

6258--C

I N S E N A T E

January 17, 2012

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

AN ACT to authorize funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2012-2013; to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund; and to amend chapter 60 of the laws of 2011, authorizing funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2011-2012 and amending chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to the effectiveness thereof (Part A); intentionally omitted (Part B); intentionally omitted (Part C); to amend the vehicle and traffic law, in relation to commercial driver's licenses and medical certifications; and to repeal paragraph (f) of subdivision 3 of section 510-a of the vehicle and traffic law, relating to commercial driver's licenses (Part D); intentionally omitted (Part E); to amend the vehicle and traffic law in relation to establishing an additional retention rate for county clerks acting as an agent of the department of motor vehicles based upon internet transactions (Part F); to amend the transportation law, the vehicle and traffic law, the general municipal law, the environmental conservation law and the executive law, in relation to federal revenue (Part G); to amend the environmental conservation law, in relation to the regulation of various fish and wildlife licenses, permits and fees; and repealing certain provisions of such law relating thereto (Part H); to amend the public service law, in relation to eliminating state regulation of VoIP service in order to facilitate competition and ensure consumers receive the maximum benefit of competition (Part I); to amend the environmental conservation law, in relation to hazardous

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

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waste program fees and surcharges (Part J); intentionally omitted (Part K); to amend the agriculture and markets law, in relation to seed testing (Part L); intentionally omitted (Part M); to amend the agriculture and markets law, in relation to food processing license fees; and to repeal subdivision 4 of section 128-a and subdivision 3 of section 133-a of the agriculture and markets law and section 90-b of the state finance law relating to the commercial feed licensing fund (Part N); 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 O); 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 P); intentionally omitted (Part Q); 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 R); to amend section 16-m of the New York state urban development corporation act, in relation to the effectiveness of certain provisions relating to the empire state economic development fund (Part S); intentionally omitted (Part T); to amend the state finance law, in relation to the excelsior linked deposit act (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); intentionally omitted (Part Y); intentionally omitted (Part Z); to amend the public authorities law, in relation to the recovery of state governmental costs from public authorities and public benefit corporations (Part AA); intentionally omitted (Part BB); intentionally omitted (Part CC); intentionally omitted (Part DD); to amend the transportation law, in relation to establishing regional branch offices of the Department of Transportation in eleven regions across the state of New York (Part EE); to amend the vehicle and traffic law, in relation to establishing an optional two-year registration for motorcycles (Part FF); to amend the state finance law, in relation to establishing the bridge and road investment and dedicated fund guaranteed enforcement "BRIDGE" reform act (Part GG); to amend section 9 of part AA of chapter 60 of the laws of 2011 amending the environmental conservation law relating to saltwater recreational fishing registrations, in relation to the effectiveness of such provisions (Part HH); to amend the environmental conservation law and the state finance law, in relation to requiring retained deposits on unredeemed containers to be deposited into the environmental protection fund (Part II); to amend the environmental conservation law, in relation to the use of ultra low sulfur diesel fuel and best available technology by the state (Part JJ); to amend the state finance law, in relation to requiring release of appropriated funds to specific regional transportation authorities (Part KK); to amend the transportation law, in relation to establishing reporting requirements for the department of transportation's capital projects including projects receiving funding pursuant to New York Works as appropriated in the New York State budget FY 2012-2013 (Part LL); to amend the executive law, in relation to expanding the minority and women-owned business enterprise program to include veteran-owned business enterprise (Part MM); to amend the economic development law and the public authorities law, in relation to establishing the western New York power proceeds allocation board;

and to repeal chapter 436 of the laws of 2010 amending the public authorities law and the economic development law, relating to authorizing unallocated expansion or replacement power to be allocated for western New York economic development fund benefits relating thereto (Part NN); to amend the environmental conservation law, in relation to directing the commissioner of environmental conservation to create gift cards for hunting and fishing licenses (Part OO); to direct the commissioner of the department of environmental conservation to promulgate regulations relating to the harvesting of downed trees on certain state lands (Part PP); to amend the racing, pari-mutuel wagering and breeding law and the state finance law, in relation to the New York city off-track betting corporation and establishing the New York city off-track betting corporation fund; and to repeal certain provisions of the racing, pari-mutuel wagering and breeding law relating thereto (Part QQ); to amend the racing, pari-mutuel wagering and breeding law, in relation to authorizing the regional off-track betting corporations to file for bankruptcy (Part RR); to amend the vehicle and traffic law, in relation to non-divisible load permits (Part SS); to amend the executive law, in relation to enacting the "improper payments reporting and reduction act" (Part TT); to amend the environmental conservation law, in relation to the use of reverse vending machines for the redemption of beverage containers, the acceptance of returned beverage containers, reports submitted to the commissioner of taxation and finance relating thereto, licensing of redemption centers and penalties relating to litter and solid waste violations (Part UU); to amend the environmental conservation law, in relation to sulfur reduction requirements (Part VV); to amend the tax law, in relation to granting sales and compensating use tax exemptions for certain tangible personal property and services used in the operation of recreational skiing facilities (Part WW); to provide for eligibility of certain electric generating facilities for participation in the brownfield cleanup program; and providing for the repeal of such provisions upon expiration thereof (Part XX); and to require the power authority to conduct an analysis of the economic viability of certain electric generating facilities (Part YY)

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 2012-2013
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through YY. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, including
7 the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. The sum of four hundred two million seven hundred ninety-
14 seven thousand dollars (\$402,797,000), or so much thereof as shall be
15 necessary, and in addition to amounts previously appropriated by law, is

hereby made available, in accordance with subdivision 1 of section 380 of the public authorities law as amended, according to the following schedule. Payments pursuant to subdivision (a) of this section shall be made available as moneys become available for such payments. Payments pursuant to subdivisions (b) and (c) of this section shall be made available on the fifteenth day of June, September, December and March or as soon thereafter as moneys become available for such payments. No moneys of the state in the state treasury or any of its funds shall be available for payments pursuant to this section:

SCHEDULE

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

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

State Fiscal Year	Amount
2012-13	\$39,700,000

(b) Three hundred four million three hundred thousand dollars (\$304,300,000) to counties, cities, towns and villages for reimbursement of eligible costs of local highway and bridge projects pursuant to sections 16 and 16-a of chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of the laws of 1991, as amended. For the purposes of computing allocations to municipalities, the amount distributed pursuant to section 16 of chapter 329 of the laws of 1991 shall be deemed to be \$121,520,000. The amount distributed pursuant to section 16-a of chapter 329 of the laws of 1991 shall be deemed to be \$182,780,000. Notwithstanding the provisions of any general or special law, the amounts deemed distributed in accordance with section 16 of chapter 329 of the laws of 1991 shall be adjusted so that such amounts will not be less than 83.807 percent of the "funding level" as defined in subdivision 5 of section 10-c of the highway law for each such municipality. In order to achieve the objectives of section 16 of chapter 329 of the laws of 1991, to the extent necessary, the amounts in excess of 83.807 percent of the funding level to be deemed distributed to each municipality under this subdivision shall be reduced in equal proportion.

(c) Fifty-eight million seven hundred ninety-seven thousand dollars (\$58,797,000) to municipalities for reimbursement of eligible costs of local highway and bridge projects pursuant to sections 16 and 16-a of chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of the laws of 1991, as amended. For the purposes of computing allocations to municipalities, the amount distributed pursuant to section 16 of chapter 329 of the laws of 1991 shall be deemed to be \$23,480,000. The amount distributed pursuant to section 16-a of chapter 329 of the laws of 1991 shall be deemed to be \$35,317,000. Notwithstanding the provisions of any general or special law, the amounts deemed distributed in accordance with section 16 of chapter 329 of the laws of 1991 shall

1 be adjusted so that such amounts will not be less than 16.193 percent of
 2 the "funding level" as defined in subdivision 5 of section 10-c of the
 3 highway law for each such municipality. In order to achieve the objec-
 4 tives of section 16 of chapter 329 of the laws of 1991, to the extent
 5 necessary, the amounts in excess of 16.193 percent of the funding level
 6 to be deemed distributed to each municipality under this subdivision
 7 shall be reduced in equal proportion. To the extent that the total of
 8 remaining payment allocations calculated herein varies from \$58,797,000,
 9 the payment amounts to each locality shall be adjusted by a uniform
 10 percentage so that the total payments equal \$58,797,000.

11 The program authorized pursuant to sections 16 and 16-a of chapter 329
 12 of the laws of 1991, as added by section 9 of chapter 330 of the laws of
 13 1991, as amended, shall additionally make payments for reimbursement
 14 according to the following schedule:

15	State Fiscal Year	Amount
16	2012-13	\$363,097,000

17 S 2. Subdivision (f) of section 16 of chapter 329 of the laws of 1991,
 18 amending the state finance law and other laws relating to the establish-
 19 ment of the dedicated highway and bridge trust fund, as added by section
 20 2 of part A of chapter 60 of the laws of 2011, is amended to read as
 21 follows:

22 (f) For purposes of this section and section 10-c of the highway law,
 23 [for projects completed on or before March 31, 2012] local highway and
 24 bridge projects may also include the following work types: (1) microsur-
 25 facing, (2) paver placed surface treatment, (3) single course surface
 26 treatment involving chip seals and oil and stone, and (4) double course
 27 surface treatment involving chip seals and oil and stone[, however, no
 28 reimbursement shall be made for (1) microsurfacing, (2) paver placed
 29 surface treatment, (3) single course surface treatment involving chip
 30 seals and oil and stone, and (4) double course surface treatment involv-
 31 ing chip seals and oil and stone after March 31, 2012]. Reimbursement
 32 for projects using these treatments may be made from the proceeds of
 33 bonds, notes or other obligations issued by the New York state thruway
 34 authority pursuant to section 380 of the public authorities law or
 35 otherwise as determined by the director of the budget.

36 S 3. Subdivision (f) of section 16-a of chapter 329 of the laws of
 37 1991, amending the state finance law and other laws relating to the
 38 establishment of the dedicated highway and bridge trust fund, as added
 39 by section 3 of part A of chapter 60 of the laws of 2011, is amended to
 40 read as follows:

41 (f) For purposes of this section and section 10-c of the highway law,
 42 [for projects completed on or before March 31, 2012] local highway and
 43 bridge projects may also include the following work types: (1) microsur-
 44 facing, (2) paver placed surface treatment, (3) single course surface
 45 treatment involving chip seals and oil and stone, and (4) double course
 46 surface treatment involving chip seals and oil and stone[, however, no
 47 reimbursement shall be made for (1) microsurfacing, (2) paver placed
 48 surface treatment, (3) single course surface treatment involving chip
 49 seals and oil and stone, and (4) double course surface treatment involv-
 50 ing chip seals and oil and stone after March 31, 2012]. Reimbursement
 51 for projects using these treatments may be made from the proceeds of
 52 bonds, notes or other obligations issued by the New York state thruway
 53 authority pursuant to section 380 of the public authorities law or
 54 otherwise as determined by the director of the budget.

55 S 4. Subdivision (d) of section 11 of chapter 329 of the laws of 1991,
 56 amending the state finance law and other laws relating to the establish-

ment of the dedicated highway and bridge trust fund, as amended by section 4 of part A of chapter 60 of the laws of 2011, is amended to read as follows:

(d) Any such service contract (i) shall provide that the obligation of the director of the budget or the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provisions in the event the thruway authority assigns or pledges service contract payments as security for its bonds or notes, (ii) shall be deemed executory only to the extent moneys are available and that no liability shall be incurred by the state beyond the moneys available for the purpose, and that such obligation is subject to annual appropriation by the legislature, and (iii) shall provide that no funds shall be made available from the proceeds of bonds or notes issued pursuant to this chapter unless the commissioner of transportation has certified to the chairman of the thruway authority that such funds shall be used exclusively for the purposes authorized by subdivision (a) of this section, and/or construction, reconstruction or improvement of local highways, bridges and/or highway-railroad crossings, including right of way acquisition, preliminary engineering, and construction supervision and inspection[,] where the service life of the project is at least ten years, or [for projects completed on or before March 31, 2012] where the project is: (1) microsurfacing, (2) paver placed surface treatment, (3) single course surface treatment involving chip seals and oil and stone and (4) double course surface treatment involving chip seals and oil and stone, and unless the director of the budget has certified to the chairman of the thruway authority that a spending plan has been submitted by the commissioner of transportation and has been approved by the director of the budget. [No reimbursement shall be made for (1) microsurfacing, (2) paver placed surface treatment, (3) single course surface treatment involving chip seals and oil and stone, and (4) double course surface treatment involving chip seals and oil and stone after March 31, 2012.]

S 5. Subdivision (b) of section 16 of chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, as amended by section 5 of part A of chapter 60 of the laws of 2011, is amended to read as follows:

(b) Each county, city, town and village shall certify to the commissioner of transportation that amounts to be reimbursed are for construction, reconstruction or improvement of local highways, bridges and/or highway-railroad crossings, including right of way acquisition, preliminary engineering, and construction supervision and inspection where the service life of the project is at least ten years or [for projects completed on or before March 31, 2012] where the project is: (1) microsurfacing, (2) paver placed surface treatment, (3) single course surface treatment involving chip seals and oil and stone and (4) double course surface treatment involving chip seals and oil and stone. [No reimbursement shall be made for (1) microsurfacing, (2) paver placed surface treatment, (3) single course surface treatment involving chip seals and oil and stone, and (4) double course surface treatment involving chip seals and oil and stone after March 31, 2012.] Such certification shall include any such information as may be necessary to maintain the federal tax exempt status of bonds, notes or other obligations issued by the New York state thruway authority pursuant to section 380 of the public authorities law. The commissioner of transportation shall

1 in writing request the municipalities to furnish such information as may
2 be necessary to comply with this section.

3 S 6. Subdivision (b) of section 16-a of chapter 329 of the laws of
4 1991, amending the state finance law and other laws relating to the
5 establishment of the dedicated highway and bridge trust fund, as amended
6 by section 6 of part A of chapter 60 of the laws of 2011, is amended to
7 read as follows:

8 (b) Each county, city, town and village shall certify to the commis-
9 sioner of transportation that amounts to be reimbursed are for
10 construction, reconstruction or improvement of local highways, bridges
11 and/or highway-railroad crossings, including right of way acquisition,
12 preliminary engineering, and construction supervision and inspection
13 where the service life of the project is at least ten years or [for
14 projects completed on or before March 31, 2012] where the project is:

15 (1) microsurfacing, (2) paver placed surface treatment, (3) single
16 course surface treatment involving chip seals and oil and stone and (4)
17 double course surface treatment involving chip seals and oil and stone.
18 [No reimbursement shall be made for (1) microsurfacing, (2) paver placed
19 surface treatment, (3) single course surface treatment involving chip
20 seals and oil and stone, and (4) double course surface treatment involv-
21 ing chip seals and oil and stone after March 31, 2012.] Such certif-
22 ication shall include any such information as may be necessary to main-
23 tain the federal tax exempt status of bonds, notes or other obligations
24 issued by the New York state thruway authority pursuant to section 380
25 of the public authorities law. The commissioner shall in writing request
26 the municipalities to furnish such information as may be necessary to
27 comply with this section.

28 S 7. Section 7 of part A of chapter 60 of the laws of 2011, authoriz-
29 ing funding for the Consolidated Local Street and Highway Improvement
30 Program (CHIPS) and Marchiselli program for state fiscal year 2011-2012
31 and amending chapter 329 of the laws of 1991, amending the state finance
32 law and other laws relating to the establishment of the dedicated high-
33 way and bridge trust fund, is amended to read as follows:

34 S 7. This act shall take effect immediately; provided, however, that
35 sections two, three, four, five and six of this act shall expire and be
36 deemed repealed on April 1, [2012] 2013.

37 S 8. This act shall take effect immediately; provided, however, that
38 the amendments to subdivisions (f) and (b) of section 16 of chapter 329
39 of the laws of 1991 made by sections two and five of this act, respec-
40 tively, shall not affect the repeal of such subdivisions and shall be
41 deemed repealed therewith; provided, further, that the amendments to
42 subdivisions (f) and (b) of section 16-a of chapter 329 of the laws of
43 1991 made by sections three and six of this act, respectively, shall not
44 affect the repeal of such subdivisions and shall be deemed repealed
45 therewith; and provided, further, that the amendments to subdivision (d)
46 of section 11 of chapter 329 of the laws of 1991 made by section four of
47 this act shall not affect the repeal of such subdivision and shall be
48 deemed repealed therewith.

49 PART B

50 Intentionally omitted

51 PART C

52 Intentionally omitted

1

PART D

2 Section 1. Subdivision 1 of section 502 of the vehicle and traffic
3 law, as amended by section 2 of part CC of chapter 58 of the laws of
4 2011, is amended to read as follows:

5 1. Application for license. Application for a driver's license shall
6 be made to the commissioner. The fee prescribed by law may be submitted
7 with such application. The applicant shall furnish such proof of identi-
8 ty, age, and fitness as may be required by the commissioner. The commis-
9 sioner may also provide that the application procedure shall include the
10 taking of a photo image or images of the applicant in accordance with
11 rules and regulations prescribed by the commissioner. In addition, the
12 commissioner also shall require that the applicant provide his or her
13 social security number and provide space on the application so that the
14 applicant may register in the New York state organ and tissue donor
15 registry under section forty-three hundred ten of the public health law.
16 In addition, an applicant for a commercial driver's license who will
17 operate a commercial motor vehicle in interstate commerce shall certify
18 that such applicant meets the requirements to operate a commercial motor
19 vehicle, as set forth in public law 99-570, title XII, and title 49 of
20 the code of federal regulations, and all regulations promulgated by the
21 United States secretary of transportation under the hazardous materials
22 transportation act. In addition, an applicant for a commercial driver's
23 license shall submit a medical certificate at such intervals as required
24 by the federal motor carrier safety improvement act of 1999 and Part
25 383.71(h) of title 49 of the code of federal regulations relating to
26 medical certification and in a manner prescribed by the commissioner.
27 For purposes of this section and sections five hundred three [and], five
28 hundred ten-a, AND FIVE HUNDRED TEN-AA of this title, the [term] TERMS
29 "medical certificate" AND "MEDICAL CERTIFICATION" shall mean a form
30 substantially in compliance with the form set forth in Part 391.43(h) of
31 title 49 of the code of federal regulations. Upon a determination that
32 the holder of a commercial driver's license has made any false state-
33 ment, with respect to the application for such license, the commissioner
34 shall revoke such license.

35 S 2. Paragraph (b) of subdivision 1 of section 503 of the vehicle and
36 traffic law, as amended by section 3 of part CC of chapter 58 of the
37 laws of 2011, is amended to read as follows:

38 (b) An application for a license shall be valid for a period of time
39 specified by regulation of the commissioner not to exceed five years. A
40 learner's permit shall be valid from its issuance until the expiration
41 of the application for a driver's license for which it was issued.
42 Provided, however, that [if the medical certificate submitted in accord-
43 ance with the requirements of the federal motor carrier safety improve-
44 ment act of 1999 and Part 383.71(h) of title 49 of the code of federal
45 regulations by an applicant for a commercial driver's license expires,
46 any] A learner's permit [that may have been] issued by the commissioner
47 in connection with [the] AN application FOR A COMMERCIAL DRIVER'S
48 LICENSE shall be [suspended] CANCELLED UPON: (I) THE EXPIRATION OF THE
49 HOLDER'S MEDICAL CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION
50 REQUIRED BY THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND
51 PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS; (II) THE
52 HOLDER'S FAILURE TO SUBMIT SUCH MEDICAL CERTIFICATION OR MEDICAL VARI-
53 ANCE DOCUMENTATION WHEN REQUIRED TO DO SO BY THE COMMISSIONER; OR (III)
54 THE RECEIPT BY THE COMMISSIONER OF INFORMATION FROM THE ISSUING MEDICAL

EXAMINER OR THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION THAT A MEDICAL CERTIFICATION OR MEDICAL VARIANCE WAS ISSUED IN ERROR.

S 3. Paragraph (f) of subdivision 3 of section 510-a of the vehicle and traffic law is REPEALED.

S 4. The vehicle and traffic law is amended by adding a new section 510-aa to read as follows:

S 510-AA. DOWNGRADE OF COMMERCIAL DRIVER'S LICENSES. A COMMERCIAL DRIVER'S LICENSE SHALL BE DOWNGRADED TO A NON-COMMERCIAL DRIVER'S LICENSE BY THE COMMISSIONER UPON THE EXPIRATION OF THE HOLDER'S MEDICAL CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION REQUIRED BY THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS, OR UPON THE HOLDER'S FAILURE TO SUBMIT SUCH MEDICAL CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION WHEN REQUIRED TO DO SO BY THE COMMISSIONER. A COMMERCIAL DRIVER'S LICENSE SHALL ALSO BE DOWNGRADED TO A NON-COMMERCIAL DRIVER'S LICENSE BY THE COMMISSIONER UPON RECEIPT OF INFORMATION FROM THE ISSUING MEDICAL EXAMINER OR THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION THAT A MEDICAL CERTIFICATION OR MEDICAL VARIANCE WAS ISSUED IN ERROR. SUCH DOWNGRADE SHALL BE TERMINATED, AND THE COMMERCIAL DRIVER'S LICENSE RESTORED, UPON: (1) THE HOLDER'S SUBMISSION OF THE REQUIRED VALID MEDICAL EXAMINER'S CERTIFICATE OR MEDICAL VARIANCE DOCUMENTATION; OR (2) THE HOLDER'S SELF-CERTIFICATION SPECIFYING THE TYPE OF COMMERCIAL MOTOR VEHICLE OPERATION HE OR SHE ENGAGES, OR EXPECTS TO ENGAGE IN, AND THAT THE HOLDER IS THEREFORE NOT SUBJECT TO THE PHYSICAL QUALIFICATION REQUIREMENTS OF THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS.

S 5. Section 509 of the vehicle and traffic law is amended by adding a new subdivision 7-a to read as follows:

7-A. NO PERSON SHALL OPERATE A COMMERCIAL MOTOR VEHICLE UNLESS MEDICALLY CERTIFIED IN ACCORDANCE WITH THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS.

S 6. This act shall take effect immediately; provided, however, that section five of this act shall take effect on the sixtieth day after it shall have become a law.

PART E

Intentionally Omitted

PART F

Section 1. Section 205 of the vehicle and traffic law is amended by adding a new subdivision 3-a to read as follows:

3-A. IN ADDITION TO THE FEES RETAINED PURSUANT TO SUBDIVISION THREE OF THIS SECTION, EACH COUNTY CLERK ACTING AS THE AGENT OF THE COMMISSIONER PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL RETAIN FOUR PERCENT OF "ENHANCED INTERNET AND ELECTRONIC PARTNER REVENUE" COLLECTED BY THE COMMISSIONER. FOR THE PURPOSES OF THIS SUBDIVISION, "ENHANCED INTERNET AND ELECTRONIC PARTNER REVENUE" SHALL MEAN THE AMOUNT OF GROSS RECEIPTS ATTRIBUTABLE TO ALL TRANSACTIONS CONDUCTED ON THE INTERNET BY RESIDENTS OF SUCH COUNTY AND BY DESIGNATED PARTNERS OF THE DEPARTMENT ON BEHALF OF SUCH RESIDENTS FOR THE CURRENT CALENDAR YEAR THAT EXCEEDS THE AMOUNT OF SUCH REVENUE COLLECTED BY THE COMMISSIONER DURING CALENDAR YEAR TWO THOUSAND ELEVEN. THE COMMISSIONER SHALL CERTIFY THE AMOUNTS TO BE RETAINED BY EACH COUNTY CLERK PURSUANT TO THIS SUBDIVISION. PROVIDED,

1 HOWEVER, THAT IF THE AGGREGATE AMOUNT OF FEES RETAINED BY COUNTY CLERKS
2 PURSUANT TO THIS SUBDIVISION IN CALENDAR YEARS TWO THOUSAND TWELVE AND
3 TWO THOUSAND THIRTEEN COMBINED EXCEEDS EIGHTY-EIGHT MILLION FIVE HUNDRED
4 THOUSAND DOLLARS, THEN THE PERCENTAGE OF FEES TO BE RETAINED THEREAFTER
5 SHALL BE REDUCED TO A PERCENTAGE THAT, IF APPLIED TO THE FEES COLLECTED
6 DURING CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN
7 COMBINED, WOULD HAVE RESULTED IN AN AGGREGATE RETENTION OF EIGHTY-EIGHT
8 MILLION FIVE HUNDRED THOUSAND DOLLARS OR 2.5 PERCENT OF ENHANCED INTER-
9 NET AND ELECTRONIC PARTNER REVENUE, WHICHEVER IS HIGHER. IF THE AGGRE-
10 GATE AMOUNT OF FEES RETAINED BY COUNTY CLERKS PURSUANT TO THIS SUBDIVI-
11 SION IN CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN
12 COMBINED IS LESS THAN EIGHTY-EIGHT MILLION FIVE HUNDRED THOUSAND
13 DOLLARS, THEN THE PERCENTAGE OF FEES TO BE RETAINED THEREAFTER SHALL BE
14 INCREASED TO A PERCENTAGE THAT, IF APPLIED TO THE FEES COLLECTED DURING
15 CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN COMBINED,
16 WOULD HAVE RESULTED IN AN AGGREGATE RETENTION OF EIGHTY-EIGHT MILLION
17 FIVE HUNDRED THOUSAND DOLLARS, OR SIX PERCENT OF ENHANCED INTERNET AND
18 ELECTRONIC PARTNER REVENUE, WHICHEVER IS LESS. ON AND AFTER APRIL FIRST,
19 TWO THOUSAND SIXTEEN, THE PERCENT OF ENHANCED INTERNET AND ELECTRONIC
20 PARTNER REVENUE TO BE RETAINED BY COUNTY CLERKS SHALL BE THE AVERAGE OF
21 THE ANNUAL PERCENTAGES THAT WERE IN EFFECT BETWEEN APRIL FIRST, TWO
22 THOUSAND TWELVE AND MARCH THIRTY-FIRST, TWO THOUSAND SIXTEEN.
23 S 2. This act shall take effect April 1, 2012.

24

PART G

25 Section 1. Subdivision 1 of section 140 of the transportation law, as
26 added by chapter 635 of the laws of 1983, is amended to read as follows:
27 1. Every [common and contract] FOR HIRE AND PRIVATE carrier of passen-
28 ger by motor vehicle INVOLVED IN INTERSTATE, INTRASTATE, OR INTERNA-
29 TIONAL COMMERCE DOMICILED IN NEW YORK shall furnish and provide with
30 respect thereto such service and facilities as shall be safe and
31 adequate. Any such carrier shall give immediate notice to the commis-
32 sioner of every accident to which it shall, in the course of its oper-
33 ations, have been a party.
34 S 2. Subparagraph (ii) of paragraph a of subdivision 2 of section 140
35 of the transportation law, as amended by chapter 602 of the laws of
36 1985, is amended to read as follows:
37 (ii) All MOTOR CARRIERS, EMPLOYEES AND motor vehicles [operated pursu-
38 ant to or requiring a certificate or permit for the transportation of
39 passengers or property from the interstate commerce commission or the
40 commissioner] THAT TRANSPORT PROPERTY OR PASSENGERS IN INTRASTATE,
41 INTERSTATE, OR INTERNATIONAL COMMERCE.
42 S 3. Paragraphs b and c of subdivision 2 of section 140 of the trans-
43 portation law, paragraph b as amended by chapter 173 of the laws of 1990
44 and paragraph c as amended by chapter 602 of the laws of 1985, are
45 amended to read as follows:
46 b. [In addition to those vehicles operated pursuant to or requiring a
47 certificate or a permit for the transportation of property from the
48 interstate commerce commission or the commissioner as set forth in
49 subparagraph (ii) of paragraph a of this subdivision, the commissioner
50 shall have the power to adopt rules and regulations governing the safety
51 of operation of other motor vehicles operated for the commercial trans-
52 portation of property.
53 c.] The department shall have the power to examine vehicles, facili-
54 ties and records subject to the provisions of this subdivision, at any

time and place where they are found, to ascertain whether such rules and regulations are being obeyed. The rules and regulations of the commissioner shall provide for the inspection of all such vehicles, FACILITIES AND RECORDS SUBJECT TO THE PROVISIONS OF THIS SUBDIVISION, at such periods and at such manner as the commissioner may direct, and, when adopted, shall have the full force and effect of law.

S 3-a. Paragraph d of subdivision 2 of section 140 of the transportation law is relettered paragraph c and subparagraph (i) of such paragraph, as added by chapter 173 of the laws of 1990, is amended to read as follows:

(i) No MOTOR CARRIER, EMPLOYEE OR motor vehicle [operated pursuant to or requiring a certificate or a permit for the transportation of property from the interstate commerce commission or the commissioner and no motor vehicle operated for the commercial transportation of property] THAT TRANSPORTS PROPERTY OR PASSENGERS IN INTRASTATE, INTERSTATE, OR INTERNATIONAL COMMERCE shall [be operated] OPERATE in this state unless [it] SUCH MOTOR CARRIER, EMPLOYEE OR MOTOR VEHICLE is in compliance with the department's safety rules and regulations.

S 4. Subdivisions 4 and 5 of section 140 of the transportation law, subdivision 4 as added by chapter 635 of the laws of 1983 and subdivision 5 as amended by chapter 731 of the laws of 1988, are amended to read as follows:

4. Each motor vehicle engaged in the interstate OR INTERNATIONAL transportation of passengers operated within the state shall be subject to subdivision three of this section as to the display of the name of the operator thereof, and of such certificate of inspection as to the safety of its appliances, equipment and mechanical operation, as the commissioner may, by rules and regulations require. In respect to such motor vehicle, the commissioner may, in lieu of a certificate of the commissioner, authorize the display of a certificate of inspection issued within a period of [six] TWELVE months last preceding, by a regulatory body of another state, or a province of Canada, having safety standards determined by the commissioner not to be substantially lower than those prescribed by the commissioner. The rules and regulations to be adopted under this subdivision shall insofar as practicable be uniform and the provisions of the vehicle and traffic law so far as applicable and not in conflict with the provisions of this subdivision, shall continue to apply to all such motor vehicles.

5. No motor vehicle with a seating capacity of more than eleven passengers manufactured after December thirty-first, nineteen hundred seventy-five, used in the business of transporting school children for hire or used for the transportation of school children, owned and/or operated by school districts or by any public or private school shall be operated within the state, unless each seat, other than the driver's seat, on such vehicle is equipped with a padded back at least twenty-eight inches in height of a type and specification approved by the commissioner. Any person who operates a motor vehicle in violation of the requirement for such seat backs shall be guilty of a violation, punishable by a fine not exceeding one hundred dollars. The provisions of this subdivision shall not apply to any bus used for the transportation of pupils, teachers and other persons acting in a supervisory capacity to and from school activities and which bus does not receive or discharge passengers on or along the public highways on regularly scheduled routes and which is being operated pursuant to [a permit or certificate of public convenience and necessity] FOR-HIRE OPERATING AUTHORITY issued by the commissioner or by the [interstate commerce commission]

1 UNITED STATES DEPARTMENT OF TRANSPORTATION. School buses manufactured or
2 assembled prior to April first, nineteen hundred seventy-seven may not
3 be used to transport pupils, teachers and other persons acting in a
4 supervisory capacity to and from school activities.

5 S 5. The closing paragraph of section 151 of the transportation law,
6 as added by chapter 635 of the laws of 1983, is amended to read as
7 follows:

8 For the purposes of this article, the term "sedan" or "sedans" as used
9 herein shall include private passenger automobiles [larger than a
10 conventional sedan and commonly known as a limousine], but shall not
11 include [vans or buses] VEHICLES WITH A SEATING CAPACITY OF ELEVEN
12 PERSONS OR MORE INCLUDING THE DRIVER.

13 S 6. Section 210 of the transportation law, as amended by chapter 488
14 of the laws of 1979, is amended to read as follows:

15 S 210. Application of this article. The term "motor truck" as used in
16 this article shall be deemed to mean and include any motor vehicle held
17 and used for the transportation of goods, wares and merchandise for hire
18 or for a business purpose, [including such motor vehicles commonly known
19 as an auto truck or light delivery car] PURSUANT TO THE RULES AND REGU-
20 LATIONS OF THE COMMISSIONER. The term "motor bus" as used in this arti-
21 cle shall be deemed to mean and include any motor vehicle held and used
22 for the transportation of passengers for hire OR FOR A BUSINESS PURPOSE,
23 PURSUANT TO THE RULES AND REGULATIONS OF THE COMMISSIONER.

24 S 7. Section 211 of the transportation law, as amended by chapter 475
25 of the laws of 1996, is amended to read as follows:

26 S 211. General provisions. No driver of a motor truck or motor bus
27 shall drive such vehicle or be on duty for any period of time in excess
28 of that authorized pursuant to regulation of the commissioner. The
29 commissioner is hereby authorized to promulgate rules and regulations
30 governing the hours of service of drivers of motor trucks and motor
31 buses. Such rules and regulations shall be no less protective of public
32 safety than the rules and regulations promulgated by the federal govern-
33 ment with respect to hours of labor of operation of motor trucks and
34 motor buses, provided, however, that with regard to drivers of motor
35 buses [operated exclusively in a town or county or] operated by a public
36 transportation authority operating exclusively within its jurisdictional
37 area, the rules and regulations of the commissioner shall provide that
38 no driver of such motor buses shall drive more than twelve hours follow-
39 ing eight consecutive hours off duty and no driver of such motor buses
40 shall drive for any period after having been on duty for fifteen hours
41 following eight consecutive hours off duty and every driver of such
42 motor buses shall have at least twenty-four consecutive hours off duty
43 in every period of seven consecutive days and in no event shall such a
44 driver be on duty for more than seventy-five hours in any period of
45 seven consecutive days.

46 S 8. Section 212 of the transportation law, as added by chapter 342 of
47 the laws of 1974, subdivision a as amended by chapter 843 of the laws of
48 1980, is amended to read as follows:

49 S 212. Records. [a.] Every driver of a motor truck or motor bus shall
50 keep and carry on the vehicle records showing the day and hour when and
51 the place where he went and was released from duty, whether in this
52 state or outside of this state. The commissioner shall prescribe the
53 form of such records and may require such other information to be shown
54 thereon as he shall deem advisable to insure the proper enforcement of
55 this article. Such records shall be exhibited to the commissioner, his
56 representatives, or to any peace officer, acting pursuant to his special

1 duties or police officer who shall demand to see the same and shall be
2 held available for further inspection for a period of sixty days within
3 the state of New York in an office designated by the owner. Failure to
4 produce such records upon demand shall be presumptive evidence of a
5 violation of this article relating to keeping such records. In any pros-
6 ecution for the violation of any of the provisions of this article such
7 records shall be prima facie evidence of the truth of the contents ther-
8 eof.

9 [b. The provisions of this article with reference to the carrying of
10 records on the vehicle shall not apply to the operation of a motor bus
11 or motor buses operated on fixed schedules, but this shall not relieve
12 any corporation, company, association, joint-stock association, partner-
13 ship or person engaged in the operation of a motor bus or motor buses on
14 fixed schedules from the necessity of keeping such records and having
15 them available in an office within the state of New York.]

16 S 9. Section 214 of the transportation law, as added by chapter 342 of
17 the laws of 1974, subdivision b as amended by chapter 367 of the laws of
18 1983 and subdivision d as amended by chapter 302 of the laws of 2005, is
19 amended to read as follows:

20 S 214. Exemptions. [a. The provisions of this article shall not apply
21 in case of accident or act of God, nor when there is delay which was
22 caused by the elements, or a cause not known to the driver or owner or
23 to his or its officers in charge of such operations at the time that
24 such driver left the place where he last went on duty prior to such
25 delays.

26 b. The requirement in this article that every driver of a motor truck
27 or motor bus shall keep and carry on the vehicle records showing the day
28 and hour when, and the place where he went or was released from duty,
29 shall not apply to any driver who drives wholly within a radius of one
30 hundred miles of the garage or terminal at which he reports for work,
31 provided, however, that such records shall be kept at his place of
32 employment.

33 c.] The provisions of this article shall not apply to the operation of
34 a motor truck or motor bus while being operated exclusively in a city
35 and/or incorporated village, nor to the operation of a motor truck IN
36 INTRASTATE COMMERCE owned by a farmer and operated by himself or an
37 employee when used in the hauling of farm, dairy, or horticultural
38 products and farm supplies for himself or his farm neighbors to market,
39 creamery, or place of storage, nor to the operation of wrecking and
40 towing cars[, nor to the operation of federal military vehicles, by
41 members of the army or air national guard, or by federally paid employ-
42 ees of the army or air national guard] WHEN RESPONDING TO AN EMERGENCY
43 AT THE REQUEST OF A FEDERAL, STATE, OR LOCAL POLICE OFFICER TO MOVE
44 WRECKED OR DISABLED MOTOR VEHICLES.

45 [d.] The provisions of this article shall not apply nor shall hours of
46 service accrue to [incidental drivers engaged in the actual restoration
47 or preservation of electric, water, telephone, gas or steam service
48 during an emergency. For a corporation providing electric, water, tele-
49 phone, gas or steam service to avail itself of the exemption provided by
50 this subdivision such electric, water, telephone, gas or steam corpo-
51 ration shall have filed with the department a plan setting forth the
52 procedures such corporation shall follow in emergencies to assure that
53 no incidental driver shall drive if such driver has not had sufficient
54 rest necessary to maintain his or her ability to safely drive. The
55 exemption provided by this subdivision shall not apply to an incidental
56 driver unless such incidental driver is engaged in the actual restora-

tion or preservation of electric, water, telephone, gas or steam service during an emergency or such incidental driver shall have had a period of rest consisting of at least eight consecutive hours off duty immediately upon the conclusion of such incidental driver's engagement in the actual restoration or preservation of electric, water, telephone, gas or steam service during the emergency. If an emergency extends for more than twenty-four hours, the electric, water, telephone, gas or steam corporation availing itself of the terms of this subdivision shall notify the department, in writing, that an emergency exists and the expected duration of the emergency. For the purposes of this subdivision, the following terms shall have the following meanings:

(1) "Emergency" is hereby declared to be any unplanned power outage, interruption of service or the imminent risk of such outage or interruption of service to electric, water, telephone, gas or steam service or to transmission or distribution lines, pipes or other related facilities or any circumstance under which the public safety is at risk;

(2) "Incidental driver" means an employee, contractor or contractor's employee of an electric, water, telephone, gas or steam corporation whose primary employment by, or contractual agreement with, such corporation is not as a driver of a motor vehicle but who drives only as an incidental part of his or her employment or contractual agreement; and

(3) "Interruption of service" shall mean a loss of service for a period of time defined in regulation by the department of public service for electric service (as set forth in paragraph (a) of section 97.1 of title sixteen of the official compilation of codes, rules and regulations of the state of New York) and shall, for purposes of this section, apply to electric, water, telephone, natural gas and steam service] A DRIVER OF A UTILITY SERVICE VEHICLE. FOR PURPOSES OF THIS ARTICLE, UTILITY SERVICE VEHICLE MEANS ANY MOTOR TRUCK:

(A) USED IN THE FURTHERANCE OF REPAIRING, MAINTAINING, OR OPERATING ANY STRUCTURES OR ANY OTHER PHYSICAL FACILITIES NECESSARY FOR THE DELIVERY OF PUBLIC UTILITY SERVICES, INCLUDING THE FURNISHING OF ELECTRIC, GAS OR STEAM SERVICE, WATER, SANITARY SEWER, TELEPHONE, AND TELEVISION CABLE OR COMMUNITY ANTENNA SERVICE;

(B) WHILE ENGAGED IN ANY ACTIVITY NECESSARILY RELATED TO THE ULTIMATE DELIVERY OF SUCH PUBLIC UTILITY SERVICES TO CONSUMERS, INCLUDING TRAVEL OR MOVEMENT TO, FROM, UPON, OR BETWEEN ACTIVITY SITES (INCLUDING OCCASIONAL TRAVEL OR MOVEMENT OUTSIDE THE SERVICE AREA NECESSITATED BY ANY UTILITY EMERGENCY AS DETERMINED BY THE UTILITY PROVIDER); AND

(C) EXCEPT FOR ANY OCCASIONAL EMERGENCY USE, OPERATED PRIMARILY WITHIN THE SERVICE AREA OF A UTILITY'S SUBSCRIBERS OR CONSUMERS, WITHOUT REGARD TO WHETHER THE VEHICLE IS OWNED, LEASED, OR RENTED BY THE UTILITY.

S 10. Paragraph (a) of subdivision 1 of section 14-f of the transportation law, as added by chapter 963 of the laws of 1981, subparagraphs 7 and 8 as amended and subparagraphs 9, 10 and 11 as added by chapter 186 of the laws of 1987, subparagraph 9 as amended by chapter 180 and subparagraph 12 as amended by chapter 190 of the laws of 1989 and the second undesignated paragraph as amended by chapter 402 of the laws of 1993, is amended to read as follows:

(a) Have the power to make rules and regulations governing transportation of hazardous materials, which shall mean a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce, by all modes AS DEFINED BY THE RULES AND REGULATIONS OF THE DEPARTMENT. [For purposes of this section, the term "hazardous materials" shall include the following:

- 1 (1) "Irritating material" which shall mean a liquid or solid substance
2 which upon contact with fire or when exposed to air gives off dangerous
3 or intensely irritating fumes such as benzylcyanide, chloracetophenone,
4 diphenylaminechlorarsine, and diphenyl chlorarsine, but not including
5 any poisonous material, Class A;
- 6 (2) "Poison A" which shall mean those poisonous gases or liquids of
7 such nature that a small amount of the gas, liquid or vapor of the
8 liquid, when in contact with air is dangerous to life. This class
9 includes the following: bromacetone, cyanogen, cyanogen chloride
10 containing less than 0.9 percent water, diphosgene, ethyldichlorarsine,
11 hydrocyanic acid, methyldichlorarsine, nitrogen peroxide (tetroxide),
12 phosgene (diphosgene), nitrogen tetroxide - nitric oxide mixtures
13 containing up to 33.2 percent weight nitric oxide;
- 14 (3) "Poison B" which shall mean those substances, liquid or solid
15 (including pastes and semi-solids), other than Class A poisons or irri-
16 tating materials, which are known to be so toxic as to be a hazard to
17 health;
- 18 (4) "Corrosive materials" which shall mean those acids, alkaline caus-
19 tic liquids and other corrosive liquids or solids which when in contact
20 with living tissue, will cause severe damage of such tissue by chemical
21 action; or in the case of leakage, will materially damage or destroy
22 other freight by chemical action; or are liable to cause fire when in
23 contact with organic matter or with certain chemicals that cause visible
24 destruction or irreversible alteration in human skin tissue at the site
25 of contact;
- 26 (5) "Oxidizing materials" which shall mean those substances such as a
27 chlorate, permanganate, peroxide, or a nitrate, that yields oxygen read-
28 ily to stimulate the combustion of organic matter;
- 29 (6) "Flammable solids" which shall mean any solid material, other than
30 one designated an explosive, as further defined in this section, which
31 under conditions incident to transportation, cause fires through fric-
32 tion, through absorption of moisture, through spontaneous chemical
33 changes, or as a result of retained heat from the manufacturing or proc-
34 essing. Included in this class are spontaneously combustible and
35 water-reactive materials;
- 36 (7) "Flammable liquids" which shall mean any liquid, except any liquid
37 meeting the definition of subparagraph nine, ten or eleven of this para-
38 graph, which gives off flammable vapors below a temperature of one
39 hundred degrees Fahrenheit;
- 40 (8) "Radioactive materials" which shall mean irradiated nuclear reac-
41 tor fuel and the waste by-products of reprocessed irradiated nuclear
42 reactor fuel and any other material or combination of materials that
43 spontaneously emits ionizing radiation which the commissioner of trans-
44 portation determines by regulation to present significant potential
45 threat to public health and safety;
- 46 (9) "Liquefied compressed gas" which shall mean a gas liquefied
47 through compression and under charged pressure is partially liquid at a
48 temperature of seventy degrees Fahrenheit;
- 49 (9) "Regulated medical waste" which shall be defined as provided in
50 subdivision one of section 27-1501 of the environmental conservation
51 law.
- 52 (10) "Cryogenic liquid" which shall mean a refrigerated liquefied gas
53 having a boiling point colder than minus one hundred thirty degrees
54 Fahrenheit (minus ninety degrees centigrade) at one atmosphere absolute;
- 55 (11) "Flammable compressed gas" which shall mean any material or
56 mixture having in the container an absolute pressure exceeding forty

1 p.s.i. at seventy degrees Fahrenheit, or, regardless of the pressure at
2 seventy degrees Fahrenheit, having an absolute pressure exceeding one
3 hundred four p.s.i. at one hundred thirty degrees Fahrenheit, or any
4 liquid flammable material having a vapor pressure exceeding forty p.s.i.
5 absolute at one hundred degrees Fahrenheit as determined by ASTM test
6 D-323, if any one of the following occurs:

7 (i) either a mixture of thirteen percent or less, (by volume) with air
8 forms a flammable mixture or the flammable range with air is wider than
9 twelve percent regardless of the lower limit. These limits shall be
10 determined at atmospheric temperature and pressure;

11 (ii) using the bureau of explosives, association of American railroads
12 flame projection apparatus, the flame projects more than eighteen inches
13 beyond the ignition source with valve open fully, or, the flame flashes
14 back and burns at the valve with any degree of valve opening;

15 (iii) using the bureau of explosives, association of American rail-
16 roads open drum apparatus, there is any significant propagation of flame
17 away from the ignition source;

18 (iv) using the bureau of explosives, association of American railroads
19 close drum apparatus, there is any explosion of the vapor-air mixture in
20 the drum; and

21 (12) Other identical or similar substances which shall from time to
22 time be identified by the commissioner of transportation by rules and
23 regulations promulgated pursuant to this section as being hazardous
24 materials, provided, however, that this section shall not apply to the
25 regular military or naval forces of the United States; nor to the duly
26 authorized militia of any state or territory thereof; nor to the police
27 or fire departments of this state, or of its counties, cities, towns,
28 villages, agencies or instrumentalities, providing the same are acting
29 within their official capacity and in the performance of their duties.

30 Such rules and regulations shall be no less protective of public safe-
31 ty than the rules and regulations promulgated by the federal government
32 with respect to the transportation of hazardous materials. The regu-
33 lations shall set forth the criteria for identifying and listing, and a
34 list of hazardous materials subject to this section as may be amended by
35 the commissioner of transportation from time to time in a manner
36 consistent with the state administrative procedure act and consistent
37 with this section. Such regulations shall include specifications for
38 marking and placarding of vehicles transporting hazardous materials as
39 will be applied pursuant to paragraph (a) of subdivision three of this
40 section. The regulations promulgated hereunder shall include notice that
41 a violation of the rules and regulations is subject to a fine or a peri-
42 od of imprisonment, and the rules and regulations shall set forth the
43 penalty provisions contained in subdivision four of this section.
44 Provided, however, that all local laws or ordinances, except those of
45 cities having a population of one million or more, regulating the trans-
46 portation of flammable liquids in trucks, trailers or semi-trailers, are
47 hereby superseded and without force and hereafter no such local law or
48 ordinance shall be adopted to regulate or control the equipment or means
49 of transporting flammable liquids in trucks, trailers or semi-trailers.

50 For the purposes of this section, a "vehicle" shall mean every device
51 in which property may be transported upon a highway, stationary rails or
52 tracks, or on the navigable waterways of the state.]

53 S 11. Subdivision 3 of section 14-g of the transportation law, as
54 amended by chapter 921 of the laws of 1983, is amended to read as
55 follows:

1 3. For the purposes of this section, the term "intercity bus passenger
2 service" shall mean transportation provided to the public on a regular
3 and continuing basis by a person, firm, or corporation authorized to
4 transport passengers in interstate commerce by the [interstate commerce
5 commission] UNITED STATES DEPARTMENT OF TRANSPORTATION or in intrastate
6 commerce by the state department of transportation that is primarily
7 intended to satisfy longer distance travel demand between cities, and
8 villages and unincorporated urban places that have a population of two
9 thousand five hundred or more. Such term does not include services that
10 are primarily local or commuter oriented in nature.

11 S 12. Subdivisions 1-a, 1-b and 2 of section 18 of the transportation
12 law, as amended by chapter 199 of the laws of 1987, are amended to read
13 as follows:

14 1-a. The department of transportation is hereby designated the offi-
15 cial state agency to receive all notifications from the [federal inter-
16 state commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION or
17 any other federal or state agency in regard to discontinuance of service
18 or railroad property abandonment proceedings, including notification of
19 applications from railroad companies for any such purposes.

20 1-b. The department of transportation shall promptly inform in writing
21 all interested state agencies, transportation authorities, and every
22 county, city, town and village in which such property is located and the
23 appropriate entity designated by the governor pursuant to title IV of
24 the federal intergovernmental cooperation act of nineteen hundred
25 sixty-eight and the federal office of management and budget circular
26 A-98 of (a) the issuance of any certificate from the [federal interstate
27 commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION or other
28 federal or state agency authorizing discontinuance of railroad service
29 or abandonment of railroad transportation property, (b) approval of
30 discontinuance of service or a determination of abandonment of railroad
31 transportation property pursuant to this section, and (c) the receipt of
32 an application to release a preferential acquisition right to railroad
33 transportation property pursuant to this section.

34 2. For the purposes of this section, property shall be deemed to be
35 abandoned for railroad transportation purposes (a) when, where required
36 by law, a certificate of abandonment of the railroad line situate there-
37 on has been issued by the [interstate commerce commission] UNITED STATES
38 DEPARTMENT OF TRANSPORTATION and/or any other federal or state agency
39 having jurisdiction thereof; or (b) when such a certificate of abandon-
40 ment is not so required and the use of such property for railroad trans-
41 portation purposes has been discontinued with the intent not to resume.
42 Intent not to resume may be inferred from circumstances. Non-use of the
43 property for railroad transportation purposes for two consecutive years
44 shall create a presumption of abandonment. When use of such property
45 for railroad transportation purposes has been discontinued and upon
46 request of the property owner or his own motion, the commissioner shall
47 undertake an investigation thereof, which may include consultation with
48 the [interstate commerce commission] UNITED STATES DEPARTMENT OF TRANS-
49 PORTATION, and shall render a determination as to whether or not (a) the
50 property owner has definite plans for the use of such property for
51 purposes ordinarily associated with the safe and normal operation of a
52 railroad or associated transportation purposes; (b) such property
53 continues to be suitable for such railroad transportation purposes; and
54 (c) such property is necessary, either presently or in the future, for
55 such railroad transportation purposes. Such property shall be deemed to
56 be abandoned for railroad transportation purposes if the commissioner

1 shall determine that (a) the property owner has no definite plans for
2 the use of such property for purposes ordinarily associated with the
3 safe and normal operation of a railroad or associated transportation
4 purposes; or (b) such property is no longer suitable for such railroad
5 transportation purposes; and (c) such property is not necessary, either
6 presently or in the future, for such railroad transportation purposes.
7 The commissioner shall render such determination within ninety days
8 after the commencement of such investigation and such determination
9 shall be conclusive except that if the property is determined not to be
10 so abandoned such determination shall not preclude the undertaking of a
11 subsequent investigation concerning the same property. Sales of aban-
12 doned railroad transportation property for continued or resumed rail
13 transportation use may be exempted at the commissioner's discretion from
14 the preferential right of acquisition. This section shall not apply to
15 the subsequent resale of property lawfully acquired subject to the
16 provisions of this section as then applicable, except when the subse-
17 quent sale involves property previously exempted from this section by
18 the commissioner.

19 S 13. Section 98 of the transportation law, as added by chapter 267 of
20 the laws of 1970, is amended to read as follows:

21 S 98. Tariff schedules; publication. Every common carrier shall file
22 with the commissioner and shall print and keep open to public inspection
23 schedules showing the rates, fares and charges for the transportation of
24 passengers and property within the state between each point upon its
25 route and all other points thereon; and between each point upon its
26 route and all points upon every route leased, operated or controlled by
27 it; and between each point on its route or upon any route leased, oper-
28 ated or controlled by it and all points upon the route of any other
29 common carrier, whenever a through route and joint rate shall have been
30 established or ordered between any two such points. If no joint rate
31 over a through route has been established, the several carriers in such
32 through route shall file, print and keep open to public inspection, as
33 aforesaid, the separately established rates, fares and charges applied
34 to the through transportation. The schedules printed as aforesaid shall
35 plainly state the places between which property and passengers will be
36 carried, and shall also contain the classification of passengers or
37 property in force, and shall also state separately all terminal charges,
38 storage charges, icing charges, and all other charges which the commis-
39 sioner may require to be stated, all privileges or facilities granted or
40 allowed, and any rules or regulations which may in anywise change,
41 affect or determine any part, or the aggregate of, such aforesaid rates,
42 fares and charges, or the value of the service rendered to the passen-
43 ger, shipper or consignee. Such schedules shall be plainly printed in
44 large type, and a copy thereof shall be kept by every such carrier read-
45 ily accessible to and for convenient inspection by the public in every
46 station or office of such carrier where passengers or property are
47 respectively received for transportation, when such station or office is
48 in charge of an agent, and in every station or office of such carrier
49 where passenger tickets for transportation or tickets covering sleeping
50 or parlor car or other train accommodation are sold or bills of lading
51 or receipts for property are issued. All or any of such schedules kept
52 as aforesaid shall be immediately produced by such carrier for
53 inspection upon the demand of any person. A notice printed in bold type
54 and stating that such schedules are on file with the agent and open to
55 inspection by any person and that the agent will assist any such person
56 to determine from such schedules any transportation rates or fares or

1 rules or regulations which are in force shall be kept posted by the
2 carrier in two public and conspicuous places in every such station or
3 office. The form of every such schedule shall be prescribed by the
4 commissioner and shall conform in the case of railroad company as nearly
5 as may be to the form of schedule required by the [interstate commerce
6 commission] UNITED STATES DEPARTMENT OF TRANSPORTATION under the act of
7 congress entitled "An act to regulate commerce," approved February
8 fourth, eighteen hundred and eighty-seven and the acts amendatory there-
9 of and supplementary thereto. The commissioner shall have power, from
10 time to time, in his discretion, to determine and prescribe by order
11 such changes in the form of such schedules as may be found expedient,
12 and to modify the requirements of this section in respect to publishing,
13 posting and filing of schedules either in particular instances or by
14 general order applicable to special or peculiar circumstances or condi-
15 tions.

16 S 14. Section 126 of the transportation law, as added by chapter 267
17 of the laws of 1970, is amended to read as follows:

18 S 126. Uniform system of accounts; access to accounts; forfeitures.
19 The commissioner may, whenever he deems advisable, establish a system of
20 accounts to be used by common carriers which are subject to his super-
21 vision, or may classify the said carriers and prescribe a system of
22 accounts for each class, and may prescribe the manner in which such
23 accounts shall be kept. He may also in his discretion prescribe the
24 forms of accounts, records and memoranda to be kept by such carriers,
25 including the accounts, records and memoranda of the movement of traffic
26 as well as the receipts and expenditures of moneys. Notice of alter-
27 ations by the commissioner in the required method or form of keeping a
28 system of accounts shall be given to such persons or carriers by the
29 commissioner at least six months before the same are to take effect. The
30 system of accounts established by the commissioner and the forms of
31 accounts, records and memoranda prescribed by him as provided above
32 shall conform in the case of railroad companies as nearly as may be to
33 those from time to time established and prescribed by the [interstate
34 commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION under
35 the provisions of the act of congress entitled "An act to regulate
36 commerce" approved February fourth, eighteen hundred eighty-seven, and
37 the acts amendatory thereof or supplementary thereto. The commissioner
38 shall at all times have access to all accounts, records and memoranda
39 kept by common carriers and may designate any officers or employees of
40 the department who shall thereupon have authority under the order of the
41 commissioner to inspect and examine any and all accounts, records and
42 memoranda kept by such carriers. The commissioner may, after hearing,
43 prescribe by order the accounts in which particular outlays and receipts
44 shall be entered, charged or credited. At any such hearing the burden of
45 proof shall be on the common carrier to establish the correctness of the
46 accounts in which such outlays and receipts have been entered, and the
47 commissioner may suspend a charge or credit pending submission of proof
48 by such carrier. Where the commissioner has prescribed the forms of
49 accounts, records and memoranda to be kept by such carriers it shall be
50 unlawful for them to keep any other accounts, records or memoranda than
51 those so prescribed, or those prescribed by or under authority of the
52 United States.

53 S 15. Section 134 of the transportation law, as added by chapter 267
54 of the laws of 1970, is amended to read as follows:

55 S 134. Duties of commissioner as to interstate traffic. The commis-
56 sioner may investigate interstate freight or passenger rates or inter-

1 state freight or passenger service on railroads within the state, and
2 when such rates are, in the opinion of the commissioner, excessive or
3 discriminatory or are levied or laid in violation of the act of congress
4 entitled "An act to regulate commerce," approved February fourth, eigh-
5 teen hundred and eighty-seven, and the acts amendatory thereof and
6 supplementary thereto, or in conflict with the rulings, orders or regu-
7 lations of the [interstate commerce commission] UNITED STATES DEPARTMENT
8 OF TRANSPORTATION, the commissioner may apply by petition to the [inter-
9 state commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION
10 for relief or may present to the [interstate commerce commission] UNITED
11 STATES DEPARTMENT OF TRANSPORTATION all facts coming to his knowledge,
12 as to violations of the rulings, orders, or regulations of that commis-
13 sion or as to violations of the said act to regulate commerce or acts
14 amendatory thereof or supplementary thereto.

15 S 16. The opening paragraph of section 432 of the transportation law,
16 as amended by chapter 385 of the laws of 1994 and as further amended by
17 section 1 of part W of chapter 56 of the laws of 2010, is amended to
18 read as follows:

19 The level of railroad participation in the program for the period
20 nineteen hundred eighty-seven through nineteen hundred ninety-one shall
21 depend on the estimated tax abatement as computed by the commissioner of
22 taxation and finance pursuant to either subdivision (c) of section four
23 hundred eighty-nine-j or subdivision (c) of section four hundred eight-
24 y-nine-hh of the real property tax law. The nature of railroad partic-
25 ipation in the program, as set forth below, shall be based on the rail-
26 road's economic or exemption factor under title two-A and title two-B of
27 article four of the real property tax law, as applicable, and the rail-
28 road's size classification as determined by the [interstate commerce
29 commission] UNITED STATES DEPARTMENT OF TRANSPORTATION, based on rail-
30 road system gross revenues. Regardless of the level of their partic-
31 ipation, all railroads shall annually certify to the commissioner that
32 to the best of their knowledge and belief such railroads are in substan-
33 tial compliance with the terms and conditions of any contracts they may
34 have with the department.

35 S 17. The opening paragraph of subdivision 1 of section 1690 of the
36 vehicle and traffic law, as amended by chapter 420 of the laws of 2001,
37 is amended to read as follows:

38 Notwithstanding any other provision of law, where the trial of a traf-
39 fic or parking infraction is authorized or required to be tried before
40 the Nassau county district court, and such traffic and parking infrac-
41 tion does not constitute a misdemeanor, felony, violation of subdivision
42 one of section eleven hundred ninety-two, subdivision five of section
43 eleven hundred ninety-two, section three hundred ninety-seven-a, or
44 subdivision (g) of section eleven hundred eighty of this chapter, or a
45 violation of paragraph (b) of subdivision four of section fourteen-f or
46 clause (b) of subparagraph (iii) of paragraph [d] C of subdivision two
47 of section one hundred forty of the transportation law, or any offense
48 that is part of the same criminal transaction, as that term is defined
49 in subdivision two of section 40.10 of the criminal procedure law, as
50 such a misdemeanor, felony, violation of subdivision one of section
51 eleven hundred ninety-two, subdivision two of section eleven hundred
52 ninety-two, section three hundred ninety-seven-a or subdivision (g) of
53 section eleven hundred eighty of this chapter, or a violation of para-
54 graph (b) of subdivision four of section fourteen-f or clause (b) of
55 subparagraph (iii) of paragraph d of subdivision two of section one
56 hundred forty of the transportation law, the administrative judge of the

1 county in which the trial court is located, may assign judicial hearing
2 officers to conduct such a trial. Such judicial hearing officers shall
3 be village court justices or retired judges either of which shall have
4 at least two years of experience conducting trials of traffic and park-
5 ing violations cases and shall be admitted to practice law in this
6 state. Where such assignment is made, the judicial hearing officer shall
7 entertain the case in the same manner as a court and shall:

8 S 18. Subdivision 2 of section 371 of the general municipal law, as
9 amended by chapter 19 of the laws of 2009, is amended to read as
10 follows:

11 2. The Nassau county traffic and parking violations agency, as estab-
12 lished, may be authorized to assist the Nassau county district court in
13 the disposition and administration of infractions of traffic and parking
14 laws, ordinances, rules and regulations and the liability of owners for
15 violations of subdivision (d) of section eleven hundred eleven of the
16 vehicle and traffic law in accordance with section eleven hundred
17 eleven-b of such law, except that such agency shall not have jurisdic-
18 tion over (a) the traffic infraction defined under subdivision one of
19 section eleven hundred ninety-two of the vehicle and traffic law; (b)
20 the traffic infraction defined under subdivision five of section eleven
21 hundred ninety-two of the vehicle and traffic law; (c) the violation
22 defined under paragraph (b) of subdivision four of section fourteen-f of
23 the transportation law and the violation defined under clause (b) of
24 subparagraph (iii) of paragraph [d] C of subdivision two of section one
25 hundred forty of the transportation law; (d) the traffic infraction
26 defined under section three hundred ninety-seven-a of the vehicle and
27 traffic law and the traffic infraction defined under subdivision (g) of
28 section eleven hundred eighty of the vehicle and traffic law; (e) any
29 misdemeanor or felony; or (f) any offense that is part of the same crim-
30 inal transaction, as that term is defined in subdivision two of section
31 40.10 of the criminal procedure law, as a violation of subdivision one
32 of section eleven hundred ninety-two of the vehicle and traffic law, a
33 violation of subdivision five of section eleven hundred ninety-two of
34 the vehicle and traffic law, a violation of paragraph (b) of subdivision
35 four of section fourteen-f of the transportation law, a violation of
36 clause (b) of subparagraph (iii) of paragraph d of subdivision two of
37 section one hundred forty of the transportation law, a violation of
38 section three hundred ninety-seven-a of the vehicle and traffic law, a
39 violation of subdivision (g) of section eleven hundred eighty of the
40 vehicle and traffic law or any misdemeanor or felony.

41 S 19. Subdivision 1 of section 27-1321 of the environmental conserva-
42 tion law, as added by chapter 915 of the laws of 1983, is amended to
43 read as follows:

44 1. Notwithstanding any other provision of law to the contrary, any
45 person who is, by professional training or experience and attainment,
46 qualified to analyze and interpret matters pertaining to the treatment,
47 storage, disposal, or transport of hazardous materials or hazardous
48 wastes, and who voluntarily and without expectation of monetary compen-
49 sation provides assistance or advice in mitigating the effects of an
50 accidental or threatened discharge of any hazardous materials or hazard-
51 ous wastes, or in preventing, cleaning up, or disposing of any such
52 discharge, shall not be subject to a penalty or to civil liability for
53 damages or injuries alleged to have been sustained by any person or
54 entity by reason of an act or omission in the giving of such assistance
55 or advice. For the purposes of this section, the term "hazardous materi-
56 als" shall have the same meaning [given] AS that term [in subdivision

one of] IS DEFINED IN REGULATIONS PROMULGATED BY THE COMMISSIONER OF TRANSPORTATION PURSUANT TO section fourteen-f of the transportation law, and the term "hazardous wastes" shall mean those wastes identified or listed pursuant to section 27-0903 of this article and any rules and regulations promulgated thereunder.

S 20. Subdivision 1 of section 156-a of the executive law, as amended by section 1 of part D of chapter 1 of the laws of 2004, is amended to read as follows:

1. The state fire administrator shall[, in his or her discretion, consult with the fire fighting and code enforcement personnel standards and education commission established pursuant to section one hundred fifty-nine-a of this article, to] establish a specialized hazardous materials emergency response training program for individuals responsible for providing emergency response recovery following incidents involving hazardous materials as SUCH TERM IS defined in [accordance with] REGULATIONS PROMULGATED BY THE COMMISSIONER OF TRANSPORTATION PURSUANT TO section fourteen-f of the transportation law. The state fire administrator shall inform all fire companies, municipal corporations and districts, including agencies and departments thereof and all fire-fighters, both paid and volunteer, and related officers and employees and police officers of the implementation and availability of the hazardous materials emergency response training program and shall, subject to the availability of an appropriation, conduct such training with sufficient frequency to assure adequate response to incidents involving hazardous materials and protection of responders in all geographic areas of the state.

S 21. This act shall take effect immediately; provided, however that the amendments to subdivision 2 of section 371 of the general municipal law, made by section eighteen of this act shall not affect the expiration of such section and shall be deemed to expire therewith.

PART H

Section 1. Subdivisions 1 and 2 of section 11-0515 of the environmental conservation law, as amended by chapter 528 of the laws of 1986, are amended to read as follows:

1. The department may issue to any person a license revocable at its pleasure to collect or possess fish, wildlife, shellfish, crustacea, OR aquatic insects, birds' nests or eggs for propagation, banding, scientific or exhibition purposes. The department in its discretion may require an applicant to pay a license fee of ten dollars, [to submit written testimonials from two well-known persons] and to file a bond of two hundred dollars to be approved by the department that he OR SHE will not violate any provisions of this article. Each licensee shall file with the department [on or before February 1] a report [of his operations during the preceding calendar year] CONTAINING SUCH INFORMATION AS THE DEPARTMENT MAY REQUIRE. Such license shall be [effective until revoked] IN FORCE FOR ONE YEAR ONLY AND SHALL NOT BE TRANSFERABLE.

2. The department may also issue a license revocable at its pleasure to possess and sell protected fish, wildlife, shellfish, crustacea or aquatic insects for propagation, scientific or exhibition purposes. The department in its discretion may require a license fee of ten dollars. Such license shall be in force for one year only and shall not be transferable. Each licensee shall [make] FILE WITH THE DEPARTMENT a report [of his or her operations at the expiration of the license] CONTAINING SUCH INFORMATION AS THE DEPARTMENT MAY REQUIRE. Fish, wildlife, shellf-

ish, crustacea or aquatic insects lawfully possessed under this section may be sold at any time by the licensee for propagation, scientific or exhibition purposes only.

S 2. Subdivision 1 of section 11-0521 of the environmental conservation law, as amended by chapter 600 of the laws of 1993, is amended to read as follows:

1. The department may direct any environmental conservation officer, or issue a permit to any person, to take any wildlife at any time whenever it becomes a nuisance, destructive to public or private property or a threat to public health or welfare, provided, however, that where such wildlife is a bear, no such permit shall be issued except upon proof of damage to such property or threat to public health or safety presented to the department. Upon presentation of such proof, the department may issue a permit authorizing the use of trained tracking dogs pursuant to section 11-0928 of this article, and, if the department has determined that no other alternative is feasible, a separate permit to take the bear. Wildlife so taken shall be disposed of as the department may direct. ANY PERSON, AGENCY, CORPORATION OR MUNICIPALITY WHO OBTAINS A MIGRATORY BIRD DEPREDATION PERMIT OR ORDER ISSUED BY THE FEDERAL DEPARTMENT OF THE INTERIOR PURSUANT TO 50 C.F.R. 13 AND 50 C.F.R. 21, AS MAY BE AMENDED FROM TIME TO TIME, SHALL NOT BE REQUIRED TO OBTAIN A PERMIT FROM THE DEPARTMENT TO CONDUCT THE AUTHORIZED ACTIVITIES.

S 3. Subdivisions 6 and 9 of section 11-0523 of the environmental conservation law, subdivision 6 as added by chapter 911 of the laws of 1990 and subdivision 9 as amended by chapter 114 of the laws of 1981, are amended to read as follows:

6. Raccoons, MUSKRATS, coyotes or fox injuring private property may be taken by the owner, occupant or lessee thereof, or an employee or family member of such owner, occupant or lessee, at any time in any manner.

9. Varying hares, cottontail rabbits, skunks, black, grey and fox squirrels, raccoons, MUSKRATS, opossums or weasels taken pursuant to this section in the closed season or in a manner not permitted by section 11-0901 shall be immediately buried or cremated. No person shall possess or traffic in such skunks or raccoons or the pelts thereof or in such varying hares or cottontail rabbits or the flesh thereof.

S 4. Subdivision 4 of section 11-0524 of the environmental conservation law, as added by chapter 265 of the laws of 2002, is amended to read as follows:

4. The fee for a nuisance wildlife control operator license shall be fifty dollars paid annually to be deposited in the conservation fund established pursuant to section eighty-three of the state finance law, PROVIDED, HOWEVER, THAT A MUNICIPALITY SHALL NOT BE SUBJECT TO THIS FEE.

S 5. Subdivisions 3 and 4 of section 11-0927 of the environmental conservation law, are amended to read as follows:

3. Wild game shall not be taken by shooting or otherwise killed in the course of a field trial. Other game on which a field trial may be held as provided in this section may be taken by shooting in the course of a field trial, except a field trial held on a licensed dog training area, provided a license for such shooting has been procured from the department. Game so taken shall be immediately [tagged for identification with seals, to be supplied to the licensee] IDENTIFIED ON FORMS PROVIDED by the department [at the price of five cents each, and such seals shall not be removed] until the game is finally prepared for consumption.

4. Game so [tagged] IDENTIFIED may be possessed, transported, bought and sold at any time, without limitation by section 11-0917.

1 S 6. Subdivision 2 of section 11-0931 of the environmental conserva-
2 tion law, as amended by chapter 483 of the laws of 2010, is amended to
3 read as follows:

4 2. No firearm or crossbow except a pistol or revolver shall be carried
5 or possessed in or on a motor vehicle unless it is unloaded, for a
6 firearm in both the chamber and the magazine, except that a loaded
7 firearm which may be legally used for taking migratory game birds may be
8 carried or possessed in a motorboat while being legally used in hunting
9 migratory game birds, and no person except a law enforcement officer in
10 the performance of his official duties shall, while in or on a motor
11 vehicle, use a jacklight, spotlight or other artificial light upon lands
12 inhabited by deer if he is in possession or is accompanied by a person
13 who is in possession, at the time of such use, of a longbow, crossbow or
14 a firearm of any kind except a pistol or revolver, unless such longbow
15 is unstrung or such firearm or crossbow is taken down or securely
16 fastened in a case or locked in the trunk of the vehicle. For purposes
17 of this subdivision, motor vehicle shall mean every vehicle or other
18 device operated by any power other than muscle power, and which shall
19 include but not be limited to automobiles, trucks, motorcycles, trac-
20 tors, trailers and motorboats, snowmobiles and snowtravelers, whether
21 operated on or off public highways. Notwithstanding the provisions of
22 this subdivision, the department may issue a permit to any person who is
23 non-ambulatory, except with the use of a mechanized aid, to possess a
24 loaded firearm in or on a motor vehicle as defined in this section,
25 subject to such restrictions as the department may deem necessary in the
26 interest of public safety[, and for a fee of five dollars]. Nothing in
27 this section permits the possession of a pistol or a revolver contrary
28 to the penal law.

29 S 7. Subdivision 2 of section 11-0931 of the environmental conserva-
30 tion law, as amended by section 50 of part F of chapter 82 of the laws
31 of 2002, is amended to read as follows:

32 2. No firearm except a pistol or revolver shall be carried or
33 possessed in or on a motor vehicle unless it is unloaded in both the
34 chamber and the magazine, except that a loaded firearm which may be
35 legally used for taking migratory game birds may be carried or possessed
36 in a motorboat while being legally used in hunting migratory game birds,
37 and no person except a law enforcement officer in the performance of his
38 official duties shall, while in or on a motor vehicle, use a jacklight,
39 spotlight or other artificial light upon lands inhabited by deer if he
40 is in possession or is accompanied by a person who is in possession, at
41 the time of such use, of a longbow, crossbow or a firearm of any kind
42 except a pistol or revolver, unless such longbow is unstrung or such
43 firearm is taken down or securely fastened in a case or locked in the
44 trunk of the vehicle. For purposes of this subdivision, motor vehicle
45 shall mean every vehicle or other device operated by any power other
46 than muscle power, and which shall include but not be limited to automo-
47 biles, trucks, motorcycles, tractors, trailers and motorboats, snowmo-
48 biles and snowtravelers, whether operated on or off public highways.
49 Notwithstanding the provisions of this subdivision, the department may
50 issue a permit to any person who is non-ambulatory, except with the use
51 of a mechanized aid, to possess a loaded firearm in or on a motor vehi-
52 cle as defined in this section, subject to such restrictions as the
53 department may deem necessary in the interest of public safety[, and for
54 a fee of five dollars]. Nothing in this section permits the possession
55 of a pistol or a revolver contrary to the penal law.

1 S 8. Section 11-1003 of the environmental conservation law, as amended
2 by section 51 of part F of chapter 82 of the laws of 2002, is amended to
3 read as follows:

4 S 11-1003. Falconry license.

5 Any resident of this state may be issued a falconry license. The
6 department shall prescribe and furnish forms for application for such
7 license. The fee for the license shall be [twenty] FORTY dollars.
8 Falconry licenses shall expire on December 31 every [second] FIFTH year
9 and shall be renewable at the discretion of the department. A falconry
10 license shall authorize the licensee to obtain, buy, sell, barter,
11 possess and train raptors for falconry and to engage in falconry,
12 provided that no game shall be taken or killed except during an open
13 season therefor, and further provided that such licensee shall also
14 possess a license pursuant to this chapter which authorizes the holder
15 to hunt wildlife. Any non-resident, who legally possesses a raptor
16 where he or she resides and who may legally engage in falconry where he
17 or she resides, may engage in falconry in New York without a falconry
18 license provided he or she possesses a valid non-resident hunting
19 license.

20 S 9. Section 11-1721 of the environmental conservation law, subdivi-
21 sion 2 as amended by chapter 528 of the laws of 1986, is amended to read
22 as follows:

23 S 11-1721. [Tagging] IDENTIFICATION of carcasses and parts thereof.

24 1. The provisions of this section apply to carcasses and parts thereof
25 of

26 a. domestic game killed on the premises of the holder of a domestic
27 game bird breeder's license PURSUANT TO SECTION 11-1901 OF THIS ARTICLE,
28 domestic game animal breeder's license PURSUANT TO SECTION 11-1905 OF
29 THIS ARTICLE or shooting preserve license PURSUANT TO SECTION 11-1903 OF
30 THIS ARTICLE;

31 b. [domestic game raised outside the state on the premises of a holder
32 of a certificate under section 11-1715, subdivision 1;

33 c. foreign game imported from outside the United States;

34 d. wild deer (other than white-tailed deer), moose, elk, caribou and
35 antelope, coming from outside the state, imported pursuant to section
36 11-1711;

37 e.] bear possessed under license pursuant to section 11-0515 or
38 outside the state under a license similar in principle and killed for
39 food purposes[, and bought and sold for such purpose under permit from
40 the department pursuant to section 11-1713];

41 [f.] C. trout, black bass, lake trout, landlocked salmon, muskellunge,
42 pike, pickerel and walleye taken from fishing preserve waters licensed
43 pursuant to section 11-1913.

44 2. All such [game] CARCASSES AND PARTS shall be [tagged] IDENTIFIED
45 with a [tag or seal, which shall be supplied] FORM PROVIDED by the
46 department [for a fee of five cents for each tag or seal. The tag or
47 seal shall be affixed to each game bird, and in the case of foreign game
48 shall be affixed to the breast skin, and to the flesh of each quarter
49 and loin of other game, and shall remain so affixed until the game is
50 finally prepared for consumption. Trout, black bass, lake trout, land-
51 locked salmon, muskellunge, pike, pickerel and walleye taken from fish-
52 ing preserve waters licensed pursuant to section 11-1913 shall be tagged
53 as prescribed by the department, with a seal, which shall be supplied by
54 the department for a fee of five cents for each seal].

55 3. [Domestic game killed in this state] CARCASSES AND PARTS shall not
56 be possessed unless [tagged] ACCOMPANIED BY A FORM PROVIDED BY THE

DEPARTMENT as required by this section. [Foreign game imported from outside the United States and domestic and wild game coming from outside the state shall be tagged before it is brought into the state or immediately upon its receipt within this state by the consignee.]

4. No person shall counterfeit any seal or tag issued by the department. No person shall attach such a tag to game which is not game described in subdivision 1, nor attach to any game described in subdivision 1 a tag or seal other than the tag or seal prescribed by the department for the tagging of such game.]

S 10. Section 11-1723 of the environmental conservation law is amended to read as follows:

S 11-1723. Sale of game and trout; transportation within the state.

1. a. Except as provided in paragraph b, game and trout required by section 11-1721 to be [tagged, when so tagged] IDENTIFIED, may be possessed, bought and sold, and subject to section 11-1725 may be transported within and from within to without the state by any means.

b. No domestic duck, goose, brant or swan killed by shooting shall be bought or sold unless marked [by having had the hind toe of the right foot removed as provided in subdivision 5 of section 11-1901] IN ACCORDANCE WITH REQUIREMENTS SET FORTH IN RULES AND REGULATIONS ESTABLISHED BY THE DEPARTMENT OF THE INTERIOR PURSUANT TO 50 C.F.R. 21 AS MAY BE AMENDED FROM TIME TO TIME.

2. No person shall sell or offer for sale any such game or trout unless it is so [tagged] IDENTIFIED.

S 11. Section 11-1725 of the environmental conservation law is amended to read as follows:

S 11-1725. Shipment by carriers.

1. Carriers may receive, and may transport, within and from within to without the state, carcasses and parts thereof of game, described in subdivision 1 of section 11-1721[, tagged] AND IDENTIFIED as provided in that section, when they are also labeled as provided in this section.

2. a. When received in this state by a carrier, or transported within or from within to without the state by a carrier, every shipment of game required by section 11-1721 to be [tagged] IDENTIFIED, shall also have attached a card or label with the following data plainly printed or written thereon: names and addresses of consignor and consignee, number and kind of carcasses or parts thereof[, and that the same is (as the case may be) domestic game, imported foreign game, or game imported under permit (in the case of game imported pursuant to section 11-1711 or 11-1713)].

b. If the consignor is the person who holds the game breeder's license or shooting preserve license[, or the certificate under section 11-1715, or the permit under section 11-1711 or 11-1713,] by authority of which such game (other than imported foreign game) is saleable, or if the game is imported foreign game shipped by a licensed game dealer, the card or label shall also state the name and address of the holder of such license, [certificate or permit] and the number of the license[, certificate or permit].

3. No carrier or employee thereof shall, while engaged in such business, transport as owner any fish or game not lawfully saleable. No carrier or employee thereof shall knowingly receive or possess any fish or game, whether packed or unpacked, for shipment for any person, unless (a) if it is game or trout described in section 11-1721, it is [tagged] IDENTIFIED as required by that section, and (b) in any case, it bears the tag, card, IDENTIFICATION or label required by this section or by sections 11-0911, 11-0917, 11-1319 or 11-1913.

1 S 12. Subdivisions 1, 5 and 8 of section 11-1901 of the environmental
2 conservation law, paragraphs a and b of subdivision 1 as amended by
3 chapter 528 of the laws of 1986, are amended to read as follows:

4 1. The department may, in its discretion, issue to an owner or lessee
5 of wholly enclosed lands, or an entire island, a domestic game bird
6 breeder's license permitting him to possess and propagate such species
7 of domestic game birds as, in its opinion, he has facilities for propa-
8 gating on the licensed premises. The license shall expire on March 31
9 [in each] EVERY FIFTH year. The department shall prescribe and furnish
10 forms for application for such license. Applicants shall pay to the
11 department, and the department shall be entitled to receive, fees
12 according to the type of license so issued as follows:

13 a. Class A license, [fifty] TWO HUNDRED dollars. This license shall
14 allow the holder thereof to purchase, possess, propagate, transport and
15 sell domestic game birds, dead or alive, and their eggs.

16 b. Class B license, [ten] FORTY dollars. This license shall allow the
17 holder thereof to purchase, possess and propagate domestic game birds
18 for his own use. Birds may be killed for food or released to the wild
19 for restocking. No live birds or their eggs or carcasses may be sold,
20 exchanged or given away.

21 5. Each such domestic duck, goose, brant and swan [before attaining
22 the age of four weeks] shall be marked [by having the hind toe of the
23 right foot removed, and no such duck, goose, brant or swan, over four
24 weeks of age, may be possessed or sold without such mark] IN ACCORDANCE
25 WITH REQUIREMENTS SET FORTH IN RULES AND REGULATIONS ESTABLISHED BY THE
26 DEPARTMENT OF THE INTERIOR PURSUANT TO 50 C.F.R. 21 AS MAY BE AMENDED
27 FROM TIME TO TIME. Birds so marked, which have escaped, may be recap-
28 tured by the licensee. [Other such domestic game birds which have
29 escaped may be recaptured by the licensee provided they are marked as
30 prescribed in the rules and regulations of the department.] Escaped
31 birds may be recaptured only on the premises of the licensee. [However,
32 removal of the hind toe of the right foot shall not be required for
33 captive geese, brant and swans, which were adult birds on March 1, 1967
34 and previously had been marked with a V-shaped mark on the web of one
35 foot.]

36 8. [a. The department shall supply tags, for which the licensee shall
37 pay a fee of five cents each, which shall be affixed to the carcass of a
38 domestic game bird and remain so affixed until the bird is finally
39 prepared for consumption. No domestic game bird so killed shall be
40 possessed without such tag, and only an authorized person shall have in
41 his possession such tags.

42 b. Notwithstanding any provision in this section to the contrary, no
43 untagged carcass may be removed from the premises except carcasses which
44 are removed for the purpose of processing. When transporting untagged
45 carcasses for such processing, the bearer must have a statement signed
46 by the licensee stating the number of carcasses being transported and
47 the name and address of the processor. The bearer must also have in his
48 possession tags equal in number to the carcasses transported. The
49 processor or bearer, after picking and dressing the carcasses, shall
50 affix the tags, furnished by the licensee, to each carcass.

51 c. The licensee shall keep records of the number of tags used, and no
52 tags shall be removed from the licensed premises except as provided in
53 this subdivision. If a game bird breeder's license is not renewed on its
54 expiration date, all unused tags and inventory shall be returned to the
55 nearest regional office of the department not later than ten days after

1 the expiration date of the license. There shall be no refund of money
2 for such returned tags, which shall be immediately invalidated.

3 d. The tagging required by this subdivision shall constitute compli-
4 ance with the tagging requirements of section 11-1721. Carcasses of
5 domestic game birds, tagged as provided in this subdivision, may be
6 possessed, bought, sold, offered for sale and transported, to the extent
7 permitted by sections 11-1719 and 11-1723.] DOMESTIC GAME BIRD CARCASSES
8 AND PARTS SHALL BE IDENTIFIED AS REQUIRED BY SECTION 11-1721 OF THIS
9 ARTICLE.

10 S 13. Subdivisions 2, 4 and 6 of section 11-1903 of the environmental
11 conservation law are REPEALED and subdivisions 1, 3, 7, and 10, para-
12 graph c of subdivision 1 as amended by chapter 528 of the laws of 1986,
13 subdivision 3 as amended by chapter 465 of the laws of 1976, and para-
14 graph d of subdivision 7 as amended by chapter 37 of the laws of 1978,
15 are amended to read as follows:

16 1. The department may, in its discretion, issue to an owner or lessee
17 of wholly enclosed lands or an entire island a shooting preserve license
18 permitting him OR HER to purchase, possess, rear and transport, and to
19 release and take by shooting therein, domestic game birds legally
20 possessed or acquired. No birds may be held for propagation after [March
21 31] APRIL 15 unless the owner or lessee also has a domestic game bird
22 breeder's license as provided for in section 11-1901. In the case of
23 leased lands, the applicant shall furnish with his OR HER application
24 evidence of a written lease executed by each lessor covering the prem-
25 ises to be licensed. The license shall expire on [March 31 in each]
26 APRIL 15 EVERY FIFTH year. The department shall prescribe and furnish
27 forms for application for such license. Applicants shall pay, and the
28 department shall be entitled to receive, fees according to the type of
29 license issued as follows:

30 a. Class A license, [fifty] TWO HUNDRED dollars [for the first one
31 hundred acres and five dollars for each additional one hundred acres or
32 portion thereof comprising the premises described in the application].
33 This license shall allow the holder thereof to operate a commercial CLUB
34 OR MEMBERSHIP shooting preserve WITH A MINIMUM OF ONE HUNDRED ACRES and
35 charge a daily fee for hunting or charge a fee for each bird killed or a
36 combination thereof. Birds may be killed by the licensee for his OR HER
37 own use and may be sold dead or alive.

38 b. [Class B license, twenty-five dollars for the first one hundred
39 acres and two dollars and fifty cents for each additional one hundred
40 acres or portion thereof comprising the premises described in the appli-
41 cation. This license shall allow the holder thereof to operate a nonpro-
42 fit shooting preserve or a nonprofit club or membership shooting
43 preserve with use limited to members and guests. Birds may be killed by
44 the licensee for his own use but no live birds, or their eggs, or
45 carcasses may be sold unless the licensee holds a Class A game bird
46 breeder's license.

47 c.] Class [C] B license, [fifteen] SIXTY dollars [for the first one
48 hundred acres and two dollars for each additional one hundred acres or
49 portion thereof comprising the premises described in the application].
50 This license shall allow the holder thereof to operate a shooting
51 preserve with use restricted to the licensee, his OR HER family and
52 invitees, provided no fees are charged for the privilege of hunting or
53 for birds shot. Birds may be killed by the licensee for his OR HER own
54 use but no live birds, or their eggs, or carcasses may be sold unless
55 the licensee holds a Class A game bird breeder's license.

1 3. The department may revoke the license of any licensee convicted of
2 a violation of this section, and no license shall be issued to him OR
3 HER for the ensuing two years. The licensee, unless he OR SHE shall
4 waive such right, shall have an opportunity to be heard. Notice of hear-
5 ing shall be given by mailing the same in writing to the licensee at the
6 address contained in his OR HER license. Attendance of witnesses may be
7 compelled by subpoena. Revocation shall be deemed an administrative act
8 reviewable by the supreme court as such.

9 7. Domestic game birds may not be killed, by shooting, on the premises
10 specified in the application for the license, except under the following
11 conditions:

12 a. Birds [must be at least fourteen weeks of age before liberation.
13 Ducks, geese, brant and swans] shall be marked [by having had the hind
14 toe of the right foot removed, except] as provided in subdivision 5 of
15 section 11-1901[, and no such duck, goose, brant or swan, over four
16 weeks of age, may be possessed, sold or killed by shooting without such
17 mark]. Birds so marked, which have escaped, may be recaptured by the
18 licensee. [Other such domestic game birds which have escaped may be
19 recaptured by the licensee provided they are marked as prescribed in the
20 rules and regulations of the department.] Escaped birds may be recap-
21 tured only on the premises of the licensee.

22 [b. Before any shooting of domestic game birds may be done on a
23 licensed shooting preserve the licensee must advise the department in
24 writing of the numbers of each species of domestic game birds reared,
25 purchased or otherwise acquired for liberation, and request and receive
26 in writing a shooting authorization which shall state the numbers of
27 each species of game bird that may be taken by shooting. The number of
28 birds authorized to be taken by shooting shall not be less than eighty
29 per cent of the number liberated.

30 Shooting authorization shall be based on the actual number of birds on
31 hand or on contract at the time of application for such authorization.
32 If birds are purchased, the applicant shall submit one copy of the
33 contract agreement signed by the purchaser and seller on forms furnished
34 by the department. The contract shall state the name, address and
35 license number of the party from whom purchased as well as the numbers
36 of birds purchased and the dates of delivery.

37 c.] B. Ducks, geese, brant and swans liberated under this section may
38 be taken only under rules and regulations made by the department OR
39 ADOPTED BY THE FEDERAL DEPARTMENT OF THE INTERIOR.

40 [d] C. On the premises described in the application for the license,
41 the licensee may kill domestic game birds by shooting from September 1
42 through [March 31] APRIL 15 and in any manner, other than by shooting,
43 at any time, or any person may take domestic game birds by shooting from
44 September 1 through [March 31] APRIL 15 with the consent of the licen-
45 see. [When an investigation made by the department in the month of March
46 of any year reveals that during the current shooting preserve season
47 reasonable opportunities were not afforded to harvest domestic game
48 birds in any area or areas of the state because of abnormal weather
49 conditions, the department shall have power to extend by order the
50 shooting preserve season in such area or areas for a period not to
51 exceed 15 days.]

52 10. a. [The department shall supply tags, for which the licensee shall
53 pay a fee of five cents each, which shall be affixed to the carcass]
54 CARCASSES AND PARTS of [a] domestic game [bird and remain so affixed
55 until the bird is finally prepared for consumption] BIRDS SHALL BE
56 ACCOMPANIED BY A FORM PROVIDED BY THE DEPARTMENT PURSUANT TO SECTION

11-1721 OF THIS ARTICLE. No domestic game birds so killed shall be possessed OR TRANSPORTED without such [tag] FORM. Only an authorized person as provided in the rules and regulations of the department shall have in his OR HER possession such [tags] FORM.

b. [Notwithstanding any provision in this section to the contrary, no untagged carcass may be removed from the premises except carcasses which are removed for processing. When transporting untagged carcasses for processing, the bearer must have a statement signed by the licensee stating the number of carcasses transported and the name and address of the processor. The bearer must also have in his possession tags equal in number to the carcasses transported. The processor or bearer, after picking and dressing the carcasses, shall affix the tags, furnished by the licensee, to each carcass.

c. The licensee shall keep records of the number of tags used. If a shooting preserve license is not renewed on its expiration date, all unused tags on inventory shall be returned to the nearest regional office of the department not later than ten days after the expiration date of the license. There shall be no refund of money for such returned tags, which shall be immediately invalidated.

d. The tagging required by this subdivision shall constitute compliance with the tagging requirements of section 11-1721. Carcasses of domestic game birds, tagged as provided in this subdivision, may be possessed and transported by all licensees under this section, and they may be bought, sold and offered for sale to the extent permitted by sections 11-1719 and 11-1723, except that no domestic duck, goose, brant or swan shall be bought, sold or killed by shooting unless marked as provided in subdivision 7 of this section] DOMESTIC GAME BIRD CARCASSES AND PARTS SHALL BE IDENTIFIED AS REQUIRED BY SECTION 11-1721 OF THIS ARTICLE.

S 14. Subdivisions 1 and 6 of section 11-1905 of the environmental conservation law, the opening paragraph of subdivision 1 as amended by chapter 41 of the laws of 1973, paragraphs a and b of subdivision 1 as amended by chapter 528 of the laws of 1986, are amended to read as follows:

1. The department may, in its discretion, issue to an owner or lessee of wholly enclosed lands or an entire island a domestic game animal breeder's license permitting him to possess and propagate domestic game animals provided such animals are confined and cared for according to specifications and regulations which the department, by order, shall adopt. The license shall expire on March 31 [of each] EVERY FIFTH year. The department shall prescribe and furnish forms for application for such license. Applicants shall pay, and the department shall be entitled to receive, fees in accordance with the type of license issued.

a. Class A license, [fifty] TWO HUNDRED dollars. This license shall allow the holder thereof to purchase, possess, propagate, transport and sell domestic game animals dead or alive.

b. Class B license, [ten] FORTY dollars. This license shall allow the holder thereof to purchase, possess and propagate domestic game animals for his own use. No animals may be sold, exchanged or given away except that portions of the carcass may be given away provided they are packaged and the package bears the name and license number of the licensee.

6. [a. The department shall supply tags for Class A licenses, for which the licensees shall pay five cents each, which shall be affixed to each quarter and loin of each carcass of domestic game animals killed by Class A licensees and remain so affixed until the game is finally prepared for consumption. No domestic game animal so killed, nor any

portion of the carcass thereof, shall be possessed without such tag, and no person shall sell such quarter or loin without such tag attached.

b. The tagging required by this subdivision shall constitute compliance with the tagging requirements of section 11-1721. Loins or quarters of domestic game animals, killed by Class A licensees and tagged as provided in this subdivision, may be possessed, bought, sold and offered for sale, and transported as provided in section 11-1723 and may be sold and offered for sale by the holder of a Class A license under this section without the game dealer's license provided for in section 11-1719.] DOMESTIC GAME ANIMAL CARCASSES AND PARTS SHALL BE IDENTIFIED AS REQUIRED BY SECTION 11-1721 OF THIS ARTICLE.

S 15. Section 11-1907 of the environmental conservation law is amended by adding a new subdivision 3 to read as follows:

3. ON OR AFTER APRIL FIRST, TWO THOUSAND TWELVE, THE DEPARTMENT SHALL NOT ISSUE ANY NEW LICENSES PURSUANT TO THIS SECTION.

S 16. Subparagraph 4 of paragraph b of subdivision 2 and subdivision 6 of section 11-1913 of the environmental conservation law, paragraph a of subdivision 6 as amended by chapter 528 of the laws of 1986, are amended to read as follows:

(4) specify the manner of [tagging] IDENTIFICATION OF fish taken from the licensed waters, and

6. a. All trout, black bass, lake trout, landlocked salmon, muskellunge, pike, pickerel and walleye taken from the licensed fishing preserve waters, shall be immediately [tagged] IDENTIFIED ON FORMS PROVIDED BY THE DEPARTMENT as prescribed in the license or by order of the department. [Such tags shall be furnished by the department and sold to the licensee at the cost of five cents per tag.]

b. The [tag so affixed] IDENTIFICATION FORM shall [not be removed from] ACCOMPANY the fish until the same is finally prepared for consumption.

c. No fish, required to be [tagged] IDENTIFIED as specified in paragraph a of this subdivision, taken pursuant to this section shall be possessed off the premises of the fishing preserve without such [tag] IDENTIFICATION FORM, and no person shall sell such fish without such [tag attached, except for scientific, exhibition or stocking purposes] IDENTIFICATION FORM.

d. Fish taken from such fishing preserves and [tagged] IDENTIFIED as provided in this subdivision, may be possessed, bought, sold and offered for sale, and transported without restriction. Fish raised or possessed under license issued under this section may be sold at any time for scientific, exhibition, propagation or stocking purposes.

S 17. Subdivision 3 of section 11-0103 of the environmental conservation law is amended to read as follows:

3. "Wild game" means all game, except (a) domestic game bird and domestic game animal as defined in subdivision 4; (b) carcasses of foreign game as defined in section 11-1717, imported from outside the United States [and tagged as provided in section 11-1721]; (c) game propagated or kept alive in captivity as provided in section 11-1907; (d) game imported alive pursuant to license of the department, or artificially propagated, until such game is liberated; and (e) game so imported or propagated when liberated for the purpose of a field trial and taken during the field trial for which it was liberated.

S 18. Subdivision 2 of section 11-1717 of the environmental conservation law is amended to read as follows:

2. The carcasses, or parts thereof, of foreign game imported from outside the United States may be bought and sold [when tagged as

1 required in section 11-1721, subject to the provisions of section
2 11-1719 with respect to dealers' licenses].

3 S 19. This act shall take effect immediately, except that if this act
4 shall have become a law on or after April 1, 2012 this act shall take
5 effect immediately and shall be deemed to have been in full force and
6 effect on and after April 1, 2012; provided that the amendments to
7 subdivision 2 of section 11-0931 of the environmental conservation law
8 made by section six of this act shall be subject to the expiration and
9 reversion of such subdivision pursuant to chapter 483 of the laws of
10 2010, as amended, when upon such date the provisions of section seven of
11 this act shall take effect.

12 PART I

13 Section 1. Section 2 of the public service law is amended by adding a
14 new subdivision 28 to read as follows:

15 28. THE TERM "VOICE-OVER-INTERNET PROTOCOL SERVICE" OR "VOIP SERVICE"
16 WHEN USED IN THIS CHAPTER, SHALL MEAN ANY SERVICE THAT: (A) ENABLES
17 REAL-TIME TWO-WAY VOICE COMMUNICATIONS THAT ORIGINATE FROM OR TERMINATE
18 TO THE USER'S LOCATION USING INTERNET PROTOCOL OR ANY SUCCESSOR PROTO-
19 COL; (B) USES A BROADBAND CONNECTION FROM THE USER'S LOCATION; AND (C)
20 PERMITS USERS GENERALLY TO RECEIVE CALLS THAT ORIGINATE ON THE PUBLIC
21 SWITCHED TELEPHONE NETWORK AND TO TERMINATE CALLS TO THE PUBLIC SWITCHED
22 TELEPHONE NETWORK.

23 S 2. Paragraph d of subdivision 1 of section 5 of the public service
24 law, as amended by chapter 155 of the laws of 1970, is amended to read
25 as follows:

26 d. To every telephone line which lies wholly within the state and that
27 part within the state of New York of every telephone line which lies
28 partly within and partly without the state and to the persons or corpo-
29 rations owning, leasing or operating any such telephone line. NOTWITH-
30 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NEITHER THE COMMIS-
31 SION, THE DEPARTMENT OF PUBLIC SERVICE, NOR ANY OTHER DEPARTMENT OR
32 AGENCY OF THIS STATE, OR ANY POLITICAL SUBDIVISION THEREOF, SHALL HAVE
33 AUTHORITY TO REGULATE THE ENTRY, RATES OR OTHER TERMS OF SERVICE OF
34 VOICE-OVER-INTERNET PROTOCOL SERVICE. PROVIDED, HOWEVER, THAT NOTHING
35 IN THIS PARAGRAPH SHALL AFFECT THE AUTHORITY OF THE STATE OR ITS AGEN-
36 CIES TO ENFORCE SUCH REQUIREMENTS AS ARE OTHERWISE EXPRESSLY PROVIDED
37 FOR BY FEDERAL LAW, INCLUDING, BUT NOT LIMITED TO, CONNECTION TO 911
38 FACILITIES, THE COLLECTION OF ENHANCED 911 FEES, TELECOMMUNICATIONS
39 RELAY SERVICE FEES, OR FEDERAL UNIVERSAL SERVICE FUND FEES ON
40 VOICE-OVER-INTERNET PROTOCOL SERVICES THAT MAY BE DETERMINED TO APPLY,
41 OR BE CONSTRUED TO (1) MODIFY OR AFFECT THE RIGHTS, OBLIGATIONS OR
42 AUTHORITY OF ANY ENTITY, INCLUDING BUT NOT LIMITED TO THE PUBLIC SERVICE
43 COMMISSION, TO ACT PURSUANT TO, OR ENFORCE THE PROVISIONS OF 47 U.S.C.
44 251, 47 U.S.C. 252, ANY APPLICABLE TARIFF, OR ANY STATE LAW, RULE, REGU-
45 LATION OR ORDER RELATED TO WHOLESALE RIGHTS, DUTIES AND OBLIGATIONS,
46 INCLUDING THE RIGHTS, DUTIES, AND OBLIGATIONS OF LOCAL EXCHANGE CARRIERS
47 TO INTERCONNECT AND EXCHANGE VOICE TRAFFIC; (2) MODIFY OR AFFECT THE
48 AUTHORITY OF THE PUBLIC SERVICE COMMISSION TO IMPLEMENT, CARRY OUT, AND
49 ENFORCE SUCH PROVISIONS, RIGHTS, DUTIES, OBLIGATIONS OR TARIFF THROUGH
50 ARBITRATION PROCEEDINGS OR OTHER AVAILABLE MECHANISMS AND PROCEDURES; OR
51 (3) AFFECT THE PAYMENT OF SWITCHED NETWORK ACCESS RATES OR OTHER INTER-
52 CARRIER COMPENSATION RATES, AS APPLICABLE. NOTHING HEREIN SHALL BE
53 CONSTRUED TO AFFECT THE APPLICATION OR ENFORCEMENT OF OTHER STATUTES OR
54 REGULATIONS THAT APPLY GENERALLY TO THE CONDUCT OF BUSINESS IN THE

STATE, INCLUDING CONSUMER PROTECTION, TAXATION OR UNFAIR OR DECEPTIVE TRADE PRACTICES RULES OF GENERAL APPLICABILITY.

S 3. Subdivision 1 of section 90 of the public service law, as amended by chapter 414 of the laws of 1981, is amended to read as follows:

1. [The] EXCEPT AS PROVIDED IN PARAGRAPH D OF SUBDIVISION ONE OF SECTION FIVE OF THIS CHAPTER, THE provisions of this article shall apply to communication by telegraph or telephone between one point and another within the state of New York and to every telegraph corporation and telephone corporation.

S 4. This act shall take effect immediately.

PART J

Section 1. Paragraph f of subdivision 1 of section 72-0402 of the environmental conservation law, as added by chapter 99 of the laws of 2010, is amended to read as follows:

f. In any case where a generator EITHER (I) recycles more than ninety percent of the [amount] TOTAL TONS of hazardous waste or more than ninety percent of the [amount] TOTAL TONS of hazardous wastewater WHICH it [produces in any] GENERATED DURING THAT calendar year, as certified to the commissioner, [upon which a fee is imposed pursuant to this section, any such fee imposed or to be imposed in such case] OR (II) RECYCLES MORE THAN FOUR THOUSAND TONS OF HAZARDOUS WASTE OR MORE THAN FOUR THOUSAND TONS OF HAZARDOUS WASTEWATER WHICH IT GENERATED IN THAT CALENDAR YEAR, AS CERTIFIED TO THE COMMISSIONER, THE FEE IMPOSED PURSUANT TO THIS SECTION shall be [determined] CALCULATED AND IMPOSED based upon the net amount of hazardous waste or THE NET AMOUNT OF hazardous wastewater generated[, as applicable, which] THAT is not [so] recycled in [such] THAT calendar year, rather than upon the gross [amount] AMOUNTS of hazardous waste [or] AND hazardous wastewater generated in such calendar year.

S 2. This act shall take effect immediately and shall apply to hazardous waste program fee bills issued by the department of environmental conservation after January 1, 2012 for hazardous waste or hazardous wastewater generated during calendar year 2011 or later.

PART K

Intentionally omitted

PART L

Section 1. Section 140 of the agriculture and markets law, as added by chapter 631 of the laws of 1955, subdivision 1 as amended by chapter 592 of the laws of 2003, is amended to read as follows:

S 140. Samples; publication of results of tests. 1. The commissioner or his or her duly authorized representatives shall take samples of seeds [and submit them to the director of the New York state agricultural experiment station] for examination, analysis, and testing BY THE DEPARTMENT. THE COMMISSIONER MAY CONTRACT WITH A QUALIFIED LABORATORY TO PERFORM SUCH EXAMINATION, ANALYSIS, AND TESTING. When the analysis of an official sample indicates that seed is mislabeled, the results of such analysis shall be provided to the person responsible for the labeling of the seed and, upon that person's request, made within fifteen days of his or her receipt of said results, the commissioner or his or her

1 authorized agent shall furnish such person with a portion of the sample
2 taken.

3 2. [The director of the New York state agricultural experiment station
4 shall examine, analyze, or test, or cause to be examined, analyzed or
5 tested such samples of seeds taken under the provisions of this article
6 as shall be submitted to him for that purpose by the commissioner, and
7 shall report the results of such analysis, examination, or testing to
8 the commissioner. For this purpose the New York state agricultural
9 experiment station may establish and maintain trial grounds and a seed
10 laboratory with the necessary equipment, and may employ experts and
11 incur such expense as may be necessary to comply with the requirements
12 of this article.

13 3.] From time to time the [New York state agricultural experiment
14 station, in cooperation with the] department of agriculture and markets,
15 shall make public the results of examinations, analyses, trials, and
16 tests of any sample or samples so procured, together with such addi-
17 tional information as circumstances advise. These published results
18 shall be the property of the state of New York and shall not be used for
19 advertising or regulatory purposes by any person or agency, governmental
20 or otherwise without requested and granted permission of the commission-
21 er [of agriculture and markets].

22 S 2. Section 140-a of the agriculture and markets law, as added by
23 chapter 631 of the laws of 1955, is amended to read as follows:

24 S 140-a. Provision for seed tests. Any citizen of this state shall
25 have the privilege of submitting to the [New York state agricultural
26 experiment station] DEPARTMENT samples of seeds for [test] TESTING and
27 analysis subject to [such rules and regulations as may be adopted by the
28 director of said experiment station and approved by Cornell university]
29 PAYMENT OF A FEE TO THE COMMISSIONER THAT SHALL, AT A MINIMUM, COVER THE
30 FULL COSTS OF THE SERVICES PROVIDED. ALL MONIES RECEIVED BY THE COMMIS-
31 SIONER PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN AN ACCOUNT WITHIN
32 THE MISCELLANEOUS SPECIAL RECEIVE FUND AND SHALL BE USED TO DEFRAY THE
33 EXPENSES INCIDENTAL TO CARRYING OUT THE SERVICES AUTHORIZED BY THIS
34 SECTION.

35 S 3. This act shall take effect immediately.

36 PART M

37 Intentionally omitted

38 PART N

39 Section 1. Section 251-z-3 of the agriculture and markets law, as
40 amended by chapter 307 of the laws of 2004, the second undesignated
41 paragraph as amended by section 2 of part II of chapter 59 of the laws
42 of 2009, is amended to read as follows:

43 S 251-z-3. Licenses; fees. No person shall maintain or operate a food
44 processing establishment unless licensed biennially by the commissioner.
45 Application for a license to operate a food processing establishment
46 shall be made, upon a form prescribed by the commissioner[, on or before
47 the fifteenth of the month preceding the applicable license period as
48 herein prescribed. The license period shall begin February fifteenth for
49 applicants who apply for a license between February fifteenth and May
50 fourteenth, May fifteenth for applicants who apply for a license between
51 May fifteenth and August fourteenth, August fifteenth for applicants who
52 apply for a license between August fifteenth and November fourteenth,

1 and November fifteenth for applicants who apply for a license between
2 November fifteenth and February fourteenth]. RENEWAL APPLICATIONS SHALL
3 BE SUBMITTED TO THE COMMISSIONER AT LEAST THIRTY DAYS PRIOR TO THE
4 COMMENCEMENT OF THE NEXT LICENSE PERIOD.

5 The applicant shall furnish evidence of his or her good character,
6 experience and competency, that the establishment has adequate facili-
7 ties and equipment for the business to be conducted, that the establish-
8 ment is such that the cleanliness of the premises can be maintained,
9 that the product produced therein will not become adulterated and, if
10 the applicant is a retail food store, that the applicant has an individ-
11 ual in a position of management or control who has completed an approved
12 food safety education program pursuant to section two hundred fifty-one-
13 z-twelve of this article. The commissioner, if so satisfied, shall issue
14 to the applicant, upon payment of the license fee of four hundred
15 dollars, a license to operate the food processing establishment
16 described in the application. However, the license fee shall be nine
17 hundred dollars for a food processing establishment determined by the
18 commissioner, pursuant to duly promulgated regulations, to require more
19 intensive regulatory oversight due to the volume of the products
20 produced, the potentially hazardous nature of the product produced or
21 the multiple number of processing operations conducted in the establish-
22 ment. The license application for retail food stores shall be accompa-
23 nied by documentation in a form approved by the commissioner which
24 demonstrates that the food safety education program requirement has been
25 met. The license shall take effect on the date of issuance and continue
26 [until the last day of the applicable license period set forth in this
27 section] FOR TWO YEARS FROM SUCH DATE.

28 [Notwithstanding any other provision of law to the contrary, the
29 commissioner is hereby authorized and directed to deposit all money
30 received pursuant to this section in an account within the miscellaneous
31 special revenue fund.]

32 S 2. Subdivision 4 of section 128-a of the agriculture and markets law
33 is REPEALED and subdivisions 5, 6, 7, 8, 9 and 10 are renumbered subdi-
34 visions 4, 5, 6, 7, 8 and 9.

35 S 3. Subdivision 3 of section 133-a of the agriculture and markets law
36 is REPEALED.

37 S 4. Section 90-b of the state finance law is REPEALED.

38 S 5. This act shall take effect immediately.

39 PART O

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

44 S 2. This act shall take effect immediately and shall be deemed to
45 have been in full force and effect on and after April 1, 2012.

46 PART P

47 Section 1. Expenditures of moneys appropriated in a chapter of the
48 laws of 2012 to the energy research and development authority, under the
49 research, development and demonstration program, from the special reven-
50 ue funds - other/state operations, miscellaneous special revenue fund -
51 339, energy research and planning account, and special revenue funds -
52 other/aid to localities, miscellaneous special revenue fund - 339, ener-

1 gy research and planning account shall be subject to the provisions of
2 this section. Notwithstanding the provisions of subdivision 4-a of
3 section 18-a of the public service law, all moneys committed or expended
4 shall be reimbursed by assessment against gas corporations and electric
5 corporations as defined in section 2 of the public service law, and the
6 total amount which may be charged to any gas corporation and any elec-
7 tric corporation shall not exceed one cent per one thousand cubic feet
8 of gas sold and .010 cent per kilowatt-hour of electricity sold by such
9 corporations in their intrastate utility operations in calendar year
10 2010. Such amounts shall be excluded from the general assessment
11 provisions of subdivision 2 of section 18-a of the public service law,
12 but shall be billed and paid in the manner set forth in such subdivision
13 and upon receipt shall be paid to the state comptroller for deposit in
14 the state treasury for credit to the miscellaneous special revenue fund.
15 The director of the budget shall not issue a certificate of approval
16 with respect to the commitment and expenditure of moneys hereby appro-
17 priated until the chair of such authority shall have submitted, and the
18 director of the budget shall have approved, a comprehensive financial
19 plan encompassing all moneys available to and all anticipated commit-
20 ments and expenditures by such authority from any source for the oper-
21 ations of such authority. Copies of the approved comprehensive financial
22 plan shall be immediately submitted by the director of the budget to the
23 chairs and secretaries of the legislative fiscal committees.
24 S 2. This act shall take effect immediately and shall be deemed to
25 have been in full force and effect on and after April 1, 2012.

26 PART Q
27 Intentionally omitted

28 PART R

29 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
30 New York state urban development corporation act, relating to the powers
31 of the New York state urban development corporation to make loans, as
32 amended by section 1 of part G of chapter 60 of the laws of 2011, is
33 amended to read as follows:

34 S 2. This act shall take effect immediately provided, however, that
35 section one of this act shall expire on July 1, [2012] 2013, at which
36 time the provisions of subdivision 26 of section 5 of the New York state
37 urban development corporation act shall be deemed repealed; provided,
38 however, that neither the expiration nor the repeal of such subdivision
39 as provided for herein shall be deemed to affect or impair in any manner
40 any loan made pursuant to the authority of such subdivision prior to
41 such expiration and repeal.

42 S 2. This act shall take effect immediately and shall be deemed to
43 have been in full force and effect on and after April 1, 2012.

44 PART S

45 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
46 of the laws of 1968, constituting the New York state urban development
47 corporation act, as amended by section 1 of part KK of chapter 59 of the
48 laws of 2008, is amended to read as follows:

49 3. The provisions of this section shall expire, notwithstanding any
50 inconsistent provision of subdivision 4 of section 469 of chapter 309 of

1 the laws of 1996 or of any other law, [upon the effective date of a
2 chapter of the laws of 2009 which appropriates funds for the principal
3 support of the urban development corporation for the 2009-2010 state
4 fiscal year] ON APRIL 1, 2013.

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

7 PART T

8 Intentionally omitted

9 PART U

10 Section 1. Subdivision 1 of section 218 of the state finance law, as
11 amended by chapter 424 of the laws of 2009, is amended to read as
12 follows:

13 1. Linked loans made to certified businesses in empire zones or to
14 eligible businesses in highly distressed areas or to eligible businesses
15 that are defined in paragraph (b-1) of subdivision eleven of section two
16 hundred thirteen of this article that are located in a renewal community
17 or defined in paragraph (b-2) of such subdivision that are located in an
18 empowerment zone or defined in paragraph (b-3) of such subdivision that
19 are located in an enterprise community, respectively for eligible
20 projects defined in paragraph (c) of subdivision twelve of section two
21 hundred thirteen of this article or to minority- or women-owned business
22 enterprises for an eligible project defined in paragraph (e) of subdivi-
23 sion twelve of section two hundred thirteen of this article or to a
24 defense industry manufacturer for a project defined in paragraph (d) of
25 subdivision twelve of section two hundred thirteen of this article OR TO
26 AN ELIGIBLE BUSINESS PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ELEVEN OF
27 SECTION TWO HUNDRED THIRTEEN OF THIS ARTICLE THAT PRODUCES PRODUCTS
28 DEFINED IN SUBDIVISION TWO OF SECTION THREE HUNDRED ONE OF THE AGRICUL-
29 TURE AND MARKETS LAW FOR AN ELIGIBLE PROJECT AS DEFINED IN PARAGRAPH (B)
30 OF SUBDIVISION TWELVE OF SECTION TWO HUNDRED THIRTEEN OF THIS ARTICLE
31 shall bear interest at a fixed rate equal to three percentage points
32 below the fixed interest rate the lender would have charged for the loan
33 in the absence of a linked deposit based on its usual credit consider-
34 ations. All other linked loans shall bear interest at a fixed rate
35 equal to two percentage points below the fixed interest rate the lender
36 would have charged for the loan in the absence of a linked deposit based
37 on its usual credit considerations. Lenders shall certify to the commis-
38 sioner of economic development that the rate to be charged on a linked
39 loan is two percentage points or three percentage points, as the case
40 may be, below the interest rate the lender would have charged for the
41 loan in the absence of a linked deposit.

42 S 2. Paragraph (a) of subdivision 11 and paragraph (b) of subdivision
43 12 of section 213 of the state finance law, as added by chapter 705 of
44 the laws of 1993, are amended to read as follows:

45 (a) a manufacturing firm OR AGRICULTURAL BUSINESS which employs five
46 hundred or fewer employees within the state on a full-time basis; or

47 (b) for manufacturing, AGRICULTURAL and service firms, projects which
48 involve the preparation of strategic plans for improving productivity
49 and competitiveness; the introduction of modern equipment and/or an
50 expansion of facilities as part of a modernization plan; the introduc-
51 tion of advanced technologies to improve productivity and quality;
52 improvements in production processes and operations, INCLUDING AGRICUL-

1 TURAL OPERATIONS; introduction of computerized information, reporting
2 and control systems; reorganization or improvement of work place systems
3 and the introduction of total quality and employee participation
4 programs; development and introduction of new products; identification
5 and development of new markets, including entry into foreign markets;
6 financial restructuring for purposes of enabling modernization activ-
7 ities; buyouts of viable companies by employees or local owners residing
8 in the state; and the provision of working capital for other moderniza-
9 tion activities that will improve the competitiveness and productivity
10 of a firm and result in the creation or retention of jobs; or
11 S 3. This act shall take effect immediately.

12 PART V

13 Section 1. Notwithstanding any other law, rule or regulation to the
14 contrary, expenses of the department of health public service education
15 program incurred pursuant to appropriations from the cable television
16 account of the state miscellaneous special revenue funds shall be deemed
17 expenses of the department of public service.

18 S 2. This act shall take effect immediately and shall be deemed to
19 have been in full force and effect on and after April 1, 2012.

20 PART W
21 Intentionally Omitted

22 PART X
23 Intentionally omitted

24 PART Y
25 Intentionally omitted

26 PART Z
27 Intentionally omitted

28 PART AA

29 Section 1. Paragraph (b) of subdivision 2 of section 2975 of the
30 public authorities law, as amended by section 1 of part J of chapter 60
31 of the laws of 2011, is amended to read as follows:

32 (b) On or before November first, two thousand three and on or before
33 November first of each year thereafter, the director of the budget shall
34 determine the amount owed under this section by each public benefit
35 corporation. The director of the budget may reduce, in whole or part,
36 the amount of such assessment if the payment thereof would necessitate a
37 state appropriation for the purpose, or would otherwise impose an
38 extraordinary hardship upon the affected public benefit corporation. The
39 aggregate amount assessed under this section in any given state fiscal
40 year may not exceed [sixty] SIXTY-TWO million dollars.

41 S 2. This act shall take effect immediately.

42 PART BB
43 Intentionally omitted

PART CC

Intentionally omitted

PART DD

Intentionally omitted

PART EE

Section 1. Section 12 of the transportation law, as amended by chapter 5 of the laws of 1998, is amended to read as follows:

S 12. Offices of the department. The principal office of the department of transportation shall be in the county of Albany. [Branch] REGIONAL BRANCH offices [may] SHALL be established and maintained by the department in [such places as the commissioner may determine, and for which] ELEVEN REGIONS ACROSS THE STATE, IN ACCORDANCE WITH appropriations [are] made by the legislature, IN THE FOLLOWING AREAS: REGION 1 (CAPITAL DISTRICT) IN THE COUNTY OF ALBANY, REGION 2 (MOHAWK VALLEY) IN THE CITY OF UTICA, REGION 3 (CENTRAL NEW YORK) IN THE CITY OF SYRACUSE, REGION 4 (GENESEE VALLEY) IN THE CITY OF ROCHESTER, REGION 5 (WESTERN NEW YORK) IN THE CITY OF BUFFALO, REGION 6 (SOUTHERN TIER/CENTRAL NEW YORK) IN THE CITY OF HORNELLS, REGION 7 (NORTH COUNTRY) IN THE CITY OF WATERTOWN, REGION 8 (HUDSON VALLEY) IN THE CITY OF Poughkeepsie, REGION 9 (SOUTHERN TIER) IN THE CITY OF BINGHAMTON, REGION 10 (LONG ISLAND) IN THE HAMLET OF HAUPPAUGE, AND REGION 11 (NEW YORK CITY) IN THE CITY OF NEW YORK.

S 2. This act shall take effect immediately.

PART FF

Section 1. Subdivision 4 of section 410 of the vehicle and traffic law, as amended by chapter 137 of the laws of 1989, is amended to read as follows:

4. Times for registration and reregistration. Registration applied for and certificates issued under any application shall expire on a date determined by the commissioner. Registration shall be renewed periodically in the same manner and upon payment of the same annual fee as provided in this section for registration, to take effect and to expire on dates to be determined by the commissioner, PROVIDED THAT MOTORCYCLES MAY BE REGISTERED FOR A PERIOD OF EITHER ONE YEAR OR TWO YEARS AT THE OPTION OF THE REGISTRANT WITH THE FEE FOR A TWO-YEAR REGISTRATION NOT MORE THAN DOUBLE THE FEE FOR A ONE-YEAR REGISTRATION. Provided, however, that the commissioner shall have authority to fix the length of time for which any such vehicle which is registered without fee shall be registered. Provided further, however, that renewal of a registration may be used preceding the expiration date of such registration including such expiration date.

S 2. Subdivision 2 of section 405-g of the vehicle and traffic law, as added by chapter 755 of the laws of 1987, is amended to read as follows:

2. Any fee paid directly to the commissioner for the registration of a vehicle OR MOTORCYCLE for operation within this state under the provisions of this article which is to be paid into the general fund pursuant to section four hundred five-f of this article shall be refunded, less the sum of five dollars, provided that the commissioner is satisfied that the registration has not been used and all number

plates, cab cards, and other documents have been surrendered to the commissioner within two months after the date the fee was paid or the beginning of the registration period for which the registration was issued, whichever comes later and application therefor is filed with the commissioner within the period of validity for which such registration was issued.

S 3. Subdivision 3 of section 405-g of the vehicle and traffic law, as added by chapter 755 of the laws of 1987, is amended to read as follows:

3. Any fee paid to any other jurisdiction on behalf of this state for operation of a vehicle OR A MOTORCYCLE within this state which has been forwarded to the commissioner by that jurisdiction shall be refunded less the sum of five dollars provided the jurisdiction which collected the fee has refunded to the applicant any fee collected by that jurisdiction on its behalf and any number plate, cab card or other document affecting operation in this state has been surrendered to such jurisdiction and the commissioner is satisfied that any such plate, cab card or other document has not been used within this state and an application for refund is made within the period of validity for which such registration was issued.

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

PART GG

Section 1. Short title. This act shall be known and may be cited as the "bridge and road investment and dedicated fund guaranteed enforcement (BRIDGE) reform act".

S 2. Paragraph a of subdivision 5 of section 89-b of the state finance law, as amended by section 1 of part B of chapter 84 of the laws of 2002, is amended to read as follows:

a. Moneys in the dedicated highway and bridge trust fund shall, following appropriation by the legislature, be utilized for: reconstruction, replacement, reconditioning, restoration, rehabilitation and preservation of state, county, town, city and village roads, highways, parkways, and bridges thereon, to restore such facilities to their intended functions; construction, reconstruction, enhancement and improvement of state, county, town, city, and village roads, highways, parkways, and bridges thereon, to address current and projected capacity problems including costs for traffic mitigation activities; aviation projects authorized pursuant to section fourteen-j of the transportation law and for payments to the general debt service fund of amounts equal to amounts required for service contract payments related to aviation projects as provided and authorized by section three hundred eighty-six of the public authorities law; programs to assist small and minority and women-owned firms engaged in transportation construction and reconstruction projects, including a revolving fund for working capital loans, and a bonding guarantee assistance program in accordance with provisions of this chapter; matching federal grants or apportionments to the state for highway, parkway and bridge capital projects; the acquisition of real property and interests therein required or expected to be required in connection with such projects; preventive maintenance activities necessary to ensure that highways, parkways and bridges meet or exceed their optimum useful life; [expenses of control of snow and ice on state highways by the department of transportation including but not limited to personal services, nonpersonal services and fringe benefits, payment of emergency aid for control of snow and ice in municipalities

1 pursuant to section fifty-five of the highway law, expenses of control
2 of snow and ice on state highways by municipalities pursuant to section
3 twelve of the highway law, and for expenses of arterial maintenance
4 agreements with cities pursuant to section three hundred forty-nine of
5 the highway law;] personal services and fringe benefit costs of the
6 department of transportation for bus safety inspection activities;
7 [costs of the department of motor vehicles, including but not limited to
8 personal and nonpersonal services;] costs of engineering and administra-
9 tive services of the department of transportation, including but not
10 limited to fringe benefits; the contract services provided by private
11 firms in accordance with section fourteen of the transportation law;
12 personal services and nonpersonal services, for activities including but
13 not limited to the preparation of designs, plans, specifications and
14 estimates; construction management and supervision activities; costs of
15 appraisals, surveys, testing and environmental impact statements for
16 transportation projects; expenses in connection with buildings, equip-
17 ment, materials and facilities used or useful in connection with the
18 maintenance, operation, and repair of highways, parkways and bridges
19 thereon; and project costs for: construction, reconstruction, improve-
20 ment, reconditioning and preservation of rail freight facilities and
21 intercity rail passenger facilities and equipment; construction, recon-
22 struction, improvement, reconditioning and preservation of state, munic-
23 ipal and privately owned ports; construction, reconstruction, improve-
24 ment, reconditioning and preservation of municipal airports; privately
25 owned airports and aviation capital facilities, excluding airports oper-
26 ated by the state or operated by a bi-state municipal corporate instru-
27 mentality for which federal funding is not available provided the
28 project is consistent with an approved airport layout plan; and
29 construction, reconstruction, enhancement, improvement, replacement,
30 reconditioning, restoration, rehabilitation and preservation of state,
31 county, town, city and village roads, highways, parkways and bridges;
32 and construction, reconstruction, improvement, reconditioning and pres-
33 ervation of fixed ferry facilities of municipal and privately owned
34 ferry lines for transportation purposes, and the payment of debt service
35 required on any bonds, notes or other obligations and related expenses
36 for highway, parkway, bridge and project costs for: construction, recon-
37 struction, improvement, reconditioning and preservation of rail freight
38 facilities and intercity rail passenger facilities and equipment;
39 construction, reconstruction, improvement, reconditioning and preserva-
40 tion of state, municipal and privately owned ports; construction, recon-
41 struction, improvement, reconditioning and preservation of municipal
42 airports; privately owned airports and aviation capital facilities,
43 excluding airports operated by the state or operated by a bi-state
44 municipal corporate instrumentality for which federal funding is not
45 available provided the project is consistent with an approved airport
46 layout plan; construction, reconstruction, enhancement, improvement,
47 replacement, reconditioning, restoration, rehabilitation and preserva-
48 tion of state, county, town, city and village roads, highways, parkways
49 and bridges; and construction, reconstruction, improvement, recondition-
50 ing and preservation of fixed ferry facilities of municipal and private-
51 ly owned ferry lines for transportation purposes, purposes authorized on
52 or after the effective date of this section. Beginning with disburse-
53 ments made on and after the first day of April, nineteen hundred nine-
54 ty-three, moneys in such fund shall be available to pay such costs or
55 expenses made pursuant to appropriations or reappropriations made during
56 the state fiscal year which began on the first of April, nineteen

1 hundred ninety-two. Beginning the first day of April, nineteen hundred
2 ninety-three, moneys in such fund shall also be used for payments to the
3 general debt service fund of amounts equal to amounts required for
4 service contract payments as provided and authorized by section three
5 hundred eighty of the public authorities law and by section eleven of
6 chapter three hundred twenty-nine of the laws of nineteen hundred nine-
7 ty-one, as amended.

8 S 3. Paragraph a of subdivision 5 of section 89-b of the state finance
9 law, as amended by section 1 of part D of chapter 151 of the laws of
10 2001, is amended to read as follows:

11 a. Moneys in the dedicated highway and bridge trust fund shall,
12 following appropriation by the legislature, be utilized for: recon-
13 struction, replacement, reconditioning, restoration, rehabilitation and
14 preservation of state, county, town, city and village roads, highways,
15 parkways, and bridges thereon, to restore such facilities to their
16 intended functions; construction, reconstruction, enhancement and
17 improvement of state, county, town, city, and village roads, highways,
18 parkways, and bridges thereon, to address current and projected capacity
19 problems including costs for traffic mitigation activities; aviation
20 projects authorized pursuant to section fourteen-j of the transportation
21 law and for payments to the general debt service fund of amounts equal
22 to amounts required for service contract payments related to aviation
23 projects as provided and authorized by section three hundred eighty-six
24 of the public authorities law; programs to assist small and minority and
25 women-owned firms engaged in transportation construction and recon-
26 struction projects, including a revolving fund for working capital
27 loans, and a bonding guarantee assistance program in accordance with
28 provisions of this chapter; matching federal grants or apportionments to
29 the state for highway, parkway and bridge capital projects; the acquisi-
30 tion of real property and interests therein required or expected to be
31 required in connection with such projects; preventive maintenance activ-
32 ities necessary to ensure that highways, parkways and bridges meet or
33 exceed their optimum useful life; [expenses of control of snow and ice
34 on state highways by the department of transportation including but not
35 limited to personal services, nonpersonal services and fringe benefits,
36 payment of emergency aid for control of snow and ice in municipalities
37 pursuant to section fifty-five of the highway law, expenses of control
38 of snow and ice on state highways by municipalities pursuant to section
39 twelve of the highway law, and for expenses of arterial maintenance
40 agreements with cities pursuant to section three hundred forty-nine of
41 the highway law;] personal services and fringe benefit costs of the
42 department of transportation for bus safety inspection activities; costs
43 of engineering and administrative services of the department of trans-
44 portation, including but not limited to fringe benefits; the contract
45 services provided by private firms in accordance with section fourteen
46 of the transportation law; personal services and nonpersonal services,
47 for activities including but not limited to the preparation of designs,
48 plans, specifications and estimates; construction management and super-
49 vision activities; costs of appraisals, surveys, testing and environ-
50 mental impact statements for transportation projects; expenses in
51 connection with buildings, equipment, materials and facilities used or
52 useful in connection with the maintenance, operation, and repair of
53 highways, parkways and bridges thereon; and project costs for:
54 construction, reconstruction, improvement, reconditioning and preserva-
55 tion of rail freight facilities and intercity rail passenger facilities
56 and equipment; construction, reconstruction, improvement, reconditioning

1 and preservation of state, municipal and privately owned ports;
2 construction, reconstruction, improvement, reconditioning and preserva-
3 tion of municipal airports; privately owned airports and aviation capi-
4 tal facilities, excluding airports operated by the state or operated by
5 a bi-state municipal corporate instrumentality for which federal funding
6 is not available provided the project is consistent with an approved
7 airport layout plan; and construction, reconstruction, enhancement,
8 improvement, replacement, reconditioning, restoration, rehabilitation
9 and preservation of state, county, town, city and village roads, high-
10 ways, parkways and bridges; and construction, reconstruction, improve-
11 ment, reconditioning and preservation of fixed ferry facilities of
12 municipal and privately owned ferry lines for transportation purposes,
13 and the payment of debt service required on any bonds, notes or other
14 obligations and related expenses for highway, parkway, bridge and
15 project costs for: construction, reconstruction, improvement, recondi-
16 tioning and preservation of rail freight facilities and intercity rail
17 passenger facilities and equipment; construction, reconstruction,
18 improvement, reconditioning and preservation of state, municipal and
19 privately owned ports; construction, reconstruction, improvement, recon-
20 ditioning and preservation of municipal airports; privately owned
21 airports and aviation capital facilities, excluding airports operated by
22 the state or operated by a bi-state municipal corporate instrumentality
23 for which federal funding is not available provided the project is
24 consistent with an approved airport layout plan; construction, recon-
25 struction, enhancement, improvement, replacement, reconditioning, resto-
26 ration, rehabilitation and preservation of state, county, town, city and
27 village roads, highways, parkways and bridges; and construction, recon-
28 struction, improvement, reconditioning and preservation of fixed ferry
29 facilities of municipal and privately owned ferry lines for transporta-
30 tion purposes, purposes authorized on or after the effective date of
31 this section. Beginning with disbursements made on and after the first
32 day of April, nineteen hundred ninety-three, moneys in such fund shall
33 be available to pay such costs or expenses made pursuant to appropri-
34 ations or reappropriations made during the state fiscal year which began
35 on the first of April, nineteen hundred ninety-two. Beginning the first
36 day of April, nineteen hundred ninety-three, moneys in such fund shall
37 also be used for payments to the general debt service fund of amounts
38 equal to amounts required for service contract payments as provided and
39 authorized by section three hundred eighty of the public authorities law
40 and by section eleven of chapter three hundred twenty-nine of the laws
41 of nineteen hundred ninety-one, as amended.

42 S 4. Subdivision 5 of section 89-b of the state finance law is amended
43 by adding two new paragraphs c and d to read as follows:

44 C. MONEYS IN THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND APPROPRIATED
45 BY THE LEGISLATURE FOR EXPENSES OF CONTROL OF SNOW AND ICE ON STATE
46 HIGHWAYS BY THE DEPARTMENT OF TRANSPORTATION INCLUDING BUT NOT LIMITED
47 TO PERSONAL SERVICES, NONPERSONAL SERVICES AND FRINGE BENEFITS, PAYMENT
48 OF EMERGENCY AID FOR CONTROL OF SNOW AND ICE IN MUNICIPALITIES PURSUANT
49 TO SECTION FIFTY-FIVE OF THE HIGHWAY LAW, EXPENSES OF CONTROL OF SNOW
50 AND ICE ON STATE HIGHWAYS BY MUNICIPALITIES PURSUANT TO SECTION TWELVE
51 OF THE HIGHWAY LAW, AND FOR EXPENSES OF ARTERIAL MAINTENANCE AGREEMENTS
52 WITH CITIES PURSUANT TO SECTION THREE HUNDRED FORTY-NINE OF THE HIGHWAY
53 LAW SHALL NOT EXCEED:

54 (I) \$252 MILLION FOR FISCAL YEAR TWO THOUSAND THIRTEEN--TWO THOUSAND
55 FOURTEEN;

(II) \$189 MILLION FOR FISCAL YEAR TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN;

(III) \$126 MILLION FOR FISCAL YEAR TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN; AND

(IV) \$63 MILLION FOR FISCAL YEAR TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN.

(V) FOR FISCAL YEAR TWO THOUSAND SEVENTEEN--TWO THOUSAND EIGHTEEN AND FOR ALL SUBSEQUENT YEARS THEREAFTER NO MONEYS FROM THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND SHALL BE EXPENDED FOR EXPENSES OF CONTROL OF SNOW AND ICE ON STATE HIGHWAYS BY THE DEPARTMENT OF TRANSPORTATION INCLUDING BUT NOT LIMITED TO PERSONAL SERVICES, NONPERSONAL SERVICES AND FRINGE BENEFITS, PAYMENT OF EMERGENCY AID FOR CONTROL OF SNOW AND ICE IN MUNICIPALITIES PURSUANT TO SECTION FIFTY-FIVE OF THE HIGHWAY LAW, EXPENSES OF CONTROL OF SNOW AND ICE ON STATE HIGHWAYS BY MUNICIPALITIES PURSUANT TO SECTION TWELVE OF THE HIGHWAY LAW, AND FOR EXPENSES OF ARTERIAL MAINTENANCE AGREEMENTS WITH CITIES PURSUANT TO SECTION THREE HUNDRED FORTY-NINE OF THE HIGHWAY LAW.

D. MONEYS IN THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND APPROPRIATED BY THE LEGISLATURE FOR COSTS OF THE DEPARTMENT OF MOTOR VEHICLES, INCLUDING BUT NOT LIMITED TO PERSONAL AND NONPERSONAL SERVICES SHALL NOT EXCEED:

(I) \$156 MILLION FOR FISCAL YEAR TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN;

(II) \$117 MILLION FOR FISCAL YEAR TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN;

(III) \$78 MILLION FOR FISCAL YEAR TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN; AND

(IV) \$39 MILLION FOR FISCAL YEAR TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN.

(V) FOR FISCAL YEAR TWO THOUSAND SEVENTEEN--TWO THOUSAND EIGHTEEN AND FOR ALL SUBSEQUENT YEARS THEREAFTER NO MONEYS FROM THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND SHALL BE EXPENDED FOR COSTS OF THE DEPARTMENT OF MOTOR VEHICLES, INCLUDING BUT NOT LIMITED TO PERSONAL AND NONPERSONAL SERVICES.

S 5. This act shall take effect immediately, provided that the amendments to paragraph a of subdivision 5 of section 89-b of the state finance law made by section two of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 2 of part B of chapter 84 of the laws of 2002, as amended, when upon such date the provisions of section three of this act shall take effect.

PART HH

Section 1. Section 9 of part AA of chapter 60 of the laws of 2011 amending the environmental conservation law relating to saltwater recreational fishing registrations is amended to read as follows:

S 9. This act shall take effect immediately and shall expire and be deemed repealed December 31, [2013] 2015.

S 2. This act shall take effect immediately.

PART II

Section 1. Subdivision 5 of section 27-1012 of the environmental conservation law, as added by section 8 of part SS of chapter 59 of the laws of 2009, is amended to read as follows:

1 5. [All] A. THE monies collected or received by the department of
2 taxation and finance pursuant to this title shall be deposited to the
3 credit of the comptroller with such responsible banks, banking houses or
4 trust companies as may be designated by the comptroller. Such deposits
5 shall be kept separate and apart from all other moneys in the possession
6 of the comptroller. The comptroller shall require adequate security from
7 all such depositories. Of the total revenue collected, the comptroller
8 shall retain the amount determined by the commissioner of taxation and
9 finance to be necessary for refunds out of which the comptroller must
10 pay any refunds to which a deposit initiator may be entitled. After
11 reserving the amount to pay refunds, the comptroller must, by the tenth
12 day of each month, pay into the state treasury to the credit of the
13 general fund OR INTO THE ENVIRONMENTAL PROTECTION FUND, IN ACCORDANCE
14 WITH THE SCHEDULE LISTED BELOW, the revenue deposited under this subdi-
15 vision during the preceding calendar month and remaining to the comp-
16 troller's credit on the last day of that preceding month. THE PORTION OF
17 THE REVENUE TO BE DEPOSITED INTO THE ENVIRONMENTAL PROTECTION FUND AFTER
18 THE AMOUNT TO PAY REFUNDS HAS BEEN RESERVED SHALL BE:

19 (I) TWENTY MILLION DOLLARS OF THE REVENUE IN FISCAL YEAR TWO THOUSAND
20 THIRTEEN-TWO THOUSAND FOURTEEN;

21 (II) FORTY MILLION DOLLARS OF THE REVENUE IN FISCAL YEAR TWO THOUSAND
22 FOURTEEN-TWO THOUSAND FIFTEEN;

23 (III) SIXTY MILLION DOLLARS OF THE REVENUE IN FISCAL YEAR TWO THOUSAND
24 FIFTEEN-TWO THOUSAND SIXTEEN;

25 (IV) EIGHTY MILLION DOLLARS OF THE REVENUE IN FISCAL YEAR TWO THOUSAND
26 SIXTEEN-TWO THOUSAND SEVENTEEN;

27 (V) ONE HUNDRED MILLION DOLLARS IN FISCAL YEAR TWO THOUSAND SEVENTEEN-
28 TWO THOUSAND EIGHTEEN; AND

29 (VI) ONE HUNDRED FOURTEEN MILLION DOLLARS IN FISCAL YEAR TWO THOUSAND
30 EIGHTEEN-TWO THOUSAND NINETEEN AND EVERY YEAR THEREAFTER.

31 B. THE MONIES ALLOCATED TO THE ENVIRONMENTAL PROTECTION FUND BY THIS
32 SUBDIVISION SHALL BE IN ADDITION TO ANY OTHER MONEY ALLOCATED OR APPRO-
33 PRIATED TO THE FUND.

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

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

the amount of penalties required to be deposited therein by section 71-2724 of the environmental conservation law, all moneys required to be deposited pursuant to article thirty-three of the environmental conservation law, all fees collected pursuant to subdivision eight of section 70-0117 of the environmental conservation law[, as added by a chapter of the laws of two thousand nine], all moneys collected pursuant to title thirty-three of article fifteen of the environmental conservation law[, as added by a chapter of the laws of two thousand nine], ALL MONEYS REQUIRED TO BE DEPOSITED PURSUANT TO SECTION 27-1012 OF THE ENVIRONMENTAL CONSERVATION LAW and all other moneys credited or transferred thereto from any other fund or source pursuant to law. All such revenue shall be initially deposited into the environmental protection fund, for application as provided in subdivision five of this section.

S 3. This act shall take effect immediately.

PART JJ

Section 1. Subdivision 3 of section 19-0323 of the environmental conservation law, as amended by section 1 of part BB of chapter 60 of the laws of 2011 and the closing paragraph as added by chapter 629 of the laws of 2006, is amended to read as follows:

3. Any diesel powered heavy duty vehicle that is owned by, operated by or on behalf of, or leased by a state agency and state and regional public authority with more than half of its governing body appointed by the governor shall utilize the best available retrofit technology for reducing the emission of pollutants. The commissioner shall promulgate regulations for the implementation of this subdivision specifying that all vehicles covered by this subdivision shall have best available retrofit technology on or before December 31, [2012] 2015.

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

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after December 31, 2012.

PART KK

Section 1. Subdivision 2 of section 89-c of the state finance law, as added by chapter 329 of the laws of 1991, is amended to read as follows:

2. (A) The dedicated mass transportation trust fund shall consist of all moneys collected therefor or credited or transferred thereto from any other fund, account or source. Any interest received by the controller on moneys on deposit in the dedicated mass transportation trust fund shall be retained in and become a part of such fund.

(B) AMOUNTS APPROPRIATED TO THE DEPARTMENT OF TRANSPORTATION IN THE NEW YORK STATE BUDGET FY TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN FROM THE DEDICATED MASS TRANSPORTATION TRUST FUND, ESTABLISHED PURSUANT TO THIS SECTION FOR PAYMENT TO THE FOLLOWING PUBLIC AUTHORITIES MUST BE DISBURSED BY THE DIRECTOR OF THE BUDGET, IN ACCORDANCE WITH THE TRADITIONAL SERVICE AND USAGE FORMULA ESTABLISHED BY THE COMMISSIONER OF TRANSPORTATION WITH THE APPROVAL OF THE DIRECTOR OF THE BUDGET, NO LATER THAN DECEMBER FIRST, TWO THOUSAND TWELVE: NIAGARA FRONTIER TRANSPORTATION AUTHORITY ESTABLISHED PURSUANT TO SECTION TWELVE HUNDRED NINETY-NINE-C OF THE PUBLIC AUTHORITIES LAW, ROCHESTER-GENESEE REGIONAL TRANSPORTATION AUTHORITY ESTABLISHED PURSUANT TO SECTION TWELVE HUNDRED NINETY-NINE-DD OF THE PUBLIC AUTHORITIES LAW, CAPITAL DISTRICT TRANSPOR-

1 TATION AUTHORITY ESTABLISHED PURSUANT TO SECTION THIRTEEN HUNDRED THREE
2 OF THE PUBLIC AUTHORITIES LAW, AND CENTRAL NEW YORK REGIONAL TRANSPORTA-
3 TION AUTHORITY ESTABLISHED PURSUANT TO SECTION THIRTEEN HUNDRED TWENTY-
4 EIGHT OF THE PUBLIC AUTHORITIES LAW.

5 S 2. This act shall take effect immediately.

6 PART LL

7 Section 1. Section 14 of the transportation law is amended by adding a
8 new subdivision 36 to read as follows:

9 36. TO ISSUE THE FOLLOWING REPORTS TO KEEP THE GOVERNOR, THE TEMPORARY
10 PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE CHAIRS OF
11 THE TRANSPORTATION AND FISCAL COMMITTEES OF THE LEGISLATURE FULLY
12 INFORMED ON THE PROGRESS OF DELIVERING OF ANY CAPITAL PROJECTS, AS
13 DEFINED IN SUBDIVISION TWO-A OF SECTION TWO OF THE STATE FINANCE LAW,
14 INCLUDING PROJECTS RECEIVING FUNDS PURSUANT TO NEW YORK WORKS AS APPRO-
15 PRIATED IN THE NEW YORK STATE BUDGET FY 2012-2013:

16 (A) (1) THE DEPARTMENT SHALL ANNUALLY PROVIDE, ON OR BEFORE MARCH
17 FIRST, A REPORT ON DETAILS OF ALL OF THE DEPARTMENT'S STATE SYSTEM CAPI-
18 TAL PROJECTS AND LOCAL SYSTEM CAPITAL PROJECTS, AS DEFINED IN SUBDIVI-
19 SION TWO-A OF SECTION TWO OF THE STATE FINANCE LAW, INCLUDING PROJECTS
20 RECEIVING FUNDS PURSUANT TO NEW YORK WORKS AS APPROPRIATED IN THE NEW
21 YORK STATE BUDGET FY 2012-2013 INCLUDING, BUT NOT LIMITED TO,

22 (I) THE PAYMENT OF CAPITAL COSTS, INCLUDING ACQUISITION OF REAL PROP-
23 ERTY, ENGINEERING SERVICES, AND PAYMENT OF LIABILITIES INCURRED RELATING
24 TO THE CONSTRUCTION AND IMPROVEMENT OF STATE AND LOCAL HIGHWAYS, PARK-
25 WAYS, BRIDGES, THE NEW YORK STATE THRUWAY, INDIAN RESERVATION ROADS, AND
26 FACILITIES FOR WHICH THE RESPONSIBILITY IS VESTED WITH THE DEPARTMENT,
27 INCLUDING WORK APPURTENANT AND ANCILLARY THERETO;

28 (II) PROJECT COSTS FOR CONSTRUCTION, RECONSTRUCTION, RECONDITIONING
29 AND PRESERVATION, AND THE ACQUISITION OF PROPERTY;

30 (III) PERSONAL SERVICES, FRINGE BENEFITS, NONPERSONAL SERVICES, AND
31 CONTRACT SERVICES PROVIDED BY PRIVATE FIRMS FOR ACTIVITIES INCLUDING BUT
32 NOT LIMITED TO THE PREPARATION OF DESIGNS, PLANS, SPECIFICATIONS AND
33 ESTIMATES;

34 (IV) CONSTRUCTION MANAGEMENT AND SUPERVISION;

35 (V) APPRAISALS, SURVEYS, TESTING, AND ENVIRONMENTAL IMPACT STATEMENTS;
36 AND

37 (VI) CONTRACTUAL ARRANGEMENTS WITH OTHER STATE ENTITIES AND LOCAL
38 ENTITIES.

39 (2) THE REPORT SHALL PROVIDE THE FOLLOWING INFORMATION ON PROJECTS BY
40 EACH OF THE ELEVEN REGIONAL BRANCH OFFICES OF THE DEPARTMENT:

41 (I) THE CONDITION OF STATE HIGHWAY PAVEMENTS;

42 (II) THE CONDITION OF STATE BRIDGES;

43 (III) CONDITION GOALS FOR STATE HIGHWAYS AND BRIDGES AT THE END OF ANY
44 STATE SYSTEM CAPITAL PROJECT AND LOCAL SYSTEM CAPITAL PROJECT, AS
45 DEFINED IN SUBDIVISION TWO-A OF SECTION TWO OF THE STATE FINANCE LAW,
46 INCLUDING PROJECTS RECEIVING FUNDS PURSUANT TO NEW YORK WORKS AS APPRO-
47 PRIATED IN THE NEW YORK STATE BUDGET FY 2012-2013;

48 (IV) AN EXPLANATION OF ANY CHANGE TO SUCH CONDITION GOALS; AND

49 (V) A SUMMARY OF THE PROPOSED PROGRAM BY TYPE OF WORK AND FUND SOURCE.

50 (3) THIS REPORT SHALL BE SUPPLEMENTED BY THE ANNUAL REPORTING ON
51 PREVENTIVE MAINTENANCE REQUIRED UNDER SECTION TEN-D OF THE HIGHWAY LAW.

52 (B) THE DEPARTMENT SHALL PROVIDE QUARTERLY UPDATES, WHICH DETAIL
53 PROJECTS BY EACH OF THE ELEVEN REGIONAL BRANCH OFFICES OF THE DEPART-
54 MENT, ON THE FOLLOWING INFORMATION:

1 (1) THE CURRENT LETTING PROGRAM;

2 (2) OBLIGATION OF REBUILD AND RENEW NEW YORK TRANSPORTATION BOND ACT
3 OF 2005 FUNDS AND STATE DEDICATED FUNDS; AND

4 (3) OBLIGATION OF FUNDS FOR ENGINEERING SERVICES.

5 (C) THE DEPARTMENT SHALL ISSUE A REPORT SEMI-ANNUALLY BY MARCH FIRST
6 AND NOVEMBER FIRST WHICH DETAILS PROJECTS BY EACH OF THE ELEVEN REGIONAL
7 BRANCH OFFICES OF THE DEPARTMENT THAT ARE EXPECTED TO BE ADVERTISED FOR
8 PUBLIC BID IN THE SUBSEQUENT SIX-MONTH PERIOD. THIS REPORT SHALL INCLUDE
9 A PROJECT DESCRIPTION, PROPOSED MONTH OF LETTING, A PROJECT IDENTIFICA-
10 TION NUMBER, AND AN INDICATOR OF PROJECT SIZE. THE DEPARTMENT SHALL
11 ISSUE BY JULY FIRST OF EACH YEAR A REPORT PROVIDING ACTUAL LETTING DATES
12 AND CONTRACT AMOUNTS FOR EACH PROJECT LET IN THE PRIOR STATE FISCAL
13 YEAR.

14 (D) THE DEPARTMENT SHALL PROVIDE BI-MONTHLY ELECTRONIC REPORTS WHICH
15 DETAIL, BY EACH OF THE ELEVEN REGIONAL BRANCH OFFICES OF THE DEPARTMENT,
16 THE STATUS OF EACH CAPITAL PROJECT, AS DEFINED IN SUBDIVISION TWO-A OF
17 SECTION TWO OF THE STATE FINANCE LAW, INCLUDING PROJECTS RECEIVING FUNDS
18 PURSUANT TO NEW YORK WORKS AS APPROPRIATED IN THE NEW YORK STATE BUDGET
19 FY 2012-2013, UNTIL THE AWARD OF A CONSTRUCTION CONTRACT. THE REPORTS,
20 WHICH SHALL BEGIN APRIL FIRST, TWO THOUSAND TWELVE, WILL PROVIDE FOR
21 EACH PROJECT:

22 (1) COST ESTIMATES AND FUNDING SOURCES;

23 (2) SCHEDULE FOR PHASES OF WORK INCLUDING SCOPING, PRELIMINARY ENGI-
24 NEERING, RIGHT-OF-WAY, FINAL DESIGN, AND CONSTRUCTION; AND

25 (3) THE PROJECT LOCATION AND DESCRIPTION.

26 (E) (1) FOR STATE PROCESS PROJECTS SCHEDULED TO OBLIGATE CONSTRUCTION
27 FUNDS UNDER NEW YORK AS APPROPRIATED IN THE NEW YORK STATE BUDGET FY
28 2012-2013, THE DEPARTMENT SHALL PROVIDE SEMI-ANNUALLY BY EACH OF THE
29 ELEVEN REGIONAL BRANCH OFFICES OF THE DEPARTMENT, A LIST OF THOSE
30 PROJECTS THAT HAVE EXPERIENCED "MAJOR SCHEDULE CHANGES" OR "MAJOR COST
31 CHANGES" IN LETTING SCHEDULE AND/OR CONSTRUCTION COST SINCE THE EFFEC-
32 TIVE DATE OF THIS SUBDIVISION.

33 (2) THE REPORT SHALL INCLUDE FOR EACH PROJECT:

34 (I) PROJECT IDENTIFICATION NUMBER/DESCRIPTION;

35 (II) ORIGINAL AND REVISED CONSTRUCTION COST ESTIMATES;

36 (III) CHANGES IN CONSTRUCTION COST AFTER CONTRACT AWARD;

37 (IV) ORIGINAL AND REVISED LETTING DATES; AND

38 (V) A DETAILED EXPLANATION OF WHY THE CHANGES OCCURRED.

39 (3) FOR PURPOSES OF THIS SECTION, THE TERM "MAJOR SCHEDULE CHANGE" IS
40 DEFINED AS A TWELVE-MONTH OR MORE DELAY IN THE LETTING DATE, AND THE
41 TERM "MAJOR COST CHANGES" IS DEFINED AS A GREATER THAN TWENTY-FIVE
42 PERCENT CHANGE FOR PROJECTS IN EXCESS OF FIFTEEN MILLION DOLLARS.

43 (F) ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE, THE
44 COMMISSIONER SHALL SUBMIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF
45 THE SENATE, AND THE SPEAKER OF THE ASSEMBLY A SPECIAL ADDITIONAL ASSESS-
46 MENT REPORT OF THE CONDITION OF THE STATE HIGHWAY AND BRIDGE SYSTEM AND
47 THE GOALS OF THE DEPARTMENT'S CAPITAL PROJECTS, AS DEFINED IN SUBDIVI-
48 SION TWO-A OF SECTION TWO OF THE STATE FINANCE LAW, AS WELL AS NEW YORK
49 WORKS FOLLOWING THE DATE OF SUCH REPORT. SUCH REPORT SHALL DESCRIBE
50 PROGRESS ON THE MEASUREMENT OF THE STATE HIGHWAY SYSTEM IN TERMS OF
51 MOBILITY AND RELIABILITY, SAFETY, ENVIRONMENTAL CONDITIONS, ECONOMIC
52 SUSTAINABILITY, AND SECURITY. IT SHALL INCLUDE A DISCUSSION ON THE
53 EFFORTS THE DEPARTMENT HAS TAKEN TO IMPROVE THE OPERATION OF THE SYSTEM.
54 IT SHALL IDENTIFY CORRIDORS OF STATEWIDE SIGNIFICANCE AND THEIR CONDI-
55 TION. SUCH REPORT SHALL DESCRIBE THE ASSET MANAGEMENT SYSTEM THE DEPART-
56 MENT IS UTILIZING TO MANAGE THE STATE HIGHWAY AND BRIDGE SYSTEM, AND

MEASUREMENTS FOR EVALUATING SYSTEM PERFORMANCE. SUCH REPORT SHALL ALSO RECOGNIZE THE IMPORTANCE OF ADDRESSING THE MOST URGENT REGIONAL NEEDS AS DETERMINED BY SUCH MEASUREMENTS AND EVALUATION. SUCH REPORT SHALL INCLUDE A SECTION ON PEDESTRIAN AND BICYCLE SAFETY, INCLUDING AN ASSESSMENT OF THE ADEQUACY OF DATA AND RECOMMENDATIONS ON ACTIONS AND INVESTMENTS THAT SHOULD BE UNDERTAKEN TO IMPROVE THE SAFETY OF PEDESTRIANS AND BICYCLISTS UTILIZING THE TRANSPORTATION SYSTEM IN NEW YORK STATE. NOTHING CONTAINED HEREIN SHALL BE DEEMED TO SUPERSEDE ANY OTHER REPORTING REQUIREMENTS OTHERWISE IMPOSED UPON THE DEPARTMENT BY LAW, RULE, OR REGULATION.

S 2. This act shall take effect immediately.

PART MM

Section 1. Subdivision 1 of section 310 of the executive law, as added by chapter 261 of the laws of 1988, is amended to read as follows:

1. "Certified business" shall mean a business verified as a minority [or women-owned], WOMEN OR VETERAN-OWNED business enterprise pursuant to section three hundred fourteen of this article.

S 2. Section 310 of the executive law is amended by adding two new subdivisions 23 and 24 to read as follows:

23. "VETERAN" SHALL MEAN A RESIDENT OF THIS STATE, WHO HAS SERVED ON ACTIVE DUTY IN THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST GUARD AND/OR RESERVES THEREOF, AND/OR THE ARMY NATIONAL GUARD, AIR NATIONAL GUARD, NEW YORK GUARD AND/OR THE NEW YORK NAVAL MILITIA, AND WHO IS CURRENTLY IN SERVICE, OR HAS BEEN RELEASED FROM SUCH SERVICE BY HONORABLE DISCHARGE, OR WHO HAS BEEN FURLOUGHED TO THE RESERVE AND WHO SERVED IN A WAR, ARMED CONFLICT AND/OR OTHER HOSTILITIES.

24. "VETERAN-OWNED BUSINESS ENTERPRISE" SHALL MEAN A BUSINESS ENTERPRISE, INCLUDING A SOLE PROPRIETORSHIP, PARTNERSHIP, CORPORATION OR LIMITED LIABILITY COMPANY THAT IS:

(A) AT LEAST FIFTY-ONE PERCENT OWNED BY A VETERAN;

(B) AN ENTERPRISE IN WHICH SUCH VETERAN OWNERSHIP IS REAL, SUBSTANTIAL AND CONTINUING;

(C) AN ENTERPRISE IN WHICH SUCH VETERAN OWNERSHIP HAS AND EXERCISES THE AUTHORITY TO CONTROL INDEPENDENTLY THE DAY-TO-DAY BUSINESS DECISIONS OF THE ENTERPRISE;

(D) AN ENTERPRISE AUTHORIZED TO DO BUSINESS IN THIS STATE AND INDEPENDENTLY OWNED AND OPERATED;

(E) AN ENTERPRISE OWNED BY AN INDIVIDUAL OR INDIVIDUALS, WHOSE OWNERSHIP, CONTROL AND OPERATION ARE RELIED UPON FOR CERTIFICATION, WITH A PERSONAL NET WORTH THAT DOES NOT EXCEED THREE MILLION FIVE HUNDRED THOUSAND DOLLARS, AS ADJUSTED ANNUALLY ON THE FIRST OF JANUARY FOR INFLATION ACCORDING TO THE CONSUMER PRICE INDEX OF THE PREVIOUS YEAR; AND

(F) AN ENTERPRISE THAT IS A SMALL BUSINESS PURSUANT TO SUBDIVISION TWENTY OF THIS SECTION.

S 3. Subdivision 1 and paragraph (a) of subdivision 3 of section 311 of the executive law, subdivision 1 as amended by chapter 55 of the laws of 1992 and paragraph (a) of subdivision 3 as added by chapter 261 of the laws of 1988, are amended to read as follows:

1. The head of the division of minority and women's business development shall be the director who shall be appointed by the governor and hold office at the pleasure of the commissioner. It shall be the duty of the director of the division of minority and women's business development to assist the governor in the formulation and implementation of

1 laws and policies relating to minority [and women-owned], WOMEN AND
2 VETERAN-OWNED business enterprises.

3 (a) to encourage and assist contracting agencies in their efforts to
4 increase participation by minority [and women-owned], WOMEN AND VETER-
5 AN-OWNED business enterprises on state contracts and subcontracts so as
6 to facilitate the award of a fair share of such contracts to them;

7 S 4. Section 313 of the executive law is amended by adding a new
8 subdivision 1-c to read as follows:

9 1-C. THE DIRECTOR SHALL ESTABLISH GOALS AND REQUIREMENTS FOR AGENCIES
10 AND CONTRACTORS. EACH AGENCY SHALL STRUCTURE PROCUREMENT PROCEDURES FOR
11 CONTRACTS MADE DIRECTLY OR INDIRECTLY TO VETERAN-OWNED BUSINESS ENTER-
12 PRISES IN ACCORDANCE WITH SUCH GOALS AND REQUIREMENTS. THE DIRECTOR
13 SHALL PROMULGATE RULES AND REGULATIONS PURSUANT TO THE GOALS ESTABLISHED
14 THAT PROVIDE MEASURES AND PROCEDURES TO ENSURE THAT CERTIFIED
15 VETERAN-OWNED BUSINESSES SHALL BE GIVEN THE OPPORTUNITY FOR MAXIMUM
16 FEASIBLE PARTICIPATION IN THE PERFORMANCE OF STATE CONTRACTS AND TO
17 ASSIST IN THE AGENCY'S IDENTIFICATION OF THOSE STATE CONTRACTS FOR WHICH
18 VETERAN-OWNED CERTIFIED BUSINESSES MAY BEST BID TO ACTIVELY AND AFFIRMA-
19 TIVELY PROMOTE AND ASSIST THEIR PARTICIPATION IN THE PERFORMANCE OF
20 STATE CONTRACTS SO AS TO FACILITATE THE AGENCY'S ACHIEVEMENT OF THE
21 MAXIMUM FEASIBLE PORTION OF THE GOALS FOR STATE CONTRACTS TO SUCH BUSI-
22 NESSES.

23 S 5. Paragraphs (a), (b), (d), (e), (f), (g) and (h) of subdivision
24 2-a of section 313 of the executive law, as added by chapter 175 of the
25 laws of 2010, are amended to read as follows:

26 (a) provide for the certification and decertification of minority [and
27 women-owned], WOMEN AND VETERAN-OWNED business enterprises for all agen-
28 cies through a single process that meets applicable requirements;

29 (b) require that each contract solicitation document accompanying each
30 solicitation set forth the expected degree of minority [and
31 women-owned], WOMEN AND VETERAN-OWNED business enterprise participation
32 based, in part, on:

33 (i) the potential subcontract opportunities available in the prime
34 procurement contract; and

35 (ii) the availability, as contained within the study, of certified
36 minority [and women-owned], WOMEN AND VETERAN-OWNED business enterprises
37 to respond competitively to the potential subcontract opportunities;

38 (d) allow a contractor that is a certified minority-owned [or],
39 women-owned, OR VETERAN-OWNED business enterprise to use the work it
40 performs to meet requirements for use of certified minority-owned [or],
41 women-owned, OR VETERAN-OWNED business enterprises as subcontractors;

42 (e) provide for joint ventures, which a bidder may count toward meet-
43 ing its minority [and women-owned], WOMEN AND VETERAN-OWNED business
44 enterprise participation;

45 (f) consistent with subdivision six of this section, provide for
46 circumstances under which an agency may waive obligations of the
47 contractor relating to minority [and women-owned], WOMEN AND
48 VETERAN-OWNED business enterprise participation;

49 (g) require that an agency verify that minority [and women-owned],
50 WOMEN AND VETERAN-OWNED business enterprises listed in a successful bid
51 are actually participating to the extent listed in the project for which
52 the bid was submitted;

53 (h) provide for the collection of statistical data by each agency
54 concerning actual minority [and women-owned], WOMEN AND VETERAN-OWNED
55 business enterprise participation; and

1 S 6. Paragraph (a) of subdivision 5 of section 313 of the executive
2 law, as amended by chapter 175 of the laws of 2010, is amended to read
3 as follows:

4 (a) Contracting agencies shall administer the rules and regulations
5 promulgated by the director in a good faith effort to meet the maximum
6 feasible portion of the agency's goals adopted pursuant to this article
7 and the regulations of the director. Such rules and regulations: shall
8 require a contractor to submit a utilization plan after bids are opened,
9 when bids are required, but prior to the award of a state contract;
10 shall require the contracting agency to review the utilization plan
11 submitted by the contractor and to post the utilization plan and any
12 waivers of compliance issued pursuant to subdivision six of this section
13 on the website of the contracting agency within a reasonable period of
14 time as established by the director; shall require the contracting agen-
15 cy to notify the contractor in writing within a period of time specified
16 by the director as to any deficiencies contained in the contractor's
17 utilization plan; shall require remedy thereof within a period of time
18 specified by the director; shall require the contractor to submit peri-
19 odic compliance reports relating to the operation and implementation of
20 any utilization plan; shall not allow any automatic waivers but shall
21 allow a contractor to apply for a partial or total waiver of the minori-
22 ty [and women-owned], WOMEN AND VETERAN-OWNED business enterprise
23 participation requirements pursuant to subdivisions six and seven of
24 this section; shall allow a contractor to file a complaint with the
25 director pursuant to subdivision eight of this section in the event a
26 contracting agency has failed or refused to issue a waiver of the minor-
27 ity [and women-owned], WOMEN AND VETERAN-OWNED business enterprise
28 participation requirements or has denied such request for a waiver; and
29 shall allow a contracting agency to file a complaint with the director
30 pursuant to subdivision nine of this section in the event a contractor
31 is failing or has failed to comply with the minority [and women-owned],
32 WOMEN AND VETERAN-OWNED business enterprise participation requirements
33 set forth in the state contract where no waiver has been granted.

34 S 7. Subdivisions 6, 7 and 9 of section 313 of the executive law, as
35 amended by chapter 175 of the laws of 2010 are amended to read as
36 follows:

37 6. Where it appears that a contractor cannot, after a good faith
38 effort, comply with the minority [and women-owned], WOMEN AND
39 VETERAN-OWNED business enterprise participation requirements set forth
40 in a particular state contract, a contractor may file a written applica-
41 tion with the contracting agency requesting a partial or total waiver of
42 such requirements setting forth the reasons for such contractor's
43 inability to meet any or all of the participation requirements together
44 with an explanation of the efforts undertaken by the contractor to
45 obtain the required minority [and women-owned], WOMEN AND VETERAN-OWNED
46 business enterprise participation. In implementing the provisions of
47 this section, the contracting agency shall consider the number and types
48 of minority [and women-owned], WOMEN AND VETERAN-OWNED business enter-
49 prises located in the region in which the state contract is to be
50 performed, the total dollar value of the state contract, the scope of
51 work to be performed and the project size and term. If, based on such
52 considerations, the contracting agency determines there is not a reason-
53 able availability of contractors on the list of certified business to
54 furnish services for the project, it shall issue a waiver of compliance
55 to the contractor. In making such determination, the contracting agency
56 shall first consider the availability of other business enterprises

located in the region and shall thereafter consider the financial ability of minority [and women-owned], WOMEN AND VETERAN-OWNED businesses located outside the region in which the contract is to be performed to perform the state contract.

7. For purposes of determining a contractor's good faith effort to comply with the requirements of this section or to be entitled to a waiver therefrom the contracting agency shall consider:

(a) whether the contractor has advertised in general circulation media, trade association publications, and minority-focus and women-focus media and, in such event, (i) whether or not certified minority [or women-owned], WOMEN OR VETERAN-OWNED businesses which have been solicited by the contractor exhibited interest in submitting proposals for a particular project by attending a pre-bid conference; and

(ii) whether certified businesses which have been solicited by the contractor have responded in a timely fashion to the contractor's solicitations for timely competitive bid quotations prior to the contracting agency's bid date; and

(b) whether there has been written notification to appropriate certified businesses that appear in the directory of certified businesses prepared pursuant to paragraph (f) of subdivision three of section three hundred eleven of this article; and

(c) whether the contractor can reasonably structure the amount of work to be performed under subcontracts in order to increase the likelihood of participation by certified businesses.

9. If, after the review of a contractor's minority [and women owned], WOMEN AND VETERAN-OWNED business utilization plan or review of a periodic compliance report and after such contractor has been afforded an opportunity to respond to a notice of deficiency issued by the contracting agency in connection therewith, it appears that a contractor is failing or refusing to comply with the minority [and women-owned], WOMEN OR VETERAN-OWNED business participation requirements as set forth in the state contract and where no waiver from such requirements has been granted, the contracting agency may file a written complaint with the director pursuant to section three hundred sixteen of this article setting forth the facts and circumstances giving rise to the contracting agency's complaint together with a demand for relief. The contracting agency shall serve a copy of such complaint upon the contractor by personal service or by certified mail, return receipt requested. The contractor shall be afforded an opportunity to respond to such complaint in writing.

S 8. Subdivision 2 of section 314 of the executive law, as added by chapter 261 of the laws of 1988, is amended to read as follows:

2. For the purposes of this article, the office shall be responsible for verifying businesses as being owned, operated, and controlled by minority group members [or], women OR VETERANS and for certifying such verified businesses. The director shall prepare a directory of certified businesses for use by contracting agencies and contractors in carrying out the provisions of this article. The director shall periodically update the directory.

S 9. Subdivisions 3, 4, 5 and 7 of section 315 of the executive law, subdivision 3 as amended and subdivisions 4, 5 and 7 as added by chapter 175 of the laws of 2010, are amended to read as follows:

3. Each contracting agency shall report to the director with respect to activities undertaken to promote employment of minority group members [and], women AND VETERANS and promote and increase participation by certified businesses with respect to state contracts and subcontracts.

1 Such reports shall be submitted periodically, but not less frequently
2 than annually, as required by the director, and shall include such
3 information as is necessary for the director to determine whether the
4 contracting agency and contractor have complied with the purposes of
5 this article, including, without limitation, a summary of all waivers of
6 the requirements of subdivisions six and seven of section three hundred
7 thirteen of this article allowed by the contracting agency during the
8 period covered by the report, including a description of the basis of
9 the waiver request and the rationale for granting any such waiver. Each
10 agency shall also include in such annual report whether or not it has
11 been required to prepare a remedial plan, and, if so, the plan and the
12 extent to which the agency has complied with each element of the plan.

13 4. The division of minority and women's business development shall
14 issue an annual report which: (a) summarizes the report submitted by
15 each contracting agency pursuant to subdivision three of this section;
16 (b) contains such comparative or other information as the director deems
17 appropriate, including but not limited to goals compared to actual
18 participation of minority [and women-owned], WOMEN AND VETERAN-OWNED
19 business enterprises in state contracting, to evaluate the effectiveness
20 of the activities undertaken by each such contracting agency to promote
21 increased participation by certified minority [or women-owned], WOMEN OR
22 VETERAN-OWNED businesses with respect to state contracts and subcon-
23 tracts; (c) contains a summary of all waivers of the requirements of
24 subdivisions six and seven of section three hundred thirteen of this
25 article allowed by each contracting agency during the period covered by
26 the report, including a description of the basis of the waiver request
27 and the contracting agency's rationale for granting any such waiver; (d)
28 describes any efforts to create a database or other information storage
29 and retrieval system containing information relevant to contracting with
30 minority [and women-owned], WOMEN AND VETERAN-OWNED business enter-
31 prises; and (e) contains a summary of (i) all determinations of
32 violations of this article by a contractor or a contracting agency made
33 during the period covered by the annual report pursuant to section three
34 hundred sixteen-a of this article and (ii) the penalties or sanctions,
35 if any, assessed in connection with such determinations and the ration-
36 ale for such penalties or sanctions. Copies of the annual report shall
37 be provided to the commissioner, the governor, the comptroller, the
38 temporary president of the senate, the speaker of the assembly, the
39 minority leader of the senate, the minority leader of the assembly and
40 shall also be made widely available to the public via, among other
41 things, publication on a website maintained by the division of minority
42 and women's business development.

43 5. Each agency shall include in its annual report to the governor and
44 legislature pursuant to section one hundred sixty-four of the executive
45 law its annual goals for contracts with minority-owned [and], women-
46 owned, AND VETERAN-OWNED business enterprises, the number of actual
47 contracts issued to minority-owned [and], women-owned, AND VETERAN-OWNED
48 business enterprises; and a summary of all waivers of the requirements
49 of subdivisions six and seven of section three hundred thirteen of this
50 article allowed by the reporting agency during the preceding year,
51 including a description of the basis of the waiver request and the
52 rationale for granting such waiver. Each agency shall also include in
53 such annual report whether or not it has been required to prepare a
54 remedial plan, and, if so, the plan and the extent to which the agency
55 has complied with each element of the plan.

1 7. If it is determined by the director that any agency has failed to
2 act in good faith to implement the remedial action plan, pursuant to
3 subdivision six of this section within one year, the director shall
4 provide written notice of such a finding, which shall be publicly avail-
5 able, and direct implementation of remedial actions to:

6 (a) assure that sufficient and effective solicitation efforts to women
7 [and minority-owned], MINORITY AND VETERAN-OWNED business enterprises
8 are being made by said agency;

9 (b) divide contract requirements, when economically feasible, into
10 quantities that will expand the participation of women [and minority-
11 owned], MINORITY AND VETERAN-OWNED business enterprises;

12 (c) eliminate extended experience or capitalization requirements, when
13 programmatically and economically feasible, that will expand partic-
14 ipation by women [and minority-owned], MINORITY AND VETERAN-OWNED busi-
15 ness enterprises;

16 (d) identify specific proposed contracts as particularly attractive or
17 appropriate for participation by women [and minority-owned], MINORITY
18 AND VETERAN-OWNED business enterprises with such identification to
19 result from and be coupled with the efforts of paragraphs (a), (b), and
20 (c) of this subdivision; and

21 (e) upon a finding by the director that an agency has failed to take
22 affirmative measures to implement the remedial plan and to follow any of
23 the remedial actions set forth by the director, and in the absence of
24 any objective progress towards the agency's goals, require some or all
25 of the agency's procurement, for a specified period of time, be placed
26 under the direction and control of another agency or agencies.

27 S 10. Section 316 of the executive law, as amended by chapter 175 of
28 the laws of 2010, is amended to read as follows:

29 S 316. Enforcement. Upon receipt by the director of a complaint by a
30 contracting agency that a contractor has violated the provisions of a
31 state contract which have been included to comply with the provisions of
32 this article or of a contractor that a contracting agency has violated
33 such provisions or has failed or refused to issue a waiver where one has
34 been applied for pursuant to subdivision six of section three hundred
35 thirteen of this article or has denied such application, the director
36 shall attempt to resolve the matter giving rise to such complaint. If
37 efforts to resolve such matter to the satisfaction of all parties are
38 unsuccessful, the director shall refer the matter, within thirty days of
39 the receipt of the complaint, to the division's hearing officers. Upon
40 conclusion of the administrative hearing, the hearing officer shall
41 submit to the director his or her decision regarding the alleged
42 violation of the contract and recommendations regarding the imposition
43 of sanctions, fines or penalties. The director, within ten days of
44 receipt of the decision, shall file a determination of such matter and
45 shall cause a copy of such determination along with a copy of this arti-
46 cle to be served upon the contractor by personal service or by certified
47 mail return receipt requested. The decision of the hearing officer shall
48 be final and may only be vacated or modified as provided in article
49 seventy-eight of the civil practice law and rules upon an application
50 made within the time provided by such article. The determination of the
51 director as to the imposition of any fines, sanctions or penalties shall
52 be reviewable pursuant to article seventy-eight of the civil practice
53 law and rules. The penalties imposed for any violation which is premised
54 upon either a fraudulent or intentional misrepresentation by the
55 contractor or the contractor's willful and intentional disregard of the
56 minority [and women-owned], WOMEN AND VETERAN-OWNED participation

1 requirement included in the contract may include a determination that
2 the contractor shall be ineligible to submit a bid to any contracting
3 agency or be awarded any such contract for a period not to exceed one
4 year following the final determination; provided however, if a contrac-
5 tor has previously been determined to be ineligible to submit a bid
6 pursuant to this section, the penalties imposed for any subsequent
7 violation, if such violation occurs within five years of the first
8 violation, may include a determination that the contractor shall be
9 ineligible to submit a bid to any contracting agency or be awarded any
10 such contract for a period not to exceed five years following the final
11 determination. The division of minority and women's business development
12 shall maintain a website listing all contractors that have been deemed
13 ineligible to submit a bid pursuant to this section and the date after
14 which each contractor shall once again become eligible to submit bids.

15 S 11. Section 316-a of the executive law, as added by chapter 175 of
16 the laws of 2010, is amended to read as follows:

17 S 316-a. Prohibitions in contracts; violations. Every contracting
18 agency shall include a provision in its state contracts expressly
19 providing that any contractor who willfully and intentionally fails to
20 comply with the minority [and women-owned], WOMEN AND VETERAN-OWNED
21 participation requirements of this article as set forth in such state
22 contract shall be liable to the contracting agency for liquidated or
23 other appropriate damages and shall provide for other appropriate reme-
24 dies on account of such breach. A contracting agency that elects to
25 proceed against a contractor for breach of contract as provided in this
26 section shall be precluded from seeking enforcement pursuant to section
27 three hundred sixteen of this article; provided however, that the
28 contracting agency shall include a summary of all enforcement actions
29 undertaken pursuant to this section in its annual report submitted
30 pursuant to subdivision three of section three hundred fifteen of this
31 article.

32 S 12. This act shall take effect immediately, provided that the amend-
33 ments to article 15-A of the executive law, made by sections one through
34 eleven of this act, shall not affect the expiration of such article and
35 shall expire therewith.

36 PART NN

37 Section 1. Short title. This act shall be known as the "western New
38 York power proceeds allocation act".

39 S 2. The economic development law is amended by adding a new article
40 6-A to read as follows:

41 ARTICLE 6-A

42 WESTERN NEW YORK POWER PROCEEDS ALLOCATION ACT

43 SECTION 189-A. DEFINITIONS.

44 189-B. THE WESTERN NEW YORK POWER PROCEEDS ALLOCATION BOARD.

45 189-C. GENERAL POWERS AND DUTIES OF THE BOARD.

46 189-D. RULES AND REGULATIONS.

47 S 189-A. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING
48 TERMS SHALL HAVE THE FOLLOWING MEANINGS: 1. "AUTHORITY" IS THE POWER
49 AUTHORITY OF THE STATE OF NEW YORK.

50 2. "BOARD" IS THE WESTERN NEW YORK POWER PROCEEDS ALLOCATION BOARD
51 CREATED BY THIS ARTICLE.

52 3. "BENEFITS" OR "FUND BENEFITS" ARE PAYMENTS TO APPLICANTS SELECTED
53 IN ORDER TO FUND ELIGIBLE PROJECTS WITH MONIES DERIVED FROM NET EARNINGS

1 THAT HAVE BEEN DEPOSITED INTO THE WESTERN NEW YORK ECONOMIC DEVELOPMENT
2 FUND.

3 4. "ELIGIBLE PROJECTS" ARE ECONOMIC DEVELOPMENT PROJECTS THAT ARE
4 LOCATED WITHIN A THIRTY-MILE RADIUS OF THE NIAGARA POWER PROJECT LOCATED
5 IN LEWISTON, NEW YORK THAT WILL SUPPORT THE GROWTH OF BUSINESSES IN THE
6 STATE AND THEREBY LEAD TO THE CREATION OR MAINTENANCE OF JOBS AND TAX
7 REVENUES FOR THE STATE. ELIGIBLE PROJECTS MAY INCLUDE CAPITAL INVEST-
8 MENTS IN PLANT AND EQUIPMENT, AND ASSOCIATED BUILDINGS AND INFRASTRUC-
9 TURE (COLLECTIVELY, "INFRASTRUCTURE") OWNED BY AN APPLICANT FOR FUND
10 BENEFITS, INCLUDING TRANSPORTATION PROJECTS UNDER STATE OR FEDERALLY
11 APPROVED PLANS; THE ACQUISITION OF LAND NEEDED FOR INFRASTRUCTURE;
12 RESEARCH AND DEVELOPMENT WHERE THE RESULTS OF SUCH RESEARCH AND DEVELOP-
13 MENT WILL DIRECTLY BENEFIT NEW YORK STATE; SUPPORT FOR TOURISM AND
14 MARKETING AND ADVERTISING EFFORTS FOR WESTERN NEW YORK STATE TOURISM AND
15 BUSINESS AND FOR OTHER SIMILAR USES AND ACTIVITIES; AND ENERGY-RELATED
16 PROJECTS. ELIGIBLE PROJECTS DO NOT INCLUDE, AND FUND BENEFITS MAY NOT
17 BE USED FOR, PUBLIC INTEREST ADVERTISING OR ADVOCACY; LOBBYING; THE
18 SUPPORT OR OPPOSITION OF ANY CANDIDATE FOR PUBLIC OFFICE; THE SUPPORT OR
19 OPPOSITION TO ANY PUBLIC ISSUE; LEGAL FEES RELATED TO LITIGATION OF ANY
20 KIND; EXPENSES RELATED TO ADMINISTRATIVE PROCEEDINGS BEFORE STATE OR
21 LOCAL AGENCIES; RETAIL BUSINESSES AS DEFINED BY THE BOARD, INCLUDING
22 WITHOUT LIMITATION, SPORTS VENUES, GAMING AND GAMBLING OR ENTERTAIN-
23 MENT-RELATED ESTABLISHMENTS, RESIDENTIAL PROPERTIES, OR PLACES OF OVER-
24 NIGHT ACCOMMODATION; OR FOR SIMILAR USES OR ACTIVITIES.

25 5. "ENERGY-RELATED PROJECTS, PROGRAMS AND SERVICES" SHALL HAVE THE
26 SAME MEANING AS SUCH TERM IS DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH
27 (B) OF SUBDIVISION SEVENTEEN OF SECTION ONE THOUSAND FIVE OF THE PUBLIC
28 AUTHORITIES LAW.

29 6. "EXPANSION POWER" IS THE TWO HUNDRED FIFTY MEGAWATTS OF FIRM
30 NIAGARA PROJECT HYDROELECTRIC POWER AND "REPLACEMENT POWER" IS THE FOUR
31 HUNDRED FORTY-FIVE MEGAWATTS OF FIRM NIAGARA PROJECT HYDROELECTRIC POWER
32 AS SUCH TERMS ARE DEFINED IN SUBDIVISION THIRTEEN OF SECTION ONE THOU-
33 SAND FIVE OF THE PUBLIC AUTHORITIES LAW. FOR PURPOSES OF THIS SECTION,
34 EXPANSION AND REPLACEMENT POWER INCLUDES THE ENERGY ASSOCIATED WITH SUCH
35 POWER. NOTWITHSTANDING ANY LAW, RULE, REGULATION, OR POLICY TO THE
36 CONTRARY, AS OF THE FIRST DAY OF JULY, TWO THOUSAND TWELVE THE TERM
37 REPLACEMENT POWER AS USED IN THIS ARTICLE INCLUDES A CERTAIN SEVENTY
38 MEGAWATTS OF POWER THAT IS REFERRED TO IN SECTION ONE THOUSAND FIVE OF
39 THE PUBLIC AUTHORITIES LAW.

40 7. "NET EARNINGS" IS THE AGGREGATE EXCESS OF REVENUES RECEIVED BY THE
41 POWER AUTHORITY OF THE STATE OF NEW YORK FROM THE SALE OF EXPANSION AND
42 REPLACEMENT POWER AND ENERGY PRODUCED AT THE NIAGARA PROJECT THAT WAS
43 SOLD IN THE WHOLESALE ENERGY MARKET OVER WHAT REVENUES WOULD HAVE BEEN
44 RECEIVED HAD SUCH ENERGY BEEN SOLD ON A FIRM BASIS TO AN ELIGIBLE EXPAN-
45 SION OR REPLACEMENT POWER CUSTOMER UNDER THE APPLICABLE TARIFF OR
46 CONTRACT.

47 8. "WESTERN NEW YORK ECONOMIC DEVELOPMENT FUND" OR "FUND" IS A FUND OF
48 THE AUTHORITY INTO WHICH ALL NET EARNINGS ARE DEPOSITED BY THE AUTHORITY
49 AND FROM WHICH ALLOCATIONS OF FUND BENEFITS TO ELIGIBLE PROJECTS MAY BE
50 MADE.

51 S 189-B. THE WESTERN NEW YORK POWER PROCEEDS ALLOCATION BOARD. 1.
52 THERE IS HEREBY CREATED THE WESTERN NEW YORK POWER PROCEEDS ALLOCATION
53 BOARD, WHICH SHALL POSSESS THE POWERS AND DUTIES HEREIN SPECIFIED. THE
54 BOARD SHALL CONSIST OF FIVE MEMBERS WHO SHALL BE APPOINTED BY THE GOVER-
55 NOR AS FOLLOWS: ONE OF WHOM SHALL BE APPOINTED UPON THE RECOMMENDATION
56 OF THE TEMPORARY PRESIDENT OF THE SENATE AND SHALL RESIDE WITHIN THE

THIRTY MILE RADIUS OF THE NIAGARA POWER PROJECT AND ONE OF WHOM SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY AND SHALL RESIDE WITHIN THE THIRTY MILE RADIUS OF THE NIAGARA POWER PROJECT. AT LEAST ONE ADDITIONAL MEMBER SHALL ALSO RESIDE WITHIN THE THIRTY MILE RADIUS OF THE NIAGARA POWER PROJECT. THE GOVERNOR SHALL DESIGNATE A CHAIR FROM AMONGST THE BOARD'S MEMBERS.

2. EACH MEMBER SHALL SERVE A TERM OF FIVE YEARS OR UNTIL A SUCCESSOR SHALL HAVE BEEN NAMED AND QUALIFIED. MEMBERS MAY BE REAPPOINTED TO SUCCESSIVE TERMS.

3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THREE MEMBERS SHALL CONSTITUTE A QUORUM FOR THE PURPOSES OF ORGANIZING THE BOARD AND CONDUCTING THE BUSINESS THEREOF; AND NO ACTION OF THE BOARD MAY BE TAKEN EXCEPT UPON AN AFFIRMATIVE VOTE OF AT LEAST THREE-FIFTHS OF THE FULL BOARD MEMBERSHIP AT ANY MEETING AT WHICH AT LEAST THREE MEMBERS ARE PRESENT OR PARTICIPATING BY VIDEOCONFERENCING. VIDEOCONFERENCING MAY BE USED FOR ATTENDANCE AND PARTICIPATION BY MEMBERS OF THE BOARD. IF VIDEOCONFERENCING IS USED, THE BOARD SHALL PROVIDE AN OPPORTUNITY FOR THE PUBLIC TO ATTEND, LISTEN AND OBSERVE AT ANY SITE AT WHICH A MEMBER PARTICIPATES. THE PUBLIC NOTICE FOR THE MEETING SHALL IDENTIFY, IF PRACTICABLE, ALL LOCATIONS WHERE A MEMBER WILL PARTICIPATE IN THE MEETING BY VIDEOCONFERENCE AND SHALL STATE THAT THE PUBLIC HAS THE RIGHT TO ATTEND THE MEETING AT ANY SUCH LOCATION.

4. MEMBERS OF THE BOARD, EXCEPT THOSE THAT ARE EMPLOYEES OR OFFICERS OF THE STATE, ITS AUTHORITIES OR AGENCIES, SHALL NOT RECEIVE A SALARY OR OTHER COMPENSATION, BUT SHALL BE ALLOWED THE NECESSARY AND ACTUAL EXPENSES INCURRED IN THE PERFORMANCE OF DUTIES UNDER THIS ARTICLE.

S 189-C. GENERAL POWERS AND DUTIES OF THE BOARD. 1. THE BOARD SHALL ADOPT RULES AND REGULATIONS RELATING TO THE ACTIVITIES OF THE BOARD.

2. THE BOARD SHALL ADOPT RULES AND REGULATIONS AND ESTABLISH A PROCEDURE FOR REVIEWING APPLICATIONS FOR AN ALLOCATION OF FUND BENEFITS THAT SHALL INCLUDE A REVIEW OF APPLICATIONS NO LESS FREQUENTLY THAN TWICE EACH YEAR. THE BOARD, OR A MEMBER DESIGNATED BY THE BOARD, SHALL RECEIVE ALL APPLICATIONS FROM, OR ON BEHALF OF, APPLICANTS FOR FUND BENEFITS. APPLICATIONS SHALL BE IN A FORM AND CONTAIN SUCH INFORMATION, DATA AND EXHIBITS AS THE BOARD, IN CONSULTATION WITH THE AUTHORITY, MAY PRESCRIBE.

3. THE BOARD MAY REQUEST FROM THE AUTHORITY AND THE CORPORATION AN ANALYSIS OF ALL SUCH APPLICATIONS ALONG WITH ANY RECOMMENDATIONS. IN ADDITION, THE BOARD MAY REQUEST, IN WHICH CASE AND THE AUTHORITY AND THE CORPORATION SHALL SUPPLY, SUCH ADDITIONAL INFORMATION AS IS REASONABLY NECESSARY FOR THE BOARD TO PERFORM ITS DUTIES.

4. IN EVALUATING APPLICATIONS FOR FUND BENEFITS, THE BOARD SHALL USE THE CRITERIA FOR ELIGIBILITY FOR EXPANSION, REPLACEMENT AND PRESERVATION POWER, AND FOR REVITALIZATION OF INDUSTRY, PROVIDED IN SECTION ONE THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW. IN ADDITION, THE BOARD SHALL CONSIDER THE EXTENT TO WHICH AN AWARD OF FUND BENEFITS IS CONSISTENT WITH ANY REGIONAL ECONOMIC DEVELOPMENT COUNCIL STRATEGIES AND PRIORITIES. THE BOARD SHALL ISSUE A WRITTEN STATEMENT OF ITS FINDINGS AND CONCLUSIONS FOR EACH APPLICATION REVIEWED.

5. THE BOARD SHALL RECOMMEND TO THE CORPORATION THE ALLOCATION OF FUND BENEFITS TO ELIGIBLE PROJECTS THAT THE BOARD BELIEVES BEST MEET THE APPLICABLE CRITERIA IN SUBDIVISION FOUR OF THIS SECTION. THE BOARD MAY INCLUDE WITHIN ITS RECOMMENDATIONS SUCH TERMS AND CONDITIONS AS IT DEEMS APPROPRIATE, INCLUDING, BUT NOT LIMITED TO, REASONABLE PROVISION FOR THE ALLOCATION OF FUND BENEFITS OVER TIME AS THE APPLICANT ACHIEVES MILESTONES TOWARDS PROJECT COMPLETION, THE PARTIAL OR COMPLETE WITHDRAWAL OR

1 RETURN OF FUND BENEFITS WHERE THE RECIPIENT HAS FAILED TO ACHIEVE OR
2 MAINTAIN MUTUALLY AGREED UPON COMMITMENTS, OR SUCH OTHER TERMS AND
3 CONDITIONS AS THE BOARD DEEMS ADVISABLE.

4 6. A RECOMMENDATION BY THE BOARD THAT AN APPLICANT RECEIVE AN ALLO-
5 CATION OF FUND BENEFITS SHALL BE A PREREQUISITE TO AN AWARD OF FUND
6 BENEFITS BY THE AUTHORITY. THE AUTHORITY SHALL AWARD FUND BENEFITS TO
7 AN APPLICANT UPON A RECOMMENDATION OF THE BOARD, PROVIDED HOWEVER THAT
8 UPON A SHOWING OF GOOD CAUSE, THE AUTHORITY SHALL HAVE DISCRETION AS TO
9 WHETHER TO ADOPT THE BOARD'S RECOMMENDATION, OR TO AWARD BENEFITS IN A
10 DIFFERENT AMOUNT AND ON DIFFERENT TERMS AND CONDITIONS THAN THOSE
11 CONTAINED IN THE RECOMMENDATION OF THE BOARD.

12 7. UPON MAKING AN ALLOCATION OF FUND BENEFITS, THE AUTHORITY SHALL
13 INCLUDE WITHIN THE AGREEMENT PROVIDING FOR THE TERMS AND CONDITIONS
14 APPLICABLE TO SUCH ALLOCATION ALL TERMS AND CONDITIONS THE AUTHORITY
15 DEEMS APPROPRIATE, TAKING INTO ACCOUNT THE RECOMMENDATIONS MADE BY THE
16 BOARD.

17 S 189-D. RULES AND REGULATIONS. THE AUTHORITY IS HEREBY AUTHORIZED TO
18 PROMULGATE RULES AND REGULATIONS AS ARE NECESSARY TO FULFILL THE
19 PURPOSES OF THIS ARTICLE.

20 S 3. Section 1005 of the public authorities law is amended by adding
21 five new subdivisions 19, 20, 21, 22 and 23 to read as follows:

22 19. TO COOPERATE WITH THE WESTERN NEW YORK POWER PROCEEDS ALLOCATION
23 BOARD AND PROVIDE THE BOARD WITH SUCH INFORMATION AND ASSISTANCE AS THE
24 BOARD REASONABLY REQUESTS INCLUDING REASONABLE STAFF SERVICES, ACCOUNT-
25 ING, CLERICAL AND SECRETARIAL ASSISTANCE, OFFICE SPACE, AND EQUIPMENT
26 REASONABLY REQUESTED BY THE WESTERN NEW YORK POWER PROCEEDS ALLOCATION
27 BOARD TO FULFILL ITS DUTIES.

28 20. TO ESTABLISH AN ACCOUNT TO BE KNOWN AS THE WESTERN NEW YORK
29 ECONOMIC DEVELOPMENT FUND, WHICH SHALL CONSIST OF "NET EARNINGS" AS
30 DEFINED IN ARTICLE SIX-A OF THE ECONOMIC DEVELOPMENT LAW. SUCH EARNINGS
31 SHALL BE DEPOSITED NO LESS FREQUENTLY THAN QUARTERLY. THE FIRST PAYMENT
32 INTO THE FUND SHALL BE MADE NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS
33 SUBDIVISION, AND SHALL INCLUDE ALL SUCH NET EARNINGS ACCRUED SINCE THE
34 EFFECTIVE DATE OF CHAPTER FOUR HUNDRED THIRTY-SIX OF THE LAWS OF TWO
35 THOUSAND TEN. AT LEAST FIFTEEN PERCENT OF SUCH FUNDS SHALL BE DEDICATED
36 TOWARDS ELIGIBLE PROJECTS WHICH ARE ENERGY-RELATED PROJECTS, PROGRAMS
37 AND SERVICES AS SUCH TERM IS DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH
38 (B) OF SUBDIVISION SEVENTEEN OF THIS SECTION. IN ADDITION TO FUNDING
39 ELIGIBLE PROJECTS, AS DEFINED IN ARTICLE SIX-A OF THE ECONOMIC DEVELOP-
40 MENT LAW, THE AUTHORITY MAY USE WESTERN NEW YORK ECONOMIC DEVELOPMENT
41 FUND MONIES TO COVER REASONABLE COSTS AND EXPENSES OF THE AUTHORITY
42 RELATED TO THE MANAGEMENT AND ADMINISTRATION OF SUCH FUND.

43 21. THE AUTHORITY MAY, IN ITS DISCRETION, CONSULT WITH THE WESTERN NEW
44 YORK POWER PROCEEDS ALLOCATION BOARD IN THE APPLICATION PROCESS RELATING
45 TO THE ALLOCATION OF EXPANSION POWER AND REPLACEMENT POWER.

46 22. THE AUTHORITY SHALL ESTABLISH PROCESSES FOR APPLICATION REVIEW AND
47 ALLOCATION OF FUND BENEFITS PROVIDED IN ARTICLE SIX-A OF THE ECONOMIC
48 DEVELOPMENT LAW.

49 23. THE AUTHORITY SHALL INCLUDE IN THE ANNUAL REPORT PREPARED PURSUANT
50 TO SUBDIVISION EIGHTEEN OF THIS SECTION, AN ACCOUNTING FOR THE SUBJECT
51 YEAR THAT PROVIDES (A) THE AMOUNT OF EXPANSION POWER AND REPLACEMENT
52 POWER SOLD INTO THE WHOLESALE MARKET BY THE AUTHORITY, AND (B) THE NET
53 EARNINGS, AS SUCH TERM IS DEFINED IN SECTION ONE HUNDRED EIGHTY-NINE-A
54 OF THE ECONOMIC DEVELOPMENT LAW, PAID INTO THE WESTERN NEW YORK ECONOMIC
55 DEVELOPMENT FUND.

1 S 4. Chapter 436 of the laws of 2010 amending the public authorities
2 law and the economic development law, relating to authorizing unallo-
3 cated expansion or replacement power to be allocated for western New
4 York economic development fund benefits is REPEALED.

5 S 5. This act shall take effect immediately.

6 PART OO

7 Section 1. The environmental conservation law is amended by adding a
8 new section 11-0706 to read as follows:

9 S 11-0706. GIFT CARDS FOR HUNTING AND FISHING LICENSES.

10 1. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS ESTABLISH-
11 ING GIFT CARDS FOR THE LICENSES AND STAMPS SET FORTH IN SECTION 11-0701
12 OF THIS TITLE.

13 2. FOR THE PURPOSES OF THIS TITLE, THE TERM "GIFT CARD" SHALL MEAN A
14 RESTRICTED MONETARY EQUIVALENT OR VOUCHER THAT, WHEN REDEEMED BY THE
15 HOLDER, ENTITLES SUCH PERSON TO A VALID LICENSE OR STAMP AS SET FORTH IN
16 SECTION 11-0701 OF THIS TITLE.

17 S 2. This act shall take effect immediately.

18 PART PP

19 Section 1. No later than July 1, 2012, the commissioner of the depart-
20 ment of environmental conservation shall prepare a plan and issue draft
21 regulations to expedite the marking and harvesting of downed trees on
22 state lands outside of the areas of the forest preserves for use as
23 timber products. The goal of such regulations will be to maximize the
24 long-term health and sustainability of these wooded areas, while assur-
25 ing that the state is adequately compensated for such harvesting, and
26 that the non-permitted taking of timber is more effectively discouraged.
27 Such regulations shall be finalized and put in place no later than Janu-
28 ary 1, 2013.

29 S 2. This act shall take effect immediately.

30 PART QQ

31 Section 1. Subdivision 9 of section 602 of the racing, pari-mutuel
32 wagering and breeding law, as amended by chapter 115 of the laws of
33 2008, is amended and a new subdivision 15 is added to read as follows:

34 9. "Cost of corporation's functions." All costs and expenses incurred
35 by the corporation in connection with the performance of the functions
36 of the corporation, including, but not limited to, operating expenses of
37 the corporation, the cost of acquiring, constructing or equipping branch
38 offices and other facilities and premises of the corporation, [and
39 interest and principal on bonds,] notes or other obligations of the
40 corporation issued to finance the acquisition, construction or equipment
41 of such offices, facilities or premises.

42 15. "VENDOR OPERATOR." THE VENDOR OPERATOR SHALL BE SELECTED PURSUANT
43 TO THE PROVISIONS SET FORTH IN SECTION SIX HUNDRED TWENTY-FIVE OF THIS
44 ARTICLE AND SHALL BE RESPONSIBLE FOR THE ADMINISTRATION AND OPERATION OF
45 THE CORPORATION.

46 S 2. Section 603 of the racing, pari-mutuel wagering and breeding law,
47 as amended by chapter 115 of the laws of 2008, is amended to read as
48 follows:

49 S 603. New York city off-track betting corporation. 1. A corporation
50 to be known as the "New York city off-track betting corporation" is

hereby created. Such corporation shall be a body corporate and politic constituting a public benefit corporation. It shall be [administered] OVERSEEN by a board of directors consisting of five members, who may be public officers, appointed by the governor for fixed terms as hereinafter provided, one of whom shall be appointed on the recommendation of the temporary president of the senate, and one of whom shall be appointed on the recommendation of the speaker of the assembly.

2. THE TERMS OF ALL DIRECTORS SERVING A TERM THAT ENCOMPASSED JANUARY TWENTY-FIFTH, TWO THOUSAND TWELVE, SHALL BE DEEMED TO HAVE EXPIRED AND NEW DIRECTORS SHALL BE APPOINTED. Of the directors, one shall be appointed for a term ending on December thirty-first, two thousand [nine] TWELVE, one for a term ending on December thirty-first, two thousand [ten] THIRTEEN, one for a term ending on December thirty-first, two thousand [twelve] FOURTEEN, and the two directors appointed on the recommendation of the temporary president of the senate and the speaker of the assembly, for a term ending December thirty-first, two thousand [fourteen] SIXTEEN. Upon the expiration of such terms, the terms of office of their successors shall be six years. Vacancies occurring otherwise than by expiration of term shall be filled for the unexpired term.

3. The governor shall designate one of the directors to be chairman of the board of directors and may at his pleasure, change his designation of any such director to be chairman.

4. Each director shall continue to serve until the appointment and qualification of his successor.

5. The directors shall be removable for cause by the governor, upon charges and after a hearing.

6. The [powers] OVERSIGHT of the corporation shall be vested in and exercised by the board at a meeting duly held at a time fixed by any by-law adopted by the board, or at any duly adjourned meeting of such meeting or at any meeting held upon reasonable notice to all of the directors, or upon written waiver thereof, and a majority of the whole number of directors shall constitute a quorum[; provided that neither the business nor the powers of the corporation shall be transacted or exercised except pursuant to the favorable vote of at least a majority of the directors present at a meeting at which a quorum is in attendance].

7. The board may delegate to one or more of the directors, officers, agents or employees of the corporation such powers and duties as it may deem proper.

8. The directors shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

9. The directors may engage in outside employment or in a profession or business EXCEPT AS AN EXECUTIVE OR LEGISLATIVE EMPLOYEE OR unless otherwise prohibited from doing so by virtue of holding another public office subject to the provisions of section seventy-three of the public officers law.

10. The board shall hold an annual meeting.

11. The fiscal year of the corporation shall be the same as [that of the city, provided, however, that the corporation shall have a nine month fiscal year from July first, two thousand eight through March thirty-first, two thousand nine, and then the fiscal year of the corporation shall be the same as] the state.

12. THE CORPORATION WILL BE ADMINISTERED BY THE VENDOR OPERATOR AND THE POWERS OF THE CORPORATION SHALL BE VESTED IN THE VENDOR OPERATOR.

1 S 3. Section 617 of the racing, pari-mutuel wagering and breeding law
2 is amended to read as follows:

3 S 617. Exemption from taxation. [1.] The moneys and property of the
4 corporation and any property under its jurisdiction, control or super-
5 vision, and all of its activities and operations shall be exempt from
6 taxation.

7 [2. The state covenants with the purchasers of and with all subsequent
8 holders and transferees of bonds and notes issued by the corporation
9 pursuant to this article, in consideration of the acceptance of and
10 payment for the said bonds and notes, that the said bonds and notes and
11 the income therefrom, and all moneys, funds and revenue pledged to pay
12 or secure the payment of such bonds and notes shall at all time be free
13 from taxation, except for estate and gift taxes and taxes on transfers.]

14 S 4. The opening paragraph of section 621 of the racing, pari-mutuel
15 wagering and breeding law, as amended by chapter 115 of the laws of
16 2008, is amended to read as follows:

17 Within one hundred twenty days after the end of the fiscal year of the
18 corporation, the [directors thereof] VENDOR OPERATOR shall submit to the
19 governor, the legislature, the racing and wagering board and the state
20 comptroller a complete and detailed report setting forth:

21 S 5. The racing, pari-mutuel wagering and breeding law is amended by
22 adding a new section 625 to read as follows:

23 S 625. SELECTION OF VENDOR OPERATOR. 1. THE NEW YORK STATE RACING AND
24 WAGERING BOARD SHALL SUBMIT, WITHIN THIRTY DAYS AFTER THESE PROVISIONS
25 BECOME LAW, A REQUEST FOR PROPOSALS FROM QUALIFYING ENTITIES AS
26 DESCRIBED HEREIN FOR THE PURPOSE OF THE ADMINISTRATION OF THE CORPO-
27 RATION. THE ENTITY CHOSEN TO ADMINISTER THE CORPORATION SHALL ENTER INTO
28 A CONTRACT WITH THE STATE FOR A TERM OF TEN YEARS, WHICH MAY BE RENEWED
29 SUBJECT TO THE APPROVAL OF THE STATE RACING AND WAGERING BOARD AND THE
30 APPROVAL OF THE NEW YORK CITY OFF-TRACK BETTING BOARD OF DIRECTORS.

31 2. ELIGIBLE ENTITIES SHALL CONSIST OF INDIVIDUALS, PARTNERSHIPS OR
32 CORPORATIONS, PUBLIC OR PRIVATE, WHICH ARE REQUIRED AS PART OF THEIR
33 PROPOSAL TO SUBMIT AT LEAST ONE BUSINESS PLAN FOR THE RE-ESTABLISHMENT
34 AND CONTINUATION OF A PROFITABLE CORPORATION. IN AWARDED THE CONTRACT,
35 THE STATE RACING AND WAGERING BOARD MUST CONSIDER THE FOLLOWING CRITERIA
36 WITH RESPECT TO EACH APPLICANT: ITS EXPERIENCE IN MANAGING SUCCESSFUL
37 BUSINESS ENTERPRISES, ITS EXPERIENCE IN THE RACING INDUSTRY, ITS EXPERI-
38 ENCE IN THE PARI-MUTUEL AND/OR OFF-TRACK BETTING INDUSTRIES, ITS EXPERI-
39 ENCE IN THE ENTERTAINMENT INDUSTRY, THE FEASIBILITY OF ITS PROPOSED
40 BUSINESS PLAN OR PLANS, AND ITS COMMITMENT TO USE ITS BEST EFFORTS TO
41 SUPPORT THE VIABILITY OF OFF-TRACK BETTING IN THE CITY OF NEW YORK AS
42 WELL AS THE RACING INDUSTRY THROUGHOUT THE STATE.

43 3. ALL BUSINESS PLANS SUBMITTED BY AN ENTITY MUST INCLUDE PROVISIONS
44 FOR PRIORITY FOR CONSIDERATION FOR EMPLOYMENT BY ANY FORMER EMPLOYEE OF
45 THE CORPORATION WHOSE EMPLOYMENT TERMINATED OTHER THAN FOR CAUSE, BY
46 RETIREMENT, OR WITH A SEVERANCE AWARD. SUCH PLANS MUST ALSO PROVIDE FOR
47 REPRESENTATION OF OFF-TRACK BETTING BRANCH OFFICES, OR AN EQUIVALENT, IN
48 ALL OF THE BOROUGHES OF THE CITY OF NEW YORK, WITH PREFERENCE GIVEN FOR
49 BUSINESS PLANS THAT HAVE AT LEAST THREE FACILITIES IN EACH BOROUGH AND
50 THAT MAINTAIN THE SAME RATIO OF ACCESS TO OFF-TRACK BETTING FACILITIES
51 AS WAS PREVIOUSLY PROVIDED BY THE CORPORATION PRIOR TO DECEMBER FIRST,
52 TWO THOUSAND TEN.

53 4. THE STATE RACING AND WAGERING BOARD SHALL MAKE PUBLIC ITS PRELIMI-
54 NARY SELECTION OF THE VENDOR OPERATOR NO LATER THAN THREE MONTHS AFTER
55 THE SUBMISSION OF THE REQUEST FOR PROPOSALS, AND ALLOW FOR TWO WEEKS FOR
56 PUBLIC COMMENT. THE FINAL SELECTION AND THE CONTRACT BETWEEN THE VENDOR

1 AND THE STATE MUST BE FINALIZED WITHIN THIRTY DAYS OF THE PRELIMINARY
2 SELECTION, BUT NO SOONER THAN THE END OF THE TWO WEEK PUBLIC COMMENT
3 PERIOD.

4 5. THE SELECTION OF VENDOR MAY BE REVOKED AND CANCELLED BY THE STATE
5 RACING AND WAGERING BOARD FOR A MATERIAL BREACH OF CONTRACT OR FOR A
6 VIOLATION OF THE RULES OF THE STATE RACING AND WAGERING BOARD OR IF SUCH
7 VENDOR OR ITS OFFICERS OR DIRECTORS SHALL KNOWINGLY VIOLATE THE
8 PROVISIONS OF THIS CHAPTER OR OF THE PENAL LAW. THE ACTION OF THE STATE
9 RACING AND WAGERING BOARD IN REVOKING THE SELECTION SHALL BE REVIEWABLE
10 IN THE SUPREME COURT IN THE MANNER PROVIDED BY AND SUBJECT TO THE
11 PROVISIONS OF ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

12 6. FOR CONTRACTS IN EXCESS OF ONE HUNDRED THOUSAND DOLLARS, ENTERED
13 INTO BY THE VENDOR FOR THE PROCUREMENT OF GOODS OR SERVICES, THE BOARD
14 MAY REVIEW THE CHARACTER AND FITNESS OF THE ENTITY OR ITS PRINCIPALS
15 ENTERING INTO CONTRACTS WITH THE VENDOR.

16 S 6. Clause (E) of subparagraph 5 and clause (F) of subparagraph 6 of
17 paragraph b of subdivision 1 of section 1016 of the racing, pari-mutuel
18 wagering and breeding law, as amended by chapter 18 of the laws of 2008,
19 are amended to read as follows:

20 (E) On days when a franchised corporation is not conducting a race
21 meeting and when a licensed harness track is neither accepting wagers
22 nor displaying the signal from an in-state thoroughbred corporation or
23 association or an out-of-state thoroughbred track:

24 (i) Such licensed regional harness track shall receive in lieu of any
25 other payments on wagers placed at off-track betting facilities outside
26 the special betting district on races conducted by an in-state thorough-
27 bred racing corporation, [two and eight-tenths] ONE AND FOUR-TENTHS
28 percent on regular and multiple bets during a regional meeting and [one
29 and nine-tenths] NINETY-FIVE HUNDREDTHS percent of such bets if there is
30 no regional meeting and [four and eight-tenths] TWO AND FOUR-TENTHS
31 percent on exotic bets on days on which there is a regional meeting and
32 [three and four-tenths] ONE AND SEVEN-TENTHS percent of such bets if
33 there is no regional meeting.

34 (ii) Such licensed regional harness track shall receive [one and one-
35 half] SEVENTY-FIVE HUNDREDTHS per centum on total regional handle on
36 races conducted at out-of-state or out-of-country thoroughbred tracks.

37 (iii) In those regions in which there is more than one licensed
38 regional harness track, if no track is accepting wagers or displaying
39 the live simulcast signal from the out-of-state track, the total sum
40 shall be divided among the tracks in proportion to the ratio the wagers
41 placed on races conducted by each track bears to the corporation's total
42 in-region harness handle. If one or more tracks are accepting wagers or
43 displaying the live simulcast signal, the total amount shall be divided
44 among those tracks not accepting wagers or displaying the simulcast
45 signal for an out-of-state track or in-state thoroughbred corporation or
46 association.

47 (F) Of the sums retained by a licensed harness facility, [fifty] ONE
48 HUNDRED percent shall be used exclusively for purses awarded in races
49 conducted by such licensed facility [and the remaining fifty percent
50 shall be retained by such licensed facility for its general purposes,
51 provided, however, that in a harness special betting district the
52 portion of the sums retained by a licensed harness facility to be used
53 for purses or the methodology for calculating the amount to be used for
54 purses may be specified in a written contract between a harness racing
55 association or corporation and its representative horsemen's associ-
56 ation].

1 S 7. Section 1017 of the racing, pari-mutuel wagering and breeding
2 law, as amended by chapter 18 of the laws of 2008, is amended to read as
3 follows:

4 S 1017. Out-of-state or out-of-country races. 1. Licensed simulcast
5 facilities may accept wagers and display the signal of out-of-state or
6 out-of-country thoroughbred tracks after 7Labor P.M. in accordance with
7 the provisions of this section. Such simulcasting may include mixed
8 meetings if such meetings are integral to such racing programs and all
9 such wagering on such races shall be construed to be thoroughbred races.
10 For facilities located within the special betting district, such
11 approval shall also be required from a thoroughbred racing corporation
12 during the period a racing program is being conducted at such track.
13 Such approval shall not be required on any day such thoroughbred racing
14 corporation is also accepting an out-of-state or out-of-country signal
15 and wager, as authorized by this section. The provisions of section one
16 thousand sixteen of this article shall be applicable to the conduct of
17 such simulcasting and the provisions of clauses (A) and (B) of subpara-
18 graph four of paragraph b of subdivision one of section one thousand
19 sixteen of this article shall apply to those facilities licensed in
20 accordance with sections one thousand eight and one thousand nine of
21 this article and the provisions of clauses (A) and (B) of subparagraph
22 six of paragraph b of subdivision one of section one thousand sixteen of
23 this article shall apply to those facilities licensed in accordance with
24 section one thousand seven of this article, when such provisions are in
25 full force and effect pursuant to such section. Provided, however, the
26 provisions of section one thousand fourteen of this article shall be
27 applicable to the conduct of such simulcasting, when such provisions are
28 in full force and effect pursuant to such section.

29 2. a. Maintenance of effort. Any off-track betting corporation which
30 engages in accepting wagers on the simulcasts of thoroughbred races from
31 out-of-state or out-of-country as permitted under subdivision one of
32 this section shall submit to the board, for its approval, a schedule of
33 payments to be made in any year or portion thereof, that such off-track
34 corporation engages in nighttime thoroughbred simulcasting. In order to
35 be approved by the board, the payment schedule shall be identical to the
36 actual payments and distributions of such payments to [tracks and] purs-
37 es made by such off-track corporation pursuant to the provisions of
38 section one thousand fifteen of this article during the year two thou-
39 sand two, as derived from out-of-state harness races displayed after
40 6:00 P.M. If approved by the board, such scheduled payments shall be
41 made from revenues derived from any simulcasting conducted pursuant to
42 this section and section one thousand fifteen of this article.

43 b. Additional payments. During each calendar year, to the extent, and
44 at such time in the event, that aggregate statewide wagering handle
45 after 7Labor P.M. on out-of-state and out-of-country thoroughbred races
46 exceeds one hundred million dollars, each off-track betting corporation
47 conducting such simulcasting shall pay to its regional harness track or
48 tracks, an amount equal to [two] ONE percent of its proportionate share
49 of such excess handle. In any region where there are two or more
50 regional harness tracks, such two percent shall be divided between or
51 among the tracks in a proportion equal to the proportion of handle on
52 live harness races conducted at such tracks during the preceding calen-
53 dar year. [Fifty percent of the] THE sum received by each track pursuant
54 to this paragraph shall be used exclusively for increasing purses,
55 stakes and prizes at that regional harness track.

1 S 8. Subdivision 2 of section 529 of the racing, pari-mutuel wagering
2 and breeding law is amended to read as follows:

3 2. [Ninety-five percent of the balance of such account remaining
4 unclaimed as of the last day of February of such year shall be paid to
5 the state tax commission by March fifteenth. On or before April tenth of
6 each year the balance of such account and any other unclaimed amounts
7 received in the course of conducting off-track betting shall be paid by
8 such corporation to the state tax commission. A penalty of five percent
9 and interest at the rate of one percent per month from the due date to
10 the date of payment of the unclaimed balance due March fifteenth or
11 April tenth, as the case may be, shall be payable in case such balance
12 is not paid when due. Such amounts, interest and penalties when
13 collected by the state tax commission shall be deposited into the gener-
14 al fund of the state treasury] ON APRIL FIRST OF EACH YEAR, THE AMOUNT
15 OF TICKETS REMAINING UNCLAIMED FROM THE PRIOR YEAR MAY BE USED FOR
16 CORPORATE PURPOSES.

17 S 9. Subdivision 7 of section 532 of the racing, pari-mutuel wagering
18 and breeding law, as added by chapter 115 of the laws of 2008, is
19 amended to read as follows:

20 7. Notwithstanding any other provision of this section, any payments
21 otherwise payable to a city with a population of one million or more,
22 pursuant to this section, [other than payments pursuant to subparagraphs
23 (i) and (iii) of paragraph b of subdivision three of this section, shall
24 be payable to the corporation and shall be available for its corporate
25 purposes] SHALL PAY REMAINING AMOUNTS TO THE COMPTROLLER OF THE STATE OF
26 NEW YORK FOR DEPOSIT IN THE NEW YORK CITY OFF-TRACK BETTING CORPORATION
27 FUND.

28 S 10. Subdivision 2 of section 610 of the racing, pari-mutuel wagering
29 and breeding law, as amended by chapter 115 of the laws of 2008, is
30 amended to read as follows:

31 2. All moneys due the city pursuant to article five-A of this chapter
32 shall be paid to the New York city [comptroller] OFF-TRACK BETTING
33 CORPORATION FUND.

34 S 11. Subdivision 6 of section 527 of the racing, pari-mutuel wagering
35 and breeding law, as amended by chapter 115 of the laws of 2008, is
36 amended to read as follows:

37 6. The net amount remaining to each regional corporation after payment
38 of taxes and distributions pursuant to this section and after payment of
39 operating expenses and principal and interest on any obligations shall,
40 in the case of the New York city off-track betting corporation, be
41 retained by the corporation, and in the case of other regional corpo-
42 rations shall accrue and be payable to participating counties pursuant
43 to section five hundred sixteen of this chapter; provided, however, that
44 the [New York city off-track betting corporation] VENDOR OPERATOR, after
45 payment of all current taxes and distributions shall use such net amount
46 to pay all [liabilities] OPERATING EXPENSES of such corporation [as of
47 the effective date of the chapter of the laws of two thousand eight
48 which amended this subdivision], and at such time as all [liabilities]
49 OPERATING EXPENSES have been paid, such [corporation] VENDOR OPERATOR
50 shall pay ANY remaining amounts to the comptroller of the state of New
51 York for deposit in the [general fund of the state] NEW YORK CITY
52 OFF-TRACK BETTING CORPORATION FUND.

53 S 12. The racing, pari-mutuel wagering and breeding law is amended by
54 adding a new section 626 to read as follows:

55 S 626. VENDOR OPERATOR FEE. AS CONSIDERATION FOR THE OPERATION OF THE
56 CORPORATION, THE COMPTROLLER SHALL PAY A VENDOR FEE IN EXCHANGE FOR THE

1 DAILY OPERATIONS AND CAPITALIZATION OF A NEW YORK CITY OFF-TRACK BETTING
2 OPERATION TO BE PAID AS FOLLOWS: IF THE ANNUAL DEPOSIT INTO THE NEW
3 YORK CITY OFF-TRACK BETTING CORPORATION FUND IS LESS THAN TWO AND
4 ONE-HALF MILLION DOLLARS, THE VENDOR OPERATOR SHALL RECEIVE ONE HUNDRED
5 PERCENT OF THE ANNUAL DEPOSITS; IF THE ANNUAL DEPOSIT INTO THE NEW YORK
6 CITY OFF-TRACK BETTING CORPORATION FUND IS LESS THAN OR EQUAL TO TEN
7 MILLION DOLLARS, THE VENDOR OPERATOR SHALL BE PAID TWO AND ONE-HALF
8 MILLION DOLLARS AND THE REMAINING FUNDS SHALL BE DEPOSITED TO THE STATE
9 GENERAL FUND; IF THE ANNUAL DEPOSIT IS MORE THAN TEN MILLION DOLLARS,
10 THE VENDOR OPERATOR SHALL BE PAID TWENTY-FIVE PERCENT OF THE TOTAL ANNU-
11 AL DEPOSITS AND THE REMAINING FUNDS SHALL BE DEPOSITED TO THE STATE
12 GENERAL FUND.

13 S 13. The state finance law is amended by adding a new section 97-llll
14 to read as follows:

15 S 97-LLLL. NEW YORK CITY OFF-TRACK BETTING CORPORATION FUND. 1. THERE
16 IS HEREBY ESTABLISHED IN THE CUSTODY OF THE COMPTROLLER, A SPECIAL FUND
17 TO BE KNOWN AS THE "NEW YORK CITY OFF-TRACK BETTING CORPORATION FUND".

18 2. SUCH FUND SHALL CONSIST OF ALL MONIES RECEIVED BY THE STATE PURSU-
19 ANT TO SUBDIVISIONS ONE AND SIX OF SECTION FIVE HUNDRED TWENTY-SEVEN AND
20 SUBDIVISION SEVEN OF SECTION FIVE HUNDRED THIRTY-TWO OF THE RACING,
21 PARI-MUTUEL WAGERING AND BREEDING LAW. ANY INTEREST EARNED BY THE
22 INVESTMENT OF MONEYS IN SUCH FUND SHALL BE ADDED TO SUCH FUND, BECOME A
23 PART OF SUCH FUND, AND BE USED FOR THE PURPOSE OF SUCH FUND.

24 3. MONEYS OF THE NEW YORK CITY OFF-TRACK BETTING CORPORATION FUND
25 SHALL BE MADE AVAILABLE TO THE COMPTROLLER FOR THE PURPOSE OF PAYING THE
26 NEW YORK CITY OFF-TRACK BETTING VENDOR OPERATOR FEE DISTRIBUTED ACCORD-
27 ING TO SECTION SIX HUNDRED TWENTY-SIX OF THE RACING, PARI-MUTUEL WAGER-
28 ING AND BREEDING LAW; ALL REMAINING MONEY SHALL BE DISBURSED INTO THE
29 STATE GENERAL FUND.

30 S 14. The racing, pari-mutuel wagering and breeding law is amended by
31 adding a new section 113 to read as follows:

32 S 113. TELEPHONE AND INTERNET WAGERING. THE STATE RACING AND WAGERING
33 BOARD SHALL DETERMINE WHETHER ELIMINATING OR REGULATING THE AUTHORITY OF
34 OUT-OF-STATE ENTITIES TO ACCEPT TELEPHONE AND/OR INTERNET WAGERING FROM
35 NEW YORK STATE RESIDENTS PLACED WHILE IN NEW YORK STATE, WOULD BE
36 CONSISTENT WITH THE OBJECTIVES OF OFF-TRACK PARI-MUTUEL BETTING AS
37 DEFINED IN SECTION FIVE HUNDRED EIGHTEEN OF THIS CHAPTER, AND IF SO
38 DETERMINED, THE STATE RACING AND WAGERING BOARD SHALL ESTABLISH SUCH
39 GENERAL REGULATIONS TO ELIMINATE OR REGULATE THE PRACTICE OF
40 OUT-OF-STATE ENTITIES OF ACCEPTING SUCH WAGERS.

41 S 15. Subdivisions 4 and 5 of section 610 of the racing, pari-mutuel
42 wagering and breeding law are REPEALED.

43 S 16. Section 611 of the racing, pari-mutuel wagering and breeding law
44 is REPEALED.

45 S 17. Section 612 of the racing, pari-mutuel wagering and breeding law
46 is REPEALED.

47 S 18. Section 613 of the racing, pari-mutuel wagering and breeding law
48 is REPEALED.

49 S 19. Section 614 of the racing, pari-mutuel wagering and breeding law
50 is REPEALED.

51 S 20. Section 616 of the racing, pari-mutuel wagering and breeding law
52 is REPEALED.

53 S 21. Section 620 of the racing, pari-mutuel wagering and breeding law
54 is REPEALED.

55 S 22. This act shall take effect immediately.

1

PART RR

2 Section 1. The racing, pari-mutuel wagering and breeding law is
3 amended by adding a new section 503-a to read as follows:

4 S 503-A. ADDITIONAL POWERS OF THE REGIONAL OFF-TRACK BETTING CORPO-
5 RATIONS. IN ADDITION TO THE POWERS ENUMERATED IN SECTION FIVE HUNDRED
6 THREE OF THIS ARTICLE, REGIONAL OFF-TRACK BETTING CORPORATIONS ARE HERE-
7 BY AUTHORIZED AND MAY FILE ANY PETITION WITH ANY UNITED STATES DISTRICT
8 COURT OR COURT OF BANKRUPTCY UNDER ANY PROVISION OF LAWS OF THE UNITED
9 STATES FOR THE COMPOSITION OR ADJUSTMENT OF MUNICIPAL INDEBTEDNESS,
10 PROVIDED SUCH CORPORATION IS AUTHORIZED BY A RESOLUTION ADOPTED BY A
11 MAJORITY OF THE PARTICIPATING COUNTIES TO SUCH REGION, OR, FOR A CORPO-
12 RATION WHOLLY CONTAINED WITHIN ONE COUNTY, BY A RESOLUTION ADOPTED BY
13 SUCH COUNTY.

14 S 2. Notwithstanding any other provision of law or regulation to the
15 contrary, all funds in a capital acquisition fund, established pursuant
16 to section 509-a of the racing, pari-mutuel wagering and breeding law
17 containing less than two million dollars as of the effective date of
18 this chapter shall be available to a regional off-track betting corpo-
19 ration for any corporate purpose.

20 S 3. This act shall take effect immediately.

21

PART SS

22 Section 1. Paragraph (d) of subdivision 15 of section 385 of the vehi-
23 cle and traffic law, as amended by section 3 of part C of chapter 59 of
24 the laws of 2004, is amended to read as follows:

25 (d) (I) Except during storms, floods, fires or other public emergen-
26 cies, no such permit may be issued to include a towing operation involv-
27 ing more than two vehicles except three vehicle combinations consisting
28 of a tractor, semitrailer and trailer or a tractor and two trailers
29 within legal weight and width limits proceeding to or from any qualify-
30 ing highway or access highway. Every such permit may designate the route
31 to be traversed and contain any other restrictions or conditions deemed
32 necessary by the issuing authority. Every such permit shall be carried
33 on the vehicle to which it refers and shall be open to the inspection of
34 any peace officer, acting pursuant to his special duties, or police
35 officer, or any other officer or employee authorized to enforce this
36 section. All permits issued shall be revocable by the authority issuing
37 them at the discretion of the authority without a hearing or the neces-
38 sity of showing cause. Except for a vehicle having a maximum gross
39 weight not exceeding eighty thousand pounds without regard to any axle
40 weight limitation set forth herein or the maximum gross weight estab-
41 lished by the formula commonly referred to as the bridge formula as set
42 forth in subdivision ten of this section and except for state or municipi-
43 ally-owned single vehicles engaged in snow and ice control operations,
44 or designed or fitted for snow and ice control operations while engaged
45 in other public works operations on public highways which do not exceed
46 the weight limits contained in subdivision seventeen-a of this section,
47 no permit shall be issued to allow operation or movement of any vehicle
48 or combination of vehicles whose weight exceeds the limitations other-
49 wise prescribed in this section other than an annual permit issued
50 pursuant to paragraph (f) of this subdivision except upon a finding by
51 the department of transportation or the appropriate authority, as the
52 case may be, that the load proposed is of one piece or item or otherwise
53 cannot be separated into units of less weight provided, however, that

any such permit issued upon such finding shall not be valid for the operation or movement of such vehicles on any state or other highway within any city not wholly included within one county EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH AND PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION TO THE CONTRARY, THE DEPARTMENT OF TRANSPORTATION MAY ISSUE SUCH PERMIT FOR THE OPERATION OR MOVEMENT OF ANY VEHICLE OR COMBINATION OF VEHICLES ON ANY OF THE FOLLOWING PORTIONS OF STATE OR OTHER HIGHWAYS WITHIN ANY CITY NOT WHOLLY INCLUDED WITHIN ONE COUNTY, AND SUCH VEHICLES OR COMBINATION OF VEHICLES MAY OPERATE OR MOVE ON SUCH PORTIONS, AND ONLY ON SUCH PORTIONS, OF SUCH STATE OR OTHER HIGHWAYS WITHIN SUCH CITY WITHOUT A PERMIT ISSUED BY THE DEPARTMENT OF TRANSPORTATION OF SUCH CITY: THAT PORTION OF INTERSTATE NINETY-FIVE BETWEEN THE BRONX-WESTCHESTER COUNTY LINE AND INTERSTATE SIX HUNDRED NINETY-FIVE, THAT PORTION OF INTERSTATE SIX HUNDRED NINETY-FIVE BETWEEN INTERSTATE NINETY-FIVE AND INTERSTATE TWO HUNDRED NINETY-FIVE, THAT PORTION OF INTERSTATE TWO HUNDRED NINETY-FIVE BETWEEN INTERSTATE SIX HUNDRED NINETY-FIVE AND INTERSTATE FOUR HUNDRED NINETY-FIVE, AND THAT PORTION OF INTERSTATE FOUR HUNDRED NINETY-FIVE BETWEEN INTERSTATE TWO HUNDRED NINETY-FIVE AND THE QUEENS-NASSAU COUNTY BORDER. SUCH PERMIT SHALL BE ISSUED BY THE DEPARTMENT OF TRANSPORTATION ONLY UPON: (1) A FINDING BY SUCH DEPARTMENT THAT THE LOAD PROPOSED IS OF ONE PIECE OR ITEM OR OTHERWISE CANNOT BE SEPARATED INTO UNITS OF LESS WEIGHT; (2) THE APPROVAL OF SUCH CITY; AND (3) WITH RESPECT TO BRIDGES AND HIGHWAYS OVER WHICH ANY AUTHORITY HAS JURISDICTION, THE APPROVAL OF SUCH AUTHORITY. ANY SUCH VEHICLE OR COMBINATION OF VEHICLES OPERATING PURSUANT TO SUCH PERMIT SHALL NOT EXIT THE AFOREMENTIONED HIGHWAYS UNDER ITS OWN POWER IN ANY SUCH CITY NOT WHOLLY INCLUDED WITHIN ONE COUNTY.

[Bulk] (III) FOR THE PURPOSES OF THIS PARAGRAPH, BULK milk may be considered one piece or item.

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

PART TT

Section 1. The executive law is amended by adding a new article 4-B to read as follows:

ARTICLE 4-B

IMPROPER PAYMENTS REPORTING AND REDUCTION ACT

SECTION 56. SHORT TITLE.

56-A. DEFINITIONS.

57. IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.

57-A. ESTIMATION OF IMPROPER PAYMENTS.

57-B. REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.

58. IMPROPER PAYMENT ESTIMATE GUIDANCE GROUP.

59. APPLICATION OF ARTICLE.

S 56. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "IMPROPER PAYMENTS REPORTING AND REDUCTION ACT".

S 56-A. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL MEAN:

1. "AGENCY" MEANS ANY EXECUTIVE BRANCH AGENCY, DEPARTMENT, DIVISION, OFFICE, BOARD, COMMISSION, PUBLIC AUTHORITY (OTHER THAN A MULTI-STATE OR MULTI-NATIONAL AUTHORITY) OR PUBLIC BENEFIT CORPORATION, WITH AN ANNUAL BUDGET OF AT LEAST TWENTY MILLION DOLLARS, THE HEAD OF WHICH IS APPOINTED BY THE GOVERNOR.

2. "IMPROPER PAYMENT" MEANS ANY PAYMENT THAT SHOULD NOT HAVE BEEN MADE OR THAT WAS MADE IN AN INCORRECT AMOUNT, INCLUDING OVERPAYMENTS AND UNDERPAYMENTS, WHETHER UNDER STATUTORY, CONTRACTUAL, ADMINISTRATIVE OR OTHER LEGALLY APPLICABLE REQUIREMENTS. SUCH TERM SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY PAYMENT TO AN INELIGIBLE RECIPIENT, ANY PAYMENT FOR AN INELIGIBLE SERVICE, ANY DUPLICATE PAYMENT, PAYMENTS FOR SERVICES NOT RECEIVED AND ANY PAYMENT THAT DOES NOT ACCOUNT FOR CREDIT FOR APPLICABLE DISCOUNTS.

3. "PAYMENT" MEANS ANY PAYMENT, INCLUDING A COMMITMENT FOR FUTURE PAYMENT, THAT IS MADE BY AN AGENCY, A STATE CONTRACTOR, OR A GOVERNMENTAL OR OTHER ORGANIZATION ADMINISTERING A STATE PROGRAM OR ACTIVITY, AND WHICH DERIVED FROM STATE FUNDS OR OTHER STATE RESOURCES, OR THAT WILL BE REIMBURSED FROM STATE FUNDS OR OTHER STATE RESOURCES.

S 57. IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES. THE HEAD OF EACH AGENCY SHALL, IN ACCORDANCE WITH GUIDELINES PROMULGATED PURSUANT TO SECTION FIFTY-EIGHT OF THIS ARTICLE, ANNUALLY REVIEW ALL PROGRAMS AND ACTIVITIES THAT IT ADMINISTERS, AND IDENTIFY ALL SUCH PROGRAMS AND ACTIVITIES THAT MAY BE SUSCEPTIBLE TO IMPROPER PAYMENTS.

S 57-A. ESTIMATION OF IMPROPER PAYMENTS. WITH RESPECT TO EACH PROGRAM AND ACTIVITY IDENTIFIED IN SECTION FIFTY-SEVEN OF THIS ARTICLE, THE HEAD OF THE AGENCY SHALL:

1. ESTIMATE THE ANNUAL AMOUNT OF IMPROPER PAYMENTS; AND

2. REPORT SUCH ESTIMATE TO THE PUBLIC, AND THE CHAIRS OF THE SENATE FINANCE COMMITTEE AND THE ASSEMBLY WAYS AND MEANS COMMITTEE ON OR BEFORE JANUARY FIRST OF THE SUCCEEDING CALENDAR YEAR, AND SHALL BE POSTED ON THE AGENCY'S INTERNET WEBSITE AND ANY OTHER WEBSITE ESTABLISHED PURSUANT TO SECTION FIFTY-EIGHT OF THIS ARTICLE.

ALL AGENCIES SHALL USE THE SAME METHOD OF REPORTING, AS PRESCRIBED BY SECTION FIFTY-EIGHT OF THIS ARTICLE.

S 57-B. REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS. WITH RESPECT TO ANY PROGRAM OR ACTIVITY OF AN AGENCY WITH IDENTIFIED IMPROPER PAYMENTS PURSUANT TO SECTION FIFTY-SEVEN OF THIS ARTICLE, THE HEAD OF THE AGENCY SHALL INCLUDE WITH THE ESTIMATE PURSUANT TO SECTION FIFTY-SEVEN-A OF THIS ARTICLE A REPORT ON WHAT ACTIONS THE AGENCY IS TAKING TO REDUCE THE IMPROPER PAYMENTS, INCLUDING:

1. A DISCUSSION OF THE CAUSES OF THE IMPROPER PAYMENTS IDENTIFIED, ACTIONS TAKEN TO CORRECT THOSE CAUSES, AND RESULTS OF THE ACTIONS TAKEN TO ADDRESS THOSE CAUSES;

2. A STATEMENT OF WHETHER THE AGENCY HAS THE INFORMATION SYSTEMS AND OTHER INFRASTRUCTURE IT NEEDS IN ORDER TO REDUCE IMPROPER PAYMENTS TO MINIMAL COST-EFFECTIVE LEVELS;

3. IF THE AGENCY DOES NOT HAVE SUCH SYSTEMS AND INFRASTRUCTURE, A DESCRIPTION OF THE RESOURCES THE AGENCY HAS REQUESTED IN ITS BUDGET SUBMISSION TO OBTAIN THE NECESSARY INFORMATION SYSTEMS AND INFRASTRUCTURE; AND

4. A DESCRIPTION OF THE STEPS THE AGENCY HAS TAKEN TO ENSURE THAT AGENCY MANAGERS (INCLUDING THE AGENCY HEAD) ARE HELD ACCOUNTABLE FOR REDUCING IMPROPER PAYMENTS.

S 58. IMPROPER PAYMENT ESTIMATE GUIDANCE GROUP. 1. THERE SHALL BE ESTABLISHED, WITHIN THE EXECUTIVE BRANCH, THE IMPROPER PAYMENT ESTIMATE GUIDANCE GROUP. SUCH GROUP SHALL BE COMPOSED OF THE DIRECTOR OF THE BUDGET WHO SHALL CHAIR THE GROUP, THE STATE INSPECTOR GENERAL, THE INSPECTOR GENERAL OF THE METROPOLITAN TRANSPORTATION AUTHORITY AND THE WELFARE INSPECTOR GENERAL.

2. WITHIN ONE HUNDRED EIGHTY DAYS OF THE EFFECTIVE DATE OF THIS ARTICLE, THE IMPROPER PAYMENT ESTIMATE GUIDANCE GROUP SHALL MEET AND, IN

CONSULTATION WITH THE STATE COMPTROLLER, PRESCRIBE GUIDELINES FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS ARTICLE. ALL AGENCIES SHALL COOPERATE WITH SUCH GROUP TO ASSIST IT AS NECESSARY IN THE DEVELOPMENT AND PROMULGATION OF GUIDELINES. THE GUIDELINES SHALL INCLUDE, BUT NOT BE LIMITED TO:

A. THE MANNER IN WHICH AGENCIES SHALL REVIEW PROGRAMS AND ACTIVITIES, AND IDENTIFY THOSE WHICH ARE SUSCEPTIBLE TO IMPROPER PAYMENTS;

B. THE MANNER IN WHICH AGENCIES SHALL CALCULATE STATISTICALLY VALID ESTIMATES OF THE ANNUAL AMOUNT OF IMPROPER PAYMENTS IN PROGRAMS AND ACTIVITIES;

C. THE MANNER IN WHICH AGENCIES SHALL IMPLEMENT PLANS TO REDUCE IMPROPER PAYMENTS; AND

D. THE MANNER IN WHICH AGENCIES SHALL REPORT ESTIMATES OF THE ANNUAL AMOUNT OF IMPROPER PAYMENTS IN PROGRAMS AND ACTIVITIES, AND PROGRESS IN REDUCING THEM.

3. THE IMPROPER PAYMENT ESTIMATE GUIDANCE GROUP SHALL THEREAFTER MEET AT ANY TIME AT THE CALL OF EITHER THE DIRECTOR OF THE BUDGET OR THE STATE COMPTROLLER; PROVIDED THAT SUCH GROUP SHALL MEET NO FEWER THAN ONCE EVERY FOUR YEARS TO REVIEW THE GUIDELINES.

S 59. APPLICATION OF ARTICLE. THE PROVISIONS OF THIS ARTICLE SHALL:

1. APPLY TO THE ADMINISTRATION OF PROGRAMS AND IMPROPER PAYMENTS MADE IN STATE FISCAL YEARS COMMENCING ON OR AFTER APRIL FIRST, TWO THOUSAND THIRTEEN; AND

2. REQUIRE THE INCLUSION OF THE ESTIMATES, REPORTED PURSUANT TO SECTION FIFTY-SEVEN-A OF THIS ARTICLE, IN THE AGENCY BUDGET SUBMISSIONS FOR STATE FISCAL YEARS COMMENCING ON OR AFTER APRIL FIRST, TWO THOUSAND FOURTEEN.

S 2. This act shall take effect immediately.

PART UU

Section 1. Subdivision 12 of section 27-1003 of the environmental conservation law, as added by section 3 of part SS of chapter 59 of the laws of 2009, is amended to read as follows:

12. "Reverse vending machine" means an automated device, CERTIFIED AS TO ACCURACY BY AN INDEPENDENT THIRD PARTY OR IN ACCORDANCE WITH STANDARDS PROMULGATED BY THE COMMISSIONER, that uses a laser scanner, micro-processor, or other technology to accurately recognize the universal product code (UPC) on containers to determine if the container is redeemable and accumulates information regarding containers redeemed, including the number of such containers redeemed, thereby enabling the reverse vending machine to accept containers from redeemers and to issue a scrip or receipt for their refund value.

S 2. Section 27-1007 of the environmental conservation law, as added by section 4 of part SS of chapter 59 of the laws of 2009, paragraph (b) of subdivision 1 as amended by chapter 459 of the laws of 2011, is amended to read as follows:

S 27-1007. Mandatory acceptance.

Except as provided in section 27-1009 of this title:

1. (a) A dealer shall accept at his or her place of business from a redeemer any empty beverage containers of the design, shape, size, color, composition and brand sold or offered for sale by the dealer, and shall pay to the redeemer the refund value of each such beverage container as established in section 27-1005 of this title. Redemptions of refund value must be in legal tender, or a scrip or receipt from a reverse vending machine PROVIDED THAT SUCH REVERSE VENDING MACHINE HAS

1 BEEN CERTIFIED AS TO ACCURACY AS REQUIRED BY THIS SECTION, AND, provided
2 that the scrip or receipt can be exchanged for legal tender for a period
3 of not less than sixty days without requiring the purchase of other
4 goods. The use or presence of a reverse vending machine shall not
5 relieve a dealer of any obligations imposed pursuant to this section. If
6 a dealer utilizes a reverse vending machine to redeem containers, ONLY
7 MACHINES CERTIFIED AS TO ACCURACY AS OUTLINED IN THIS SECTION SHALL BE
8 UTILIZED AND the dealer shall provide redemption of beverage containers
9 when the reverse vending machine is full, broken, under repair or does
10 not accept a type of beverage container sold or offered for sale by such
11 dealer and may not limit the hours or days of redemption except as
12 provided by subdivision three of this section.

13 (b) Beginning March first, two thousand ten, a dealer whose place of
14 business is part of a chain engaged in the same general field of busi-
15 ness which operates ten or more units in this state under common owner-
16 ship and whose business has at least: (i) forty thousand but less than
17 sixty thousand square feet devoted to the display of merchandise for
18 sale to the public shall install and maintain at least two reverse vend-
19 ing machines at the dealer's place of business; (ii) sixty thousand but
20 less than eighty-five thousand square feet devoted to the display of
21 merchandise for sale to the public shall install and maintain at least
22 three reverse vending machines at the dealer's place of business; or
23 (iii) eighty-five thousand square feet devoted to the display of
24 merchandise for sale to the public shall install and maintain at least
25 four reverse vending machines at the dealer's place of business. The
26 requirements of THIS paragraph [(b) of this subdivision] to install and
27 maintain reverse vending machines shall not apply to a dealer that: (i)
28 sells only beverage containers of twenty ounces or less where such
29 beverage containers are packaged in quantities fewer than six; (ii)
30 sells beverage containers and devotes no more than five percent of its
31 floor space to the display and sale of consumer commodities, as defined
32 in section two hundred fourteen-h of the agriculture and markets law; or
33 (iii) obtains a waiver from the commissioner authorizing dealers to
34 provide consumers with an alternative technology that: (A) determines if
35 the container is redeemable, (B) provides protections against fraud THAT
36 MAY BE VERIFIED BY THE DEPARTMENT OR AN INDEPENDENT THIRD PARTY through
37 a system that validates each container redeemed by reading the universal
38 product code and, except with respect to refillable containers, renders
39 the container unredeemable, (C) accumulates information regarding
40 containers redeemed, and (D) issues legal tender, or a scrip, receipt,
41 or other form of credit for the refund value, that can be exchanged for
42 legal tender for a period of not less than sixty days without requiring
43 the purchase of other goods. Notwithstanding the foregoing, if the
44 alternative technology does not allow consumers to immediately obtain
45 the refund value of the redeemed container, a dealer shall be permitted
46 to deploy such alternative technology only if it also offers an alterna-
47 tive that allows consumers to conveniently and immediately obtain such
48 refund value through a reverse vending machine or other alternative
49 method.

50 (c) A dealer to which paragraph (b) of this subdivision does not apply
51 and whose place of business is at least forty thousand square feet which
52 does not utilize reverse vending machines to process empty beverage
53 containers for redemption shall: (i) establish and maintain a dedicated
54 area within such business to accept beverage containers for redemption;
55 (ii) adequately staff such area to facilitate efficient acceptance and
56 processing of such containers during business hours; and (iii) post one

1 or more conspicuous signs conforming to the size and color requirements
2 described in subdivision two of this section at each public entrance to
3 the business which describes where in the business the redemption area
4 is located. The commissioner may establish in rules and regulations
5 RELATED TO FRAUD PREVENTION AND additional standards for the efficient
6 processing of beverage containers by such dealers.

7 (d) For the purposes of this subdivision on any day that a dealer is
8 open for less than twenty-four hours, the dealer may restrict or refuse
9 the payment of refund values during the first and last hour the dealer
10 is open for business.

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

13 "NEW YORK BOTTLE BILL OF RIGHTS

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

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

18 THE RIGHT to return your empties for refund to any dealer who sells
19 the same brand, type and size, whether you bought the beverage from the
20 dealer or not. It is illegal to return containers for refund that you
21 did not pay a deposit on in New York state.

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

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

27 THE RIGHT to return your containers if they are empty and intact.
28 Washing containers is not required by law, but is strongly recommended
29 to maintain sanitary conditions.

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

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

42 3. On or after June first, two thousand nine, a dealer may limit the
43 number of empty beverage containers to be accepted for redemption at the
44 dealer's place of business to no less than seventy-two containers per
45 visit, per redeemer, per day, provided that:

46 (a) The dealer has a written agreement with a redemption center, be it
47 either at a fixed physical location within the same county and within
48 one-half mile of the dealer's place of business, or a mobile redemption
49 center, operated by a redemption center, that is located within one-
50 quarter mile of the dealer's place of business. The redemption center
51 must have a written agreement with the dealer to accept containers on
52 behalf of the dealer; and the redemption center's hours of operation
53 must cover at least 9:00 a.m. through 7:00 p.m. daily or in the case of
54 a mobile redemption center, the hours of operation must cover at least

four consecutive hours between 8:00 a.m. and 8:00 p.m. daily. The dealer must post a conspicuous, permanent sign, meeting the size and color specifications set forth in subdivision two of this section, open to public view, identifying the location and hours of operation of the affiliated redemption center or mobile redemption center; and

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

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

4. A deposit initiator shall accept from a dealer or operator of a redemption center any empty beverage container of the design, shape, size, color, composition and brand sold or offered for sale by the deposit initiator, PROVIDED SUCH CONTAINERS ARE PROPERLY SORTED AS PROVIDED IN SUBDIVISION SIX OF THIS SECTION AND UNDER SECTION 27-1013 OF THIS TITLE and shall pay the dealer or operator of a redemption center the refund value of each such beverage container as established by section 27-1005 of this title. A deposit initiator shall accept and redeem all such empty beverage containers from a dealer or redemption center without limitation on quantity.

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

6. In addition to the refund value of a beverage container as established by section 27-1005 of this title, a deposit initiator shall pay to any dealer or operator of a redemption center a handling fee of three and one-half cents for each beverage container accepted by the deposit initiator from such dealer or operator of a redemption center. Payment of the handling fee shall be as compensation for collecting, sorting ACCORDING TO MATERIAL, and packaging of empty beverage containers for transport back to the deposit initiator or its designee. Payment of the handling fee may not be conditioned on the purchase of any goods or services[, nor may such payment be made out of the refund value account established pursuant to section 27-1012 of this title]. A distributor who does not initiate deposits on a type of beverage container is considered a dealer only for the purpose of receiving a handling fee from a deposit initiator.

6-A. THE COMMISSIONER IS HEREBY EMPOWERED TO PROMULGATE RULES AND REGULATIONS GOVERNING PERIODIC CERTIFICATION OF THE ACCURACY OF REVERSE VENDING MACHINES WHICH SHALL INCLUDE A RECONCILIATION OF THE AMOUNT OF SCRAP MATERIALS COLLECTED AND THE AMOUNT OF CONTAINERS REDEEMED. THE COMMISSIONER IS ALSO AUTHORIZED TO INVESTIGATE THE FURTHER USE OF SCRAP MATERIALS FOR THE CREATION AND EXPANSION OF NEW YORK BUSINESSES THAT EMPLOY INNOVATIVE TECHNIQUES FOR THE REUSE OF SUCH MATERIALS. A DISTRIBUTOR WHO DOES NOT INITIATE DEPOSITS ON A TYPE OF BEVERAGE CONTAINER IS CONSIDERED A DEALER ONLY FOR THE PURPOSE OF RECEIVING A HANDLING FEE FROM A DEPOSIT INITIATOR.

7. A deposit initiator on a brand shall accept from a distributor who does not initiate deposits on that brand any empty beverage containers of that brand accepted by the distributor from a dealer or operator of a

1 redemption center and shall reimburse the distributor the refund value
2 of each such beverage container, as established by section 27-1005 of
3 this title. In addition, the deposit initiator shall reimburse such
4 distributor for each such beverage container the handling fee estab-
5 lished under subdivision six of this section. [Without limiting the
6 rights of the department or any person, firm or corporation under this
7 subdivision or any other provision of this section, a distributor shall
8 have a civil right of action to enforce this subdivision, including,
9 upon three days notice, the right to apply for temporary and preliminary
10 injunctive relief against continuing violations, and until arrangements
11 for collection and return of empty containers or reimbursement of such
12 distributor for such deposits and handling fees are made.]

13 8. It shall be the responsibility of the deposit initiator or distrib-
14 utor to provide to a dealer or redemption center a sufficient number of
15 bags, cartons, or other suitable containers, at no cost, for the packag-
16 ing, handling and pickup of empty beverage containers that are not
17 redeemed through a reverse vending machine. The bags, cartons, or
18 containers must be provided by the deposit initiator or distributor on a
19 schedule that allows the dealer or redemption center sufficient time to
20 sort the empty beverage containers prior to pick up by the deposit
21 initiator or distributor. In addition:

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

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

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

43 9. No person shall return or assist another to return to a dealer or
44 redemption center an empty beverage container for its refund value if
45 such container had previously been accepted for redemption by a dealer,
46 redemption center, or deposit initiator who initiates deposits on bever-
47 age containers of the same brand.

48 10. A redeemer, dealer, distributor or redemption center shall not
49 knowingly redeem an empty beverage container on which a deposit was
50 never paid in New York state.

51 [11. Notwithstanding the provisions of subdivision two of section
52 27-1009 of this title, a deposit initiator or distributor shall accept
53 and redeem beverage containers as provided in this title, if the dealer
54 or operator of a redemption center shall have accepted and paid the
55 refund value of such beverage containers.]

11. NO PERSON SHALL TAMPER WITH A REVERSE VENDING MACHINE TO ELICIT DEPOSIT MONIES WHEN NO VALID, REDEEMABLE CONTAINER HAS BEEN PLACED IN SUCH REVERSE VENDING MACHINE. RETAILERS AND DEALERS THAT MAINTAIN REVERSE VENDING MACHINES ON THEIR PREMISES MUST TAKE REASONABLE PRECAUTIONS TO PREVENT SUCH TAMPERING TO OCCUR INCLUDING, BUT NOT LIMITED TO, INSTALLATION OF SURVEILLANCE CAMERAS AND APPROPRIATE LIGHTING WHERE REVERSE VENDING MACHINES ARE LOCATED.

S 3. Section 27-1009 of the environmental conservation law, as amended by section 5 of part SS of chapter 59 of the laws of 2009, is amended to read as follows:

S 27-1009. Refusal of acceptance.

1. A dealer or operator of a redemption center [may] SHALL refuse to accept from a redeemer, and a deposit initiator or distributor [may] SHALL refuse to accept from a dealer or operator of a redemption center any empty beverage container which does not state thereon a refund value as established by section 27-1005 and provided by section 27-1011 of this title.

2. A dealer [or], operator of a redemption center [may], DISTRIBUTOR OR DEPOSIT INITIATOR SHALL also refuse to accept any [broken bottle, corroded or] dismembered [can,] CONTAINER or any beverage container which [contains a significant amount of foreign material,] IS OTHERWISE SO ALTERED THAT IT IS RENDERED UNREADABLE, as determined in rules and regulations to be promulgated by the commissioner. NOTWITHSTANDING THE FOREGOING, CONTAINERS PROCESSED THROUGH REVERSE VENDING MACHINES CERTIFIED AS TO ACCURACY AS PROVIDED IN THIS TITLE AND AUTHORIZED BY A DISTRIBUTOR OR DEPOSIT INITIATOR, AS DOCUMENTED THROUGH REVERSE VENDING MACHINE RECONCILIATION STATEMENTS OR OTHER REASONABLE DOCUMENTATION, SHALL BE REQUIRED TO BE ACCEPTED BY A DISTRIBUTOR OR DEPOSIT INITIATOR.

3. A DEALER, OPERATOR OF A REDEMPTION CENTER, DISTRIBUTOR, OR DEPOSIT INITIATOR MAY REFUSE TO ACCEPT ANY BROKEN BOTTLE, CORRODED BEVERAGE CONTAINER, OR ANY BEVERAGE CONTAINER WHICH CONTAINS A SIGNIFICANT AMOUNT OF FOREIGN MATERIAL, AS DETERMINED IN RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER.

S 4. Section 27-1012 of the environmental conservation law, as added by section 8 of part SS of chapter 59 of the laws of 2009, is amended to read as follows:

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

1. [Each deposit initiator shall deposit in a refund value account an amount equal to the refund value initiated under section 27-1005 of this title which is received with respect to each beverage container sold by such deposit initiator. Such deposit initiator shall hold the amounts in the refund value account in trust for the state. A refund value account shall be an interest-bearing account established in a banking institution located in this state, the deposits in which are insured by an agency of the federal government. Deposits of such amounts into the refund value account shall be made not less frequently than every five business days. All interest, dividends and returns earned on the refund value account shall be paid directly into said account. The monies in such accounts shall be kept separate and apart from all other monies in the possession of the deposit initiator. The commissioner of taxation and finance may specify a system of accounts and records to be maintained with respect to accounts established under this subdivision.

2. Payments of refund values pursuant to section 27-1007 of this title shall be paid from each deposit initiator's refund value account. No

1 other payment or withdrawal from such account may be made except as
2 prescribed by this section.

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

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

15 b. all such deposits credited to the refund value account and all
16 interest, dividends or returns received on such account, during such
17 quarter;

18 c. all withdrawals from the refund value account during such quarter,
19 including all reimbursements paid pursuant to subdivision two of this
20 section, all service charges on the account, and all payments made
21 pursuant to subdivision four of this section; and

22 d. the balance in the refund value account at the close of such quar-
23 ter.

24 4.] THE NUMBER OF CONTAINERS REQUIRED TO HAVE A REFUND VALUE SOLD BY
25 THE DEPOSIT INITIATOR DURING THE QUARTERLY PERIOD;

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

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

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

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

49 b. [Refund value account shortfall] OVER REDEMPTION. In the event a
50 deposit initiator pays out more in refund values than it collects in
51 deposits of refund values during the course of a quarterly period as
52 described in subdivision [three] ONE of this section, the deposit initi-
53 ator may apply to the commissioner of taxation and finance for a refund
54 of the amount of such excess payment of refund values [from sources
55 other than the refund value account], in the manner as provided by the
56 commissioner of taxation and finance. A deposit initiator must apply for

1 a refund no later than twelve months after the due date for filing the
2 quarterly report for the quarterly period for which the refund claim is
3 made. No interest shall be payable for any refund paid pursuant to this
4 paragraph.

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

20 [5.] 3. All monies collected or received by the department of taxation
21 and finance pursuant to this title shall be deposited to the credit of
22 the comptroller with such responsible banks, banking houses or trust
23 companies as may be designated by the comptroller. Such deposits shall
24 be kept separate and apart from all other moneys in the possession of
25 the comptroller. The comptroller shall require adequate security from
26 all such depositories. Of the total revenue collected, the comptroller
27 shall retain the amount determined by the commissioner of taxation and
28 finance to be necessary for refunds out of which the comptroller must
29 pay any refunds to which a deposit initiator may be entitled. After
30 reserving the amount to pay refunds, the comptroller must, by the tenth
31 day of each month, pay into the state treasury to the credit of the
32 general fund the revenue deposited under this subdivision during the
33 preceding calendar month and remaining to the comptroller's credit on
34 the last day of that preceding month.

35 [6.] 4. The commissioner and the commissioner of taxation and finance
36 shall promulgate, and shall consult each other in promulgating, such
37 rules and regulations as may be necessary to effectuate the purposes of
38 this title. The commissioner and the commissioner of taxation and
39 finance shall provide all necessary aid and assistance to each other,
40 including the sharing of any information that is necessary to their
41 respective administration and enforcement responsibilities pursuant to
42 the provisions of this title.

43 [7. a.] 5. Any person who is a deposit initiator under this title
44 before April first, two thousand nine, must apply by June first, two
45 thousand nine to the commissioner of taxation and finance for registra-
46 tion as a deposit initiator. Any person who becomes a deposit initiator
47 on or after April first, two thousand nine shall apply for registration
48 prior to collecting any deposits as such a deposit initiator. Such
49 application shall be in a form prescribed by the commissioner of tax-
50 ation and finance and shall require such information deemed to be neces-
51 sary for proper administration of this title. The commissioner of tax-
52 ation and finance may require that applications for registration must be
53 submitted electronically. The commissioner of taxation and finance shall
54 electronically issue a deposit initiator registration certificate in a
55 form prescribed by the commissioner of taxation and finance within
56 fifteen days of receipt of such application or may take an additional

1 ten days if the commissioner of taxation and finance deems it necessary
2 to consult with the commissioner before issuing such registration
3 certificate. A registration certificate issued pursuant to this subdivi-
4 sion may be issued for a specified term of not less than three years and
5 shall be subject to renewal in accordance with procedures specified by
6 the commissioner of taxation and finance. The commissioner of taxation
7 and finance shall furnish to the commissioner a complete list of regis-
8 tered deposit initiators and shall continually update such list as
9 warranted. The commissioner shall share any information with the commis-
10 sioner of taxation and finance that is necessary for the administration
11 of this subdivision.

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

41 8.] 6. The commissioner of taxation and finance may require the main-
42 tenance of such [accounts,] records or documents relating to the sale of
43 beverage containers, by any deposit initiator, bottler, distributor,
44 dealer or redemption center as such commissioner may deem appropriate
45 for the administration of this section. Such commissioner may make exam-
46 inations, including the conduct of facility inspections during regular
47 business hours, with respect to the [accounts,] records or documents
48 required to be maintained under this subdivision. Such [accounts,]
49 records and documents shall be preserved for a period of three years,
50 except that such commissioner may consent to their destruction within
51 that period or may require that they be kept longer. Such [accounts,]
52 records and documents may be kept within the meaning of this subdivision
53 when reproduced by any photographic, photostatic, microfilm, micro-card,
54 miniature photographic or other process which actually reproduces the
55 original [accounts,] records or documents.

1 [9.] 7. a. Any person required to be registered under this section
2 who, without being so registered, sells or offers for sale beverage
3 containers in this state, in addition to any other penalty imposed by
4 this title, shall be subject to a penalty to be assessed by the commis-
5 sioner of taxation and finance in an amount not to exceed five hundred
6 dollars for the first day on which such sales or offers for sale are
7 made, plus an amount not to exceed five hundred dollars for each subse-
8 quent day on which such sales or offers for sale are made, not to exceed
9 twenty-five thousand dollars in the aggregate.

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

18 [10.] 8. The provisions of article twenty-seven of the tax law shall
19 apply to the provisions of this title for which the commissioner of
20 taxation and finance is responsible[, including collection of refund
21 value amounts,] in the same manner and with the same force and effect as
22 if the language of such article had been incorporated in full into this
23 section except to the extent that any provision of such article is
24 either inconsistent with a provision of this section or is not relevant
25 to this section as determined by the commissioner of taxation and
26 finance. [Furthermore, for purposes of applying the provisions of arti-
27 cle twenty-seven of the tax law, where the terms "tax" and "taxes"
28 appear in such article, such terms shall be construed to mean "refund
29 value" or "balance in the refund value account".

30 11.] 9. If any deposit initiator fails or refuses to file a report or
31 furnish any information requested in writing by the department of taxa-
32 tion and finance or the department, the department of taxation and
33 finance with the assistance of the department may, from any information
34 in its possession, make an estimate of the deficiency and collect such
35 deficiency from such deposit initiator.

36 [12.] 10. Beginning on June first, two thousand [nine each deposit
37 initiator] TWELVE ALL SUPPLIERS AND MANUFACTURERS shall register the
38 container label of any beverage offered for sale in the state on which
39 it initiates a deposit. Any such registered container label shall bear a
40 universal product code. [Such universal product code shall be New York
41 state specific, in order to identify the beverage container as offered
42 for sale exclusively in New York state, and as a means of preventing
43 illegal redemption of beverage containers purchased out-of-state.] IN
44 ADDITION, A DEPOSIT INITIATOR MAY AFFIX A UNIVERSAL PRODUCT CODE OR
45 OTHER DISTINCTIVE MARKING THAT IS NEW YORK STATE SPECIFIC AS A MEANS OF
46 PREVENTING ILLEGAL REDEMPTION OF BEVERAGE CONTAINERS PURCHASED OUT OF
47 STATE. Registration must be on forms as prescribed by the department and
48 must include the universal product code for each combination of beverage
49 and container manufactured. The commissioner may require that such forms
50 be filed electronically. The deposit initiator shall renew a label
51 registration whenever that label is revised by altering the universal
52 product code or whenever the container on which it appears is changed in
53 size, composition or glass color.

54 S 5. Section 27-1013 of the environmental conservation law, as amended
55 by section 9 of part SS of chapter 59 of the laws of 2009, is amended to
56 read as follows:

1 S 27-1013. Redemption centers.

2 The commissioner is hereby empowered to promulgate rules and regu-
3 lations governing (1) THE LICENSING OF REDEMPTION CENTER INCLUDING BUT
4 NOT LIMITED TO THE PAYMENT OF A LICENSE FEE, CONDITIONS FOR GRANTING A
5 LICENSE, GROUNDS FOR REVOCATION OF A LICENSE AND THE PROCESS FOR THE
6 REVOCATION OF A LICENSE; (2) the circumstances in which dealers and
7 distributors, individually or collectively, are required to accept the
8 return of empty beverage containers, and make payment therefor; [(2)]
9 (3) the sorting of the containers which a deposit initiator or distribu-
10 tor may require of dealers and redemption centers PROVIDED THAT AT A
11 MINIMUM, SUCH CONTAINERS ARE SORTED ACCORDING TO MATERIAL; [(3)] (4) the
12 collection of returned beverage containers by deposit initiators or
13 distributors, including the party to whom such expense is to be charged,
14 the frequency of such pick ups THAT SHALL ALSO ALLOW A SCHEDULE MEETING
15 THE MINIMUM REQUIREMENTS OF SUCH REGULATIONS AND AGREED TO BY THE
16 DISTRIBUTOR AND THE REDEMPTION CENTER AND THAT SHALL ALSO TAKE INTO
17 ACCOUNT A MINIMUM VOLUME OF CONTAINERS NECESSARY FOR SUCH A PICK UP and
18 the payment for refunds and handling fees thereon; [(4)] (5) the right
19 of dealers to restrict or limit the number of containers redeemed, the
20 rules for redemption at the dealers' place of business, and the redemp-
21 tion of containers from a beverage for which sales have been discontin-
22 ued, and to issue permits to persons, firms or corporations which estab-
23 lish redemption centers, subject to applicable provisions of local and
24 state laws, at which redeemers and dealers may return empty beverage
25 containers and receive payment of the refund value of such beverage
26 containers; (6) A SPECIFIC IDENTIFICATION SYSTEM WHICH SHALL BE ASSIGNED
27 TO EACH REDEMPTION CENTER, PROVIDED THAT SUCH IDENTIFYING CODE OR
28 NUMBER, ALONG WITH THE NUMBER OF CONTAINERS CONTAINED THEREIN, SHALL BE
29 AFFIXED TO ANY BOX OR BAG PROFFERED BY A REDEMPTION CENTER TO A DEPOSIT
30 INITIATOR FOR REDEMPTION IN A MANNER MANDATED BY THE COMMISSIONER; AND
31 (7) MOBILE REDEMPTION CENTERS IN ORDER TO INSURE THAT TO THE BEST EXTENT
32 PRACTICABLE CONTAINERS ARE NOT PROFFERED FOR REDEMPTION TO A DEPOSIT
33 INITIATOR OUTSIDE OF THE GEOGRAPHIC AREA WHERE SUCH DEPOSIT INITIATOR
34 SELLS CONTAINERS AND INITIATES DEPOSITS, PROVIDED THAT FOR PURPOSES OF
35 THIS SECTION, IN NO CASE MAY A MOBILE REDEMPTION CENTER REDEEM CONTAIN-
36 ERS OUTSIDE OF THE COUNTY WHERE SUCH CONTAINERS WERE REDEEMED. No deal-
37 er or distributor, as defined in section 27-1003 of this title, shall be
38 required to obtain a permit to operate a redemption center at the same
39 location as the dealer's or distributor's place of business. Operators
40 of such redemption centers shall receive payment of the refund value of
41 each beverage container from the appropriate deposit initiator or
42 distributor as provided under section 27-1007 of this title.

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

46 S 27-1015. Violations.

47 1. [A violation of this title, except as otherwise provided in this
48 section and section 27-1012 of this title, shall be a public nuisance.
49 In addition, except] CIVIL AND ADMINISTRATIVE SANCTIONS. A. EXCEPT as
50 otherwise provided in this section and section 27-1012 of this title,
51 any person who [shall violate] VIOLATES any [provision] OF THE
52 PROVISIONS of, OR FAILS TO PERFORM A DUTY IMPOSED BY THIS TITLE, OR ANY
53 RULE OR REGULATION PROMULGATED PURSUANT THERETO, OR ANY TERM OR CONDI-
54 TION OF ANY REGISTRATION OR PERMIT ISSUED PURSUANT THERETO, OR ANY FINAL
55 DETERMINATION OR ORDER OF THE COMMISSIONER MADE PURSUANT TO this title
56 shall be liable to the state of New York for a civil penalty of not more

1 than five hundred dollars, and an additional civil penalty of not more
2 than five hundred dollars for each day during which each such violation
3 continues. Any civil penalty may be assessed BY THE COMMISSIONER follow-
4 ing a hearing or opportunity to be heard OR BY THE COURT IN ANY ACTION
5 OR PROCEEDING PURSUANT TO SECTION 71-2727 OF THIS CHAPTER. IN ADDITION,
6 SUCH PERSON MAY BY SIMILAR PROCESS BE ENJOINED FROM CONTINUING SUCH
7 VIOLATION AND ANY PERMIT OR REGISTRATION ISSUED TO SUCH PERSON MAY BE
8 REVOKED OR SUSPENDED OR A PENDING RENEWAL APPLICATION DENIED.

9 [2. Any] B. IN ADDITION TO ANY PENALTIES IMPOSED BY THE DEPARTMENT OF
10 TAXATION AND FINANCE AS PROVIDED IN SECTION 27-1012 OF THIS TITLE, ANY
11 distributor or deposit initiator who violates any provision of this
12 title, [except as provided in section 27-1012 of this title,] OR FAILS
13 TO PERFORM A DUTY IMPOSED BY THIS TITLE, OR ANY RULE OR REGULATION
14 PROMULGATED PURSUANT THERETO, OR ANY TERM OR CONDITION OF ANY REGISTRA-
15 TION OR PERMIT ISSUED PURSUANT THERETO, OR ANY FINAL DETERMINATION OR
16 ORDER OF THE COMMISSIONER MADE PURSUANT TO THIS TITLE shall be liable to
17 the state of New York for a civil penalty of not more than one thousand
18 dollars FOR EACH VIOLATION, and an additional civil penalty of not more
19 than one thousand dollars for each day during which each such violation
20 continues. Any civil penalty may be assessed BY THE COMMISSIONER follow-
21 ing a hearing or opportunity to be heard, OR BY THE COURT IN ANY ACTION
22 OR PROCEEDING PURSUANT TO SECTION 71-2727 OF THIS CHAPTER. IN ADDITION,
23 SUCH DEPOSIT INITIATOR OR DISTRIBUTOR MAY BY SIMILAR PROCESS BE ENJOINED
24 FROM CONTINUING SUCH VIOLATION AND ANY PERMIT OR REGISTRATION ISSUED TO
25 SUCH PERSON MAY BE REVOKED OR SUSPENDED OR A PENDING RENEWAL APPLICATION
26 DENIED.

27 [3.] 2. CRIMINAL SANCTIONS. A. ANY PERSON WHO, HAVING ANY OF THE
28 CULPABLE MENTAL STATES DEFINED IN SECTION 15.05 OF THE PENAL LAW,
29 VIOLATES ANY PROVISION OF OR WHO FAILS TO PERFORM ANY DUTY IMPOSED BY
30 THIS TITLE, OR ANY RULE OR REGULATION PROMULGATED PURSUANT THERETO, OR
31 ANY FINAL DETERMINATION OR ORDER OF THE COMMISSIONER MADE PURSUANT TO
32 THIS TITLE SHALL BE GUILTY OF A VIOLATION AND, UPON CONVICTION, SHALL BE
33 PUNISHED BY A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR EACH
34 VIOLATION; EACH DAY ON WHICH SUCH VIOLATION OCCURS SHALL CONSTITUTE A
35 SEPARATE VIOLATION; AND FOR EACH SUCH VIOLATION THE PERSON SHALL BE
36 SUBJECT, UPON CONVICTION, TO IMPRISONMENT FOR NOT MORE THAN FIFTEEN DAYS
37 OR TO A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS, OR TO BOTH IMPRISON-
38 MENT AND FINE.

39 B. IN ADDITION TO ANY PENALTIES IMPOSED BY THE DEPARTMENT OF TAXATION
40 AND FINANCE AS PROVIDED IN SECTION 27-1012 OF THIS TITLE, ANY DISTRIBUTU-
41 TOR OR DEPOSIT INITIATOR WHO, HAVING ANY OF THE CULPABLE MENTAL STATES
42 DEFINED IN SECTION 15.05 OF THE PENAL LAW, VIOLATES ANY PROVISION OF OR
43 WHO FAILS TO PERFORM ANY DUTY IMPOSED BY THIS TITLE, OR ANY RULE OR
44 REGULATION PROMULGATED PURSUANT THERETO, OR ANY FINAL DETERMINATION OR
45 ORDER OF THE COMMISSIONER MADE PURSUANT TO THIS TITLE SHALL BE GUILTY OF
46 A VIOLATION AND, UPON CONVICTION, SHALL BE PUNISHED BY A FINE OF NOT
47 MORE THAN ONE THOUSAND DOLLARS FOR EACH VIOLATION; EACH DAY ON WHICH
48 SUCH VIOLATION OCCURS SHALL CONSTITUTE A SEPARATE VIOLATION; AND FOR
49 EACH SUCH VIOLATION THE PERSON SHALL BE SUBJECT, UPON CONVICTION, TO
50 IMPRISONMENT FOR NOT MORE THAN FIFTEEN DAYS OR TO A FINE OF NOT MORE
51 THAN ONE THOUSAND DOLLARS, OR TO BOTH SUCH IMPRISONMENT AND SUCH FINE.

52 C. It shall be unlawful for [a distributor or deposit initiator,] ANY
53 PERSON, acting alone or aided by another, to return any empty beverage
54 container to a dealer or redemption center for its refund value if [the]
55 A distributor or deposit initiator had previously accepted such beverage
56 container from any dealer or operator of a redemption center, OR IF SUCH

CONTAINER WAS PREVIOUSLY ACCEPTED BY A REVERSE VENDING MACHINE. A violation of this [subdivision] PARAGRAPH shall be a misdemeanor punishable by a fine of not less than five hundred dollars nor more than one thousand dollars and an amount equal to two times the amount of money received as a result of such violation, OR IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR TO BOTH SUCH IMPRISONMENT AND SUCH FINES.

D. IN ADDITION TO ANY OTHER PENALTY PROVIDED BY THIS TITLE, ANY DISTRIBUTOR OR DEPOSIT INITIATOR, WHO KNOWINGLY OR INTENTIONALLY VIOLATES ANY PROVISION OF OR FAILS TO PERFORM ANY DUTY IMPOSED BY SECTION 27-1012 OF THIS TITLE, OR ANY RULE OR REGULATION PROMULGATED PURSUANT THERETO, OR ANY FINAL DETERMINATION OR ORDER OF THE COMMISSIONER MADE PURSUANT TO THIS TITLE SHALL BE GUILTY OF A MISDEMEANOR AND, UPON CONVICTION, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS PER DAY OF VIOLATION, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH SUCH FINE AND IMPRISONMENT.

[4.] 3. UNLAWFUL REDEMPTION. Any person who [willfully] tenders to a dealer, distributor, redemption center or deposit initiator more than forty-eight empty beverage containers for which such person knows or should reasonably know that no deposit was paid in New York state may be assessed [by the department] a civil penalty of up to one hundred dollars for each container or up to twenty-five thousand dollars for each such tender of containers. At each location where a person tenders containers for redemption, dealers and redemption centers must conspicuously display a sign in letters that are at least one inch in height with the following information: "WARNING: Persons tendering for redemption containers on which a deposit was never paid in this state may be subject to a civil penalty of up to one hundred dollars per container or up to twenty-five thousand dollars for each such tender of containers." Any civil penalty may be assessed BY THE COMMISSIONER following a hearing or opportunity to be heard, OR BY THE COURT IN ANY ACTION OR PROCEEDING PURSUANT TO SECTION 71-2727 OF THIS CHAPTER. IN ADDITION, SUCH PERSON MAY BY SIMILAR PROCESS BE ENJOINED FROM CONTINUING SUCH VIOLATION AND ANY PERMIT OR REGISTRATION ISSUED TO SUCH PERSON MAY BE REVOKED OR SUSPENDED OR A PENDING RENEWAL APPLICATION DENIED.

[5.] 4. ENFORCEMENT. A. The department, the department of agriculture and markets, the department of taxation and finance and the attorney general are hereby authorized to enforce the provisions of this title. In addition, the provisions of section 27-1005 of this title and subdivisions one, two, three, four, five[,] AND ten [and eleven] of section 27-1007 of this title may be enforced by a county, city, town or village and the local legislative body thereof may adopt local laws, ordinances or regulations consistent with this title providing for the enforcement of such provisions.

B. IN ADDITION, WITHOUT LIMITING THE RIGHT OF THE DEPARTMENT, OR ANY PERSON, FIRM OR CORPORATION UNDER THIS SUBDIVISION OR ANY OTHER PROVISION OF THIS SECTION, A DEALER, OWNER OR OPERATOR OF A REDEMPTION CENTER, DISTRIBUTOR, OR DEPOSIT INITIATOR SHALL HAVE A CIVIL RIGHT OF ACTION TO ENFORCE THE PROVISIONS OF SECTION 27-1009 OF THIS TITLE AND SUBDIVISIONS FOUR, FIVE, SIX AND EIGHT OF SECTION 27-1007 OF THIS TITLE.

S 7. This act shall take effect immediately.

PART VV

Section 1. Subdivision 1 of section 19-0325 of the environmental conservation law, as added by chapter 203 of the laws of 2010, is amended to read as follows:

(1) On or after July first, two thousand [twelve] FIFTEEN, all number two heating oil sold for use in residential, commercial, or industrial heating within the state shall not have a sulfur content greater than fifteen parts per million.

S 2. This act shall take effect immediately.

PART WW

Section 1. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 44 to read as follows:

(44) ENERGY EFFICIENT TANGIBLE PERSONAL PROPERTY OF WHATEVER NATURE FOR USE OR CONSUMPTION DIRECTLY AND EXCLUSIVELY: (I) IN THE PRODUCTION OF SNOW; (II) IN THE UPHILL TRANSPORTATION OF SKIERS; OR (III) IN THE GROOMING AND MAINTENANCE OF SNOW BY ANY PERSON ENGAGED IN THE BUSINESS OF OPERATING A RECREATIONAL FACILITY FOR SKIING.

S 2. Section 1115 of the tax law is amended by adding a new subdivision (hh) to read as follows:

(HH) FUEL, GAS, ELECTRICITY AND REFRIGERATION, AND GAS, ELECTRIC AND REFRIGERATION SERVICE OF WHATEVER NATURE FOR USE OR CONSUMPTION DIRECTLY AND EXCLUSIVELY IN THE PRODUCTION OF SNOW BY ANY PERSON ENGAGED IN THE BUSINESS OF OPERATING A RECREATIONAL FACILITY FOR SKIING, SHALL BE EXEMPT FROM THE TAXES IMPOSED UNDER SUBDIVISIONS (A) AND (B) OF SECTION ELEVEN HUNDRED FIVE AND THE COMPENSATING USE TAX IMPOSED UNDER SECTION ELEVEN HUNDRED TEN OF THIS ARTICLE.

S 3. This act shall take effect on the first of July next succeeding the date on which it shall have become a law.

PART XX

Section 1. (a) Notwithstanding any other provision of law or rule or regulation to the contrary an electric generating facility located in the county of Nassau, Suffolk or the Rockaway Peninsula of the county of Queens and that is listed as a site for a potential repowering project or retirement option, as considered on page twenty-nine of the Long Island Power Authority electric resource plan of 2010-2020, and including the decommissioned nuclear power plant site in the town of Shoreham, shall be deemed to be a site eligible for participation in the brown-field cleanup program, as defined in subdivision 2 of section 27-1405 of the environmental conservation law, notwithstanding any limitations on participation listed in paragraphs (a) through (e) of such subdivision, if such electric generating facility site is intended to be redeveloped as a qualifying repowering or an otherwise new or expanded electric generating facility as provided by subdivision (b) of this section.

(b) An electric generating facility shall be deemed utilized for a qualifying repowering or an otherwise new or expanded electric generating facility if it:

(i) is designed and intended to operate at an electricity production efficiency level of at least 48 percent;

(ii) will be capable of producing at least 600 mega watts of electric generating capacity running at least 7000 hours per year;

(iii) will be able to achieve a 2 parts per million limit for nitrous oxide emissions using lowest achievable emission rate technologies;

(iv) will utilize lowest achievable emission rate technologies if feasible, or, at a minimum, best available control technologies for carbon monoxide and sulfur dioxide emission levels;

(v) will fully incorporate existing power generating structures within a repowering power electric generating facility, or will safely demolish and remove from such site the existing operating or decommissioned electric generating facility or facilities on such site prior to the issuance of such certificate of completion; and

(vi) will have been issued such certificate of completion on such site no later than March 31, 2017, if such existing facility or facilities are scheduled to be, or are, decommissioned, or currently or proposed to be operated only under conditions determined to meet the criteria of an emergency operator as declared by the New York independent system operator; and will place in service the new electric generating facility or facilities related to such site no later than March 31, 2020; provided that such date limitations regarding the issuance of a certificate of completion or placed in service date shall not apply to the former Shoreham nuclear power plant site or any other facility or facilities not scheduled to be, or are, decommissioned, or currently or proposed to be operated only under conditions determined to meet the criteria of an emergency operator as declared by the New York independent system operator listed as a repowering or retirement option on page twenty-nine of the Long Island Power Authority adopted electric resource plan 2010-2020.

(c) An electric generating facility which has satisfied the conditions of subdivision (b) of this section and has been issued a certificate of completion pursuant to section 27-1419 of the environmental conservation law, shall be deemed to be (i) a site used primarily for manufacturing activities, as that phrase is defined in subparagraph (B) of paragraph (3-a) of subdivision (a) of section 21 of the tax law; and (ii) an environmental zone, as defined by paragraph (6) of subdivision (b) of section 21 and paragraph (5) of subdivision (a) of section 22 of the tax law.

S 2. This act shall take effect immediately and shall expire and be deemed repealed on April 1, 2030.

PART YY

Section 1. Within 90 days, the power authority of the state of New York shall conduct an analysis of the current economic viability of load producing electric generating facilities in the counties of Chautauqua and Niagara, and as deemed feasible and advisable by the board of trustees, taking full consideration of the requirements and viability of the entire power generating system needs of the state of New York with special consideration of the ratepayers and taxpayers in Western New York, recommend entering into a purchase power agreement with the owners and operators of such facilities. Such power purchase agreements shall be designed to maintain said facilities power production capacities at a rate sufficient to ensure at least three years worth of no less than a level of operating income necessary to allow said facilities to remain open and functioning and fully staffed at at least ninety percent of current employment levels, payrolls and benefits.

S 2. This act shall take effect immediately.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judg-

1 ment shall have been rendered. It is hereby declared to be the intent of
2 the legislature that this act would have been enacted even if such
3 invalid provisions had not been included herein.
4 S 3. This act shall take effect immediately provided, however, that
5 the applicable effective date of Parts A through YY of this act shall be
6 as specifically set forth in the last section of such Parts.