
7 or other reserve funds for such obligations, (iii) obligations issued or
8 incurred to fund the costs of issuance, the payment of amounts required
9 under bond and note facilities, federal or other governmental loans,
10 security or credit arrangements or other agreements related thereto and
11 the payment of other financing and related costs associated with such
12 obligations, (iv) an amount equal to any original issue discount from
13 the principal amount of such obligations or to fund capitalized inter-
14 est, (v) obligations incurred pursuant to section twelve hundred seven-m
15 of this article, (vi) obligations incurred to fund the acquisition of
16 certain buses for the New York city transit authority as identified in a
17 capital program plan approved pursuant to chapter fifty-three of the
18 laws of nineteen hundred ninety-two, (vii) obligations incurred in
19 connection with the leasing, selling or transferring of equipment, and
20 (viii) bond anticipation notes or other obligations payable solely from
21 the proceeds of other bonds, notes or other obligations which would be
22 included in the aggregate principal amount specified in the first
23 sentence of this subdivision, whether or not additionally secured by
24 revenues of the authority, or any of its subsidiary corporations, New
25 York city transit authority, or any of its subsidiary corporations, or
26 Triborough bridge and tunnel authority.

27 S 2. This act shall take effect immediately.

28

PART OO

29 Section 1. Section 83-a of the legislative law, as added by chapter
30 141 of the laws of 1994, is amended to read as follows:

31 S 83-a. Legislative commission on critical transportation choices. 1.
32 (a) The legislature hereby finds and declares that the economic and
33 social well-being of the people of the state are inextricably linked to
34 the quality of the state's transportation services [and further that
35 said transportation services are heavily dependent upon energy sources
36 or fuels of uncertain future supply] AND THAT THE DELIVERY OF THAT
37 SERVICE HAS GROWN INCREASINGLY EXPENSIVE FOR GOVERNMENTAL AGENCIES AT
38 ALL LEVELS AS WELL AS FOR INDIVIDUALS AND FAMILIES IN THE STATE.

39 (b) Recent surveys of New York's transportation system indicate that
40 portions of said system are badly in need of rehabilitation and improve-
41 ment and such surveys warn that the transportation infrastructure may
42 begin to deteriorate rapidly unless action is taken quickly to prevent
43 such deterioration. The transportation systems serving the regions of
44 the state CAN BE CHARACTERIZED AS CONTRIBUTING TO OR HAVING FACILITATED
45 SPRAWLING AND INEFFICIENT LAND USE PATTERNS AND AS A RESULT are also
46 subject to severe dislocations or disruptions of fuel supplies in the
47 future, which will affect appreciably the standard of living of all New
48 York residents AND CALL INTO QUESTION THE ABILITY TO SUSTAIN THE SYSTEM
49 IN LIGHT OF RELATIVELY NEW ENERGY AND ENVIRONMENTAL POLICY GOALS.

50 2. There is hereby created a legislative commission to be known as the
51 legislative commission on critical transportation choices. Such commis-
52 sion shall consist of ten members to be appointed as follows: three
53 members of the senate shall be appointed by the temporary president of
54 the senate; three members of the assembly shall be appointed by the

1 speaker of the assembly; two members of the senate shall be appointed by
2 the minority leader of the senate; and two members of the assembly shall
3 be appointed by the minority leader of the assembly. From among the
4 members as appointed, a chairman and vice chairman shall be appointed
5 jointly by the temporary president of the senate and the speaker of the
6 assembly. Any vacancy that occurs in the chairmanship, vice chairmanship
7 or other membership of the commission shall be filled in the same manner
8 in which the original appointment was made. No member, officer, or
9 employee of the commission shall be disqualified from holding any other
10 public office or employment, nor shall he forfeit any such office or
11 employment by reason of his appointment hereunder, notwithstanding the
12 provisions of any general, special, or local law, ordinance, or city
13 charter.

14 3. The commission hereby created shall have the power to: (a) recom-
15 mend a statewide plan of action to meet critical transportation needs
16 within the state; (b) assess the transportation needs of localities with
17 respect to various modes of moving people and goods and their energy
18 [dependency] EFFICIENCY AND ENVIRONMENTAL SUSTAINABILITY thereof; (c)
19 evaluate probable impact of energy shortages on the ability to sustain
20 the various modes of transportation; (d) identify and study long-term
21 transportation needs under attenuated energy supplies AND NEW ENVIRON-
22 MENTAL POLICY OBJECTIVES; (e) assess impact of federal and state regu-
23 lations on transportation systems; (f) evaluate the impact of public
24 projects on existing transportation networks; (g) [coordinate and coop-
25 erate with other states in the planning and development of mutually
26 beneficial and supportive transportation projects and services including
27 highways, bridges, tunnels, railroad facilities and aviation projects;
28 (h)] study and assess the future of commercial and private air service
29 and make recommendations for the preservation and improvement of such
30 service; [(i)] (H) undertake research and develop proposals in
31 connection with the development of ports, free trade zones, transporta-
32 tion hubs and facilities related thereto; [(j)] (I) undertake research
33 and develop proposals in connection with safety and safety related
34 programs in the various transportation modes; [(k)] (J) evaluate the
35 short-term and long-term capital needs and operating assistance require-
36 ments of the state's public transit systems; (K) IDENTIFY AND STUDY
37 POTENTIAL REVENUE SOURCES FOR THE DEDICATED HIGHWAY AND BRIDGE TRUST
38 FUND; (l) cooperate with local, state and federal officials in the anal-
39 ysis of possible changes in rules, regulations and laws relating to
40 transportation; [and] (m) assess the relationship between
41 transportation, THE ENVIRONMENT and LONG TERM, SUSTAINABLE economic
42 development; (N) RESEARCH AND EVALUATE PROPOSALS RELATED TO THE FEDERAL,
43 STATE AND LOCAL GOVERNMENT ORGANIZATIONAL ENVIRONMENT WITH RESPECT TO
44 PLANNING, DESIGN AND CONSTRUCTION OF TRANSPORTATION PROGRAMS, PROJECTS
45 AND SERVICES; AND (O) EVALUATE THE TRANSPORTATION SYSTEM IN LIGHT OF THE
46 CURRENT SOCIAL, ECONOMIC AND ENVIRONMENTAL REGULATORY CLIMATE INCLUDING
47 BUT NOT LIMITED TO ENERGY EFFICIENCY, AIR QUALITY, QUALITY COMMUNITIES
48 OR SMART GROWTH OBJECTIVES, ENVIRONMENTAL JUSTICE, SUSTAINABILITY AND
49 COSTS PER HOUSEHOLD.

50 4. The commission may employ and at pleasure remove such personnel as
51 it may deem necessary for the performance of the commission's functions
52 and fix their compensation within the amount appropriated [therefor]
53 THEREFORE. The commission may hold public and private hearings and
54 otherwise have all of the powers of a legislative committee under this
55 chapter. The members of the commission shall receive no compensation for

1 their services but shall be allowed their actual and necessary expenses
2 incurred in the performance of their duties hereunder.

3 5. Employees of the commission shall be considered to be employees of
4 the legislature for all purposes.

5 6. The commission may request and shall receive from any subdivision,
6 department, board, bureau, commission, office, agency or other instru-
7 mentality of the state or of any political subdivision thereof, such
8 facilities, assistance and data as it deems necessary or desirable for
9 the proper execution of its powers and duties.

10 7. The commission is hereby authorized and empowered to make and sign
11 any agreements, and to do and perform any acts that may be necessary,
12 desirable or proper to carry out the purposes and objectives of this
13 section.

14 S 2. This act shall take effect immediately; provided, however, that
15 the amendments to section 83-a of the legislative law made by section
16 one of this act shall not affect the repeal of such section and shall be
17 deemed to be repealed therewith.

18 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
19 sion, section or part of this act shall be adjudged by any court of
20 competent jurisdiction to be invalid, such judgment shall not affect,
21 impair, or invalidate the remainder thereof, but shall be confined in
22 its operation to the clause, sentence, paragraph, subdivision, section
23 or part thereof directly involved in the controversy in which such judg-
24 ment shall have been rendered. It is hereby declared to be the intent of
25 the legislature that this act would have been enacted even if such
26 invalid provisions had not been included herein.

27 S 3. This act shall take effect immediately provided, however, that
28 the applicable effective date of Parts A through OO of this act shall be
29 as specifically set forth in the last section of such Parts.