

S. 6258

A. 9058

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

January 17, 2012

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

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

AN ACT to 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); to amend the highway law and the state finance law, in relation to modifying the distribution of certain funds (Part B); to amend the transportation law, in relation to enacting a performance based bus inspection program (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); to amend the public authorities law, in relation to notes, bonds and other obligations of the metropolitan transportation authority, Triborough bridge and tunnel authority and New York city transit authority (Part E); to amend 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; and repealing section 214 of the transportation law relating thereto (Part G); to amend the environmental conservation law, in relation to the regulation of various fish and wildlife licenses, permits and fees; and

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

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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 waste program fees and surcharges (Part J); to amend the state finance law and the public authorities law, in relation to the sewage treatment and drinking water funds and the water pollution control and drinking water revolving funds (Part K); to amend the agriculture and markets law, in relation to seed testing (Part L); to amend the agriculture and markets law, in relation to fees for services (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); to amend chapter 35 of the laws of 1979, relating to appropriating funds to the New York state urban development corporation for the acquisition and initial planning of convention and exhibition center facilities in New York county, in relation to additional powers of such corporation (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 repeal subdivision 3 of section 16-m of the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part S); to amend the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make grants (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); to amend the general business law and the real property law, in relation to increasing the term of licensure and registration from two to four years (Part W); to amend the racing, pari-mutuel wagering and breeding law, in relation to presenting uncashed pari-mutuel vouchers within a prescribed period of time (Part X); to amend the racing, pari-mutuel wagering and breeding law and the public officers law, in relation to employment of officials at harness race meetings (Part Y); to amend the agriculture and markets law, in relation to authorizing the creation of a dairy research and education order (Part Z); and to amend public authorities law, in relation to the recovery of state governmental costs from public authorities and public benefit corporations (Part AA)

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

12 PART A

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

25 SCHEDULE

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

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

40 State Fiscal Year	Amount
41 2012-13	\$39,700,000

42 (b) Three hundred four million three hundred thousand dollars
43 (\$304,300,000) to counties, cities, towns and villages for reimbursement
44 of eligible costs of local highway and bridge projects pursuant to
45 sections 16 and 16-a of chapter 329 of the laws of 1991, as added by
46 section 9 of chapter 330 of the laws of 1991, as amended. For the
47 purposes of computing allocations to municipalities, the amount distrib-
48 uted pursuant to section 16 of chapter 329 of the laws of 1991 shall be
49 deemed to be \$121,520,000. The amount distributed pursuant to section
50 16-a of chapter 329 of the laws of 1991 shall be deemed to be
51 \$182,780,000. Notwithstanding the provisions of any general or special
52 law, the amounts deemed distributed in accordance with section 16 of
53 chapter 329 of the laws of 1991 shall be adjusted so that such amounts
54 will not be less than 83.807 percent of the "funding level" as defined

1 in subdivision 5 of section 10-c of the highway law for each such muni-
2 cipality. In order to achieve the objectives of section 16 of chapter
3 329 of the laws of 1991, to the extent necessary, the amounts in excess
4 of 83.807 percent of the funding level to be deemed distributed to each
5 municipality under this subdivision shall be reduced in equal propor-
6 tion.

7 (c) Fifty-eight million seven hundred ninety-seven thousand dollars
8 (\$58,797,000) to municipalities for reimbursement of eligible costs of
9 local highway and bridge projects pursuant to sections 16 and 16-a of
10 chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of
11 the laws of 1991, as amended. For the purposes of computing allocations
12 to municipalities, the amount distributed pursuant to section 16 of
13 chapter 329 of the laws of 1991 shall be deemed to be \$23,480,000. The
14 amount distributed pursuant to section 16-a of chapter 329 of the laws
15 of 1991 shall be deemed to be \$35,317,000. Notwithstanding the
16 provisions of any general or special law, the amounts deemed distributed
17 in accordance with section 16 of chapter 329 of the laws of 1991 shall
18 be adjusted so that such amounts will not be less than 16.193 percent of
19 the "funding level" as defined in subdivision 5 of section 10-c of the
20 highway law for each such municipality. In order to achieve the objec-
21 tives of section 16 of chapter 329 of the laws of 1991, to the extent
22 necessary, the amounts in excess of 16.193 percent of the funding level
23 to be deemed distributed to each municipality under this subdivision
24 shall be reduced in equal proportion. To the extent that the total of
25 remaining payment allocations calculated herein varies from \$58,797,000,
26 the payment amounts to each locality shall be adjusted by a uniform
27 percentage so that the total payments equal \$58,797,000.

28 The program authorized pursuant to sections 16 and 16-a of chapter 329
29 of the laws of 1991, as added by section 9 of chapter 330 of the laws of
30 1991, as amended, shall additionally make payments for reimbursement
31 according to the following schedule:

32	State Fiscal Year	Amount
33	2012-13	\$363,097,000

34 S 2. Subdivision (f) of section 16 of chapter 329 of the laws of 1991,
35 amending the state finance law and other laws relating to the establish-
36 ment of the dedicated highway and bridge trust fund, as added by section
37 2 of part A of chapter 60 of the laws of 2011, is amended to read as
38 follows:

39 (f) For purposes of this section and section 10-c of the highway law,
40 for projects completed on or before March 31, [2012] 2013 local highway
41 and bridge projects may also include the following work types: (1)
42 microsurfacing, (2) paver placed surface treatment, (3) single course
43 surface treatment involving chip seals and oil and stone, and (4) double
44 course surface treatment involving chip seals and oil and stone, howev-
45 er, no reimbursement shall be made for (1) microsurfacing, (2) paver
46 placed surface treatment, (3) single course surface treatment involving
47 chip seals and oil and stone, and (4) double course surface treatment
48 involving chip seals and oil and stone after March 31, [2012] 2013.
49 Reimbursement for projects using these treatments may be made from the
50 proceeds of bonds, notes or other obligations issued by the New York
51 state thruway authority pursuant to section 380 of the public authori-
52 ties law or otherwise as determined by the director of the budget.

53 S 3. Subdivision (f) of section 16-a of chapter 329 of the laws of
54 1991, amending the state finance law and other laws relating to the
55 establishment of the dedicated highway and bridge trust fund, as added

1 by section 3 of part A of chapter 60 of the laws of 2011, is amended to
2 read as follows:

3 (f) For purposes of this section and section 10-c of the highway law,
4 for projects completed on or before March 31, [2012] 2013 local highway
5 and bridge projects may also include the following work types: (1)
6 microsurfacing, (2) paver placed surface treatment, (3) single course
7 surface treatment involving chip seals and oil and stone, and (4) double
8 course surface treatment involving chip seals and oil and stone, howev-
9 er, no reimbursement shall be made for (1) microsurfacing, (2) paver
10 placed surface treatment, (3) single course surface treatment involving
11 chip seals and oil and stone, and (4) double course surface treatment
12 involving chip seals and oil and stone after March 31, [2012] 2013.
13 Reimbursement for projects using these treatments may be made from the
14 proceeds of bonds, notes or other obligations issued by the New York
15 state thruway authority pursuant to section 380 of the public authori-
16 ties law or otherwise as determined by the director of the budget.

17 S 4. Subdivision (d) of section 11 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 amended by
20 section 4 of part A of chapter 60 of the laws of 2011, is amended to
21 read as follows:

22 (d) Any such service contract (i) shall provide that the obligation of
23 the director of the budget or the state to fund or to pay the amounts
24 therein provided for shall not constitute a debt of the state within the
25 meaning of any constitutional or statutory provisions in the event the
26 thruway authority assigns or pledges service contract payments as secu-
27 rity for its bonds or notes, (ii) shall be deemed executory only to the
28 extent moneys are available and that no liability shall be incurred by
29 the state beyond the moneys available for the purpose, and that such
30 obligation is subject to annual appropriation by the legislature, and
31 (iii) shall provide that no funds shall be made available from the
32 proceeds of bonds or notes issued pursuant to this chapter unless the
33 commissioner of transportation has certified to the chairman of the
34 thruway authority that such funds shall be used exclusively for the
35 purposes authorized by subdivision (a) of this section, and/or
36 construction, reconstruction or improvement of local highways, bridges
37 and/or highway-railroad crossings, including right of way acquisition,
38 preliminary engineering, and construction supervision and inspection,
39 where the service life of the project is at least ten years or for
40 projects completed on or before March 31, [2012] 2013 where the project
41 is: (1) microsurfacing, (2) paver placed surface treatment, (3) single
42 course surface treatment involving chip seals and oil and stone and (4)
43 double course surface treatment involving chip seals and oil and stone,
44 and unless the director of the budget has certified to the chairman of
45 the thruway authority that a spending plan has been submitted by the
46 commissioner of transportation and has been approved by the director of
47 the budget. No reimbursement shall be made for (1) microsurfacing, (2)
48 paver placed surface treatment, (3) single course surface treatment
49 involving chip seals and oil and stone, and (4) double course surface
50 treatment involving chip seals and oil and stone after March 31, [2012]
51 2013.

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

1 (b) Each county, city, town and village shall certify to the commis-
2 sioner of transportation that amounts to be reimbursed are for
3 construction, reconstruction or improvement of local highways, bridges
4 and/or highway-railroad crossings, including right of way acquisition,
5 preliminary engineering, and construction supervision and inspection
6 where the service life of the project is at least ten years or for
7 projects completed on or before March 31, [2012] 2013 where the project
8 is: (1) microsurfacing, (2) paver placed surface treatment, (3) single
9 course surface treatment involving chip seals and oil and stone and (4)
10 double course surface treatment involving chip seals and oil and stone.
11 No reimbursement shall be made for (1) microsurfacing, (2) paver placed
12 surface treatment, (3) single course surface treatment involving chip
13 seals and oil and stone, and (4) double course surface treatment involv-
14 ing chip seals and oil and stone after March 31, [2012] 2013. Such
15 certification shall include any such information as may be necessary to
16 maintain the federal tax exempt status of bonds, notes or other obli-
17 gations issued by the New York state thruway authority pursuant to
18 section 380 of the public authorities law. The commissioner of transpor-
19 tation shall in writing request the municipalities to furnish such
20 information as may be necessary to comply with this section.

21 S 6. Subdivision (b) of section 16-a of chapter 329 of the laws of
22 1991, amending the state finance law and other laws relating to the
23 establishment of the dedicated highway and bridge trust fund, as amended
24 by section 6 of part A of chapter 60 of the laws of 2011, is amended to
25 read as follows:

26 (b) Each county, city, town and village shall certify to the commis-
27 sioner of transportation that amounts to be reimbursed are for
28 construction, reconstruction or improvement of local highways, bridges
29 and/or highway-railroad crossings, including right of way acquisition,
30 preliminary engineering, and construction supervision and inspection
31 where the service life of the project is at least ten years or for
32 projects completed on or before March 31, [2012] 2013 where the project
33 is: (1) microsurfacing, (2) paver placed surface treatment, (3) single
34 course surface treatment involving chip seals and oil and stone and (4)
35 double course surface treatment involving chip seals and oil and stone.
36 No reimbursement shall be made for (1) microsurfacing, (2) paver placed
37 surface treatment, (3) single course surface treatment involving chip
38 seals and oil and stone, and (4) double course surface treatment involv-
39 ing chip seals and oil and stone after March 31, [2012] 2013. Such
40 certification shall include any such information as may be necessary to
41 maintain the federal tax exempt status of bonds, notes or other obli-
42 gations issued by the New York state thruway authority pursuant to
43 section 380 of the public authorities law. The commissioner shall in
44 writing request the municipalities to furnish such information as may be
45 necessary to comply with this section.

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

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

55 S 8. This act shall take effect immediately; provided, however, that
56 the amendments to subdivisions (f) and (b) of section 16 of chapter 329

1 of the laws of 1991 made by sections two and five of this act, respec-
2 tively, shall not affect the repeal of such subdivisions and shall be
3 deemed repealed therewith; provided, further, that the amendments to
4 subdivisions (f) and (b) of section 16-a of chapter 329 of the laws of
5 1991 made by sections three and six of this act, respectively, shall not
6 affect the repeal of such subdivisions and shall be deemed repealed
7 therewith; and provided, further, that the amendments to subdivision (d)
8 of section 11 of chapter 329 of the laws of 1991 made by section four of
9 this act shall not affect the repeal of such subdivision and shall be
10 deemed repealed therewith.

11 PART B

12 Section 1. Section 326 of the highway law, as amended by chapter 1110
13 of the laws of 1971, is amended to read as follows:

14 S 326. Penalties, how recovered. All penalties or forfeitures given in
15 this chapter, and not otherwise specially provided for, shall be recov-
16 ered by the town superintendent, in the name of the town in which the
17 offense shall be committed; and when recovered, shall be applied by them
18 in improving the highways and bridges in such town, except that if the
19 offense occurs on any highway included in the systems defined by section
20 three hundred forty-one of this chapter, such penalties or forfeitures
21 may be recovered by the commissioner of transportation and where so
22 recovered shall be [paid to the state treasurer to the credit of the
23 fund available for the maintenance and repair of state highways] DEPOS-
24 ITED BY THE COMPTROLLER INTO THE SPECIAL OBLIGATION RESERVE AND PAYMENT
25 ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTABLISHED
26 PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW.

27 S 2. Paragraph (a) of subdivision 3 of section 89-b of the state
28 finance law, as amended by section 2 of chapter 165 of the laws of 2008,
29 is amended to read as follows:

30 (a) The special obligation reserve and payment account shall consist
31 (i) of all moneys required to be deposited in the dedicated highway and
32 bridge trust fund pursuant to the provisions of sections two hundred
33 five, two hundred eighty-nine-e, three hundred one-j, five hundred
34 fifteen and eleven hundred sixty-seven of the tax law, section four
35 hundred one of the vehicle and traffic law, and section thirty-one of
36 chapter fifty-six of the laws of nineteen hundred ninety-three, (ii) all
37 fees, fines or penalties collected by the commissioner of transportation
38 pursuant to section fifty-two, SECTION THREE HUNDRED TWENTY-SIX, and
39 subdivisions five, eight and twelve of section eighty-eight of the high-
40 way law, subdivision fifteen of section three hundred eighty-five of the
41 vehicle and traffic law, section two of the chapter of the laws of two
42 thousand three that amended this paragraph, subdivision (d) of section
43 three hundred four-a, paragraph one of subdivision (a) and subdivision
44 (d) of section three hundred five, subdivision six-a of section four
45 hundred fifteen and subdivision (g) of section twenty-one hundred twen-
46 ty-five of the vehicle and traffic law, section fifteen of this chapter,
47 excepting moneys deposited with the state on account of betterments
48 performed pursuant to subdivision twenty-seven or subdivision thirty-
49 five of section ten of the highway law, (iii) any moneys collected by
50 the department of transportation for services provided pursuant to
51 agreements entered into in accordance with section ninety-nine-r of the
52 general municipal law, and (iv) any other moneys collected therefor or
53 credited or transferred thereto from any other fund, account or source.

1 S 3. Paragraph (a) of subdivision 3 of section 89-b of the state
2 finance law, as amended by section 3 of chapter 165 of the laws of 2008,
3 is amended to read as follows:

4 (a) The special obligation reserve and payment account shall consist
5 (i) of all moneys required to be deposited in the dedicated highway and
6 bridge trust fund pursuant to the provisions of sections two hundred
7 eighty-nine-e, three hundred one-j, five hundred fifteen and eleven
8 hundred sixty-seven of the tax law, section four hundred one of the
9 vehicle and traffic law, and section thirty-one of chapter fifty-six of
10 the laws of nineteen hundred ninety-three, (ii) all fees, fines or
11 penalties collected by the commissioner of transportation pursuant to
12 section fifty-two, SECTION THREE HUNDRED TWENTY-SIX, and subdivisions
13 five, eight and twelve of section eighty-eight of the highway law,
14 subdivision fifteen of section three hundred eighty-five of the vehicle
15 and traffic law, section fifteen of this chapter, excepting moneys
16 deposited with the state on account of betterments performed pursuant to
17 subdivision twenty-seven or subdivision thirty-five of section ten of
18 the highway law, (iii) any moneys collected by the department of trans-
19 portation for services provided pursuant to agreements entered into in
20 accordance with section ninety-nine-r of the general municipal law, and
21 (iv) any other moneys collected therefor or credited or transferred
22 thereto from any other fund, account or source.

23 S 4. This act shall take effect immediately, and shall be deemed to
24 have been in full force and effect on and after April 1, 2012; and
25 provided, however, that the amendments to paragraph (a) of subdivision 3
26 of section 89-b of the state finance law made by section two of this act
27 shall be subject to the expiration and reversion of such paragraph
28 pursuant to section 13 of part U-1 of chapter 62 of the laws of 2003, as
29 amended, when upon such date the provisions of section three of this act
30 shall take effect.

31 PART C

32 Section 1. Subdivision 3 of section 140 of the transportation law, as
33 added by chapter 635 of the laws of 1983, is amended to read as follows:

34 3. No motor vehicle [carrying] DESIGNED TO CARRY passengers, as
35 described in subdivision two of this section, shall be operated within
36 the state unless it carries prominently displayed thereon the name of
37 the operator and certificate evidencing an inspection in accordance with
38 the rules and regulations of the commissioner [within a period of six
39 months last preceding]. The commissioner may, by order, rule or regu-
40 lation, exempt from the requirements of this subdivision, vehicles which
41 are not operated exclusively in transportation services for which
42 inspection is required, provided that written evidence of the names
43 otherwise subject to prominent display and such a certificate of
44 inspection are at all times carried within such vehicles to be made
45 available for examination upon proper demand, while the vehicles are
46 operated in such service.

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

49 PART D

50 Section 1. Subdivision 1 of section 502 of the vehicle and traffic
51 law, as amended by section 2 of part CC of chapter 58 of the laws of
52 2011, is amended to read as follows:

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

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

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

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

55 S 4. The vehicle and traffic law is amended by adding a new section
56 510-aa to read as follows:

1 S 510-AA. DOWNGRADE OF COMMERCIAL DRIVER'S LICENSES. A COMMERCIAL
2 DRIVER'S LICENSE SHALL BE DOWNGRADED TO A NON-COMMERCIAL DRIVER'S
3 LICENSE BY THE COMMISSIONER UPON THE EXPIRATION OF THE HOLDER'S MEDICAL
4 CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION REQUIRED BY THE FEDERAL
5 MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE
6 49 OF THE CODE OF FEDERAL REGULATIONS, OR UPON THE HOLDER'S FAILURE TO
7 SUBMIT SUCH MEDICAL CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION WHEN
8 REQUIRED TO DO SO BY THE COMMISSIONER. A COMMERCIAL DRIVER'S LICENSE
9 SHALL ALSO BE DOWNGRADED TO A NON-COMMERCIAL DRIVER'S LICENSE BY THE
10 COMMISSIONER UPON RECEIPT OF INFORMATION FROM THE ISSUING MEDICAL EXAM-
11 INER OR THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION THAT A MEDICAL
12 CERTIFICATION OR MEDICAL VARIANCE WAS ISSUED IN ERROR. SUCH DOWNGRADE
13 SHALL BE TERMINATED, AND THE COMMERCIAL DRIVER'S LICENSE RESTORED, UPON:
14 (1) THE HOLDER'S SUBMISSION OF THE REQUIRED VALID MEDICAL EXAMINER'S
15 CERTIFICATE OR MEDICAL VARIANCE DOCUMENTATION; OR (2) THE HOLDER'S
16 SELF-CERTIFICATION SPECIFYING THE TYPE OF COMMERCIAL MOTOR VEHICLE OPER-
17 ATION HE OR SHE ENGAGES, OR EXPECTS TO ENGAGE IN, AND THAT THE HOLDER IS
18 THEREFORE NOT SUBJECT TO THE PHYSICAL QUALIFICATION REQUIREMENTS OF THE
19 FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H)
20 OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS.

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

23 7-A. NO PERSON SHALL OPERATE A COMMERCIAL MOTOR VEHICLE UNLESS
24 MEDICALLY CERTIFIED IN ACCORDANCE WITH THE FEDERAL MOTOR CARRIER SAFETY
25 IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF
26 FEDERAL REGULATIONS.

27 S 6. This act shall take effect immediately; provided, however, that
28 if sections 2 and 3 of part CC of chapter 58 of the laws of 2011 shall
29 not have taken effect on or before such date then sections one and two
30 of this act shall take effect on the same date and in the same manner as
31 such chapter of the laws of 2011 takes effect; provided further, howev-
32 er, that section five of this act shall take effect on the sixtieth day
33 after it shall have become a law.

34

PART E

35 Section 1. Subdivision 12 of section 1269 of the public authorities
36 law, as amended by section 1 of part NN of chapter 59 of the laws of
37 2010, is amended to read as follows:

38 12. The aggregate principal amount of bonds, notes or other obli-
39 gations issued after the first day of January, nineteen hundred ninety-
40 three by the authority, the Triborough bridge and tunnel authority and
41 the New York city transit authority to fund projects contained in capi-
42 tal program plans approved pursuant to section twelve hundred sixty-
43 nine-b of this [article] TITLE for the period nineteen hundred ninety-
44 two through two thousand fourteen shall not exceed [thirty-four]
45 FORTY-ONE billion eight hundred seventy-seven million dollars. Such
46 aggregate principal amount of bonds, notes or other obligations or the
47 expenditure thereof shall not be subject to any limitation contained in
48 any other provision of law on the principal amount of bonds, notes or
49 other obligations or the expenditure thereof applicable to the authori-
50 ty, the Triborough bridge and tunnel authority or the New York city
51 transit authority. The aggregate limitation established by this subdivi-
52 sion shall not include (i) obligations issued to refund, redeem or
53 otherwise repay, including by purchase or tender, obligations thereto-
54 fore issued either by the issuer of such refunding obligations or by the

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

24

PART F

25 Section 1. Section 205 of the vehicle and traffic law is amended by
26 adding a new subdivision 3-a to read as follows:
27 3-A. IN ADDITION TO THE FEES RETAINED PURSUANT TO SUBDIVISION THREE OF
28 THIS SECTION, EACH COUNTY CLERK ACTING AS THE AGENT OF THE COMMISSIONER
29 PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL RETAIN FOUR PERCENT OF
30 "ENHANCED INTERNET AND ELECTRONIC PARTNER REVENUE" COLLECTED BY THE
31 COMMISSIONER. FOR THE PURPOSES OF THIS SUBDIVISION, "ENHANCED INTERNET
32 AND ELECTRONIC PARTNER REVENUE" SHALL MEAN THE AMOUNT OF GROSS RECEIPTS
33 ATTRIBUTABLE TO ALL TRANSACTIONS CONDUCTED ON THE INTERNET BY RESIDENTS
34 OF SUCH COUNTY AND BY DESIGNATED PARTNERS OF THE DEPARTMENT ON BEHALF OF
35 SUCH RESIDENTS FOR THE CURRENT CALENDAR YEAR THAT EXCEEDS THE AMOUNT OF
36 SUCH REVENUE COLLECTED BY THE COMMISSIONER DURING CALENDAR YEAR TWO
37 THOUSAND ELEVEN. THE COMMISSIONER SHALL CERTIFY THE AMOUNTS TO BE
38 RETAINED BY EACH COUNTY CLERK PURSUANT TO THIS SUBDIVISION. PROVIDED,
39 HOWEVER, THAT IF THE AGGREGATE AMOUNT OF FEES RETAINED BY COUNTY CLERKS
40 PURSUANT TO THIS SUBDIVISION IN CALENDAR YEARS TWO THOUSAND TWELVE AND
41 TWO THOUSAND THIRTEEN COMBINED EXCEEDS EIGHTY-EIGHT MILLION FIVE HUNDRED
42 THOUSAND DOLLARS, THEN THE PERCENTAGE OF FEES TO BE RETAINED THEREAFTER
43 SHALL BE REDUCED TO A PERCENTAGE THAT, IF APPLIED TO THE FEES COLLECTED
44 DURING CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN
45 COMBINED, WOULD HAVE RESULTED IN AN AGGREGATE RETENTION OF EIGHTY-EIGHT
46 MILLION FIVE HUNDRED THOUSAND DOLLARS OR 2.5 PERCENT OF ENHANCED INTER-
47 NET AND ELECTRONIC PARTNER REVENUE, WHICHEVER IS HIGHER. IF THE AGGRE-
48 GATE AMOUNT OF FEES RETAINED BY COUNTY CLERKS PURSUANT TO THIS SUBDIVI-
49 SION IN CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN
50 COMBINED IS LESS THAN EIGHTY-EIGHT MILLION FIVE HUNDRED THOUSAND
51 DOLLARS, THEN THE PERCENTAGE OF FEES TO BE RETAINED THEREAFTER SHALL BE
52 INCREASED TO A PERCENTAGE THAT, IF APPLIED TO THE FEES COLLECTED DURING
53 CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN COMBINED,
54 WOULD HAVE RESULTED IN AN AGGREGATE RETENTION OF EIGHTY-EIGHT MILLION

1 FIVE HUNDRED THOUSAND DOLLARS, OR SIX PERCENT OF ENHANCED INTERNET AND
2 ELECTRONIC PARTNER REVENUE, WHICHEVER IS LESS. ON AND AFTER APRIL FIRST,
3 TWO THOUSAND SIXTEEN, THE PERCENT OF ENHANCED INTERNET AND ELECTRONIC
4 PARTNER REVENUE TO BE RETAINED BY COUNTY CLERKS SHALL BE THE AVERAGE OF
5 THE ANNUAL PERCENTAGES THAT WERE IN EFFECT BETWEEN APRIL FIRST, TWO
6 THOUSAND TWELVE AND MARCH THIRTY-FIRST, TWO THOUSAND SIXTEEN.

7 S 2. This act shall take effect April 1, 2012.

8

PART G

9 Section 1. Subdivision 1 of section 140 of the transportation law, as
10 added by chapter 635 of the laws of 1983, is amended to read as follows:

11 1. Every [common and contract] FOR HIRE AND PRIVATE carrier of passen-
12 ger by motor vehicle INVOLVED IN INTERSTATE, INTRASTATE, OR INTERNA-
13 TIONAL COMMERCE DOMICILED IN NEW YORK shall furnish and provide with
14 respect thereto such service and facilities as shall be safe and
15 adequate. Any such carrier shall give immediate notice to the commis-
16 sioner of every accident to which it shall, in the course of its oper-
17 ations, have been a party.

18 S 2. Subparagraph (ii) of paragraph a of subdivision 2 of section 140
19 of the transportation law, as amended by chapter 602 of the laws of
20 1985, is amended to read as follows:

21 (ii) All MOTOR CARRIERS, EMPLOYEES AND motor vehicles [operated pursu-
22 ant to or requiring a certificate or permit for the transportation of
23 passengers or property from the interstate commerce commission or the
24 commissioner] THAT TRANSPORT PROPERTY OR PASSENGERS IN INTRASTATE,
25 INTERSTATE, OR INTERNATIONAL COMMERCE.

26 S 3. Paragraphs b and c of subdivision 2 of section 140 of the trans-
27 portation law, paragraph b as amended by chapter 173 of the laws of 1990
28 and paragraph c as amended by chapter 602 of the laws of 1985, are
29 amended to read as follows:

30 b. [In addition to those vehicles operated pursuant to or requiring a
31 certificate or a permit for the transportation of property from the
32 interstate commerce commission or the commissioner as set forth in
33 subparagraph (ii) of paragraph a of this subdivision, the commissioner
34 shall have the power to adopt rules and regulations governing the safety
35 of operation of other motor vehicles operated for the commercial trans-
36 portation of property.

37 c.] The department shall have the power to examine vehicles, facili-
38 ties and records subject to the provisions of this subdivision, at any
39 time and place where they are found, to ascertain whether such rules and
40 regulations are being obeyed. The rules and regulations of the commis-
41 sioner shall provide for the inspection of all such vehicles, FACILITIES
42 AND RECORDS SUBJECT TO THE PROVISIONS OF THIS SUBDIVISION, at such peri-
43 ods and at such manner as the commissioner may direct, and, when
44 adopted, shall have the full force and effect of law.

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

49 (i) No MOTOR CARRIER, EMPLOYEE OR motor vehicle [operated pursuant to
50 or requiring a certificate or a permit for the transportation of proper-
51 ty from the interstate commerce commission or the commissioner and no
52 motor vehicle operated for the commercial transportation of property]
53 THAT TRANSPORTS PROPERTY OR PASSENGERS IN INTRASTATE, INTERSTATE, OR
54 INTERNATIONAL COMMERCE shall [be operated] OPERATE in this state unless

1 [it] SUCH MOTOR CARRIER, EMPLOYEE OR MOTOR VEHICLE is in compliance with
2 the department's safety rules and regulations.

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

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

23 5. No motor vehicle with a seating capacity of more than eleven
24 passengers manufactured after December thirty-first, nineteen hundred
25 seventy-five, used in the business of transporting school children for
26 hire or used for the transportation of school children, owned and/or
27 operated by school districts or by any public or private school shall be
28 operated within the state, unless each seat, other than the driver's
29 seat, on such vehicle is equipped with a padded back at least twenty-
30 eight inches in height of a type and specification approved by the
31 commissioner. Any person who operates a motor vehicle in violation of
32 the requirement for such seat backs shall be guilty of a violation,
33 punishable by a fine not exceeding one hundred dollars. The provisions
34 of this subdivision shall not apply to any bus used for the transporta-
35 tion of pupils, teachers and other persons acting in a supervisory
36 capacity to and from school activities and which bus does not receive or
37 discharge passengers on or along the public highways on regularly sched-
38 uled routes and which is being operated pursuant to [a permit or certif-
39 icate of public convenience and necessity] FOR-HIRE OPERATING AUTHORITY
40 issued by the commissioner or by the [interstate commerce commission]
41 UNITED STATES DEPARTMENT OF TRANSPORTATION. School buses manufactured or
42 assembled prior to April first, nineteen hundred seventy-seven may not
43 be used to transport pupils, teachers and other persons acting in a
44 supervisory capacity to and from school activities.

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

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

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

55 S 210. Application of this article. The term "motor truck" as used in
56 this article shall be deemed to mean and include any motor vehicle held

1 and used for the transportation of goods, wares and merchandise for hire
2 or for a business purpose, [including such motor vehicles commonly known
3 as an auto truck or light delivery car] PURSUANT TO THE RULES AND REGU-
4 LATIONS OF THE COMMISSIONER. The term "motor bus" as used in this arti-
5 cle shall be deemed to mean and include any motor vehicle held and used
6 for the transportation of passengers for hire OR FOR A BUSINESS PURPOSE,
7 PURSUANT TO THE RULES AND REGULATIONS OF THE COMMISSIONER.

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

10 S 211. General provisions. No driver of a motor truck or motor bus
11 shall drive such vehicle or be on duty for any period of time in excess
12 of that authorized pursuant to regulation of the commissioner. The
13 commissioner is hereby authorized to promulgate rules and regulations
14 governing the hours of service of drivers of motor trucks and motor
15 buses. Such rules and regulations shall be no less protective of public
16 safety than the rules and regulations promulgated by the federal govern-
17 ment with respect to hours of labor of operation of motor trucks and
18 motor buses, provided, however, that with regard to drivers of motor
19 buses [operated exclusively in a town or county or] operated by a public
20 transportation authority operating exclusively within its jurisdictional
21 area, the rules and regulations of the commissioner shall provide that
22 no driver of such motor buses shall drive more than twelve hours follow-
23 ing eight consecutive hours off duty and no driver of such motor buses
24 shall drive for any period after having been on duty for fifteen hours
25 following eight consecutive hours off duty and every driver of such
26 motor buses shall have at least twenty-four consecutive hours off duty
27 in every period of seven consecutive days and in no event shall such a
28 driver be on duty for more than seventy-five hours in any period of
29 seven consecutive days.

30 S 8. Section 212 of the transportation law, as added by chapter 342 of
31 the laws of 1974, subdivision a as amended by chapter 843 of the laws of
32 1980, is amended to read as follows:

33 S 212. Records. [a.] Every driver of a motor truck or motor bus shall
34 keep and carry on the vehicle records showing the day and hour when and
35 the place where he went and was released from duty, whether in this
36 state or outside of this state. The commissioner shall prescribe the
37 form of such records and may require such other information to be shown
38 thereon as he shall deem advisable to insure the proper enforcement of
39 this article. Such records shall be exhibited to the commissioner, his
40 representatives, or to any peace officer, acting pursuant to his special
41 duties or police officer who shall demand to see the same and shall be
42 held available for further inspection for a period of sixty days within
43 the state of New York in an office designated by the owner. Failure to
44 produce such records upon demand shall be presumptive evidence of a
45 violation of this article relating to keeping such records. In any pros-
46 ecution for the violation of any of the provisions of this article such
47 records shall be prima facie evidence of the truth of the contents ther-
48 eof.

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

56 S 9. Section 214 of the transportation law is REPEALED.

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

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

14 (1) "Irritating material" which shall mean a liquid or solid substance
15 which upon contact with fire or when exposed to air gives off dangerous
16 or intensely irritating fumes such as benzylcyande, chloracetophenone,
17 diphenylaminechlorarsine, and diphenyl chlorarsine, but not including
18 any poisonous material, Class A;

19 (2) "Poison A" which shall mean those poisonous gases or liquids of
20 such nature that a small amount of the gas, liquid or vapor of the
21 liquid, when in contact with air is dangerous to life. This class
22 includes the following: bromacetone, cyanogen, cyanogen chloride
23 containing less than 0.9 percent water, diphosgene, ethyldichlorarsine,
24 hydrocyanic acid, methyldichlorarsine, nitrogen peroxide (tetroxide),
25 phosgene (diphosgene), nitrogen tetroxide - nitric oxide mixtures
26 containing up to 33.2 percent weight nitric oxide;

27 (3) "Poison B" which shall mean those substances, liquid or solid
28 (including pastes and semi-solids), other than Class A poisons or irri-
29 tating materials, which are known to be so toxic as to be a hazard to
30 health;

31 (4) "Corrosive materials" which shall mean those acids, alkaline caus-
32 tic liquids and other corrosive liquids or solids which when in contact
33 with living tissue, will cause severe damage of such tissue by chemical
34 action; or in the case of leakage, will materially damage or destroy
35 other freight by chemical action; or are liable to cause fire when in
36 contact with organic matter or with certain chemicals that cause visible
37 destruction or irreversible alteration in human skin tissue at the site
38 of contact;

39 (5) "Oxidizing materials" which shall mean those substances such as a
40 chlorate, permanganate, peroxide, or a nitrate, that yields oxygen read-
41 ily to stimulate the combustion of organic matter;

42 (6) "Flammable solids" which shall mean any solid material, other than
43 one designated an explosive, as further defined in this section, which
44 under conditions incident to transportation, cause fires through fric-
45 tion, through absorption of moisture, through spontaneous chemical
46 changes, or as a result of retained heat from the manufacturing or proc-
47 essing. Included in this class are spontaneously combustible and
48 water-reactive materials;

49 (7) "Flammable liquids" which shall mean any liquid, except any liquid
50 meeting the definition of subparagraph nine, ten or eleven of this para-
51 graph, which gives off flammable vapors below a temperature of one
52 hundred degrees Fahrenheit;

53 (8) "Radioactive materials" which shall mean irradiated nuclear reac-
54 tor fuel and the waste by-products of reprocessed irradiated nuclear
55 reactor fuel and any other material or combination of materials that
56 spontaneously emits ionizing radiation which the commissioner of trans-

portation determines by regulation to present significant potential threat to public health and safety;

(9) "Liquefied compressed gas" which shall mean a gas liquefied through compression and under charged pressure is partially liquid at a temperature of seventy degrees Fahrenheit;

(9) "Regulated medical waste" which shall be defined as provided in subdivision one of section 27-1501 of the environmental conservation law.

(10) "Cryogenic liquid" which shall mean a refrigerated liquefied gas having a boiling point colder than minus one hundred thirty degrees Fahrenheit (minus ninety degrees centigrade) at one atmosphere absolute;

(11) "Flammable compressed gas" which shall mean any material or mixture having in the container an absolute pressure exceeding forty p.s.i. at seventy degrees Fahrenheit, or, regardless of the pressure at seventy degrees Fahrenheit, having an absolute pressure exceeding one hundred four p.s.i. at one hundred thirty degrees Fahrenheit, or any liquid flammable material having a vapor pressure exceeding forty p.s.i. absolute at one hundred degrees Fahrenheit as determined by ASTM test D-323, if any one of the following occurs:

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

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

(iii) using the bureau of explosives, association of American railroads open drum apparatus, there is any significant propagation of flame away from the ignition source;

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

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

Such rules and regulations shall be no less protective of public safety than the rules and regulations promulgated by the federal government with respect to the transportation of hazardous materials. The regulations shall set forth the criteria for identifying and listing, and a list of hazardous materials subject to this section as may be amended by the commissioner of transportation from time to time in a manner consistent with the state administrative procedure act and consistent with this section. Such regulations shall include specifications for marking and placarding of vehicles transporting hazardous materials as will be applied pursuant to paragraph (a) of subdivision three of this section. The regulations promulgated hereunder shall include notice that a violation of the rules and regulations is subject to a fine or a period of imprisonment, and the rules and regulations shall set forth the penalty provisions contained in subdivision four of this section.

1 Provided, however, that all local laws or ordinances, except those of
2 cities having a population of one million or more, regulating the trans-
3 portation of flammable liquids in trucks, trailers or semi-trailers, are
4 hereby superseded and without force and hereafter no such local law or
5 ordinance shall be adopted to regulate or control the equipment or means
6 of transporting flammable liquids in trucks, trailers or semi-trailers.

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

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

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

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

26 1-a. The department of transportation is hereby designated the offi-
27 cial state agency to receive all notifications from the [federal inter-
28 state commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION or
29 any other federal or state agency in regard to discontinuance of service
30 or railroad property abandonment proceedings, including notification of
31 applications from railroad companies for any such purposes.

32 1-b. The department of transportation shall promptly inform in writing
33 all interested state agencies, transportation authorities, and every
34 county, city, town and village in which such property is located and the
35 appropriate entity designated by the governor pursuant to title IV of
36 the federal intergovernmental cooperation act of nineteen hundred
37 sixty-eight and the federal office of management and budget circular
38 A-98 of (a) the issuance of any certificate from the [federal interstate
39 commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION or other
40 federal or state agency authorizing discontinuance of railroad service
41 or abandonment of railroad transportation property, (b) approval of
42 discontinuance of service or a determination of abandonment of railroad
43 transportation property pursuant to this section, and (c) the receipt of
44 an application to release a preferential acquisition right to railroad
45 transportation property pursuant to this section.

46 2. For the purposes of this section, property shall be deemed to be
47 abandoned for railroad transportation purposes (a) when, where required
48 by law, a certificate of abandonment of the railroad line situate there-
49 on has been issued by the [interstate commerce commission] UNITED STATES
50 DEPARTMENT OF TRANSPORTATION and/or any other federal or state agency
51 having jurisdiction thereof; or (b) when such a certificate of abandon-
52 ment is not so required and the use of such property for railroad trans-
53 portation purposes has been discontinued with the intent not to resume.
54 Intent not to resume may be inferred from circumstances. Non-use of the
55 property for railroad transportation purposes for two consecutive years
56 shall create a presumption of abandonment. When use of such property

1 for railroad transportation purposes has been discontinued and upon
2 request of the property owner or his own motion, the commissioner shall
3 undertake an investigation thereof, which may include consultation with
4 the [interstate commerce commission] UNITED STATES DEPARTMENT OF TRANS-
5 PORTATION, and shall render a determination as to whether or not (a) the
6 property owner has definite plans for the use of such property for
7 purposes ordinarily associated with the safe and normal operation of a
8 railroad or associated transportation purposes; (b) such property
9 continues to be suitable for such railroad transportation purposes; and
10 (c) such property is necessary, either presently or in the future, for
11 such railroad transportation purposes. Such property shall be deemed to
12 be abandoned for railroad transportation purposes if the commissioner
13 shall determine that (a) the property owner has no definite plans for
14 the use of such property for purposes ordinarily associated with the
15 safe and normal operation of a railroad or associated transportation
16 purposes; or (b) such property is no longer suitable for such railroad
17 transportation purposes; and (c) such property is not necessary, either
18 presently or in the future, for such railroad transportation purposes.
19 The commissioner shall render such determination within ninety days
20 after the commencement of such investigation and such determination
21 shall be conclusive except that if the property is determined not to be
22 so abandoned such determination shall not preclude the undertaking of a
23 subsequent investigation concerning the same property. Sales of aban-
24 doned railroad transportation property for continued or resumed rail
25 transportation use may be exempted at the commissioner's discretion from
26 the preferential right of acquisition. This section shall not apply to
27 the subsequent resale of property lawfully acquired subject to the
28 provisions of this section as then applicable, except when the subse-
29 quent sale involves property previously exempted from this section by
30 the commissioner.

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

33 S 98. Tariff schedules; publication. Every common carrier shall file
34 with the commissioner and shall print and keep open to public inspection
35 schedules showing the rates, fares and charges for the transportation of
36 passengers and property within the state between each point upon its
37 route and all other points thereon; and between each point upon its
38 route and all points upon every route leased, operated or controlled by
39 it; and between each point on its route or upon any route leased, oper-
40 ated or controlled by it and all points upon the route of any other
41 common carrier, whenever a through route and joint rate shall have been
42 established or ordered between any two such points. If no joint rate
43 over a through route has been established, the several carriers in such
44 through route shall file, print and keep open to public inspection, as
45 aforesaid, the separately established rates, fares and charges applied
46 to the through transportation. The schedules printed as aforesaid shall
47 plainly state the places between which property and passengers will be
48 carried, and shall also contain the classification of passengers or
49 property in force, and shall also state separately all terminal charges,
50 storage charges, icing charges, and all other charges which the commis-
51 sioner may require to be stated, all privileges or facilities granted or
52 allowed, and any rules or regulations which may in anywise change,
53 affect or determine any part, or the aggregate of, such aforesaid rates,
54 fares and charges, or the value of the service rendered to the passen-
55 ger, shipper or consignee. Such schedules shall be plainly printed in
56 large type, and a copy thereof shall be kept by every such carrier read-

1 ily accessible to and for convenient inspection by the public in every
2 station or office of such carrier where passengers or property are
3 respectively received for transportation, when such station or office is
4 in charge of an agent, and in every station or office of such carrier
5 where passenger tickets for transportation or tickets covering sleeping
6 or parlor car or other train accommodation are sold or bills of lading
7 or receipts for property are issued. All or any of such schedules kept
8 as aforesaid shall be immediately produced by such carrier for
9 inspection upon the demand of any person. A notice printed in bold type
10 and stating that such schedules are on file with the agent and open to
11 inspection by any person and that the agent will assist any such person
12 to determine from such schedules any transportation rates or fares or
13 rules or regulations which are in force shall be kept posted by the
14 carrier in two public and conspicuous places in every such station or
15 office. The form of every such schedule shall be prescribed by the
16 commissioner and shall conform in the case of railroad company as nearly
17 as may be to the form of schedule required by the [interstate commerce
18 commission] UNITED STATES DEPARTMENT OF TRANSPORTATION under the act of
19 congress entitled "An act to regulate commerce," approved February
20 fourth, eighteen hundred and eighty-seven and the acts amendatory there-
21 of and supplementary thereto. The commissioner shall have power, from
22 time to time, in his discretion, to determine and prescribe by order
23 such changes in the form of such schedules as may be found expedient,
24 and to modify the requirements of this section in respect to publishing,
25 posting and filing of schedules either in particular instances or by
26 general order applicable to special or peculiar circumstances or condi-
27 tions.

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

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

1 proof shall be on the common carrier to establish the correctness of the
2 accounts in which such outlays and receipts have been entered, and the
3 commissioner may suspend a charge or credit pending submission of proof
4 by such carrier. Where the commissioner has prescribed the forms of
5 accounts, records and memoranda to be kept by such carriers it shall be
6 unlawful for them to keep any other accounts, records or memoranda than
7 those so prescribed, or those prescribed by or under authority of the
8 United States.

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

11 S 134. Duties of commissioner as to interstate traffic. The commis-
12 sioner may investigate interstate freight or passenger rates or inter-
13 state freight or passenger service on railroads within the state, and
14 when such rates are, in the opinion of the commissioner, excessive or
15 discriminatory or are levied or laid in violation of the act of congress
16 entitled "An act to regulate commerce," approved February fourth, eigh-
17 teen hundred and eighty-seven, and the acts amendatory thereof and
18 supplementary thereto, or in conflict with the rulings, orders or regu-
19 lations of the [interstate commerce commission] UNITED STATES DEPARTMENT
20 OF TRANSPORTATION, the commissioner may apply by petition to the [inter-
21 state commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION
22 for relief or may present to the [interstate commerce commission] UNITED
23 STATES DEPARTMENT OF TRANSPORTATION all facts coming to his knowledge,
24 as to violations of the rulings, orders, or regulations of that commis-
25 sion or as to violations of the said act to regulate commerce or acts
26 amendatory thereof or supplementary thereto.

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

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

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

50 Notwithstanding any other provision of law, where the trial of a traf-
51 fic or parking infraction is authorized or required to be tried before
52 the Nassau county district court, and such traffic and parking infrac-
53 tion does not constitute a misdemeanor, felony, violation of subdivision
54 one of section eleven hundred ninety-two, subdivision five of section
55 eleven hundred ninety-two, section three hundred ninety-seven-a, or
56 subdivision (g) of section eleven hundred eighty of this chapter, or a

1 violation of paragraph (b) of subdivision four of section fourteen-f or
2 clause (b) of subparagraph (iii) of paragraph [d] C of subdivision two
3 of section one hundred forty of the transportation law, or any offense
4 that is part of the same criminal transaction, as that term is defined
5 in subdivision two of section 40.10 of the criminal procedure law, as
6 such a misdemeanor, felony, violation of subdivision one of section
7 eleven hundred ninety-two, subdivision two of section eleven hundred
8 ninety-two, section three hundred ninety-seven-a or subdivision (g) of
9 section eleven hundred eighty of this chapter, or a violation of para-
10 graph (b) of subdivision four of section fourteen-f or clause (b) of
11 subparagraph (iii) of paragraph d of subdivision two of section one
12 hundred forty of the transportation law, the administrative judge of the
13 county in which the trial court is located, may assign judicial hearing
14 officers to conduct such a trial. Such judicial hearing officers shall
15 be village court justices or retired judges either of which shall have
16 at least two years of experience conducting trials of traffic and park-
17 ing violations cases and shall be admitted to practice law in this
18 state. Where such assignment is made, the judicial hearing officer shall
19 entertain the case in the same manner as a court and shall:

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

23 2. The Nassau county traffic and parking violations agency, as estab-
24 lished, may be authorized to assist the Nassau county district court in
25 the disposition and administration of infractions of traffic and parking
26 laws, ordinances, rules and regulations and the liability of owners for
27 violations of subdivision (d) of section eleven hundred eleven of the
28 vehicle and traffic law in accordance with section eleven hundred
29 eleven-b of such law, except that such agency shall not have jurisdic-
30 tion over (a) the traffic infraction defined under subdivision one of
31 section eleven hundred ninety-two of the vehicle and traffic law; (b)
32 the traffic infraction defined under subdivision five of section eleven
33 hundred ninety-two of the vehicle and traffic law; (c) the violation
34 defined under paragraph (b) of subdivision four of section fourteen-f of
35 the transportation law and the violation defined under clause (b) of
36 subparagraph (iii) of paragraph [d] C of subdivision two of section one
37 hundred forty of the transportation law; (d) the traffic infraction
38 defined under section three hundred ninety-seven-a of the vehicle and
39 traffic law and the traffic infraction defined under subdivision (g) of
40 section eleven hundred eighty of the vehicle and traffic law; (e) any
41 misdemeanor or felony; or (f) any offense that is part of the same crim-
42 inal transaction, as that term is defined in subdivision two of section
43 40.10 of the criminal procedure law, as a violation of subdivision one
44 of section eleven hundred ninety-two of the vehicle and traffic law, a
45 violation of subdivision five of section eleven hundred ninety-two of
46 the vehicle and traffic law, a violation of paragraph (b) of subdivision
47 four of section fourteen-f of the transportation law, a violation of
48 clause (b) of subparagraph (iii) of paragraph d of subdivision two of
49 section one hundred forty of the transportation law, a violation of
50 section three hundred ninety-seven-a of the vehicle and traffic law, a
51 violation of subdivision (g) of section eleven hundred eighty of the
52 vehicle and traffic law or any misdemeanor or felony.

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

1 1. Notwithstanding any other provision of law to the contrary, any
2 person who is, by professional training or experience and attainment,
3 qualified to analyze and interpret matters pertaining to the treatment,
4 storage, disposal, or transport of hazardous materials or hazardous
5 wastes, and who voluntarily and without expectation of monetary compen-
6 sation provides assistance or advice in mitigating the effects of an
7 accidental or threatened discharge of any hazardous materials or hazard-
8 ous wastes, or in preventing, cleaning up, or disposing of any such
9 discharge, shall not be subject to a penalty or to civil liability for
10 damages or injuries alleged to have been sustained by any person or
11 entity by reason of an act or omission in the giving of such assistance
12 or advice. For the purposes of this section, the term "hazardous materi-
13 als" shall have the same meaning [given] AS that term [in subdivision
14 one of] IS DEFINED IN REGULATIONS PROMULGATED BY THE COMMISSIONER OF
15 TRANSPORTATION PURSUANT TO section fourteen-f of the transportation law,
16 and the term "hazardous wastes" shall mean those wastes identified or
17 listed pursuant to section 27-0903 of this article and any rules and
18 regulations promulgated thereunder.

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

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

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

44

PART H

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

48 1. The department may issue to any person a license revocable at its
49 pleasure to collect or possess fish, wildlife, shellfish, crustacea, OR
50 aquatic insects[, birds' nests or eggs] for propagation, banding, scien-
51 tific or exhibition purposes. The department in its discretion may
52 require an applicant to pay a license fee of ten dollars, [to submit
53 written testimonials from two well-known persons] and to file a bond of
54 two hundred dollars to be approved by the department that he OR SHE will

1 not violate any provisions of this article. Each licensee shall file
2 with the department [on or before February 1] a report [of his oper-
3 ations during the preceding calendar year] CONTAINING SUCH INFORMATION
4 AS THE DEPARTMENT MAY REQUIRE. Such license shall be [effective until
5 revoked] IN FORCE FOR ONE YEAR ONLY AND SHALL NOT BE TRANSFERABLE.

6 2. The department may also issue a license revocable at its pleasure
7 to possess and sell protected fish, wildlife, shellfish, crustacea or
8 aquatic insects for propagation, scientific or exhibition purposes. The
9 department in its discretion may require a license fee of ten dollars.
10 Such license shall be in force for one year only and shall not be trans-
11 ferable. Each licensee shall [make] FILE WITH THE DEPARTMENT a report
12 [of his or her operations at the expiration of the license] CONTAINING
13 SUCH INFORMATION AS THE DEPARTMENT MAY REQUIRE. Fish, wildlife, shellf-
14 ish, crustacea or aquatic insects lawfully possessed under this section
15 may be sold at any time by the licensee for propagation, scientific or
16 exhibition purposes only.

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

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

36 S 3. Subdivisions 6 and 9 of section 11-0523 of the environmental
37 conservation law, subdivision 6 as added by chapter 911 of the laws of
38 1990 and subdivision 9 as amended by chapter 114 of the laws of 1981,
39 are amended to read as follows:

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

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

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

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

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

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

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

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

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

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

45 2. No firearm except a pistol or revolver shall be carried or
46 possessed in or on a motor vehicle unless it is unloaded in both the
47 chamber and the magazine, except that a loaded firearm which may be
48 legally used for taking migratory game birds may be carried or possessed
49 in a motorboat while being legally used in hunting migratory game birds,
50 and no person except a law enforcement officer in the performance of his
51 official duties shall, while in or on a motor vehicle, use a jacklight,
52 spotlight or other artificial light upon lands inhabited by deer if he
53 is in possession or is accompanied by a person who is in possession, at
54 the time of such use, of a longbow, crossbow or a firearm of any kind
55 except a pistol or revolver, unless such longbow is unstrung or such
56 firearm is taken down or securely fastened in a case or locked in the

1 trunk of the vehicle. For purposes of this subdivision, motor vehicle
2 shall mean every vehicle or other device operated by any power other
3 than muscle power, and which shall include but not be limited to automo-
4 biles, trucks, motorcycles, tractors, trailers and motorboats, snowmo-
5 biles and snowtravelers, whether operated on or off public highways.
6 Notwithstanding the provisions of this subdivision, the department may
7 issue a permit to any person who is non-ambulatory, except with the use
8 of a mechanized aid, to possess a loaded firearm in or on a motor vehi-
9 cle as defined in this section, subject to such restrictions as the
10 department may deem necessary in the interest of public safety[, and for
11 a fee of five dollars]. Nothing in this section permits the possession
12 of a pistol or a revolver contrary to the penal law.

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

16 S 11-1003. Falconry license.

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

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

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

36 1. The provisions of this section apply to carcasses and parts thereof
37 of

38 a. domestic game killed on the premises of the holder of a domestic
39 game bird breeder's license PURSUANT TO SECTION 11-1901 OF THIS ARTICLE,
40 domestic game animal breeder's license PURSUANT TO SECTION 11-1905 OF
41 THIS ARTICLE or shooting preserve license PURSUANT TO SECTION 11-1903 OF
42 THIS ARTICLE;

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

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

46 d. wild deer (other than white-tailed deer), moose, elk, caribou and
47 antelope, coming from outside the state, imported pursuant to section
48 11-1711;

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

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

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

12 3. [Domestic game killed in this state] CARCASSES AND PARTS shall not
13 be possessed unless [tagged] ACCOMPANIED BY A FORM PROVIDED BY THE
14 DEPARTMENT as required by this section. [Foreign game imported from
15 outside the United States and domestic and wild game coming from outside
16 the state shall be tagged before it is brought into the state or imme-
17 diately upon its receipt within this state by the consignee.

18 4. No person shall counterfeit any seal or tag issued by the depart-
19 ment. No person shall attach such a tag to game which is not game
20 described in subdivision 1, nor attach to any game described in subdivi-
21 sion 1 a tag or seal other than the tag or seal prescribed by the
22 department for the tagging of such game.]

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

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

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

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

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

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

40 S 11-1725. Shipment by carriers.

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

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

54 b. If the consignor is the person who holds the game breeder's license
55 or shooting preserve license[, or the certificate under section 11-1715,
56 or the permit under section 11-1711 or 11-1713,] by authority of which

1 such game (other than imported foreign game) is saleable, or if the game
2 is imported foreign game shipped by a licensed game dealer, the card or
3 label shall also state the name and address of the holder of such
4 license, [certificate or permit] and the number of the license[, certif-
5 icate or permit].

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

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

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

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

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

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

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

54 b. Notwithstanding any provision in this section to the contrary, no
55 untagged carcass may be removed from the premises except carcasses which
56 are removed for the purpose of processing. When transporting untagged

1 carcasses for such processing, the bearer must have a statement signed
2 by the licensee stating the number of carcasses being transported and
3 the name and address of the processor. The bearer must also have in his
4 possession tags equal in number to the carcasses transported. The
5 processor or bearer, after picking and dressing the carcasses, shall
6 affix the tags, furnished by the licensee, to each carcass.

7 c. The licensee shall keep records of the number of tags used, and no
8 tags shall be removed from the licensed premises except as provided in
9 this subdivision. If a game bird breeder's license is not renewed on its
10 expiration date, all unused tags and inventory shall be returned to the
11 nearest regional office of the department not later than ten days after
12 the expiration date of the license. There shall be no refund of money
13 for such returned tags, which shall be immediately invalidated.

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

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

27 1. The department may, in its discretion, issue to an owner or lessee
28 of wholly enclosed lands or an entire island a shooting preserve license
29 permitting him OR HER to purchase, possess, rear and transport, and to
30 release and take by shooting therein, domestic game birds legally
31 possessed or acquired. No birds may be held for propagation after [March
32 31] APRIL 15 unless the owner or lessee also has a domestic game bird
33 breeder's license as provided for in section 11-1901. In the case of
34 leased lands, the applicant shall furnish with his OR HER application
35 evidence of a written lease executed by each lessor covering the prem-
36 ises to be licensed. The license shall expire on [March 31 in each]
37 APRIL 15 EVERY FIFTH year. The department shall prescribe and furnish
38 forms for application for such license. Applicants shall pay, and the
39 department shall be entitled to receive, fees according to the type of
40 license issued as follows:

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

49 b. [Class B license, twenty-five dollars for the first one hundred
50 acres and two dollars and fifty cents for each additional one hundred
51 acres or portion thereof comprising the premises described in the appli-
52 cation. This license shall allow the holder thereof to operate a nonpro-
53 fit shooting preserve or a nonprofit club or membership shooting
54 preserve with use limited to members and guests. Birds may be killed by
55 the licensee for his own use but no live birds, or their eggs, or

1 carcasses may be sold unless the licensee holds a Class A game bird
2 breeder's license.

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

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

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

23 a. [Birds must be at least fourteen weeks of age before liberation.
24 Ducks, geese, brant and swans shall be marked by having had the hind toe
25 of the right foot removed, except as provided in subdivision 5 of
26 section 11-1901, and no such duck, goose, brant or swan, over four weeks
27 of age, may be possessed, sold or killed by shooting without such mark.
28 Birds so marked, which have escaped, may be recaptured by the licensee.
29 Other such domestic game birds which have escaped may be recaptured by
30 the licensee provided they are marked as prescribed in the rules and
31 regulations of the department. Escaped birds may be recaptured only on
32 the premises of the licensee.

33 b. Before any shooting of domestic game birds may be done on a
34 licensed shooting preserve the licensee must advise the department in
35 writing of the numbers of each species of domestic game birds reared,
36 purchased or otherwise acquired for liberation, and request and receive
37 in writing a shooting authorization which shall state the numbers of
38 each species of game bird that may be taken by shooting. The number of
39 birds authorized to be taken by shooting shall not be less than eighty
40 per cent of the number liberated.

41 Shooting authorization shall be based on the actual number of birds on
42 hand or on contract at the time of application for such authorization.
43 If birds are purchased, the applicant shall submit one copy of the
44 contract agreement signed by the purchaser and seller on forms furnished
45 by the department. The contract shall state the name, address and
46 license number of the party from whom purchased as well as the numbers
47 of birds purchased and the dates of delivery.

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

51 [d] B. On the premises described in the application for the license,
52 the licensee may kill domestic game birds by shooting from September 1
53 through [March 31] APRIL 15 and in any manner, other than by shooting,
54 at any time, or any person may take domestic game birds by shooting from
55 September 1 through [March 31] APRIL 15 with the consent of the licen-
56 see. [When an investigation made by the department in the month of March

1 of any year reveals that during the current shooting preserve season
2 reasonable opportunities were not afforded to harvest domestic game
3 birds in any area or areas of the state because of abnormal weather
4 conditions, the department shall have power to extend by order the
5 shooting preserve season in such area or areas for a period not to
6 exceed 15 days.]

7 10. a. [The department shall supply tags, for which the licensee shall
8 pay a fee of five cents each, which shall be affixed to the carcass]
9 CARCASSES AND PARTS of [a] domestic game [bird and remain so affixed
10 until the bird is finally prepared for consumption] BIRDS SHALL BE
11 ACCOMPANIED BY A FORM PROVIDED BY THE DEPARTMENT PURSUANT TO SECTION
12 11-1721 OF THIS ARTICLE. No domestic game birds so killed shall be
13 possessed OR TRANSPORTED without such [tag] FORM. Only an authorized
14 person as provided in the rules and regulations of the department shall
15 have in his OR HER possession such [tags] FORM.

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

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

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

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

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

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

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

9 6. [a. The department shall supply tags for Class A licenses, for
10 which the licensees shall pay five cents each, which shall be affixed to
11 each quarter and loin of each carcass of domestic game animals killed by
12 Class A licensees and remain so affixed until the game is finally
13 prepared for consumption. No domestic game animal so killed, nor any
14 portion of the carcass thereof, shall be possessed without such tag, and
15 no person shall sell such quarter or loin without such tag attached.

16 b. The tagging required by this subdivision shall constitute compli-
17 ance with the tagging requirements of section 11-1721. Loins or quarters
18 of domestic game animals, killed by Class A licensees and tagged as
19 provided in this subdivision, may be possessed, bought, sold and offered
20 for sale, and transported as provided in section 11-1723 and may be sold
21 and offered for sale by the holder of a Class A license under this
22 section without the game dealer's license provided for in section
23 11-1719.] DOMESTIC GAME ANIMAL CARCASSES AND PARTS SHALL BE IDENTIFIED
24 AS REQUIRED BY SECTION 11-1721 OF THIS ARTICLE.

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

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

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

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

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

41 b. The [tag so affixed] IDENTIFICATION FORM shall [not be removed
42 from] ACCOMPANY the fish until the same is finally prepared for consump-
43 tion.

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

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

1 S 17. Subdivision 14 of section 13-0309 of the environmental conserva-
2 tion law, as amended by section 1 of part A of chapter 59 of the laws of
3 2006, is amended to read as follows:

4 14. The department, until April first, two thousand [ten] SIXTEEN
5 shall be entitled to collect fifteen cents per bushel of surf clams and
6 ten cents per bushel of ocean quahogs taken from all certified waters to
7 be deposited in the surf clam/ocean quahog account as provided in
8 section eighty-three of the state finance law.

9 S 18. This act shall take effect immediately, except that if this act
10 shall have become a law on or after April 1, 2012 this act shall take
11 effect immediately and shall be deemed to have been in full force and
12 effect on and after April 1, 2012; provided that the amendments to
13 subdivision 2 of section 11-0931 of the environmental conservation law
14 made by section six of this act shall be subject to the expiration and
15 reversion of such subdivision pursuant to chapter 483 of the laws of
16 2010, as amended, when upon such date the provisions of section seven of
17 this act shall take effect.

18

PART I

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

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

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

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

1 ENFORCE SUCH PROVISIONS, RIGHTS, DUTIES, OBLIGATIONS OR TARIFF THROUGH
2 ARBITRATION PROCEEDINGS OR OTHER AVAILABLE MECHANISMS AND PROCEDURES; OR
3 (3) AFFECT THE PAYMENT OF SWITCHED NETWORK ACCESS RATES OR OTHER INTER-
4 CARRIER COMPENSATION RATES, AS APPLICABLE. NOTHING HEREIN SHALL BE
5 CONSTRUED TO AFFECT THE APPLICATION OR ENFORCEMENT OF OTHER STATUTES OR
6 REGULATIONS THAT APPLY GENERALLY TO THE CONDUCT OF BUSINESS IN THE
7 STATE, INCLUDING CONSUMER PROTECTION, TAXATION OR UNFAIR OR DECEPTIVE
8 TRADE PRACTICES RULES OF GENERAL APPLICABILITY.

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

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

16 S 4. This act shall take effect immediately.

17 PART J

18 Section 1. Paragraph f of subdivision 1 of section 72-0402 of the
19 environmental conservation law, as added by chapter 99 of the laws of
20 2010, is amended to read as follows:

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

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

40 PART K

41 Section 1. Subdivisions 2 and 4 of section 97-1 of the state finance
42 law, as added by chapter 565 of the law of 1989, are amended to read as
43 follows:

44 2. The sewage treatment program management and administration fund
45 [shall] MAY consist of (a) all moneys transferred to the state from the
46 water pollution control revolving fund pursuant to section twelve
47 hundred eighty-five-j of the public authorities law, (b) all OR A
48 PORTION OF moneys made available to New York state for the purposes of
49 administering and managing financial assistance provided to municipi-
50 palities from the water pollution control revolving fund pursuant to the
51 Federal Water Pollution Control Act, and (c) all other moneys credited
52 or transferred thereto from any other fund or source pursuant to law.

1 Notwithstanding the foregoing, no money reserved for planning pursuant
2 to section six hundred four (b) of the Federal Water Pollution Control
3 Act shall be deposited in the sewage treatment program management and
4 administration fund.

5 4. Moneys in such fund, following appropriation by the legislature,
6 [shall] MAY be used, for the purpose of paying all costs of the depart-
7 ment of environmental conservation and New York state environmental
8 facilities corporation for management and administration of the sewage
9 treatment program established by section 17-1909 of the environmental
10 conservation law and of the water pollution control revolving fund
11 established by section twelve hundred eighty-five-j of the public
12 authorities law.

13 S 2. Subdivisions 2 and 4 of section 97-ddd of the state finance law,
14 as added by chapter 432 of the laws of 1997, are amended to read as
15 follows:

16 2. The drinking water program management and administration fund
17 [shall] MAY consist of (a) all moneys transferred to the state from the
18 drinking water revolving fund pursuant to section twelve hundred eight-
19 y-five-m of the public authorities law, (b) all OR A PORTION OF moneys
20 made available to New York state for purposes of administering and
21 managing financial assistance provided to recipients from the drinking
22 water revolving fund pursuant to the Federal Safe Drinking Water Act,
23 and (c) all other moneys credited or transferred thereto from any other
24 fund or source pursuant to law.

25 4. Moneys in the fund, following appropriation by the legislature,
26 [shall] MAY be used, for the purpose of paying all costs of the depart-
27 ment of health and New York state environmental facilities corporation
28 for management and administration of the drinking water program estab-
29 lished by title four of article eleven of the public health law and of
30 the drinking water revolving fund established by section twelve hundred
31 eighty-five-m of the public authorities law.

32 S 3. Subdivisions 5 and 7 of section 1285-j of the public authorities
33 law, subdivision 5 as amended by chapter 134 of the laws of 2007 and
34 subdivision 7 as added by chapter 565 of the laws of 1989, are amended
35 to read as follows:

36 5. The corporation [shall] MAY make payments to the sewage treatment
37 program management and administration fund in accordance with subdivi-
38 sion seven of this section to reimburse such fund for expenditures made
39 pursuant to appropriation to pay the cost of the corporation and the
40 department of environmental conservation for administering and managing
41 the water pollution control revolving fund program established in
42 section ninety-seven-l of the state finance law, for such costs. Such
43 reimbursement shall be made from (a) available investment earnings on
44 all amounts in the water pollution control revolving fund excluding all
45 amounts in the fund which are the subject of allocations or other finan-
46 cial assistance to a municipality; and (b) payments received from a
47 municipality for such purpose pursuant to a project financing agreement
48 or loan agreement; and (c) if the sources of revenue described in this
49 paragraph and paragraphs (a) and (b) of this subdivision are or are
50 anticipated to be insufficient, then from the proceeds of federal
51 capitalization grants, awards or assistance appropriated to the fund for
52 administration and management of such program.

53 Notwithstanding the foregoing, if the sources of revenues described in
54 paragraphs (a), (b) and (c) of this subdivision are at any time insuffi-
55 cient to make a reimbursement to the state pursuant to this subdivision
56 when due, the corporation shall make such reimbursement from any other

1 available amounts in the water pollution control revolving fund, exclud-
2 ing all amounts that are the subject of allocations, provided, that the
3 amounts paid from fund sources other than those described in paragraphs
4 (a), (b) and (c) of this subdivision shall be reimbursed upon a determi-
5 nation by the director of the budget that future revenues obtained from
6 sources described in paragraphs (a), (b) and (c) of this subdivision are
7 in excess of the amounts reasonably needed to make future reimbursements
8 pursuant to this subdivision.

9 7. The corporation [shall] MAY transfer to the sewage treatment
10 program management and administration fund established pursuant to
11 section ninety-seven-l of the state finance law no less frequently than
12 semi-monthly amounts from the fund sufficient to reimburse the sewage
13 treatment program management and administration fund in accordance with
14 the provisions of subdivision five of this section.

15 S 4. Subdivision 7 of section 1285-m of the public authorities law, as
16 added by chapter 413 of the laws of 1996, is amended to read as follows:

17 7. The corporation [shall] MAY transfer to the state on such schedule
18 as the corporation and the department of health shall agree amounts from
19 the fund to reimburse the state in accordance with the provisions of
20 subdivision five of this section.

21 S 5. This act shall take effect immediately and shall be deemed to
22 have been in full force and effect on and after April 1, 2012.

23 PART L

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

27 S 140. Samples; publication of results of tests. 1. The commissioner
28 or his or her duly authorized representatives shall take samples of
29 seeds [and submit them to the director of the New York state agricul-
30 tural experiment station] for examination, analysis, and testing BY THE
31 DEPARTMENT. THE COMMISSIONER MAY CONTRACT WITH A QUALIFIED LABORATORY TO
32 PERFORM SUCH EXAMINATION, ANALYSIS, AND TESTING. When the analysis of an
33 official sample indicates that seed is mislabeled, the results of such
34 analysis shall be provided to the person responsible for the labeling of
35 the seed and, upon that person's request, made within fifteen days of
36 his or her receipt of said results, the commissioner or his or her
37 authorized agent shall furnish such person with a portion of the sample
38 taken.

39 2. [The director of the New York state agricultural experiment station
40 shall examine, analyze, or test, or cause to be examined, analyzed or
41 tested such samples of seeds taken under the provisions of this article
42 as shall be submitted to him for that purpose by the commissioner, and
43 shall report the results of such analysis, examination, or testing to
44 the commissioner. For this purpose the New York state agricultural
45 experiment station may establish and maintain trial grounds and a seed
46 laboratory with the necessary equipment, and may employ experts and
47 incur such expense as may be necessary to comply with the requirements
48 of this article.

49 3.] From time to time the [New York state agricultural experiment
50 station, in cooperation with the] department of agriculture and markets,
51 shall make public the results of examinations, analyses, trials, and
52 tests of any sample or samples so procured, together with such addi-
53 tional information as circumstances advise. These published results
54 shall be the property of the state of New York and shall not be used for

1 advertising or regulatory purposes by any person or agency, governmental
2 or otherwise without requested and granted permission of the commission-
3 er [of agriculture and markets].

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

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

17 S 3. This act shall take effect immediately.

18

PART M

19 Section 1. Subdivision 25-c of section 16 of the agriculture and
20 markets law, as added by section 1 of part H of chapter 59 of the laws
21 of 2006, is amended to read as follows:

22 25-c. The commissioner may enter into a contract or cooperative agree-
23 ment under which [laboratory] services, INCLUDING, BUT NOT LIMITED TO,
24 LABORATORY SERVICES AND SERVICES RELATING TO FOOD SAFETY AND INSPECTION,
25 ANIMAL HEALTH, INVASIVE SPECIES CONTROL, THE COLLECTION OF SAMPLES FOR
26 RESEARCH STUDIES AND SIMILAR SERVICES RELATING TO THE DUTIES AND RESPON-
27 SIBILITIES of the department may be made available to federal, state,
28 local, and educational entities when, in the commissioner's judgment,
29 such contract or cooperative agreement shall be in the public interest
30 and shall not adversely affect the department's obligations under this
31 chapter. Such contracts or cooperative agreements shall require payment
32 by contractors and cooperators of, at a minimum, the full costs of the
33 services provided. All moneys received by the commissioner pursuant to
34 such contracts and agreements shall be deposited in an account within
35 the miscellaneous special revenue fund and shall be used to defray the
36 expenses incidental to carrying out the services authorized by this
37 subdivision.

38 S 2. This act shall take effect immediately.

39

PART N

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

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

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

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

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

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

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

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

39 S 5. This act shall take effect immediately.

40 PART O

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

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

47 PART P

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

1 other/aid to localities, miscellaneous special revenue fund - 339, ener-
2 gy research and planning account shall be subject to the provisions of
3 this section. Notwithstanding the provisions of subdivision 4-a of
4 section 18-a of the public service law, all moneys committed or expended
5 shall be reimbursed by assessment against gas corporations and electric
6 corporations as defined in section 2 of the public service law, and the
7 total amount which may be charged to any gas corporation and any elec-
8 tric corporation shall not exceed one cent per one thousand cubic feet
9 of gas sold and .010 cent per kilowatt-hour of electricity sold by such
10 corporations in their intrastate utility operations in calendar year
11 2010. Such amounts shall be excluded from the general assessment
12 provisions of subdivision 2 of section 18-a of the public service law,
13 but shall be billed and paid in the manner set forth in such subdivision
14 and upon receipt shall be paid to the state comptroller for deposit in
15 the state treasury for credit to the miscellaneous special revenue fund.
16 The director of the budget shall not issue a certificate of approval
17 with respect to the commitment and expenditure of moneys hereby appro-
18 priated until the chair of such authority shall have submitted, and the
19 director of the budget shall have approved, a comprehensive financial
20 plan encompassing all moneys available to and all anticipated commit-
21 ments and expenditures by such authority from any source for the oper-
22 ations of such authority. Copies of the approved comprehensive financial
23 plan shall be immediately submitted by the director of the budget to the
24 chairs and secretaries of the legislative fiscal committees.

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

27

PART Q

28 Section 1. Paragraphs (c) and (d) of subdivision 3 of section 5 of
29 chapter 35 of the laws of 1979, relating to appropriating funds to the
30 New York state urban development corporation for the acquisition and
31 initial planning of convention and exhibition center facilities in New
32 York county, as amended by chapter 3 of the laws of 2004, are amended
33 and a new paragraph (e) is added to read as follows:

34 (c) Enter into such other agreements with the city, the state, the New
35 York state urban development corporation, the operating corporation,
36 Triborough bridge and tunnel authority and the state of New York mort-
37 gage agency as the parties thereto deem appropriate to effectuate the
38 provisions of this act, and to effectuate the expansion project and any
39 convention center hotel and the financing thereof pursuant to the chap-
40 ter of the laws of 2004 which amended this paragraph; [and]

41 (d) If the subsidiary enters into an agreement with the metropolitan
42 transportation authority for the acquisition of the Quill building, then
43 any and all proceeds shall be applied to and used for the metropolitan
44 transportation authority's capital plan[.]; AND

45 (E) SELL, GRANT OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY
46 OWNED BY THE NEW YORK CONVENTION CENTER DEVELOPMENT CORPORATION INCLUD-
47 ING, WITHOUT LIMITATION, THE PROPERTIES IN THE BOROUGH OF MANHATTAN IN
48 THE CITY OF NEW YORK, LOCATED BETWEEN 11TH AND 12TH AVENUES AND 33RD
49 STREET AND 34TH STREET AND BETWEEN 35TH STREET AND 36TH STREET ALONG THE
50 EASTERN BORDER OF 11TH AVENUE, THAT IS DETERMINED BY THE NEW YORK
51 CONVENTION CENTER DEVELOPMENT CORPORATION TO BE UNNECESSARY FOR THE
52 OPERATION OF THE CONVENTION CENTER, THE EXPANSION PROJECT OR ANY CONVEN-
53 TION CENTER HOTEL, SUBJECT TO ANY OBLIGATIONS SET FORTH IN ANY APPLICA-
54 BLE BOND RESOLUTION OR CREDIT SUPPORT AGREEMENT AND SUBJECT TO THE PRIOR

1 APPROVAL OF THE DIRECTOR OF THE BUDGET, PROVIDED THAT ANY PROCEEDS FROM
2 THE DISPOSITION OF THE PROPERTY SHALL BE TRANSFERRED TO THE STATE TREAS-
3 URY TO THE CREDIT OF THE GENERAL FUND.

4 S 2. This act shall take effect immediately.

5 PART R

6 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
7 New York state urban development corporation act, relating to the powers
8 of the New York state urban development corporation to make loans, as
9 amended by section 1 of part G of chapter 60 of the laws of 2011, is
10 amended to read as follows:

11 S 2. This act shall take effect immediately [provided, however, that
12 section one of this act shall expire on July 1, 2012, at which time the
13 provisions of subdivision 26 of section 5 of the New York state urban
14 development corporation act shall be deemed repealed; provided, however,
15 that neither the expiration nor the repeal of such subdivision as
16 provided for herein shall be deemed to affect or impair in any manner
17 any loan made pursuant to the authority of such subdivision prior to
18 such expiration and repeal].

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

21 PART S

22 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
23 of the laws of 1968, constituting the New York state urban development
24 corporation act, is REPEALED.

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

27 PART T

28 Section 1. Subdivisions 27, 28, 29 and 30 of section 5 of section 1 of
29 chapter 174 of the laws of 1968, constituting the New York state urban
30 development corporation act, subdivisions 28 and 29 as renumbered by
31 chapter 686 of the laws of 1986, are renumbered subdivisions 28, 29, 30
32 and 31 and a new subdivision 27 is added to read as follows:

33 (27) TO MAKE GRANTS USING FUNDS FROM ANY SOURCE ON SUCH TERMS AND
34 CONDITIONS AS THE CORPORATION MAY DEEM ADVISABLE, IN FURTHERANCE OF THE
35 LEGISLATIVE FINDINGS AND PURPOSES OF THIS ACT, TO ANY PERSON OR ENTITY,
36 WHETHER PUBLIC OR PRIVATE, PROVIDED THAT SUCH GRANTS ARE MADE OR ISSUED
37 IN COMPLIANCE WITH GUIDELINES ESTABLISHED BY THE CORPORATION.

38 S 2. This act shall take effect immediately.

39 PART U

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

43 1. Linked loans made to certified businesses in empire zones or to
44 eligible businesses in highly distressed areas or to eligible businesses
45 that are defined in paragraph (b-1) of subdivision eleven of section two
46 hundred thirteen of this article that are located in a renewal community
47 or defined in paragraph (b-2) of such subdivision that are located in an
48 empowerment zone or defined in paragraph (b-3) of such subdivision that

1 are located in an enterprise community, respectively for eligible
2 projects defined in paragraph (c) of subdivision twelve of section two
3 hundred thirteen of this article or to minority- or women-owned business
4 enterprises for an eligible project defined in paragraph (e) of subdivi-
5 sion twelve of section two hundred thirteen of this article or to a
6 defense industry manufacturer for a project defined in paragraph (d) of
7 subdivision twelve of section two hundred thirteen of this article OR TO
8 AN ELIGIBLE BUSINESS PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ELEVEN OF
9 SECTION TWO HUNDRED THIRTEEN OF THIS ARTICLE THAT PRODUCES PRODUCTS
10 DEFINED IN SUBDIVISION TWO OF SECTION THREE HUNDRED ONE OF THE AGRICUL-
11 TURE AND MARKETS LAW FOR AN ELIGIBLE PROJECT AS DEFINED IN PARAGRAPH (B)
12 OF SUBDIVISION TWELVE OF SECTION TWO HUNDRED THIRTEEN OF THIS ARTICLE
13 shall bear interest at a fixed rate equal to three percentage points
14 below the fixed interest rate the lender would have charged for the loan
15 in the absence of a linked deposit based on its usual credit consider-
16 ations. All other linked loans shall bear interest at a fixed rate
17 equal to two percentage points below the fixed interest rate the lender
18 would have charged for the loan in the absence of a linked deposit based
19 on its usual credit considerations. Lenders shall certify to the commis-
20 sioner of economic development that the rate to be charged on a linked
21 loan is two percentage points or three percentage points, as the case
22 may be, below the interest rate the lender would have charged for the
23 loan in the absence of a linked deposit.

24 S 2. Paragraph (a) of subdivision 11 and paragraph (b) of subdivision
25 12 of section 213 of the state finance law, as added by chapter 705 of
26 the laws of 1993, are amended to read as follows:

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

29 (b) for manufacturing, AGRICULTURAL and service firms, projects which
30 involve the preparation of strategic plans for improving productivity
31 and competitiveness; the introduction of modern equipment and/or an
32 expansion of facilities as part of a modernization plan; the introduc-
33 tion of advanced technologies to improve productivity and quality;
34 improvements in production processes and operations, INCLUDING AGRICUL-
35 TURAL OPERATIONS; introduction of computerized information, reporting
36 and control systems; reorganization or improvement of work place systems
37 and the introduction of total quality and employee participation
38 programs; development and introduction of new products; identification
39 and development of new markets, including entry into foreign markets;
40 financial restructuring for purposes of enabling modernization activ-
41 ities; buyouts of viable companies by employees or local owners residing
42 in the state; and the provision of working capital for other moderniza-
43 tion activities that will improve the competitiveness and productivity
44 of a firm and result in the creation or retention of jobs; or

45 S 3. This act shall take effect immediately.

46

PART V

47 Section 1. Notwithstanding any other law, rule or regulation to the
48 contrary, expenses of the department of health public service education
49 program incurred pursuant to appropriations from the cable television
50 account of the state miscellaneous special revenue funds shall be deemed
51 expenses of the department of public service.

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

1

PART W

2 Section 1. Subdivision 10 of section 89-h of the general business law,
3 as amended by chapter 699 of the laws of 2004, is amended to read as
4 follows:

5 10. Fees: pay (a) a fee of [thirty-six] SEVENTY-TWO dollars for proc-
6 essing of the application, investigation of the applicant and for the
7 initial [biennial] FOUR YEAR registration period. Such fees shall be
8 deposited to the credit of the business and licensing services account
9 established pursuant to the provisions of section ninety-seven-y of the
10 state finance law; and (b) a fee pursuant to subdivision eight-a of
11 section eight hundred thirty-seven of the executive law, and amendments
12 thereto, for the cost of the division's full search and retain proce-
13 dures, and a fee as determined by the federal bureau of investigation
14 for the cost of its fingerprint search procedures, which fees shall be
15 remitted by the department to the division and federal bureau of inves-
16 tigation; and

17 S 2. Subdivision 1 of section 89-m of the general business law, as
18 added by chapter 336 of the laws of 1992, is amended to read as follows:

19 1. Registration cards shall expire [two] FOUR years from the date of
20 issuance or last renewal as the case may be. Not less than sixty nor
21 more than ninety days prior to the expiration date of a registration
22 card, the department shall mail to each registrant at his last known
23 address, notice of renewal and a registration renewal form. Registration
24 cards shall not be renewed unless not more than sixty nor less than
25 thirty days prior to the expiration date of the registration card, the
26 holder submits to the department, a registration renewal form sworn to
27 or affirmed by the holder under the penalty of perjury together with a
28 [biennial] renewal fee in the amount of [twenty-five] FIFTY dollars
29 payable to the department and a certificate certifying that the holder
30 has satisfactorily completed the required annual in-service training
31 courses as prescribed by the commissioner pursuant to subdivision one of
32 section eight hundred forty-one-c of the executive law. Unless the
33 department determines the existence of facts which would constitute
34 cause for denial, revocation or suspension of the registration card
35 pursuant to this article, it shall renew the registration card. Denial
36 of renewal hereunder shall be reviewable by an administrative hearing as
37 set forth in section seventy-nine of this chapter. The [twenty-five]
38 FIFTY dollar [biennial] renewal fee collected by the department shall be
39 deposited to the licensing examinations services account established
40 pursuant to the provisions of section 97-aa of the state finance law.
41 Notice that a registration card has expired or has not been renewed
42 pursuant to this section shall be given by the secretary to the holder
43 of such registration card and to the security guard company by which
44 such holder was employed at the time of such expiration or non-renewal.

45 S 3. Subdivision 2 and paragraph (a) of subdivision 3 of section 441
46 of the real property law, subdivision 2 as amended by chapter 81 of the
47 laws of 1995 and paragraph (a) of subdivision 3 as amended by chapter
48 474 of the laws of 2007, are amended to read as follows:

49 2. Renewals. Any license granted under the provision hereof may be
50 renewed by the department upon application therefor by the holder there-
51 of, in such form as the department may prescribe and conforming to the
52 requirements of section 3-503 of the general obligations law, and
53 payment of the fee for such license. In case of application for renewal
54 of license, the department may dispense with the requirement of such
55 statements as it deems unnecessary in view of those contained in the

1 original application for license but may not dispense with the require-
2 ments of section 3-503 of the general obligations law. A renewal period
3 within the meaning of this act is considered as being a period of [two]
4 FOUR years from the date of expiration of a previously issued license.
5 The department shall require any applicant, who does not apply for
6 renewal of license within such period, to qualify by passing the written
7 examination as provided herein, and may require any licensee who has not
8 yet passed the written examination, and who cannot reasonably prove to
9 the satisfaction of the department, that he can meet the competency
10 requirements, to pass the written examination before a renewal of
11 license shall be granted; provided, however, that a person who failed or
12 was unable to renew his license by reason of his induction or enlistment
13 in the armed forces of the United States shall not be required to take
14 or pass such examination.

15 (a) No renewal license shall be issued any licensee under this article
16 for any license period commencing [November first, nineteen hundred
17 ninety-five] APRIL FIRST, TWO THOUSAND SEVENTEEN unless such licensee
18 shall have within the [two] FOUR year period immediately preceding such
19 renewal attended at least [twenty-two and one-half] FORTY-FIVE hours
20 which shall include at least [three] SIX hours of instruction pertaining
21 to fair housing and/or discrimination in the sale or rental of real
22 property or an interest in real property and successfully completed a
23 continuing education real estate course or courses approved by the
24 secretary of state as to method, content and supervision, which approval
25 may be withdrawn if in the opinion of the secretary of state such course
26 or courses are not being conducted properly as to method, content and
27 supervision. APPLICANTS WITH A LICENSE EXPIRING PRIOR TO APRIL FIRST,
28 TWO THOUSAND FIFTEEN, SHALL HAVE WITHIN THE TWO YEAR PERIOD IMMEDIATELY
29 PRECEDING SUCH RENEWAL ATTENDED AT LEAST TWENTY-TWO AND ONE-HALF HOURS
30 WHICH SHALL INCLUDE AT LEAST THREE HOURS OF INSTRUCTION PERTAINING TO
31 FAIR HOUSING AND/OR DISCRIMINATION IN THE SALE OR RENTAL OF REAL PROPER-
32 TY OR AN INTEREST IN REAL PROPERTY AND SUCCESSFULLY COMPLETED A CONTINU-
33 ING EDUCATION REAL ESTATE COURSE OR COURSES APPROVED BY THE SECRETARY OF
34 STATE AS TO METHOD, CONTENT AND SUPERVISION, WHICH APPROVAL MAY BE WITH-
35 DRAWN IF IN THE OPINION OF THE SECRETARY OF STATE SUCH COURSE OR COURSES
36 ARE NOT BEING CONDUCTED PROPERLY AS TO METHOD, CONTENT AND SUPERVISION.
37 The licensee shall provide an affidavit, in a form acceptable to the
38 department of state, establishing the nature of the continuing education
39 acquired and shall provide such further proof as required by the depart-
40 ment of state. The provisions of this paragraph shall not apply to any
41 licensed real estate broker who is engaged full time in the real estate
42 business and who has been licensed under this article prior to July
43 first, two thousand eight for at least fifteen consecutive years imme-
44 diately preceding such renewal.

45 S 4. Subdivisions 2 and 7 of section 441-a of the real property law,
46 subdivision 2 as amended by chapter 324 of the laws of 1998 and subdivi-
47 sion 7 as amended by chapter 497 of the laws of 1985, are amended to
48 read as follows:

49 2. Terms. A license issued or reissued under the provisions of this
50 article shall entitle the person, co-partnership, limited liability
51 company or corporation to act as a real estate broker, or, if the appli-
52 cation is for a real estate salesman's license, to act as a real estate
53 salesman in this state [up to and including the thirty-first day of
54 October of the year in which the license by its terms expires] FOR A
55 PERIOD OF FOUR YEARS FOLLOWING THE ISSUANCE OF SAID LICENSE.

1 7. License term. From and after the date when this subdivision shall
2 take effect, the term for which a license shall be issued or reissued
3 under this article shall be a period of [two] FOUR years.

4 S 5. Subdivision 1 of section 441-b of the real property law, as
5 amended by chapter 324 of the laws of 1998, is amended to read as
6 follows:

7 1. The fee for a license issued or reissued under the provisions of
8 this article entitling a person, co-partnership, limited liability
9 company or corporation to act as a real estate broker shall be [one
10 hundred fifty] THREE HUNDRED dollars. The fee for a license issued or
11 reissued under the provisions of this article entitling a person to act
12 as a real estate salesman shall be [fifty] ONE HUNDRED dollars.
13 Notwithstanding the provisions of subdivision seven of section four
14 hundred forty-one-a of this article, after January first, nineteen
15 hundred eighty-six, the secretary of state shall assign staggered expi-
16 ration dates for outstanding licenses that have been previously renewed
17 on October thirty-first of each year from the assigned date unless
18 renewed. [If the assigned date results in a term that exceeds twenty-
19 four months, the applicant shall pay an additional prorated adjustment
20 together with the regular renewal fee.] The secretary of state shall
21 assign dates to existing licenses in a manner which shall result in a
22 term of not less than [two] FOUR years.

23 S 6. This act shall take effect immediately; provided, however, that
24 sections three, four and five of this act shall take effect April 1,
25 2013.

26

PART X

27 Section 1. Subdivision 3 of section 235 of the racing, pari-mutuel
28 wagering and breeding law is renumbered subdivision 4 and a new subdivi-
29 sion 3 is added to read as follows:

30 3. THE RULES SHALL PROVIDE THAT ALL WINNING CASH VOUCHERS MUST BE
31 PRESENTED FOR PAYMENT BEFORE APRIL FIRST OF THE YEAR FOLLOWING THE YEAR
32 OF THEIR PURCHASE AND FAILURE TO PRESENT ANY SUCH VOUCHER WITHIN THE
33 PRESCRIBED PERIOD OF TIME SHALL CONSTITUTE A WAIVER OF THE RIGHT TO
34 PARTICIPATE IN THE AWARD OR DIVIDEND. THE FUNDS RECEIVED FROM UNCASHED
35 VOUCHERS SHALL BE PAID TO THE RACING REGULATION ACCOUNT ESTABLISHED
36 PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS CHAPTER.

37 S 2. Paragraph c of subdivision 2 of section 301 of the racing, pari-
38 mutuel wagering and breeding law, as relettered by chapter 211 of the
39 laws of 1999, is relettered paragraph d and a new paragraph c is added
40 to read as follows:

41 C. THE RULES OF THE BOARD SHALL PROVIDE THAT ALL WINNING CASH VOUCHERS
42 MUST BE PRESENTED FOR PAYMENT BEFORE APRIL FIRST OF THE YEAR FOLLOWING
43 THE YEAR OF THEIR PURCHASE AND FAILURE TO PRESENT ANY SUCH VOUCHER WITH-
44 IN THE PRESCRIBED PERIOD OF TIME SHALL CONSTITUTE A WAIVER OF THE RIGHT
45 TO PARTICIPATE IN THE AWARD OR DIVIDEND. THE FUNDS RECEIVED FROM
46 UNCASHED VOUCHERS SHALL BE PAID TO THE RACING REGULATION ACCOUNT ESTAB-
47 LISHED PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS CHAPTER.

48 S 3. Subdivision 2 of section 401 of the racing, pari-mutuel wagering
49 and breeding law is amended to read as follows:

50 2. Without limiting the generality of the foregoing, and in addition
51 to its other powers:

52 a. [The state racing and wagering board shall have power to fix mini-
53 mum and maximum charges for admission to quarter horse race meetings at
54 which pari-mutuel betting is conducted provided, however, that the state

1 racing and wagering board shall have power to fix the charge for admis-
2 sion of members of the armed forces of the United States in uniform at
3 one-half of the amount fixed for such admission generally under authori-
4 ty of this section.

5 b.] The state racing and wagering board shall prescribe rules and
6 regulations for effectually preventing the use of improper devices, the
7 administration of drugs or stimulants or other improper acts for the
8 purpose of affecting the speed of quarter horses in any race in which
9 they are about to participate.

10 [c.] B. The rules of the board shall also provide that all winning
11 pari-mutuel tickets must be presented for payment before April first of
12 the year following the year of their purchase and failure to present any
13 such ticket within the prescribed period of time shall constitute a
14 waiver of the right to participate in the award or dividend.

15 C. THE RULES OF THE BOARD SHALL ALSO PROVIDE THAT ALL WINNING CASH
16 VOUCHERS MUST BE PRESENTED FOR PAYMENT BEFORE APRIL FIRST OF THE YEAR
17 FOLLOWING THE YEAR OF THEIR PURCHASE AND FAILURE TO PRESENT ANY SUCH
18 VOUCHER WITHIN THE PRESCRIBED PERIOD OF TIME SHALL CONSTITUTE A WAIVER
19 OF THE RIGHT TO PARTICIPATE IN THE AWARD OR DIVIDEND. THE FUNDS RECEIVED
20 FROM UNCASHED VOUCHERS SHALL BE PAID TO THE RACING REGULATION ACCOUNT
21 ESTABLISHED PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS CHAPTER.

22 d. The board shall have power in its discretion, consistent with the
23 powers of the state tax commission, to prescribe uniform methods of
24 keeping accounts, records and books to be observed by associations or
25 corporations licensed under the provisions of this article or by any
26 association or corporation which owns stock in, or shares in the
27 profits, or participates in the management or affairs of, such licensed
28 association or corporation, or by any person, firm, association or
29 corporation holding any concession, right or privilege to perform any
30 service or sell any article at any track at which pari-mutuel quarter
31 horse racing meets are conducted. The board may also in its discretion,
32 consistent with the powers of the state tax commission, prescribe by
33 order forms of accounts, records and memoranda to be kept by such
34 persons, firms, associations or corporations. The board shall have power
35 to visit, investigate, and place expert accountants, or such other
36 persons as it may deem necessary, in the offices, tracks or other places
37 of business of any such person, firm, association or corporation for the
38 purpose of seeing that the provisions of sections two hundred twenty-two
39 through seven hundred five of this chapter and rules and regulations
40 issued by the board thereunder are strictly complied with. Such persons,
41 firms, associations or corporations shall annually file with the board,
42 on such date as the board shall prescribe, a report showing their finan-
43 cial condition and financial transactions during the fiscal year,
44 including a balance sheet and a profit and loss statement, verified by
45 the oath of at least two of its principal officers, if it be an associ-
46 ation or corporation having officers, and by one or more of the owners
47 or proprietors thereof if not an association or corporation. The report
48 shall be in such form and contain such other matters as the board may
49 determine from time to time to be necessary to disclose accurately the
50 financial condition and operation of such persons, firms, associations
51 or corporations during the preceding fiscal year. The board may for good
52 cause shown grant a reasonable extension of time for the filing of any
53 such report.

54 S 4. Subdivision 2 of section 529 of the racing, pari-mutuel wagering
55 and breeding law, is renumbered subdivision 3 and a new subdivision 2 is
56 added to read as follows:

2. THE RULES SHALL PROVIDE THAT ALL WINNING CASH VOUCHERS MUST BE PRESENTED FOR PAYMENT BEFORE APRIL FIRST OF THE YEAR FOLLOWING THE YEAR OF THEIR PURCHASE AND FAILURE TO PRESENT ANY SUCH VOUCHER WITHIN THE PRESCRIBED PERIOD OF TIME SHALL CONSTITUTE A WAIVER OF THE RIGHT TO PARTICIPATE IN THE AWARD OR DIVIDEND. THE FUNDS RECEIVED FROM UNCASHED VOUCHERS SHALL BE PAID TO THE RACING REGULATION ACCOUNT ESTABLISHED PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS CHAPTER.

S 5. This act shall take effect immediately; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date.

PART Y

Section 1. Section 308 of the racing, pari-mutuel wagering and breeding law is amended to read as follows:

S 308. Officials at harness horse race meetings. At all harness race meetings licensed by the state racing and wagering board in accordance with the provisions of sections two hundred twenty-two through seven hundred five of this chapter qualified judges and [starters] RACING OFFICIALS shall be designated by the state racing and wagering board. THE LICENSED RACING ASSOCIATIONS AND CORPORATIONS SHALL EMPLOY AND APPOINT ONE ASSOCIATE JUDGE AND THE STARTER TO SERVE AT HARNESS RACE MEETINGS, SUBJECT TO WRITTEN APPROVAL OF THE STATE RACING AND WAGERING BOARD BEFORE ENTERING UPON THE DISCHARGE OF THEIR DUTIES. Such officials shall enforce the rules and regulations of the state racing and wagering board and shall render regular written reports of the activities and conduct of such race meetings to the state racing and wagering board, PROVIDED HOWEVER, THAT THE JUDGES AND STARTERS EMPLOYED BY THE RACING ASSOCIATION OR CORPORATION SHALL NOT HAVE THE POWER TO IMPOSE FINES OR ISSUE SUSPENSIONS OF OCCUPATIONAL RACING LICENSES.

S 2. Subdivision 8 of section 73 of the public officers law is amended by adding a new paragraph (j) to read as follows:

(J) THE PROVISIONS OF SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT APPLY TO ANY PERSON AS A RESULT OF HIS OR HER EMPLOYMENT BY THE NEW YORK STATE RACING AND WAGERING BOARD IN THE CIVIL SERVICE TITLE OF STARTER OR ASSOCIATE JUDGE WHOSE EMPLOYMENT WAS TERMINATED WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH AS A RESULT OF THE ABOLITION OF HIS OR HER POSITION.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.

PART Z

Section 1. The agriculture and markets law is amended by adding a new article 21-A to read as follows:

ARTICLE 21-A

DAIRY RESEARCH AND EDUCATION

SECTION 258-S. LEGISLATIVE DECLARATION.

258-T. DEFINITIONS.

258-U. POWERS AND DUTIES OF THE COMMISSIONER.

258-V. RULES AND REGULATIONS; ENFORCEMENT.

S 258-S. LEGISLATIVE DECLARATION. IT IS HEREBY DECLARED THAT THE DAIRY INDUSTRY IS OF VITAL SIGNIFICANCE TO THE STATE'S ECONOMY, SOCIAL FABRIC, AND WELFARE OF THE PEOPLE OF THIS STATE, AND THAT RESEARCH,

1 EDUCATION AND DEVELOPMENT ASSOCIATED WITH DAIRY PRODUCTION IS IMPERATIVE
2 TO ENSURE THAT THE STATE'S DAIRY FARMS AND INDUSTRY REMAIN COMPETITIVE
3 AND PROFITABLE. IT IS THEREFORE DECLARED TO BE THE LEGISLATIVE INTENT
4 AND POLICY OF THE STATE:

5 1. TO ENABLE MILK PRODUCERS AND OTHERS IN THE DAIRY INDUSTRY, WITH THE
6 AID OF THE STATE, TO MORE ECONOMICALLY AND EFFECTIVELY PRODUCE MILK AND
7 DAIRY PRODUCTS,

8 2. TO PROVIDE METHODS AND MEANS FOR THE DEVELOPMENT OF NEW, IMPROVED
9 OR INNOVATIVE DAIRY INDUSTRY PRODUCTION PRACTICES, AND TO PROMOTE THEIR
10 USE, AND

11 3. TO IMPROVE THE ECONOMIC STRENGTH, FARM PROFITABILITY AND WELL-BEING
12 OF THE MILK PRODUCERS OF THIS STATE THROUGH APPLIED RESEARCH, FARMER
13 EDUCATION AND TRAINING.

14 S 258-T. DEFINITIONS. 1. "ADVISORY BOARD" MEANS THE PERSONS APPOINTED
15 BY THE COMMISSIONER FROM NOMINATIONS FROM PRODUCERS AS HEREIN DEFINED TO
16 ASSIST THE COMMISSIONER IN ADMINISTERING A DAIRY RESEARCH AND EDUCATION
17 ORDER.

18 2. "AREA" MEANS THE ENTIRE GEOGRAPHIC AREA OF THE STATE OF NEW YORK.

19 3. "COMMISSIONER" MEANS THE COMMISSIONER OF AGRICULTURE AND MARKETS OF
20 THE STATE OF NEW YORK.

21 4. "COOPERATIVE" MEANS AN ASSOCIATION OR FEDERATION OR COOPERATIVE OF
22 MILK PRODUCERS ORGANIZED UNDER THE LAWS OF NEW YORK STATE, OR ANY OTHER
23 STATE, HAVING AGREEMENTS WITH ITS PRODUCER MEMBERS TO MARKET, BARGAIN
24 FOR OR SELL THE MILK OF SUCH PRODUCERS, AND IS ACTUALLY PERFORMING ONE
25 OR MORE OF THESE SERVICES IN THE MARKETING OF THE MILK PRODUCED BY ITS
26 MEMBERS, THROUGH THE COOPERATIVE OR THROUGH A FEDERATION OF MILK COOPER-
27 ATIVES IN WHICH THE COOPERATIVE HAS MEMBERSHIP.

28 5. "DAIRY PRODUCTS" MEANS MILK AND PRODUCTS DERIVED THEREFROM.

29 6. "DAIRY RESEARCH AND EDUCATION ORDER" MEANS AN ORDER ISSUED BY THE
30 COMMISSIONER, PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

31 7 "MILK" MEANS COW'S MILK.

32 8. "MILK DEALER" MEANS ANY PERSON WHO PURCHASES OR HANDLES OR RECEIVES
33 OR SELLS MILK, INCLUDING INDIVIDUALS, PARTNERSHIPS, CORPORATIONS, COOP-
34 ERATIVE ASSOCIATIONS, AND UNINCORPORATED COOPERATIVE ASSOCIATIONS.

35 9. "PRODUCER" MEANS ANY PERSON IN THIS STATE WHO IS ENGAGED IN THE
36 PRODUCTION OF MILK FOR COMMERCIAL USE.

37 S 258-U. POWERS AND DUTIES OF THE COMMISSIONER. 1. IN ORDER TO EFFEC-
38 TUATE THE DECLARED POLICY OF THIS ARTICLE, THE COMMISSIONER MAY, AFTER
39 DUE NOTICE AND OPPORTUNITY FOR HEARING, MAKE AND ISSUE A DAIRY RESEARCH
40 AND EDUCATION ORDER.

41 2. SUCH ORDER SHALL BE ISSUED AND AMENDED OR TERMINATED IN ACCORDANCE
42 WITH THE FOLLOWING PROCEDURES:

43 (A) BEFORE ANY SUCH ORDER MAY BECOME EFFECTIVE IT MUST BE APPROVED BY
44 FIFTY-ONE PER CENTUM OF THE PRODUCERS OF MILK VOTING IN THE REFERENDUM
45 FOR THE AREA TO BE REGULATED BY SUCH ORDER. SUCH REFERENDUM SHALL NOT
46 CONSTITUTE VALID APPROVAL UNLESS FIFTY-ONE PER CENTUM OF ALL MILK
47 PRODUCERS FOR THE AREA TO BE REGULATED VOTE IN THE REFERENDUM. PRODUCERS
48 MAY VOTE BY INDIVIDUAL BALLOT OR THROUGH THEIR COOPERATIVES IN ACCORD-
49 ANCE WITH THE FOLLOWING PROCEDURES:

50 (I) COOPERATIVES MAY SUBMIT WRITTEN APPROVAL OF SUCH ORDER WITHIN A
51 PERIOD OF NINETY DAYS AFTER THE COMMISSIONER HAS ANNOUNCED A REFERENDUM
52 ON A PROPOSED ORDER, FOR SUCH PRODUCERS WHO ARE LISTED AND CERTIFIED TO
53 THE COMMISSIONER AS MEMBERS OF SUCH COOPERATIVE, PROVIDED, HOWEVER, THAT
54 ANY COOPERATIVE BEFORE SUBMITTING SUCH WRITTEN APPROVAL SHALL GIVE AT
55 LEAST THIRTY DAYS PRIOR WRITTEN NOTICE TO EACH PRODUCER WHO IS ITS
56 MEMBER, OF THE INTENTION OF THE COOPERATIVE TO APPROVE SUCH PROPOSED

1 ORDER, AND FURTHER PROVIDE THAT IF SUCH COOPERATIVE DOES NOT INTEND TO
2 APPROVE SUCH PROPOSED ORDER, IT SHALL LIKEWISE GIVE WRITTEN NOTICE TO
3 EACH SUCH PRODUCER WHO IS ITS MEMBER, OF ITS INTENTION NOT TO APPROVE OF
4 SUCH PROPOSED ORDER.

5 (II) IN ORDER TO ENSURE THAT ALL MILK PRODUCERS ARE INFORMED REGARDING
6 A PROPOSED ORDER, THE COMMISSIONER SHALL NOTIFY ALL MILK PRODUCERS THAT
7 AN ORDER IS BEING CONSIDERED AND THAT EACH PRODUCER MAY REGISTER
8 APPROVAL OR DISAPPROVAL WITH THE COMMISSIONER EITHER DIRECTLY OR THROUGH
9 THE PRODUCER'S COOPERATIVE.

10 (III) ANY PRODUCER MAY OBTAIN A BALLOT FROM THE COMMISSIONER IN ORDER
11 TO REGISTER HIS OR HER OWN APPROVAL OR DISAPPROVAL OF THE PROPOSED
12 ORDER. INDIVIDUAL BALLOTS SHALL BE CONSIDERED CONFIDENTIAL AND NOT
13 SUBJECT TO PUBLIC DISCLOSURE, EXCEPT SUCH BALLOTS SHALL NOT BE CONSID-
14 ERED CONFIDENTIAL AS DEEMED NECESSARY BY THE COMMISSIONER TO IMPLEMENT
15 THE PURPOSES OF THIS ARTICLE.

16 (IV) A PRODUCER WHO IS A MEMBER OF A COOPERATIVE THAT HAS NOTIFIED THE
17 PRODUCER OF ITS INTENT TO APPROVE OR NOT TO APPROVE A PROPOSED ORDER,
18 AND WHO OBTAINS A BALLOT AND WITH SUCH BALLOT EXPRESSES APPROVAL OR
19 DISAPPROVAL OF THE PROPOSED ORDER, SHALL NOTIFY THE COMMISSIONER AS TO
20 THE NAME OF THE COOPERATIVE OF WHICH THE PRODUCER IS A MEMBER, AND THE
21 COMMISSIONER SHALL REMOVE SUCH PRODUCER'S NAME FROM THE LIST CERTIFIED
22 BY SUCH COOPERATIVE.

23 (V) THE COMMISSIONER MAY APPOINT A REFERENDUM ADVISORY COMMITTEE TO
24 ASSIST AND ADVISE IN THE CONDUCT OF THE REFERENDUM. SUCH COMMITTEE SHALL
25 REVIEW REFERENDUM PROCEDURES AND THE TABULATION OF RESULTS, AND SHALL
26 ADVISE THE COMMISSIONER OF ITS FINDINGS. THE FINAL CERTIFICATION OF THE
27 REFERENDUM RESULTS SHALL BE MADE BY THE COMMISSIONER. THE COMMITTEE
28 SHALL CONSIST OF NOT LESS THAN THREE MEMBERS, NONE OF WHOM SHALL BE
29 PERSONS DIRECTLY AFFECTED BY THE PROPOSED DAIRY RESEARCH AND EDUCATION
30 ORDER. TWO MEMBERS SHALL BE REPRESENTATIVES OF GENERAL FARM ORGANIZA-
31 TIONS WHICH ARE NOT DIRECTLY AFFECTED BY THE PROPOSED ORDER. THE MEMBERS
32 OF THE COMMITTEE SHALL NOT RECEIVE A SALARY BUT SHALL BE ENTITLED TO
33 ACTUAL AND REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR
34 DUTIES.

35 3. THE COMMISSIONER SHALL ADMINISTER AND ENFORCE ANY SUCH DAIRY
36 RESEARCH AND EDUCATION ORDER WHILE IT IS IN EFFECT, TO:

37 (A) ENCOURAGE THE STABILITY AND CONTINUED GROWTH OF THE DAIRY INDUS-
38 TRY,

39 (B) PROVIDE FOR RESEARCH AND EDUCATION PROGRAMS DESIGNED TO IMPROVE
40 MILK PRODUCTION AND FARM PROFITABILITY,

41 (C) CARRY OUT, IN OTHER WAYS, THE DECLARED POLICY AND INTENT OF THIS
42 ARTICLE.

43 4. THE COMMISSIONER MAY, AND UPON WRITTEN PETITION OF NOT LESS THAN
44 TWENTY-FIVE PER CENTUM OF THE PRODUCERS IN THE AREA, EITHER AS INDIVID-
45 UALS OR THROUGH COOPERATIVE REPRESENTATION, SHALL CALL A HEARING TO
46 CONSIDER AMENDING OR TERMINATING SUCH ORDER, AND ANY SUCH AMENDMENT OR
47 TERMINATION SHALL BE EFFECTIVE ONLY UPON APPROVAL OF FIFTY-ONE PER
48 CENTUM OF THE PRODUCERS OF MILK FOR THE AREA REGULATED PARTICIPATING IN
49 A REFERENDUM VOTE AS PROVIDED PURSUANT TO SUBDIVISION TWO OF THIS
50 SECTION.

51 5. THE COMMISSIONER SHALL PREPARE A BUDGET FOR THE ADMINISTRATION AND
52 OPERATING COSTS AND EXPENSES ASSOCIATED WITH ANY DAIRY RESEARCH AND
53 EDUCATION ORDER ISSUED PURSUANT TO THIS ARTICLE.

54 6. ANY DAIRY RESEARCH AND EDUCATION ORDER ISSUED BY THE COMMISSIONER
55 PURSUANT TO THIS ARTICLE MAY CONTAIN ANY OR ALL OF THE FOLLOWING:

1 (A) PROVISIONS FOR LEVYING AN ASSESSMENT AGAINST ALL PRODUCERS SUBJECT
2 TO THE ORDER FOR THE PURPOSES OF CARRYING OUT THE PROVISIONS AND PAYING
3 THE COSTS OF ADMINISTERING AND ENFORCING SUCH ORDER. IN ORDER TO COLLECT
4 ANY SUCH ASSESSMENTS, PROVISION SHALL BE MADE FOR EACH MILK DEALER WHO
5 RECEIVES MILK FROM PRODUCERS TO DEDUCT THE AMOUNT OF ASSESSMENT FROM
6 MONEYS OTHERWISE DUE TO PRODUCERS FOR THE MILK SO DELIVERED. THE RATE OF
7 SUCH ASSESSMENT SHALL NOT EXCEED ONE-TENTH OF ONE PERCENT PER HUNDRED-
8 WEIGHT OF THE AVERAGE STATISTICAL UNIFORM PRICE FOR THE NORTHEAST FEDER-
9 AL MILK MARKETING ORDER, OR ANY SUCCESSOR THERETO, AT ONONDAGA COUNTY
10 FOR THE PRECEDING YEAR. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION
11 TWO OF THIS SECTION, THE COMMISSIONER, UPON WRITTEN PETITION OF NO LESS
12 THAN TWENTY-FIVE PERCENT OF PRODUCERS IN THE AREA, EITHER AS INDIVIDUALS
13 OR THROUGH COOPERATIVE REPRESENTATION, MAY CALL A HEARING FOR THE SOLE
14 PURPOSE OF CONSIDERING ESTABLISHING A NEW RATE OF ASSESSMENT HEREUNDER
15 AND MAY SUBMIT A PROPOSED CHANGE IN THE RATE OF ASSESSMENT TO THE
16 PRODUCERS FOR ACCEPTANCE OR REJECTION WITHOUT OTHERWISE AFFECTING THE
17 ORDER. THE PRODUCERS IN THE AREA MAY VOTE ON THE PROPOSED RATE EITHER AS
18 INDIVIDUALS OR THOROUGH COOPERATIVE REPRESENTATION.

19 (B) PROVISIONS FOR PAYMENTS TO INSTITUTIONS OR ORGANIZATIONS ENGAGED
20 IN RESEARCH LEADING TO THE DEVELOPMENT OF NEW, INNOVATIVE OR IMPROVED
21 PRACTICES OR METHODS FOR DAIRY PRODUCTION AND FARM PROFITABILITY.

22 (C) PROVISIONS FOR PAYMENTS TO INSTITUTIONS OR ORGANIZATIONS ENGAGED
23 IN EDUCATIONAL ACTIVITIES TO PROMOTE THE USE OF NEW, INNOVATIVE OR
24 IMPROVED PRACTICES OR METHODS FOR DAIRY PRODUCTION AND FARM PROFITABIL-
25 ITY.

26 (D) PROVISIONS FOR REQUIRING RECORDS TO BE KEPT AND REPORTS TO BE
27 FILED BY MILK DEALERS WITH RESPECT TO MILK RECEIVED FROM PRODUCERS AND
28 WITH RESPECT TO ASSESSMENTS ON THE MILK OF SUCH PRODUCERS.

29 (E) PROVISIONS FOR THE AUDITING OF THE RECORDS OF SUCH MILK DEALERS
30 FOR THE PURPOSE OF VERIFYING PAYMENT OF PRODUCER ASSESSMENTS.

31 (F) PROVISIONS FOR AN ADVISORY BOARD AS HEREINAFTER INDICATED.

32 (G) SUCH OTHER PROVISIONS AS MAY BE NECESSARY TO EFFECTUATE THE
33 DECLARED POLICES OF THIS ARTICLE.

34 7. THE COMMISSIONER MAY TEMPORARILY SUSPEND THE OPERATION OF AN EFFEC-
35 TIVE DAIRY RESEARCH AND EDUCATION ORDER FOR A CONTINUING PERIOD OF NOT
36 LONGER THAN ONE YEAR, IF THE PURPOSES OF THIS ARTICLE ARE DEEMED UNNEC-
37 ESSARY DURING SUCH YEAR.

38 8. PRIOR TO THE ISSUANCE, AMENDMENT OR TERMINATION OF ANY DAIRY
39 RESEARCH AND EDUCATION ORDER, THE COMMISSIONER MAY REQUIRE THE PETITION-
40 ERS FOR SUCH ISSUANCE, AMENDMENT OR TERMINATION TO DEPOSIT WITH HIM OR
41 HER SUCH AMOUNT AS HE OR SHE MAY DEEM NECESSARY TO DEFRAY THE EXPENSES
42 OF PREPARING AND MAKING EFFECTIVE, AMENDING OR TERMINATING THE ORDER.
43 SUCH FUNDS SHALL BE RECEIVED, DEPOSITED AND DISBURSED BY THE COMMISSION-
44 ER IN THE SAME MANNER AS OTHER MONEYS RECEIVED BY THE COMMISSIONER UNDER
45 THIS ARTICLE AND, IN THE EVENT THE APPLICATION FOR ADOPTION, AMENDMENT
46 OR TERMINATION OF A RESEARCH AND EDUCATION ORDER IS APPROVED IN A REFER-
47 ENDUM, THE COMMISSIONER SHALL REIMBURSE ANY SUCH APPLICANT IN THE AMOUNT
48 OF ANY SUCH DEPOSIT FROM ANY UNEXPENDED MONIES COLLECTED UNDER THE
49 RESEARCH ORDER AFFECTED BY SUCH REFERENDUM.

50 9. ANY MONEYS COLLECTED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE
51 SHALL NOT BE DEEMED STATE FUNDS AND SHALL BE DEPOSITED IN A BANK OR
52 OTHER DEPOSITORY IN THIS STATE, APPROVED BY THE COMMISSIONER, AND SHALL
53 BE DISBURSED BY THE COMMISSIONER ONLY FOR THE NECESSARY EXPENSES
54 INCURRED BY THE COMMISSIONER WITH RESPECT TO THE ORDER, ALL IN ACCORD-
55 ANCE WITH THE RULES AND REGULATIONS OF THE COMMISSIONER. ALL SUCH
56 EXPENDITURES SHALL BE AUDITED BY THE STATE COMPTROLLER OR A CERTIFIED

1 PUBLIC ACCOUNTANT AT LEAST EVERY TWO YEARS AND WITHIN FORTY-FIVE DAYS
2 AFTER THE COMPLETION THEREOF THE STATE COMPTROLLER OR CERTIFIED PUBLIC
3 ACCOUNTANT SHALL GIVE A COPY THEREOF TO THE COMMISSIONER AND THE ADVI-
4 SORY BOARD. ANY MONEYS REMAINING IN SUCH FUND MAY, IN THE DISCRETION OF
5 THE COMMISSIONER, BE REFUNDED AT THE CLOSE OF ANY FISCAL YEAR UPON A
6 PRO-RATA BASIS TO ALL PERSONS FROM WHOM ASSESSMENTS THEREFORE WERE
7 COLLECTED OR, WHENEVER THE COMMISSIONER FINDS THAT SUCH MONEYS MAY BE
8 NECESSARY TO DEFRAY THE COST OF OPERATING SUCH RESEARCH AND EDUCATION
9 ORDER IN A SUCCEEDING FISCAL YEAR, THE COMMISSIONER MAY CARRY OVER ALL
10 OR ANY PORTION OF SUCH MONEYS INTO THE NEXT SUCH SUCCEEDING YEAR. UPON
11 THE TERMINATION BY THE COMMISSIONER OF ANY DAIRY RESEARCH AND EDUCATION
12 ORDER, ALL MONEYS REMAINING AND NOT REQUIRED BY THE COMMISSIONER TO
13 DEFRAY THE EXPENSES OF OPERATING SUCH DAIRY RESEARCH AND EDUCATION
14 ORDER, SHALL BE REFUNDED BY THE COMMISSIONER UPON A PRO-RATA BASIS TO
15 ALL PERSONS FROM WHOM ASSESSMENTS THEREFORE WERE COLLECTED; PROVIDED,
16 HOWEVER, THAT IF THE COMMISSIONER FINDS THAT THE AMOUNTS SO REFUNDABLE
17 ARE SO SMALL AS TO MAKE IMPRACTICABLE THE COMPUTATION AND REFUNDING OF
18 SUCH REFUNDS, THE COMMISSIONER MAY USE SUCH MONEYS TO DEFRAY THE
19 EXPENSES INCURRED IN THE FORMULATION, ISSUANCE, ADMINISTRATION OR
20 ENFORCEMENT OF ANY SUBSEQUENT RESEARCH ORDER.

21 10. ADVISORY BOARD. (A) ANY DAIRY RESEARCH AND EDUCATION ORDER ISSUED
22 PURSUANT TO THIS ARTICLE SHALL PROVIDE FOR THE ESTABLISHMENT OF AN ADVI-
23 SORY BOARD TO ADVISE AND ASSIST THE COMMISSIONER IN THE ADMINISTRATION
24 OF SUCH ORDER. THIS BOARD SHALL CONSIST OF NOT LESS THAN FIVE MEMBERS.
25 AT LEAST THREE MEMBERS SHALL REPRESENT DAIRY COOPERATIVES, ONE MEMBER
26 SHALL REPRESENT A GENERAL FARM ORGANIZATION, AND ONE MEMBER SHALL BE AN
27 AT-LARGE PRODUCER REPRESENTATIVE. MEMBERS SHALL SERVE THREE-YEAR TERMS
28 AND SHALL BE APPOINTED BY THE COMMISSIONER FROM NOMINATIONS SUBMITTED BY
29 PRODUCERS LOCATED IN THE AREA TO WHICH THE ORDER APPLIES. THE COMMIS-
30 SIONER SHALL MAKE EVERY EFFORT TO ENSURE THAT THERE IS GEOGRAPHICAL
31 REPRESENTATION FROM THE MAJOR DAIRY PRODUCING REGIONS OF THE STATE.
32 NOMINATING PROCEDURES, QUALIFICATIONS, REPRESENTATION AND SIZE OF THE
33 ADVISORY BOARD SHALL BE PRESCRIBED IN THE ORDER.

34 (B) NO MEMBER OF AN ADVISORY BOARD SHALL RECEIVE A SALARY BUT SHALL BE
35 ENTITLED TO ACTUAL AND REASONABLE EXPENSES INCURRED WHILE PERFORMING
36 DUTIES AS AUTHORIZED IN THIS SECTION.

37 (C) THE DUTIES AND RESPONSIBILITIES OF THE ADVISORY BOARD SHALL BE
38 PRESCRIBED BY THE COMMISSIONER IN THE DAIRY RESEARCH AND EDUCATION
39 ORDER, AND MAY INCLUDE ALL OR ANY OF THE FOLLOWING DUTIES AND RESPONSI-
40 BILITIES:

41 (1) RECOMMENDING TO THE COMMISSIONER OF ADMINISTRATIVE RULES AND REGU-
42 LATIONS RELATING TO THE ORDER.

43 (2) RECOMMENDING TO THE COMMISSIONER SUCH AMENDMENTS TO THE ORDER AS
44 DEEMED ADVISABLE.

45 (3) PREPARING AND SUBMITTING TO THE COMMISSIONER AN ESTIMATED BUDGET
46 REQUIRED FOR THE PROPER OPERATION OF THE ORDER.

47 (4) REVIEWING, EVALUATING AND RECOMMENDING TO THE COMMISSIONER
48 RESEARCH AND EDUCATION ACTIVITIES FOR FUNDING THAT ARE DESIGNED TO
49 IMPROVE MILK PRODUCTION AND FARM PROFITABILITY.

50 (5) RECOMMENDING TO THE COMMISSIONER METHODS FOR ASSESSING PRODUCERS
51 AND METHODS FOR COLLECTING THE NECESSARY FUNDS.

52 (6) ASSISTING THE COMMISSIONER IN THE COLLECTION AND ASSEMBLY OF
53 INFORMATION AND DATA NECESSARY FOR THE PROPER ADMINISTRATION OF THE
54 ORDER.

55 (7) THE PERFORMANCE OF SUCH OTHER DUTIES IN CONNECTION WITH THE ORDER
56 AS THE COMMISSIONER SHALL DESIGNATE.

1 S 258-V. RULES AND REGULATIONS; ENFORCEMENT. 1. THE COMMISSIONER MAY
2 MAKE AND PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO
3 EFFECTUATE THE PROVISIONS AND INTENT OF THIS ARTICLE AND TO ENFORCE THE
4 PROVISION OF ANY DAIRY RESEARCH AND EDUCATION ORDER, ALL OF WHICH SHALL
5 HAVE THE FORCE AND EFFECT OF LAW.

6 2. THE COMMISSIONER MAY INSTITUTE SUCH ACTION AT LAW OR IN EQUITY AS
7 MAY APPEAR NECESSARY TO ENFORCE COMPLIANCE WITH ANY PROVISION OF THIS
8 ARTICLE, OR ANY RULE OR REGULATION, OR RESEARCH AND EDUCATION ORDER,
9 COMMITTED TO HIS OR HER ADMINISTRATION, AND IN ADDITION TO ANY OTHER
10 REMEDY UNDER ARTICLE THREE OF THIS CHAPTER OR OTHERWISE, MAY APPLY FOR
11 RELIEF BY INJUNCTION IF NECESSARY TO PROTECT THE PUBLIC INTEREST WITHOUT
12 BEING COMPELLED TO ALLEGE OR PROVE THAT AN ADEQUATE REMEDY AT LAW DOES
13 NOT EXIST. SUCH APPLICATION MAY BE MADE TO THE SUPREME COURT IN ANY
14 DISTRICT OR COUNTY AS PROVIDED IN THE CIVIL PRACTICE LAW AND RULES, OR
15 TO THE SUPREME COURT IN THE THIRD JUDICIAL DISTRICT.

16 S 2. This act shall take effect immediately.

17 PART AA

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

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

30 S 2. This act shall take effect immediately.

31 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
32 sion, section or part of this act shall be adjudged by any court of
33 competent jurisdiction to be invalid, such judgment shall not affect,
34 impair, or invalidate the remainder thereof, but shall be confined in
35 its operation to the clause, sentence, paragraph, subdivision, section
36 or part thereof directly involved in the controversy in which such judg-
37 ment shall have been rendered. It is hereby declared to be the intent of
38 the legislature that this act would have been enacted even if such
39 invalid provisions had not been included herein.

40 S 3. This act shall take effect immediately provided, however, that
41 the applicable effective date of Parts A through AA of this act shall be
42 as specifically set forth in the last section of such Parts.