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I N S E N A T E

September 24, 2012

Introduced by Sens. GALLIVAN, GRISANTI -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the canal law, the public officers law, the state finance law, the navigation law, the transportation law, the economic development law, the environmental conservation law, the parks, recreation and historic preservation law, the retirement and social security law, and the public authorities law, in relation to transferring jurisdiction over the New York state canal system to the department of transportation; and to repeal certain provisions of the canal law, the transportation law and the public authorities law, relating thereto

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

- 1 Section 1. Subdivision 21 of section 2 of the canal law is REPEALED
2 and a new subdivision 21 is added to read as follows:
3 21. "DEPARTMENT" SHALL MEAN THE DEPARTMENT OF TRANSPORTATION.
4 S 2. Subdivision 23 of section 2 of the canal law, as added by chapter
5 167 of the laws of 2002, is amended and a new subdivision 24 is added to
6 read as follows:
7 23. "Canalway trail" shall mean any multi-use recreational trail
8 located on lands under the jurisdiction of the [corporation] COMMISSION-
9 ER. The exact boundaries and location of such trail and any portions or
10 sections thereof shall be determined by the [corporation] COMMISSIONER
11 except that the boundaries and location of such trail shall be deter-
12 mined in such a manner that no portion thereof shall be within the
13 Adirondack Park.
14 24. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF TRANSPORTATION.
15 S 3. The article heading of article 1-a of the canal law, as added by
16 chapter 766 of the laws of 1992, is amended to read as follows:
17 TRANSFER TO [NEW YORK STATE THRUWAY AUTHORITY] THE
18 DEPARTMENT OF TRANSPORTATION
19 S 4. Section 5 of the canal law, as amended by chapter 335 of the laws
20 of 2001, is amended to read as follows:
21 S 5. Transfer of powers and duties relating to canals and canal lands
22 to the [New York state thruway authority] DEPARTMENT OF TRANSPORTATION.

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

LBD16505-02-2

1 The powers and duties of the [commissioner of transportation] AUTHORITY
2 AND CORPORATION relating to the New York state canal system as set forth
3 in articles one through and including fourteen[, except article seven,]
4 of this chapter[, and except properties in use on the effective date of
5 this article in support of highway maintenance, equipment management and
6 traffic signal operations of the department of transportation,] are
7 hereby transferred to and merged with the [authority] DEPARTMENT, to be
8 exercised by the [authority] COMMISSIONER on behalf of the people of the
9 state of New York. [In addition, the commissioner of transportation and
10 the chairman of the authority may, in their discretion, enter into an
11 agreement or agreements transferring the powers and duties of the
12 commissioner of transportation relating to any or all of the bridges and
13 highways as set forth in article seven of this chapter, to be exercised
14 by the authority on behalf of the people of the state of New York, and
15 shall enter into an agreement or agreements for the financing,
16 construction, reconstruction or improvement of lift and movable bridges
17 on the canal system. Such powers shall be in addition to other powers
18 enumerated in title nine of article two of the public authorities law.
19 All of the provisions of title nine of article two of such law which are
20 not inconsistent with this chapter shall apply to the actions and duties
21 of the authority pursuant to this chapter. The authority shall be deemed
22 to be the state in exercising the powers and duties transferred pursuant
23 to this section but for no other purposes.]

24 S 5. Section 6 of the canal law, as added by chapter 766 of the laws
25 of 1992, subdivisions 1, 3, and 4 and paragraph (b) of subdivision 6 as
26 amended by chapter 335 of the laws of 2001, is amended to read as
27 follows:

28 S 6. Transfer of canal lands and other assets. 1. The jurisdiction of
29 the [commissioner of transportation] AUTHORITY AND CORPORATION over the
30 New York state canal system and over all state assets, equipment and
31 property, both tangible and intangible, owned or used in connection with
32 the planning, development, construction, reconstruction, maintenance and
33 operation of the New York state canal system, as set forth in articles
34 one through and including fourteen[, except article seven,] of this
35 chapter[, and except properties in use on the effective date of this
36 article in support of highway maintenance, equipment management and
37 traffic signal operations of the department of transportation] are here-
38 by transferred without consideration to the [authority] DEPARTMENT, to
39 be held by the [authority] DEPARTMENT in the name of the people of the
40 state of New York. [In addition the commissioner of transportation and
41 the chairman of the authority may, in their discretion, enter into an
42 agreement or agreements transferring jurisdiction over any or all of the
43 bridges and highways set forth in article seven of this chapter, and any
44 or all state assets, equipment and property, both tangible and intangi-
45 ble, owned or used in connection with the planning, development,
46 construction, reconstruction, maintenance and operation of such bridges
47 and highways, which shall be transferred without consideration to the
48 authority, to be held by the authority through the corporation in the
49 name of the people of the state of New York. Any other rights and obli-
50 gations resulting from or arising out of the planning, development,
51 construction, reconstruction, operation or maintenance of the New York
52 state canal system shall be deemed assigned to and shall be exercised by
53 the authority through the corporation, except that the authority may
54 designate the commissioner of transportation to be its agent for the
55 operation and maintenance of the New York state canal system, provided
56 that such designation shall have no force or effect after March thirty-

1 first, nineteen hundred ninety-three. Such canal system shall remain the
2 property of the state and under its management and control as exercised
3 by and through the authority, through the corporation which shall be
4 deemed to be the state for the purposes of such management and control
5 of the canals but for no other purposes.]

6 2. The [department of transportation] AUTHORITY AND CORPORATION shall
7 deliver to the [authority] DEPARTMENT all books, policies, procedures,
8 papers, plans, maps, records, equipment and property of such [depart-
9 ment] AUTHORITY OR CORPORATION pertaining to the functions transferred
10 pursuant to this article.

11 3. All rules, regulations, acts, determinations, orders and decisions
12 of the [commissioner of transportation and of the department of trans-
13 portation] AUTHORITY AND CORPORATION pertaining to the functions trans-
14 ferred pursuant to this article in force at the time of such transfer
15 shall continue in force and effect as rules, regulations, acts, determi-
16 nations, orders and decisions of the [authority and corporation] COMMIS-
17 SIONER until duly modified or abrogated by [such authority and corpo-
18 ration] THE COMMISSIONER.

19 4. Any business or other matters undertaken or commenced by the
20 [commissioner of transportation] AUTHORITY, CORPORATION, COMMISSIONER,
21 or the department [of transportation], including executed contracts,
22 permits and other agreements, pertaining to or connected with the func-
23 tions, powers, obligations and duties transferred pursuant to this arti-
24 cle, and in effect on the effective date hereof, shall be conducted and
25 completed by the [authority through the corporation] COMMISSIONER OR THE
26 DEPARTMENT in the same manner and under the same terms and conditions
27 and with the same effect as if conducted and completed by the [commis-
28 sioner of transportation] AUTHORITY or the [department of transporta-
29 tion] CORPORATION.

30 5. No existing rights or remedies of the state, including the authori-
31 ty, shall be lost, impaired or affected by reason of this article.

32 6. [(a)] No action or proceeding pending on the effective date of this
33 article, brought by or against the [commissioner of transportation]
34 AUTHORITY or the [department of transportation] CORPORATION shall be
35 affected by this article. Any liability arising out of any act or omis-
36 sion occurring prior to the effective date of the transfer of powers and
37 duties authorized herein of the officers, employees or agents of the
38 [department of transportation] AUTHORITY OR CORPORATION, or any other
39 agency of the state, other than the [authority] COMMISSIONER OR THE
40 DEPARTMENT, in the performance of their obligations or duties under the
41 canal law, any other law of the state or any federal law, or pursuant to
42 a contract entered into prior to the effective date of such transfer
43 shall remain a liability of the [department of transportation] AUTHORITY
44 AND CORPORATION or such other agency of the state and not of the
45 [authority] COMMISSIONER OR DEPARTMENT.

46 [(b)] Notwithstanding any provision to the contrary contained in para-
47 graph (a) of this subdivision, the state shall indemnify and hold harm-
48 less the authority and corporation for any and all claims, damages, or
49 liabilities, whether or not caused by negligence, including civil and
50 criminal fines, arising out of or relating to any generation, process-
51 ing, handling, transportation, storage, treatment, or disposal of solid
52 or hazardous wastes in the canal system by any person or entity other
53 than the authority occurring prior to the effective date of the transfer
54 of powers and duties authorized herein. Such indemnification shall
55 extend to, without limitation, any releases into land, water or air,
56 including but not limited to releases as defined under the federal

1 comprehensive environmental response compensation and liability act of
2 nineteen hundred eighty, occurring or existing prior to the effective
3 date of this section; provided that the authority shall cooperate in the
4 investigation and remediation of hazardous waste and other environmental
5 problems.]

6 S 6. The article heading of article 2 of the canal law, as amended by
7 chapter 335 of the laws of 2001, is amended to read as follows:

8 POWERS OF THE [CANAL CORPORATION] DEPARTMENT

9 S 7. The section heading, the opening paragraph and subdivisions 8, 10
10 and 13 of section 10 of the canal law, as amended by chapter 335 of the
11 laws of 2001, are amended to read as follows:

12 General powers and duties of the [corporation] COMMISSIONER relating
13 to canals. The [corporation] COMMISSIONER shall:

14 8. Keep and maintain in good condition the canals, canal terminals and
15 [corporation] equipment used in the maintenance and repair of the canal
16 system.

17 10. Enforce compliance with laws, rules and regulations relating to
18 posting of limited loads and clearances on all bridges over the canal
19 system under the jurisdiction of the department [of transportation
20 pursuant to section six and article seven of this chapter].

21 13. Cause a record to be made and filed ANNUALLY on January first[, in
22 the corporation] of all expenditures during the previous fiscal year
23 from moneys appropriated for the canal system.

24 S 8. The opening paragraph of subdivision 1 and subdivision 2 of
25 section 11 of the canal law, as added by chapter 167 of the laws of
26 2002, are amended to read as follows:

27 The [corporation] DEPARTMENT may develop and implement an adopt-a-
28 trail program, the purposes of which may be to reduce and remove litter
29 and debris and to enhance the appearance and maintenance of the canalway
30 trail and related facilities, as needed. Such program may include, but
31 not be limited to:

32 2. Notwithstanding any inconsistent provision of law, the [corpo-
33 ration, authority, and commission, including any members, officers or
34 employees thereof,] DEPARTMENT shall not be liable for damages suffered
35 by any persons and/or organizations resulting from any actions or activ-
36 ities of such volunteers and/or volunteer organizations.

37 S 9. Section 21 of the canal law, as amended by chapter 335 of the
38 laws of 2001, is amended to read as follows:

39 S 21. Preparation contract, plans and estimates. The [corporation]
40 DEPARTMENT shall make surveys and prepare plans and specifications for
41 work in connection with the improvement, maintenance or repair of the
42 canal system to be performed under contract. It shall ascertain with all
43 practical accuracy the quantity and quality of all materials to be used
44 and all other items of work to be included in the contract and shall
45 make a detailed estimate of the cost of the same. The quantities
46 contained in such estimate shall be used in determining the cost of the
47 work according to the different proposals received.

48 S 10. Section 22 of the canal law, as amended by chapter 335 of the
49 laws of 2001, is amended to read as follows:

50 S 22. Supervision of contracts. The [corporation] DEPARTMENT shall
51 provide for field supervision over improvement, maintenance or repair
52 work on the canal system that is done under contract. The [corporation]
53 DEPARTMENT shall assign such engineers, inspectors and other engineering
54 employees as may be necessary for control over the execution of the work
55 embraced in the contract. [Such corporation] THE DEPARTMENT shall cause
56 the preparation and approval of the estimates of the work accomplished,

1 materials delivered, or other items embodied in the contract and the
2 certificate of the amount of payment which may be due under the terms of
3 the contract or legal modifications of the same. Upon the completion of
4 any contract the [corporation] DEPARTMENT shall cause the preparation
5 and approval of a certificate of acceptance, stating that the work has
6 been well and faithfully performed in accordance with the terms and
7 conditions of the contract and all legal modifications thereof.

8 S 11. Section 23 of the canal law, as amended by chapter 335 of the
9 laws of 2001, is amended to read as follows:

10 S 23. Record of measurements. The [corporation] DEPARTMENT shall
11 require every engineer employed on canal engineering to enter in perma-
12 nent field books a complete record of all surveys, field measurements
13 and construction notes. These books shall be filed in the [corporation]
14 DEPARTMENT and shall be available for public inspection under such
15 conditions as the [corporation] DEPARTMENT may establish.

16 S 12. Section 24 of the canal law, as amended by chapter 335 of the
17 laws of 2001, is amended to read as follows:

18 S 24. Making and recording maps. There shall be kept on file in the
19 office of the [corporation] DEPARTMENT complete maps of every canal now
20 or hereafter to be built on which the boundaries of every parcel of land
21 to which the state shall have a separate title shall be designated and
22 the names of the former owner and date of each title entered. All such
23 maps [heretofore] approved by the commissioner [of transportation or the
24 corporation], or certified by such commissioner[, corporation] or by the
25 state engineer or hereafter approved by the [corporation] COMMISSIONER
26 to be correct, shall be presumptive evidence of the truth of the facts
27 therein stated and of the ownership by the state of the lands therein
28 described. Every such map when completed shall be approved and certified
29 to as correct by the [corporation] COMMISSIONER. The original of said
30 map shall be filed in the office of the [corporation] COMMISSIONER and
31 copies thereof duly signed and certified as aforesaid shall be filed in
32 the office of the department of state. Any such maps filed in the office
33 of the clerk of a county in which such lands are located or in the
34 office in such county where conveyances are required by law to be
35 recorded shall constitute evidence to all persons of the state's title
36 to and ownership in said lands. A transcript of such maps certified as
37 correct by the officer with whom such map or maps shall be filed, shall
38 be received as presumptive evidence of the state's title to the canal
39 lands as of the date designated on such maps in all judicial or legal
40 proceedings.

41 S 13. Section 25 of the canal law, as amended by chapter 335 of the
42 laws of 2001, is amended to read as follows:

43 S 25. Making and recording of "Blue Line" maps. The commissioner [of
44 transportation] shall cause the preparation of maps of the Erie, Oswego,
45 Champlain and the Cayuga and Seneca canals as they existed prior to and
46 independent of lands appropriated for barge canal purposes and of all
47 lands belonging to the state adjacent thereto or connected therewith,
48 and there shall be designated on such maps the boundaries of the lands
49 to which the state holds title, and so far as possible the names of the
50 owners of the adjoining lands. Every map when completed shall be
51 approved and certified to as correct by the commissioner [of transporta-
52 tion] and be certified to as correct by the chief engineer. The original
53 of said map shall be filed in the office of the [corporation] COMMIS-
54 SIONER and copies thereof, duly signed and certified as aforesaid, shall
55 be filed in the office of the department of state. Each of said maps so
56 filed shall be regarded as an original copy. A blue or white print copy

1 of such map or portion of such map or maps as related or applies to any
2 particular county of the state shall be transmitted to and filed in the
3 office of the clerk of such county, or in the office in such county
4 wherein conveyances are required by law to be recorded and such filing
5 shall constitute a notice to all persons of the state's title to and
6 ownership of said lands. A transcript of such maps certified as correct
7 by the officer with whom such map or maps shall be filed shall be
8 received as presumptive evidence of the state's title to the canal lands
9 as of the date designated on such maps in all judicial or legal
10 proceedings.

11 S 14. Section 30 of the canal law, as amended by chapter 335 of the
12 laws of 2001, is amended to read as follows:

13 S 30. Contracts for improvement, maintenance or repair of the canal
14 system. Upon the completion and final approval of the plans and specifi-
15 cations for the improvement, maintenance or repair to the canal system,
16 contracts therefor shall be executed IN ACCORDANCE WITH THE PROVISIONS
17 OF ARTICLE NINE OF THE STATE FINANCE LAW, PROVIDED, HOWEVER, THAT IF
18 ARTICLE NINE OF THE STATE FINANCE LAW SHALL NOT BE APPLICABLE, CONTRACTS
19 SHALL BE EXECUTED as provided herein.

20 1. Advertising for proposals. The [corporation] COMMISSIONER shall
21 advertise for proposals in accordance with plans and specifications
22 prepared by [it] THE DEPARTMENT for such improvement, maintenance or
23 repair of the canal system as the [corporation] COMMISSIONER deems it
24 expedient to have performed by contract. The advertisement shall be
25 limited to a brief description of the work proposed to be done, with an
26 announcement stating where the maps, plans and specifications may be
27 seen, the terms and conditions under which the proposals will be
28 received, the time and place where the same will be opened, the amount
29 of the draft or certified check to accompany the proposal, and such
30 other matters as the [corporation] COMMISSIONER may deem advisable to
31 include therein. Such advertisement shall be published at least once in
32 each week for two successive weeks in a newspaper published at the coun-
33 ty seat of the county in which such canal work is to be performed and in
34 such other newspapers as the [corporation] COMMISSIONER may designate.
35 If no newspaper is published at such county seat, then the publication
36 of the advertisement shall be in such newspaper or newspapers within the
37 county as the [corporation] COMMISSIONER may select. If no newspaper is
38 published in the county, the publication of the advertisement shall be
39 in such newspaper or newspapers in an adjoining county as may be
40 selected by the [corporation] COMMISSIONER. Failure of such newspaper,
41 published in such county or adjoining county, to publish such advertise-
42 ment as provided in this subdivision or as directed by the [corporation]
43 COMMISSIONER shall not invalidate the publication of advertisement for
44 proposals provided such advertisement is published in another newspaper
45 or trade publication, which will be most likely to give adequate notice
46 to contractors of the work contemplated and of the invitation to submit
47 proposals therefor, at least once in each week for any two successive
48 weeks preceding the date on which proposals described in such advertise-
49 ment are to be received and opened.

50 2. Proposals. Each proposal shall specify the correct gross sum for
51 which the work will be performed and shall also include the amount to be
52 charged for each item specified on the proposal estimate sheet. The
53 [corporation] COMMISSIONER may prescribe and furnish forms for the
54 submission of such proposals and may prescribe the manner of submitting
55 the same which shall not be inconsistent herewith. Accompanying each
56 proposal there shall be a certified check or bank cashier's check for

1 the amount of the bid deposit, to be fixed by the [corporation] COMMIS-
2 SIONER and specified in the advertisement for proposals. The checks of
3 the two low bidders shall be deposited by the [corporation] COMMISSIONER
4 in a special account. Provided, however, that if prior to or upon
5 receipt of said checks by the [corporation] COMMISSIONER a bidder who is
6 one of the two low bidders shall have duly filed a bond as hereinafter
7 provided, the [corporation] COMMISSIONER shall forthwith return to said
8 bidder his OR HER aforesaid check without depositing the same. If alter-
9 nate proposals are taken, the checks of the two low bidders of all
10 alternate proposals shall be deposited. All checks other than those of
11 the two low bidders shall be returned promptly by the [corporation]
12 COMMISSIONER. Notwithstanding the provisions of any general or special
13 law, the money represented by the checks of the two low bidders shall be
14 paid from the special account when the contractor has duly executed and
15 delivered to the [corporation] COMMISSIONER the contract and the bond or
16 bonds required by law for the performance of the work of a public
17 improvement for the state of New York, or upon the rejection of all
18 bids. The low bidder, in the discretion of the [corporation] COMMISSION-
19 ER, and the second low bidder, as a matter of right, may at any time
20 after the opening of the respective proposals, file with the [corpo-
21 ration] COMMISSIONER a bond, the principal amount of which shall at
22 least equal the amount of the respective bidder's check, theretofore
23 deposited with his OR HER proposal, in the form prescribed by the
24 [corporation] COMMISSIONER, with sufficient sureties, to be approved by
25 the [corporation] COMMISSIONER, conditioned that the said bidder will
26 execute a contract and furnish such performance or other bonds as may be
27 required by law in accordance with the terms of the bidder's said
28 proposal. If a bidder complies with [the aforesaid] SUCH provisions, the
29 [corporation] COMMISSIONER shall forthwith return the money represented
30 by the check of such bidder.

31 In case the bidder to whom the contract shall be awarded shall fail to
32 execute such contract and bond, the moneys represented by such check
33 shall be regarded as liquidated damages and shall be forfeited to the
34 state and shall be deposited by the [corporation] COMMISSIONER with the
35 commissioner of taxation and finance to the credit of the general fund.
36 The gross sums indicated on the proposals when opened shall be publicly
37 read. The [corporation] COMMISSIONER shall keep the bids for the several
38 items of the proposals confidential until an award of the contract is
39 made, after which the proposals shall be subject at all reasonable times
40 to public inspection.

41 3. Award of contract. The contract for the improvement, maintenance or
42 repair of any part of the canal system shall be awarded to the lowest
43 responsible bidder, as will best promote the public interest. No
44 contract shall be awarded to a bidder other than the lowest responsible
45 bidder without the written approval of the comptroller. The lowest bid
46 shall be deemed to be that which specifically states the lowest gross
47 sum for which the entire work will be performed, including all the items
48 specified in the estimate therefor. The lowest bid shall be determined
49 by the [corporation] COMMISSIONER on the basis of the gross sum for
50 which the entire work will be performed, arrived at by a correct compu-
51 tation of all the items specified in the estimate therefor at the unit
52 prices contained in the bid.

53 4. Rejection of proposals. The [corporation] COMMISSIONER may reject
54 any or all proposals and may advertise for new proposals as provided in
55 this section, if, in [its] HIS OR HER opinion, the best interest of the
56 state [and the corporation] will thereby be promoted.

1 5. Form of contract. The [corporation] COMMISSIONER shall prescribe
2 the form of contract and may include [therein] such matters the [corpo-
3 ration] COMMISSIONER may deem advantageous to the state [and the corpo-
4 ration].

5 6. Bond of contractor. Each contractor before entering into a contract
6 for such improvement, maintenance or repair of the canal system shall
7 execute a bond in the form prescribed by the [corporation] COMMISSIONER,
8 with sufficient sureties, to be approved by the [corporation] COMMIS-
9 SIONER, on condition that it will perform the work in accordance with
10 the terms of the contract and the plans and specifications, and that it
11 will commence and complete the work within the time prescribed in the
12 contract. The bond shall also provide against any direct or indirect
13 damages that shall be suffered or claimed on account of such
14 construction or improvement during the time thereof, and until the work
15 is finally accepted.

16 7. Payments on contracts, state taxes. The contract shall provide for
17 partial payments as the work progresses as hereinafter provided:

18 (a) Ten per centum shall be retained from each progress payment or
19 estimate until the contract work is fifty per centum completed, after
20 which no further moneys shall be retained from any progress payments or
21 estimates paid thereafter, and when the entire contract work has been
22 completed and accepted, the [corporation] COMMISSIONER shall, pending
23 the payment of the final estimate, pay not to exceed fifty per centum of
24 the amount of the retained percentage.

25 (b) Whenever in the judgment of the [corporation] COMMISSIONER the
26 withholding of the retained percentage on account of the closing of the
27 working season would be an injustice to the contractor, the [corpo-
28 ration] COMMISSIONER may, provided the district engineer certifies that
29 the essential items in the contract have been completed in accordance
30 with the terms of the contract and the provisions of this chapter,
31 direct the district engineer to include in the final account such uncom-
32 pleted items and pay therefor at the item prices in the contract upon
33 the contractor depositing with the [corporation] COMMISSIONER securities
34 equal to double the value of such uncompleted work. The deposit may be
35 used by the [corporation] COMMISSIONER to complete the uncompleted
36 portion of the contract and shall be returned to the contractor if it
37 completes the uncompleted portion within a specified number of working
38 days after it has been notified to proceed with the work.

39 (c) No certificates approving or authorizing a partial or final
40 payment shall be made by the [corporation] COMMISSIONER until [it] HE OR
41 SHE is satisfied that all laborers employed on the work have been paid
42 for their services for the last payroll period preceding the said
43 partial or final payment. The [corporation] COMMISSIONER may, if [it] HE
44 OR SHE deems necessary, require an affidavit to such effect from the
45 contractor or [it] HE OR SHE may depend on any other source which [it]
46 HE OR SHE deems proper for such information.

47 (d) Contracts in force at the date of the enactment of this subdivi-
48 sion may, in the discretion of the [corporation] COMMISSIONER, be
49 amended to provide for the withholding and the payments contemplated by
50 the provisions of paragraph (a) of this subdivision, if the surety or
51 sureties upon the performance and labor and material bonds given by a
52 contractor upon any such contract shall consent in writing thereto.

53 (e) No such certificate authorizing or approving the first partial
54 payment or any final payment to a foreign contractor shall be made
55 unless such contractor shall furnish satisfactory proof that all taxes
56 due the commissioner of taxation and finance by such contractor under

1 the provisions of or pursuant to a law enacted pursuant to the authority
2 of article nine, nine-A, twelve-A, twenty-one, twenty-two, twenty-eight,
3 twenty-nine or thirty of the tax law have been paid. The certificate of
4 the commissioner of taxation and finance to the effect that all such
5 taxes have been paid shall be, for purpose of this paragraph, conclusive
6 proof of the payment of such taxes. The term "foreign contractor" as
7 used in this subdivision means, in the case of an individual, a person
8 who is not a resident of this state, in the case of a partnership, one
9 having one or more partners not a resident of this state, and in the
10 case of a corporation, one not organized under the laws of this state.

11 8. Contingencies and extra work. Whenever the [corporation] COMMIS-
12 SIONER determines that from any unforeseen cause the terms of any
13 contract should be altered to provide for contingencies or extra work,
14 [it] HE OR SHE may, if funds are available for payment of the cost ther-
15 eof, issue an order on contract therefor to the contractor, a copy of
16 which shall be filed with the director of the budget and the state comp-
17 troller. The estimated expenditure pursuant to the order on contract
18 shall not increase the total amount of the primary contract until the
19 estimated expenditure shall have been approved by the [corporation]
20 COMMISSIONER and a duplicate of such approval shall have been filed with
21 the comptroller. No such extra work shall be commenced or undertaken
22 until the [corporation] COMMISSIONER has issued an order on contract as
23 herein provided.

24 When such order on contract provides for similar items of work or
25 materials which increase or decrease the itemized quantity provided for
26 in the primary contract, the price to be paid therefor shall not exceed
27 the unit bid price in the primary contract for such items. Agreed prices
28 for new items of work or materials may be incorporated in the order on
29 contract as the [corporation] COMMISSIONER may deem them to be just and
30 fair and beneficial to the state[, including the corporation].

31 Whenever the [corporation] COMMISSIONER also determines that in the
32 cases herein provided it is impracticable for [it] HE OR SHE to ascer-
33 tain in advance the just and fair prices to be paid by the state for new
34 items of work or materials, the order on contract therefor may provide
35 for performance of the work and the furnishing of the materials and
36 equipment, in which event the contractor shall keep and shall make
37 available at all times to the [corporation] COMMISSIONER such accounting
38 records, data and procedure as may be required by the [corporation]
39 COMMISSIONER.

40 S 15. Section 31 of the canal law, as amended by chapter 335 of the
41 laws of 2001, is amended to read as follows:

42 S 31. Patented materials or articles. In the improvement, maintenance,
43 or repair of the canal system, no patented material or article or any
44 other material or article shall be specified, contracted for, or
45 purchased, except under such circumstances that there can be fair and
46 reasonable opportunity for competition, the conditions to secure which,
47 shall be prescribed by the [corporation] COMMISSIONER.

48 S 16. Section 32 of the canal law, as amended by chapter 335 of the
49 laws of 2001, is amended to read as follows:

50 S 32. Performance of contracts. The performance of every contract for
51 the improvement, maintenance or repair of the canal system shall be
52 under the supervision and control of the [corporation] COMMISSIONER, and
53 it shall be [its] HIS OR HER duty to see that every such contract is
54 performed in accordance with the provisions of the contract and with the
55 plans and specifications forming a part thereof. If the [corporation]
56 COMMISSIONER shall determine that the work upon any contract for the

1 improvement, maintenance or repair of the canal system is not being
2 performed according to the contract or for the best interest of the
3 state[, including the corporation], the execution of the work by the
4 contractor may be temporarily suspended by the [corporation] COMMISSION-
5 ER, who may then proceed with the work under [its] HIS OR HER own direc-
6 tion in such manner as will accord with the contract specifications and
7 be for the best interest of the state [including the corporation,]; or
8 [it] HE OR SHE may terminate the contractor's employment under the
9 contract while it is in progress, and thereupon, proceed with the work,
10 in affirmance of the contract, by contract negotiated or publicly let,
11 by the use of [its] HIS OR HER own forces, by calling upon the surety to
12 complete the work in accordance with the plans and specifications or by
13 a combination of any such methods; or [it] HE OR SHE may cancel the
14 contract and readvertise and relet the work as provided in section thir-
15 ty of this article. Any excess in the cost of completing the contract
16 beyond the price for which it was originally awarded shall be charged to
17 and paid by the contractor failing to perform the work or by such
18 contractor's surety. Where the estimate for the completion of a
19 cancelled contract is in excess of the balance of the amount originally
20 set aside by the state [including the corporation,] to provide for the
21 improvement, maintenance or repair of the canal system, or a part there-
22 of, together with any amount otherwise provided, the [corporation]
23 COMMISSIONER is authorized to set aside from any funds available for the
24 improvement, maintenance or repair of the canal system, or a part there-
25 of, an additional sum equal to such excess and to pay such excess in the
26 first instance, pending recovery of excess cost from the defaulting
27 contractor and surety, as provided in this section. Every contract for
28 the improvement, maintenance or repair of the canal system, or a part
29 thereof, shall reserve to the [corporation] COMMISSIONER the right to
30 suspend or cancel the contract as above provided, and to complete the
31 work thereunder by contract negotiated or publicly let or by the use of
32 [its] HIS OR HER own forces, or affirm the contract and thereupon to
33 complete the work thereunder according to any of the methods above
34 provided as the [corporation] COMMISSIONER may determine.

35 S 17. Section 33 of the canal law, as amended by chapter 335 of the
36 laws of 2001, is amended to read as follows:

37 S 33. Acceptance of work. Upon the completion of the improvement,
38 maintenance or repair of any part of the canal system under a contract
39 let, as provided in this article, the [corporation] COMMISSIONER shall
40 cause the same to be inspected, and upon the filing [in the office of
41 the corporation] WITH THE DEPARTMENT of a certificate stating that the
42 work has been well and faithfully performed, in accordance with the
43 terms of the contract, and all legal modifications thereof, the work
44 shall be deemed accepted and certificates for final payment on the
45 contract executed.

46 S 18. Section 34 of the canal law, as amended by chapter 335 of the
47 laws of 2001, is amended to read as follows:

48 S 34. Exemption of materials or equipment from execution. All materi-
49 als or equipment furnished or partly procured on a defaulted contract
50 with the [corporation] COMMISSIONER, shall be exempt from execution, but
51 the [corporation] COMMISSIONER shall pay the moneys due for such materi-
52 al or equipment to any judgment creditor of the contractor under whose
53 execution such materials or equipment might otherwise have been sold, on
54 production to [it] HIM OR HER of due proof that such execution would
55 have so attached, and such payments shall be valid payments on the
56 contract.

1 S 19. Section 40 of the canal law, as amended by chapter 335 of the
2 laws of 2001, is amended to read as follows:

3 S 40. Acquisition of property. 1. The acquisition of property neces-
4 sary for purposes of the improvement, use, maintenance, control, manage-
5 ment or repair of the canal system, shall be pursuant to the provisions
6 of the eminent domain procedure law by the [corporation or by the]
7 commissioner [of transportation at the request of the corporation].

8 2. The commissioner [of transportation or the corporation as the case
9 may be,] shall cause to be prepared an accurate acquisition map of any
10 property which he or [it] SHE may deem necessary for purposes connected
11 with the canal system or of any property in and to which he or [it] SHE
12 may deem the acquisition or exercise of an easement, interest or right
13 to be necessary for such purposes, indicating and describing in each
14 case the particular easement, interest or right. On the approval of such
15 map by the commissioner [of transportation or the corporation as the
16 case may be,] he or [it] SHE shall acquire such property, easements,
17 interests or rights pursuant to the provisions of the eminent domain
18 procedure law.

19 3. If the [corporation] COMMISSIONER shall determine, prior to the
20 filing of such copy of the map in the office of the county clerk or
21 register as aforesaid, that changes, alterations or modifications of
22 such map as filed in the [main office of the corporation] DEPARTMENT
23 should be made, the [corporation] COMMISSIONER shall, subject to the
24 provisions of article two of the eminent domain procedure law, if appli-
25 cable, direct the preparation of an amended map, either by preparing a
26 new map or by making changes on the original tracing of such map, with a
27 notation indicating such changes. On the approval of such amended map by
28 the [corporation] COMMISSIONER, it shall be filed in the [main office of
29 the corporation] DEPARTMENT in the same manner as the original map was
30 filed, and the amended map shall thereupon in all respects and for all
31 purposes supersede the map previously filed.

32 4. If the [corporation] COMMISSIONER shall determine, prior to the
33 filing of such copy of the map in the office of the county clerk or
34 register as aforesaid, that such map should be withdrawn, the [corpo-
35 ration] COMMISSIONER shall file a certificate of withdrawal in the
36 offices of the [corporation] DEPARTMENT and department of law. Upon the
37 filing of such certificate of withdrawal, the map to which it refers
38 shall be canceled and all rights thereunder shall cease and terminate.

39 5. The commissioner [of transportation or the corporation as the case
40 may be,] shall deliver to the attorney general a copy of such acquisi-
41 tion map whereupon it shall be the duty of the attorney general to
42 advise and certify to the commissioner [of transportation or the corpo-
43 ration] the names of the owners of the property, easements, interests or
44 rights described in the said acquisition map, including the owners of
45 any right, title or interest therein pursuant to the requirements of
46 section four hundred three of the eminent domain procedure law.

47 6. If, at or after the vesting of title to such property in the people
48 of the state of New York as provided for in the eminent domain procedure
49 law, the commissioner [of transportation or the corporation as the case
50 may be] shall deem it necessary to cause the removal of an owner or
51 other occupant from such property [it] HE OR SHE may cause such owner or
52 other occupant to be removed therefrom by proceeding in accordance with
53 section four hundred five of the eminent domain procedure law. The
54 proceedings shall be brought in the name of the commissioner [of trans-
55 portation or the corporation as agent of the state]. If any person
56 proceeded against shall contest the petition by an answer, the attorney

1 general shall be notified, and he OR SHE thereafter shall represent the
2 petitioner in the proceedings. No execution shall issue for costs, if
3 any awarded against the state[,] OR the commissioner [of transportation
4 or the corporation], but they shall be part of the costs of the acquisition
5 and be paid in like manner. Proceedings may be brought separately
6 against one or more of the owners or other occupants of a property, or
7 one proceeding may be brought against all or several of the owners or
8 other occupants of any or all property within the territorial jurisdiction
9 of the same justice or judge; and judgment shall be given for immediate
10 removal of persons defaulting in appearance or in answering, or
11 withdrawing their answers, if any, without awaiting the trial or decision
12 of issues raised by contestants, if any.

13 7. Upon making any agreement provided for in section three hundred
14 four of the eminent domain procedure law, the commissioner [of transportation
15 or the corporation as the case may be] shall deliver to the comptroller
16 such agreement and a certificate stating the amount due such
17 owner or owners thereunder on account of such appropriation of his, HER
18 or their property and the amounts so fixed shall be paid pursuant to all
19 relevant provisions of the public authorities law, the eminent domain
20 procedure law and the state finance law.

21 8. Application for reimbursement of incidental expenses as provided in
22 section seven hundred two of the eminent domain procedure law shall be
23 made to the [corporation] DEPARTMENT upon forms prescribed by the
24 [corporation] COMMISSIONER and shall be accompanied by such information
25 and evidence as the [corporation] COMMISSIONER may require. Upon
26 approval of such application, the [corporation] COMMISSIONER shall
27 deliver a copy thereof, to the comptroller together with a certificate
28 stating the amount due thereof, and the amount so fixed shall be paid
29 out of funds available for the acquisition of property under this
30 section.

31 9. The [corporation] COMMISSIONER shall establish and may from time to
32 time amend rules and regulations authorizing the payment of actual
33 reasonable and necessary moving expenses of occupants of property
34 acquired pursuant to this section; of actual direct losses of tangible
35 personal property as a result of moving or discontinuing a business or
36 farm operation, but not exceeding an amount equal to the reasonable
37 expenses that would have been required to relocate such property, as
38 determined by the [corporation] COMMISSIONER; and actual reasonable
39 expenses in searching for a replacement business or farm; or in hardship
40 cases for the advance payment of such expenses and losses. For the
41 purposes of making payment of such expenses and losses only the term
42 "business" means any lawful activity conducted primarily for assisting
43 in the purchase, sale, resale, manufacture, processing or marketing of
44 products, commodities, personal property or services by the erection and
45 maintenance of an outdoor advertising display or displays, whether or
46 not such display or displays are located on the premises on which any of
47 the above activities are conducted. Such rules and regulations may
48 further define the terms used in this subdivision. In lieu of such actual
49 reasonable and necessary moving expenses, any such displaced owner or
50 tenant of residential property may elect to accept a moving expense
51 allowance, plus a dislocation allowance, determined in accordance with a
52 schedule prepared by the [corporation] COMMISSIONER and made a part of
53 such rules and regulations. In lieu of such actual reasonable and necessary
54 moving expenses, any such displaced owner or tenant of commercial
55 property who relocates or discontinues his OR HER business or farm operation
56 may elect to accept a fixed relocation payment in an amount equal

1 to the average annual net earnings of the business or farm operation,
2 except that such payment shall be not less than two thousand five
3 hundred dollars nor more than ten thousand dollars. In the case of a
4 business, no such fixed relocation payment shall be made unless the
5 [corporation] COMMISSIONER finds and determines that the business cannot
6 be relocated without a substantial loss of its existing patronage, and
7 that the business is not part of a commercial enterprise having at least
8 one other establishment, which is not being acquired by the state or the
9 United States, which is engaged in the same or similar business. In the
10 case of a business which is to be discontinued but for which the find-
11 ings and determinations set forth above cannot be made, the [corpo-
12 ration] COMMISSIONER may prepare an estimate of what the actual reason-
13 able and necessary moving expenses, exclusive of any storage charges,
14 would be if the business were to be relocated and enter into an agreed
15 settlement with the owner of such business for an amount not to exceed
16 such estimate in lieu of such actual reasonable and necessary moving
17 expenses. Application for payment under this subdivision shall be made
18 to the [corporation] DEPARTMENT upon forms prescribed by [it] THE
19 COMMISSIONER and shall be accompanied by such information and evidence
20 as the [corporation] COMMISSIONER may require. Upon approval of such
21 application, the [corporation] COMMISSIONER shall deliver a copy thereof
22 to the comptroller together with a certificate stating the amount due
23 thereunder, and the amount so fixed shall be paid out of the state trea-
24 sury after audit by the comptroller from moneys appropriated for the
25 acquisition of property under this section. As used in this subdivision,
26 the term "commercial property" shall include property owned by an indi-
27 vidual, family, partnership, corporation, association or a nonprofit
28 organization and includes a farm operation. As used in this subdivision,
29 the term "business" means any lawful activity, except a farm operation,
30 conducted primarily for the purchase, sale, lease and rental of personal
31 and real property, and for the manufacture, processing or marketing of
32 products, commodities, or any other personal property; for the sale of
33 services to the public; or by a nonprofit organization.

34 10. Authorization is hereby given for the reimbursement to the person
35 or other entity entitled thereto, as determined by the [corporation]
36 COMMISSIONER, of an amount, separately computed and stated, representing
37 the following incidental expenses to the owner of property acquired
38 pursuant to this section:

39 (a) Any recording fees, transfer taxes and other similar expenses in
40 connection with the acquisition of the property by the state[, including
41 the corporation,] or in connection with the transfer of the property to
42 the state[, including the corporation]; and

43 (b) Any penalty costs, incurred by the owner of property acquired by
44 the state[, including the corporation,] for prepayment of any pre-exist-
45 ing recorded mortgage entered into in good faith encumbering such prop-
46 erty.

47 In the event that there shall be a final judgment by a court of compe-
48 tent jurisdiction that the commissioner [of transportation or the corpo-
49 ration as the case may be,] was not legally authorized to acquire prop-
50 erty, or a portion of such property, pursuant to this section; or the
51 commissioner [or the corporation] denies that there was any taking of
52 property, makes no offer to settle the value of the claim for such prop-
53 erty and there shall be a final judgment by a court of competent juris-
54 diction that the commissioner [or the corporation] did in fact take such
55 property; or the procedure to acquire such property is abandoned by the
56 commissioner [or the corporation]; authorization is hereby given for the

1 reimbursement to the person or other entity entitled thereto, as deter-
2 mined by the commissioner [or the corporation], of an amount, separately
3 computed and stated, for reasonable costs, disbursements and expenses,
4 including reasonable attorney, appraisal and engineering fees, actually
5 incurred by such person or other entity because of the acquisition
6 procedure.

7 Application for either of such reimbursements shall be made to the
8 [corporation] DEPARTMENT upon forms prescribed by [it] THE COMMISSIONER
9 and shall be accompanied by such information and evidence as the [corpo-
10 ration] COMMISSIONER may require. Upon approval of such application, the
11 [corporation] COMMISSIONER shall deliver a copy thereof to the comp-
12 troller together with a certificate stating the amount due thereunder,
13 and the amount so fixed shall be paid out of funds available for this
14 purpose.

15 11. Authorization is hereby given to the [corporation] COMMISSIONER to
16 make supplemental relocation payments, separately computed and stated,
17 to displaced owners and tenants of residential property acquired pursu-
18 ant to this section who are entitled thereto, as determined by such
19 [corporation] COMMISSIONER. The [corporation] COMMISSIONER may establish
20 and from time to time amend rules and regulations providing for such
21 supplemental relocation payments. Such rules and regulations may further
22 define the terms used in this subdivision. In the case of property
23 acquired pursuant to this section which is improved by a dwelling actu-
24 ally owned and occupied by the displaced owner for not less than one
25 hundred eighty days immediately prior to initiation of negotiations for
26 the acquisition of such property, such payment to such owner shall not
27 exceed fifteen thousand dollars. Such payment shall be the amount, if
28 any, which, when added to the acquisition payment equals the average
29 price, established by the [corporation] COMMISSIONER on a class, group
30 or individual basis, required to obtain a comparable replacement dwell-
31 ing that is decent, safe and sanitary to accommodate the displaced
32 owner, reasonably accessible to public services and places of employment
33 and available on the private market, but in no event shall such payment
34 exceed the difference between acquisition payment and the actual
35 purchase price of the replacement dwelling. Such payment shall include
36 an amount which will compensate such displaced owner for any increased
37 interest costs which such person is required to pay for financing the
38 acquisition of any such comparable replacement dwelling. Such amount
39 shall be paid only if the dwelling acquired pursuant to this section was
40 encumbered by a bona fide mortgage which was a valid lien on such dwell-
41 ing for not less than one hundred eighty days prior to the initiation of
42 negotiations for the acquisition of such dwelling. Such amount shall be
43 equal to the excess in the aggregate interest and other debt service
44 costs of that amount of the principal of the mortgage on the replacement
45 dwelling which is equal to the unpaid balance of the mortgage on the
46 acquired dwelling, over the remaining term of the mortgage on the
47 acquired dwelling, reduced to discounted present value. The discount
48 rate shall be the prevailing interest rate paid on savings deposits by
49 commercial banks in the general area in which the replacement dwelling
50 is located. Any such mortgage interest differential payment shall,
51 notwithstanding the provisions of section twenty-six-b of the general
52 construction law, be in lieu of and in full satisfaction of the require-
53 ments of such section. Such payment shall include reasonable expenses
54 incurred by such displaced owner for evidence of title, recording fees
55 and other closing costs incident to the purchase of the replacement
56 dwelling, but not including prepaid expenses. Such payment shall be made

1 only to a displaced owner who purchases and occupies a replacement
2 dwelling which is decent, safe and sanitary within one year subsequent
3 to the date on which he OR SHE is required to move from the dwelling
4 acquired pursuant to this section or the date on which he OR SHE
5 receives from the state final payment of all costs of the acquired
6 dwelling, whichever occurs later, except advance payment of such amount
7 may be made in hardship cases. In the case of property acquired pursuant
8 to this section from which an individual or family, not otherwise eligi-
9 ble to receive a payment pursuant to the above provisions of this subdivi-
10 sion, is displaced from any dwelling thereon which has been actually
11 and lawfully occupied by such individual or family for not less than
12 ninety days immediately prior to the initiation of negotiations for the
13 acquisition of such property, such payment to such individual or family
14 shall not exceed four thousand dollars. Such payment shall be the amount
15 which is necessary to enable such individual or family to lease or rent
16 for a period not to exceed four years, a decent, safe and sanitary
17 dwelling of standards adequate to accommodate such individual or family
18 in areas not generally less desirable in regard to public utilities and
19 public and commercial facilities and reasonably accessible to his OR HER
20 place of employment, but shall not exceed four thousand dollars, or to
21 make the down payment, including reasonable expenses incurred by such
22 individual or family for evidence of title, recording fees, and other
23 closing costs incident to the purchase of the replacement dwelling, but
24 not including prepaid expenses, on the purchase of a decent, safe and
25 sanitary dwelling of standards adequate to accommodate such individual
26 or family in areas not generally less desirable in regard to public
27 utilities and public and commercial facilities, but shall not exceed
28 four thousand dollars, except if such amount exceeds two thousand
29 dollars, such person must equally match any such amount in excess of two
30 thousand dollars, in making the down payment. Such payments may be made
31 in installments as determined by the [corporation] COMMISSIONER. Appli-
32 cation for payment under this subdivision shall be made to the [corpo-
33 ration] DEPARTMENT upon forms prescribed by [such corporation] THE
34 COMMISSIONER and shall be accompanied by such information and evidence
35 as the [corporation] COMMISSIONER may require. Upon approval of such
36 application, the [corporation] COMMISSIONER shall deliver a copy thereof
37 to the comptroller, together with a certificate stating the amount due
38 thereunder, and the amount so fixed shall be paid out of funds available
39 for such purpose.

40 12. The owner of any property, easements, interests or rights appro-
41 priated, may present to the court of claims a claim for the value of
42 such property appropriated and for legal damages as provided by law for
43 the filing of claims with the court of claims. Payment of such awards
44 and judgments of the court of claims shall be made in the manner now
45 prescribed by law.

46 13. If the work of improvement, maintenance, control, management or
47 repair of the canal system causes damage to property not acquired as
48 above provided, the state shall be liable therefor, but this provision
49 shall not be deemed to create any liability not already existing by
50 statute. Claims for such damage may be adjusted by the [corporation]
51 COMMISSIONER, if the amounts thereof can be agreed upon with the persons
52 making such claims, and any amount so agreed upon shall be paid as a
53 part of the cost of such improvement, maintenance, control, management
54 or repair as prescribed by this section. If the amount of any such claim
55 is not agreed upon, such claim may be presented pursuant to the eminent
56 domain procedure law to the court of claims which is hereby authorized

1 to hear such claim and determine if the amount of such claim or any part
2 thereof is a legal claim against the state, and, if it so determines, to
3 make an award and enter judgment thereon against the state, provided,
4 however, that such claim is filed with the court of claims within three
5 years after the accrual of such claim.

6 14. Notwithstanding any other provision of this section, the [corpo-
7 ration or the] commissioner [of transportation at the request of the
8 corporation] shall have the power to acquire by grant or purchase, in
9 the name of the people of the state of New York, any property which he
10 or [the corporation] SHE deems necessary for any of the purposes
11 provided for in this section, and payment therefor, if any, shall be
12 made in the manner prescribed in this section for the payment of
13 adjusted appropriation claims, provided, however, that no real property
14 shall be so acquired unless the title thereto shall be approved by the
15 attorney general.

16 15. The expense of the acquisition of property, including the cost of
17 making surveys, preparing descriptions and maps of property to be
18 acquired, and of administrative duties in connection therewith, serving
19 notices of appropriation, publication, making appraisals and agreements
20 and of searches ordered and examinations and readings and approval of
21 titles made by the attorney general, and expenses incurred by the
22 [corporation or the] commissioner [of transportation at the request of
23 the corporation] and attorney general in proceedings for the removal of
24 owners or occupants, shall be deemed a part of the cost of operation of
25 the respective offices where such employees are engaged or of the
26 department having charge of such matters and shall be paid from moneys
27 appropriated for the operation of such offices. If a special fund has
28 been set up to provide for the acquisition of property, then such
29 expense involved may be made payable from such fund.

30 16. Notwithstanding the provisions of any general, special or local
31 law, the [corporation or the] commissioner [of transportation at the
32 request of the corporation], his or [its] HER officers, agents or
33 contractors when engaged on work connected with the canal system, as
34 described in subdivision one of this section, may, pursuant to the
35 provisions of the eminent domain procedure law, enter upon any property
36 for the purpose of making surveys, test pits, test borings, or other
37 investigations and also for temporary occupancy during construction.
38 Claims for any damage caused by such entry, work or occupation not
39 exceeding two thousand five hundred dollars may be adjusted by agreement
40 by the [corporation or the] commissioner [of transportation at the
41 request of the corporation] with the owner of the property affected as
42 determined by him or [such corporation] HER by reasonable investigation
43 without appropriating such property. Upon making any such adjustment and
44 agreement, the [corporation or the] commissioner [of transportation]
45 shall deliver to the comptroller such agreement and a certificate stat-
46 ing the amount due such owner and the amount so fixed shall be paid out
47 of the funds available for such purpose.

48 17. If the [corporation] COMMISSIONER shall determine subsequent to
49 the acquisition of a temporary easement right in property and subsequent
50 to the filing of a description and map of such property in the office of
51 the county clerk or register, as aforesaid, that the purposes for which
52 such easement right was acquired have been accomplished and that the use
53 and occupancy of said property for canal purposes are no longer neces-
54 sary, and that, therefore, the term of such easement should be further
55 limited, or if the appropriation of such easement was for an indefinite
56 period, that such period should be fixed and determined, or that the

1 period of such easement has by its terms expired, the [corporation]
2 COMMISSIONER shall make [its] HIS OR HER certificate that the use and
3 occupancy of such property for canal purposes are no longer necessary,
4 that the property in which such easement right was acquired is surren-
5 dered back to the affected owner of said property and that such easement
6 right is thereupon terminated, released and extinguished. The [corpo-
7 ration] COMMISSIONER shall cause a copy of such certificate to be filed
8 in the office of the department of state. Upon the filing of such
9 certificate in the office of the department of state all rights acquired
10 by the state in such property shall cease and determine. The [corpo-
11 ration] COMMISSIONER shall cause a copy of such certificate together
12 with notice of the filing thereof in the office of the department of
13 state to be mailed to the owner or owners of the property affected, as
14 certified by the attorney general, if the place of residence of such
15 owner or owners is known or can be ascertained by a reasonable effort. A
16 further copy of such certificate and notice of filing shall be filed in
17 the office of the recording officer of each county wherein the property
18 affected is situated. On the filing of such certificate and notice with
19 such officer it shall be the duty of such officer to record same in the
20 books used for recording deeds in the office of such officer.

21 18. Notwithstanding any other provision of this section, the [corpo-
22 ration] COMMISSIONER shall have the power to acquire by grant or
23 purchase, in the name of the people of the state of New York, any prop-
24 erty which [it] HE OR SHE deems necessary for any of the purposes
25 provided for in this section and may also acquire for such purposes from
26 the Palisades interstate park commission, in the name of the people of
27 the state of New York, such lands and such easements, licenses, permits
28 and other rights over lands as the said commission is authorized to
29 grant, sell, exchange or convey. When the acquisition by appropriation,
30 grant or purchase of property deemed necessary for canal purposes would
31 result in substantial consequential damages to the owner's remaining
32 property, due to loss of access, severance or control of access, the
33 [corporation] COMMISSIONER, for and on behalf of the people of the state
34 of New York, may acquire by purchase or grant all or any portion of such
35 remaining property. Payment therefor, if any, shall be made in the
36 manner prescribed in this section for the payment of adjusted appropri-
37 ation claims, provided, however, that no real property shall be so
38 acquired unless the title thereto shall be approved by the attorney
39 general.

40 S 20. Section 41 of the canal law, as amended by chapter 335 of the
41 laws of 2001, is amended to read as follows:

42 S 41. Acquisition of cemeteries. Whenever in the judgment of the
43 [corporation] COMMISSIONER, it is necessary for the purposes of improv-
44 ing, maintaining or repairing the canal system, to appropriate any prop-
45 erty occupied by graves, burial places, cemeteries or other places of
46 interment of human remains, the [corporation] COMMISSIONER may acquire
47 such property in the manner and by the method prescribed by this arti-
48 cle. [It] HE OR SHE shall cause the removal of all such remains to any
49 other cemetery or burial place, whether private or public, as the board
50 of trustees or governing body of such burial place or burial ground
51 shall designate. All removals and transportation of such human remains
52 shall be done in accordance with the provisions of the public health
53 law. Whenever any person or persons legally entitled to direct as to the
54 disposition of any human remains exhumed or to be exhumed from any ceme-
55 tery, burial place or graves as herein provided, desires to remove the
56 same for reinterment to any burial plot or cemetery not within the same

1 county from which such remains were exhumed, such person or persons so
2 entitled to designate such other burial place or plot shall be permitted
3 to remove such exhumed remains from such county subject to the written
4 consent of the [corporation] COMMISSIONER and provisions of the public
5 health law, but no portion of the expense of such transportation or
6 burial in another county shall be borne by the state [or the corpo-
7 ration].

8 S 21. Section 42 of the canal law, as amended by chapter 335 of the
9 laws of 2001, is amended to read as follows:

10 S 42. Removal of encroachments. The [corporation] COMMISSIONER is
11 authorized to cause to be removed from canal property any building, part
12 of a building or structure erected, placed, maintained or otherwise
13 occupying such canal property, if, in [its] HIS OR HER opinion, the
14 removal is necessary for the improvement, use, maintenance, control,
15 management, repair or operation of the canal system. It shall be the
16 duty of any person owning or maintaining such a building, part of a
17 building or structure to remove the same within thirty days from the
18 service by the [corporation] COMMISSIONER upon said person of a notice
19 ordering its removal. Upon the failure of the person so ordered to
20 remove the building, part of a building or structure, the [corporation]
21 COMMISSIONER may, without liability on the part of the state [or the
22 corporation], take whatever action [it] HE OR SHE may deem necessary to
23 cause the removal. Service of the order of removal must be personal if
24 the person to be served can be found within the state. If the [corpo-
25 ration] COMMISSIONER shall not be able to serve such notice or cause the
26 same to be served on the [said] SUCH person within the state after
27 making a reasonable effort so to do, service may be made by attaching
28 such notice to the [said] SUCH building, part of a building or struc-
29 ture.

30 S 22. Section 43 of the canal law, as amended by chapter 335 of the
31 laws of 2001, is amended to read as follows:

32 S 43. Exchange of property. In order to facilitate the acquisition of
33 property as defined in this article, and which, in the judgment of the
34 [corporation] COMMISSIONER, will be in the public interest and necessary
35 for canal purposes, payment for such property may be made by means of an
36 exchange therefor of property found to be no longer necessary or useful
37 as a part of the barge canal system, or as an aid to navigation thereon,
38 or for barge canal terminal purposes. The property to be so acquired
39 shall be of at least equal value to that of such property to be
40 exchanged. The [corporation] COMMISSIONER is authorized and empowered to
41 enter into an agreement with the owner or owners of such property to be
42 so acquired, upon such terms and conditions as to such [corporation]
43 COMMISSIONER shall seem appropriate and proper to accomplish such
44 purpose.

45 In all such cases, the property so to be exchanged shall first be
46 declared abandoned by official order of the [corporation] COMMISSIONER
47 which order shall set forth the benefits to be obtained by such
48 exchange. In such abandonment it shall be unnecessary to conform to the
49 provisions for abandonment made in section fifty-one of this chapter.
50 The agreement and the title to the property to be acquired shall be
51 subject to the approval of the attorney-general. Upon the approval of
52 title by the attorney-general, the [corporation] COMMISSIONER is author-
53 ized and empowered to execute in the name of the people of the state of
54 New York, a quit-claim deed to effectuate such exchange, which shall be
55 subject to the approval of the attorney-general. The deed so executed,
56 before becoming effective, shall be recorded in the office of the secre-

1 tary of state. Compensation on account of excess value if any, of the
2 lands so acquired shall be adjusted and paid in the manner provided by
3 section forty of this article, as in the case of property taken by
4 appropriation.

5 S 23. Section 50 of the canal law, as amended by chapter 335 of the
6 laws of 2001, is amended to read as follows:

7 S 50. Authority to abandon canal lands. 1. Authority is hereby
8 conferred upon the [corporation] COMMISSIONER to abandon any portion of
9 barge canal lands, barge canal terminal lands, or old canal lands and
10 appertaining structures constituting the canal system prior to the barge
11 canal improvement, which have or may become no longer necessary or
12 useful as a part of the barge canal system, as an aid to navigation
13 thereon, or for barge canal terminal purposes. This authority, however,
14 shall not include the abandonment of a barge canal terminal unless such
15 terminal has been by a special act of the legislature previously deter-
16 mined to have become no longer necessary or useful as a part of the
17 barge canal system, as an aid to navigation thereon, or for barge canal
18 terminal purposes.

19 2. Abandonments authorized pursuant to this section shall be subject
20 to the provisions of subdivision seventeen of section ten of this chap-
21 ter.

22 S 24. Section 51 of the canal law, as amended by chapter 44 of the
23 laws of 2009, is amended to read as follows:

24 S 51. Method of abandonment. Prior to the exercising of such authority
25 of abandonment, however, the [corporation] COMMISSIONER shall cause a
26 notice of any proposed abandonment to be transmitted to the commission
27 and to be published once each week for three successive weeks in a news-
28 paper published in the county wherein such lands are located, except
29 that such publication shall appear in a newspaper published in the muni-
30 cipality or locality wherein such lands are located when there is a
31 newspaper published in such municipality or locality. Such notice shall
32 describe the lands proposed to be abandoned with sufficient certainty to
33 identify them and invite interested parties to file written statements
34 either supporting or opposing the proposed abandonment. Upon the expira-
35 tion of the period of publishing said notice, when it is the case that
36 the assessment for such lands proposed for abandonment is equal to or
37 greater than fifty thousand dollars, the [corporation] COMMISSIONER
38 shall hold a hearing at which evidence or further information may be
39 submitted. A record shall be made of all evidence submitted at such
40 hearing. If no hearing shall appear to the [corporation] COMMISSIONER to
41 be warranted or subsequent to such hearing, should one be held, the
42 [corporation] COMMISSIONER may in [its] HIS OR HER discretion declare
43 such lands abandoned for the purposes of the canal system. The [corpo-
44 ration] COMMISSIONER shall thereupon issue an official order abandoning
45 the lands for canal purposes together with a map and description of the
46 lands abandoned and dispose of any portion of canal lands so abandoned.
47 Any money realized from the sale of such land shall be deposited into
48 the canal fund.

49 S 25. Section 53 of the canal law, as amended by chapter 335 of the
50 laws of 2001, is amended to read as follows:

51 S 53. Sale of abandoned lands for railroad bridges. Whenever any canal
52 lands, as defined in article one of this chapter, are required in
53 connection with any railroad bridge which has been or which is to be
54 constructed, reconstructed or raised by or for a railroad corporation
55 over that portion of the barge canal, which has been or which will be
56 improved by the use of moneys allotted or to be allotted to the state by

1 the federal government in accordance with chapter six hundred eighty-
2 eight of the laws of nineteen hundred thirty-four, the [corporation]
3 COMMISSIONER may issue an official order abandoning the lands for canal
4 purposes. Upon a written request by the railroad corporation, and
5 notwithstanding the provisions of any general or special law, the
6 [corporation] COMMISSIONER is authorized to grant and convey such land
7 to said railroad corporation for and on behalf of the people of the
8 state of New York for the purposes mentioned and for a nominal or other
9 consideration and upon such terms and conditions which he OR SHE shall
10 deem to be beneficial to the state. Such instrument of grant and convey-
11 ance shall become effective when it is recorded in the office of the
12 secretary of state. Any moneys realized from the sale of such land shall
13 be deposited into the canal fund.

14 S 26. Section 54 of the canal law, as amended by chapter 335 of the
15 laws of 2001, is amended to read as follows:

16 S 54. Abandonment and sale of hydropower easements; agreements with
17 hydropower developers. 1. Notwithstanding subdivision two of section
18 three or section fifty of the public lands law or section fifty, fifty-
19 one or fifty-two of this article, upon request of a person licensed
20 under Part I of the Federal Power Act (16 USC S 791a-823a) to develop
21 and operate a hydropower project at a site on the barge canal system,
22 the [corporation] COMMISSIONER may adopt an order abandoning a hydropow-
23 er easement in barge canal system lands and waters which are within the
24 boundaries of such federally licensed project, upon finding the property
25 rights under such easement to be no longer necessary or useful as a part
26 of the barge canal system, as an aid to navigation thereon, or for barge
27 canal terminal purposes. Upon adoption of such order, and with the
28 approval of the governor, the [corporation] COMMISSIONER may sell and
29 convey such easement at private sale to such licensed developer. Such
30 hydropower easements shall be sold for a price to be determined by the
31 [corporation] COMMISSIONER taking into consideration the value of obli-
32 gations to be assumed by such licensed developer, the value of the
33 rights granted to such developer to use canal system lands, waters and
34 facilities for hydropower project purposes and any other appropriate
35 factors.

36 2. Any hydropower easement abandoned, sold and conveyed pursuant to
37 subdivision one of this section shall be limited as follows:

38 (a) The easement shall convey only those rights necessary and conven-
39 ient for the development and generation of hydropower pursuant to the
40 provisions of the applicable federal hydropower license and only within
41 the boundaries of the hydropower project as licensed.

42 (b) The easement shall be subservient to the fee retained by the
43 state.

44 (c) The easement shall not give the owner the right to interfere with,
45 either by act or omission, the management and control by the state[,
46 through the corporation,] of the barge canal system.

47 (d) The easement shall provide that it shall revert to the state under
48 terms and conditions to be determined by the [corporation] COMMISSIONER
49 in the event that the site ceases to be used for purposes of hydropower
50 development and generation.

51 3. The [corporation] COMMISSIONER may also enter into agreements with
52 such a licensed developer regarding the division of maintenance respon-
53 sibility for structures, facilities or other property which serve both
54 hydropower generation and barge canal system purposes and regarding
55 other matters concerning joint operation at the site. Such agreements
56 may provide for the payment to the [corporation] DEPARTMENT of reason-

1 able compensation for services rendered by the [corporation] DEPARTMENT
2 which assist or otherwise further the development of hydropower on the
3 barge canal system. In addition, the [corporation] COMMISSIONER, subject
4 to the approval of the director of the budget, may enter into a written
5 agreement with a licensed developer or operator at any site concerning
6 the sharing of costs for a major capital improvement or improvements at
7 such site. Should the contract for such improvement or improvements be
8 let and awarded by the [corporation] COMMISSIONER, the state comptroller
9 is authorized to receive and accept from the developer or operator, the
10 sum or sums specified in such agreement and to disburse the same along
11 with state funds appropriated for the purpose of such capital improve-
12 ment or improvements.

13 4. Any revenue realized from the sale or lease of hydropower easements
14 shall be deposited into the canal fund.

15 S 27. Section 55 of the canal law, as amended by chapter 335 of the
16 laws of 2001, is amended to read as follows:

17 S 55. Authority to lease land. 1. The [corporation] COMMISSIONER is
18 hereby authorized, after review and comment by the commission as to
19 consistency with the canal recreationway plan approved pursuant to
20 section one hundred thirty-eight-c of this chapter and section three
21 hundred eighty-two of the public authorities law, to enter into leases
22 of canal lands, canal terminals, and canal terminal lands which are
23 consistent with the canal recreationway plan. Such review and comment
24 shall be provided within the time period set forth in the procedures of
25 the commission established pursuant to section one hundred
26 thirty-eight-b of this chapter which shall be no more than sixty days.

27 2. Lands to be leased shall be determined by the [corporation] COMMIS-
28 SIONER to have no essential purpose for navigation.

29 3. Leases of canal lands, canal terminals and canal terminal lands
30 shall be for purposes which are consistent with the New York state canal
31 recreationway plan approved pursuant to section one hundred thirty-
32 eight-c of this chapter and section three hundred eighty-two of the
33 public authorities law.

34 4. The [corporation] COMMISSIONER shall consider fully completed
35 applications for leases of canal lands, canal terminals and canal termi-
36 nal lands in such form and manner as the [corporation] COMMISSIONER
37 shall prescribe.

38 5. Canal lands, canal terminals and canal terminal lands within the
39 Adirondack park shall not be leased.

40 6. The [corporation] COMMISSIONER shall provide assistance, including
41 reasonable access to lands, as may be necessary to assist potential
42 applicants in preparing an application.

43 7. The [corporation] COMMISSIONER may require an applicant for a lease
44 to provide necessary property surveys, environmental studies, maps and
45 photographs, site plans and such other documents and studies as the
46 [corporation] COMMISSIONER may determine to be necessary to ascertain
47 the compatibility of proposed development with the New York state canal
48 recreationway plan and for the [corporation] COMMISSIONER to select a
49 qualified lessee.

50 8. Revenues realized from the lease of canal lands, canal terminals
51 and canal terminal lands shall be deposited into the canal fund.

52 S 28. Section 56 of the canal law, as amended by chapter 335 of the
53 laws of 2001, is amended to read as follows:

54 S 56. Conditions and terms of leases. Leases for canal lands, canal
55 terminals and canal terminal lands shall include:

1 1. the period of time for such leases, provided that the initial term
2 of such leases may not exceed forty years, and renewals of such leases
3 may not exceed an additional forty years beyond such initial terms;

4 2. requirements that the lessee take no actions or construct no
5 improvements that will interfere with navigation, except that if the
6 [corporation] COMMISSIONER determines that any potential adverse inter-
7 ference with navigation can be reasonably mitigated, the [corporation]
8 COMMISSIONER shall include in the lease such requirements as may be
9 necessary to effectuate mitigation of impediments to navigation;

10 3. proper covenants to assure the payment of adequate consideration
11 for the interests leased, and to further protect the state [and the
12 corporation] as is deemed necessary by the [corporation] COMMISSIONER;

13 4. provisions requiring that payments on the lease shall be paid to
14 the [corporation] DEPARTMENT;

15 5. provisions relating to public access, where feasible, to lands and
16 waters of the canal system; provided however that the [corporation]
17 COMMISSIONER may require that public access be restricted in those cases
18 where the [corporation] COMMISSIONER determines that public safety will
19 be served by such restriction;

20 6. provisions providing a right of entry for commission and [corpo-
21 ration] DEPARTMENT members and personnel and equipment for canal
22 purposes; and

23 7. such other terms as the [corporation] COMMISSIONER shall determine
24 are necessary and appropriate for the implementation of this article and
25 the preservation of the state's interest in the canal system.

26 S 29. Section 57 of the canal law, as amended by chapter 335 of the
27 laws of 2001, is amended to read as follows:

28 S 57. Special conditions for leases entered prior to approval of canal
29 recreationway plan. 1. In the period between the effective date of this
30 section and the completion of the canal recreationway plan, the commis-
31 sion shall review and comment on proposed leases with respect to the
32 consistency of such leases with the provisions of this article. Where
33 local zoning laws and zoning ordinances are in effect on lands proposed
34 to be leased or on lands adjacent to those lands proposed to be leased,
35 during such period the commission shall also review and comment on
36 proposed leases with respect to the compatibility of such leases, to the
37 extent practicable, with the requirements of such local zoning laws and
38 zoning ordinances.

39 2. In addition to the other applicable provisions of this article, the
40 [corporation] COMMISSIONER shall ensure that: (a) the lease will benefit
41 the canal system by effectuating the development of the canal as a
42 recreationway; (b) the lease will foster a canal system characterized by
43 clusters of development and stretches of undeveloped open space which is
44 conducive to the preservation of waterfowl, fish and wildlife habitats;
45 and (c) may encourage the use of historic buildings, sites and districts
46 listed on or eligible for the state or national registers of historic
47 places.

48 S 30. Section 60 of the canal law, as amended by chapter 420 of the
49 laws of 1968, is amended to read as follows:

50 S 60. Alteration of county roads or town highways. Whenever the
51 commissioner [of transportation] shall deem it necessary to discontinue
52 or alter any part of a county road or town highway because of its inter-
53 ference with the proper location or construction of any work on the
54 canal system either of [improvement, maintance,] IMPROVEMENT, MAINTENANCE
55 or repair he OR SHE shall direct such discontinuance or alteration to be
56 made and file in the office of the clerk of the county or town in which

1 such road or highway is situate, an accurate description of the part of
2 such road or highway so discontinued and of the one laid out anew. From
3 the time of filing such description such road or highway shall be
4 considered so altered. The use of such old road or highway shall not be
5 discontinued until the new road or highway is declared open for public
6 use by the commissioner [of transportation], and a certificate to such
7 effect filed in the office of the clerk of the county or town in which
8 said road or highway is located. Every alteration made on any public
9 road located upon the canal system before the first day of January,
10 nineteen hundred and thirty-nine shall be deemed valid in law from the
11 time of such alteration.

12 S 31. Section 61 of the canal law, as amended by chapter 420 of the
13 laws of 1968, is amended to read as follows:

14 S 61. Farm and road bridges. The commissioner [of transportation] is
15 authorized and required to maintain until April first, nineteen hundred
16 fifty-four, at public expense farm, road and street bridges over the
17 canal system, in all places where such bridges were constructed prior to
18 the twentieth day of April, eighteen hundred thirty-nine, if, in his OR
19 HER opinion, the public convenience requires that they should be contin-
20 ued, whether heretofore maintained at the expense of the state or of the
21 counties, towns, villages and cities where they are situate, provided,
22 however, that commencing on the first day of April, nineteen hundred
23 fifty-four, and continuing thereafter, the maintenance, repair, improve-
24 ment, replacement or closing of any such bridge over any section of the
25 canal heretofore abandoned or which may hereafter be abandoned shall be
26 governed by the provisions of the highway law, except that any such
27 bridges situate in a city shall be maintained, repaired, improved,
28 replaced or closed in the same manner and subject to the same provisions
29 of law as apply to other streets and bridges in such city.

30 S 32. Section 62 of the canal law, as amended by chapter 335 of the
31 laws of 2001, is amended to read as follows:

32 S 62. Maintenance by state of certain bridges over the canal system.
33 All highway or pedestrian, lift or movable bridges over the canal system
34 other than highway bridges connecting parts of a state highway hereto-
35 fore constructed as a part of the barge canal improvement shall be
36 reconstructed, improved, maintained and repaired at the expense of the
37 state, if in the opinion of the commissioner [of transportation], the
38 public convenience requires such bridges to be maintained where no
39 alternate crossing has been provided. In the event the commissioner [of
40 transportation] determines that any such bridge is no longer required
41 for the convenience of the public, he OR SHE shall have power to close,
42 remove or relocate such bridge. The commissioner [of transportation]
43 shall have the supervision and direction of such reconstruction,
44 improvement, maintenance, repair, closing, removing or relocation. All
45 bridges over the canal system other than lift, movable, pedestrian or
46 state highway bridges heretofore constructed as part of the barge canal
47 improvement shall be reconstructed, improved, maintained and repaired at
48 the expense of the state under the supervision and direction of the
49 commissioner [of transportation], if, in his OR HER opinion, the public
50 convenience requires that each such bridge shall be continued as a
51 bridge for highway traffic. In the event the commissioner [of transpor-
52 tation] is requested by any municipality to reconstruct or improve any
53 such bridge, he OR SHE is hereby empowered to do so, provided, however,
54 that prior to such reconstruction or improvement the municipality enters
55 into a written agreement that such bridge thereafter shall become a part
56 of the highway system or systems which it may connect and the mainte-

1 nance, repair, improvement, replacement or closing of any such bridge
2 shall be governed by the provisions of the highway law, except that any
3 such bridges situate in a city shall be maintained, repaired, improved,
4 replaced or closed in the same manner and subject to the provisions of
5 any special law which may apply or to the same provisions of law as
6 apply to other streets and bridges in such city or in the case of such
7 bridges situate in a village, such bridges shall be maintained,
8 repaired, improved, replaced or closed in the same manner and subject to
9 the same provisions of law as apply to other streets and bridges in such
10 village. Any bridge over the New York state canal system or abandoned
11 part thereof which joins parts of a state highway shall be under the
12 jurisdiction of the commissioner [of transportation] and deemed to be
13 part of the state highway system and such bridges shall be constructed,
14 reconstructed, improved, maintained, repaired, closed or relocated
15 pursuant to the provisions of the highway law and the cost of such work
16 shall be paid from moneys available for construction, reconstruction,
17 improvement, maintenance or repair of state highways.

18 S 33. Section 63 of the canal law, as amended by chapter 420 of the
19 laws of 1968, is amended to read as follows:

20 S 63. Maintenance by state of alteration to certain highway bridges
21 not state owned. When in the canalization of a natural waterway to form
22 a part of the canal system it has been or may be necessary to alter an
23 existing highway bridge spanning the canalized portion of the waterway,
24 the maintenance and repair of the additional or new part or parts of
25 such bridge structure which may have been or may be necessary in alter-
26 ing the bridge to meet the requirements of navigation, shall be an obli-
27 gation of the state. The commissioner [of transportation] shall have
28 supervision and direction over such maintenance or repairs, the cost of
29 which shall be defrayed from moneys appropriated for the improvement,
30 maintenance and repair of the canal system.

31 S 34. Section 64 of the canal law, as amended by chapter 420 of the
32 laws of 1968, is amended to read as follows:

33 S 64. Commutation for bridges. The commissioner [of transportation]
34 may commute with owners and claimants of bridges over any canal, by
35 paying such owner or claimant such sum in lieu of a bridge as may be
36 agreed on between the claimant and the commissioner [of transportation].
37 If, in the opinion of the commissioner [of transportation], a bridge
38 should not be rebuilt, and the amount to be paid be not agreed upon, the
39 bridge shall not be built, but the damages sustained by such owner by
40 being deprived of such bridge and which the state under all the circum-
41 stances ought of right to pay, shall be ascertained in the same manner
42 as damages for the appropriation of real property, for the use of the
43 canal and paid by the commissioner [of transportation], on the approval
44 of the attorney-general. If the damages claimed are for the deprivation
45 of a bridge which the claimant had before constructed or maintained, the
46 circumstance of his OR HER being equitably bound to contribute propor-
47 tionately toward the construction and maintenance of an enlarged bridge
48 shall be taken into consideration and a proper amount of that account
49 shall be set off against any damage to which the claimant might other-
50 wise be entitled.

51 S 35. Section 65 of the canal law, as amended by chapter 420 of the
52 laws of 1968, is amended to read as follows:

53 S 65. Private road in lieu of farm bridges. If the commissioner [of
54 transportation] cannot agree with the owner of a farm bridge spanning a
55 canal as to the amount of commutation in any case where he OR SHE is of
56 the opinion that the state should erect such bridge, and the commission-

1 er [of transportation] determines that a private road through adjoining
2 lands will sufficiently accommodate such owner, and that the same can be
3 laid out with economy to the state, he OR SHE may take the necessary
4 action to lay out a private road for the accommodation of the owner, in
5 the manner prescribed by law for laying out private roads and pay to the
6 owner of the lands through which the same is laid out, the damages
7 assessed.

8 S 36. Section 66 of the canal law, as amended by chapter 420 of the
9 laws of 1968, is amended to read as follows:

10 S 66. Restrictions on the construction of farm and road bridges. A
11 person shall not be entitled to demand a farm bridge across a canal or
12 feeder where the necessity of convenience of such bridge shall have
13 arisen from the division or acquisition of property subsequent to the
14 location of such canal or feeder. A street or road bridge shall not be
15 constructed by the commissioner [of transportation] over a canal or
16 feeder, except upon such streets or roads as were laid out, worked or
17 used, previously to the construction of the canal or feeder, by which
18 such street or road is obstructed; and when bridges are constructed or
19 reconstructed upon any such streets or roads, the cost to the state
20 shall in no case be more than is required to preserve in a safe and
21 substantial manner the continuity of such streets or roads so as not to
22 unnecessarily impair their usefulness. When a bridge of a more costly
23 nature is desired by the local authorities of a city, town or village
24 within whose corporate limits a bridge is to be built or rebuilt, the
25 commissioner [of transportation], on presentation to him OR HER by such
26 local authorities of plans and specifications for such bridge and
27 approval thereof by him OR HER shall estimate and determine the propor-
28 tion of the cost, which, in order to preserve the continuity of such
29 streets and roads, the state ought equitably to pay, and file such esti-
30 mate and determination in his OR HER office and a duplicate thereof in
31 the office of the clerk of such city, town or village. If a private road
32 or public highway is laid out by legal authority in such direction as to
33 require the erection of a new bridge over a canal for the accommodation
34 of the road, such bridge shall be so constructed and forever maintained
35 at the expense of the town, village or city in which it shall be situ-
36 ated.

37 S 37. Section 67 of the canal law, as amended by chapter 420 of the
38 laws of 1968, is amended to read as follows:

39 S 67. Construction of bridges by municipal corporations. The common
40 council of any city may provide by ordinance for the erection of a lift,
41 hoist or swing bridge over a canal at any street in such city, on plans
42 and specifications approved by the commissioner [of transportation]. If
43 the commissioner [of transportation] shall consent to such erection he
44 OR SHE shall file such consent with the clerk of such common council.
45 Such bridge shall be built, operated and maintained under the super-
46 vision and control of the commissioner [of transportation], but at the
47 expense of such city or of the property adjudged by the common council
48 to be so benefited.

49 S 38. Subdivision 1 of section 68 of the canal law, as amended by
50 chapter 420 of the laws of 1968 and as designated by chapter 422 of the
51 laws of 1994, is amended to read as follows:

52 1. When a bridge spanning the Oswego canal or that portion of the Erie
53 canal between the Hudson river and its junction with the Oswego canal,
54 is to be reconstructed, or a new bridge is to be built over such
55 sections of the canal system, such reconstructed or new bridge shall be
56 so built as to provide a clear passageway between the bottom clearance

1 line of the bridge, if of the fixed type, or the bottom clearance line
2 when raised, if of the movable type, and the surface of the water at its
3 highest navigable stage of not less than twenty feet. When a bridge
4 spanning the Champlain canal, the Cayuga and Seneca canals, or that
5 portion of the Erie canal westerly of Three Rivers is to be recon-
6 structed or a new bridge is to be built over such sections of the canal
7 system, such reconstructed or new bridge shall be so built as to provide
8 a clear passageway between the bottom clearance line of the bridge, if
9 of the fixed type, or the bottom clearance line when raised, if of the
10 movable type, and the surface of the water at its highest navigable
11 stage, of not less than fifteen and one-half feet. The commissioner [of
12 transportation] may, however, if in his OR HER judgment the additional
13 cost is not unreasonable, require that such bridges be reconstructed or
14 constructed to provide a clearance of not less than twenty feet or that
15 the substructure of such bridge be so constructed that the superstruc-
16 ture may be raised to provide a clearance of twenty feet without
17 rebuilding the foundation of said substructure.

18 S 39. Section 69 of the canal law, as amended by chapter 335 of the
19 laws of 2001, is amended to read as follows:

20 S 69. Damages caused by excessive loads. The commissioner [of trans-
21 portation] shall cause, where required, the posting of all bridges under
22 his OR HER jurisdiction located on the canal system in conformity with
23 the provisions of the vehicle and traffic law. Upon all such bridges
24 incapable of safely carrying legal loads as prescribed in such law or
25 where the overhead clearance is less than the legal height of fourteen
26 feet, the commissioner [of transportation] shall have displayed on both
27 ends of such bridge signs stating the safe carrying capacity and legal
28 clearance of such structure, all in accordance with the provisions of
29 section three hundred eighty-five of the vehicle and traffic law. No
30 person shall cause to be transported over such a bridge a vehicle whose
31 load is in excess of that shown upon the posted sign or whose height is
32 in excess of the legal clearance as shown on such posted sign. Any
33 person violating the above provisions shall be subject to the penalties
34 imposed under section three hundred eighty-five of the vehicle and traf-
35 fic law and in addition thereto shall be liable for all damages to such
36 structure resulting from violation of such law. The commissioner [of
37 transportation] is hereby authorized and directed to proceed, on behalf
38 of the people of the state, to cause to be recovered, by the attorney-
39 general in an appropriate action in any court of competent jurisdiction,
40 the amount of damages sustained and expenses incurred by the state in
41 consequence of such violation.

42 S 40. Section 69-a of the canal law is REPEALED.

43 S 41. Section 70 of the canal law, as amended by chapter 335 of the
44 laws of 2001, is amended to read as follows:

45 S 70. Cargo statement. The master of any float shall furnish the
46 [corporation] COMMISSIONER or [its] HIS OR HER representative a true
47 statement of the quantity and description of the lading of such float,
48 specifying the place from which it departed and to which it is destined.
49 Any master who refuses to comply with any provision of this section
50 shall forfeit to the people of the state a penalty not to exceed one
51 hundred dollars, which shall be paid into the canal fund.

52 S 42. Section 71 of the canal law, as amended by chapter 335 of the
53 laws of 2001, is amended to read as follows:

54 S 71. Registry of canal floats. The owner of every commercial float to
55 be navigated on the canal system shall make application to the [corpo-
56 ration] COMMISSIONER for a New York state certificate of registry. The

1 application shall be in THE form prescribed by the [corporation] COMMIS-
2 SIONER and shall contain such information as the [corporation] COMMIS-
3 SIONER may deem essential for full and complete identification of the
4 float and the owner thereof. It shall be signed by the owner if an indi-
5 vidual, or by an officer of a company, partnership or corporation if so
6 owned. Upon receipt of an application in proper form, the [corporation]
7 COMMISSIONER shall assign a state registry number and issue to the owner
8 a certificate of New York state registry, a copy of which shall be
9 entered in the records of its office.

10 S 43. Section 72 of the canal law, as amended by chapter 335 of the
11 laws of 2001, is amended to read as follows:

12 S 72. Change of ownership, name or hailing place. Should the owner-
13 ship, name or hailing place of a float change after state registry, the
14 owner of the float shall make new application in form similar to that
15 required for original registry and upon receipt of such application the
16 [corporation] COMMISSIONER shall issue a new state certificate of regis-
17 try and record the same in its office. The owner or owners of a commer-
18 cial float found navigating the canal system, the ownership, name or
19 hailing place of which shall have been changed without proper applica-
20 tion for re-registry to the [corporation] COMMISSIONER, shall, upon due
21 proof thereof be subject to a penalty to the people of the state of New
22 York not to exceed one hundred dollars recoverable by the attorney
23 general in an action in any court of competent jurisdiction.

24 S 44. Section 73 of the canal law, as amended by chapter 335 of the
25 laws of 2001, is amended to read as follows:

26 S 73. Registered owner to be advised of assessments and penalties. The
27 [corporation] COMMISSIONER shall advise the person whose name appears on
28 the latest application for registry on file in [its office] THE DEPART-
29 MENT of any assessments, penalties or other charges levied against a
30 float or its crew for acts or omissions occurring while the float is on
31 the canal system. Should the registered owner fail to make prompt
32 payment of such assessments, penalties or charges, the [corporation]
33 COMMISSIONER may refuse clearance to the float and action shall be
34 instigated as provided under section eighty-three of this article.

35 S 45. Section 74 of the canal law, as amended by chapter 335 of the
36 laws of 2001, is amended to read as follows:

37 S 74. List of registered floats to be prepared. The [corporation]
38 COMMISSIONER shall make a list of all floats to which New York state
39 certificates of registry have been issued. This list shall be corrected
40 at least once in each calendar year and a copy of such corrected list
41 shall be filed in the office of each of the district engineers having
42 supervision over portions of the canal system. The list shall be filed
43 in the [office of the corporation] DEPARTMENT and shall be available to
44 public inspection within regular office hours.

45 S 46. Section 75 of the canal law, as amended by chapter 335 of the
46 laws of 2001, is amended to read as follows:

47 S 75. Clearance and ownership. Every commercial float shall have a
48 clearance. Clearances may be obtained at such places along the canal
49 system and at such other points as the [corporation] COMMISSIONER may
50 direct. No clearance shall be granted to any commercial float unless the
51 person authorized to issue such clearance has evidence that such float
52 is duly registered in the [office of the corporation] DEPARTMENT. Each
53 float shall have a separate clearance and no part of the cargo shall be
54 cleared to a place beyond which the float is cleared. The [corporation]
55 COMMISSIONER may, in [its] HIS OR HER discretion, refuse to issue a
56 clearance for a vessel against whose registered owner there is an unpaid

1 penalty involving such vessel for the violation of rules and regulations
2 adopted pursuant to this chapter.

3 S 47. Section 76 of the canal law, as amended by chapter 335 of the
4 laws of 2001, is amended to read as follows:

5 S 76. Regulations with respect to clearance. No commercial float shall
6 proceed beyond the place to which it is cleared, nor unload any of its
7 cargo, before or after its arrival, at the place from which such arti-
8 cles are cleared, nor proceed beyond such place until the master thereof
9 delivers the clearance of such float or articles to the person desig-
10 nated by the [corporation] COMMISSIONER to receive the same, at the
11 place for which they are cleared. If there is no canal official at such
12 place, then to the canal official whose office shall be passed by the
13 float in the order of its voyage, and receive permission from such canal
14 official to proceed to the place to which it is cleared.

15 S 48. Section 77 of the canal law, as amended by chapter 335 of the
16 laws of 2001, is amended to read as follows:

17 S 77. Copy of clearance. The [corporation] COMMISSIONER, or [its] HIS
18 OR HER representative issuing a clearance or with whom a clearance is
19 filed, shall, when requested, furnish a copy thereof, with any addi-
20 tional cargo entered thereupon and the several indorsements, if any,
21 which copy shall have the same validity and effect as the original
22 clearance of which it is a copy.

23 S 49. Section 78 of the canal law, as amended by chapter 335 of the
24 laws of 2001, is amended to read as follows:

25 S 78. Assignment of berths for loading or unloading. The [corporation]
26 COMMISSIONER or [its] HIS OR HER representative may assign berths to all
27 floats while loading or unloading at any landing place upon a canal and
28 determine disputes concerning same. The [corporation] COMMISSIONER,
29 shall, as to any of the locks, terminals or mooring places of the canal
30 system used by floats, regulate and station such floats for the best
31 interest of navigation. The [corporation] COMMISSIONER may determine how
32 far and in what instances masters and other persons having charge of any
33 float shall accommodate each other in their respective anchorages. If
34 any master or other person having control of any float within the limits
35 of such waters shall neglect or refuse to obey the directions of the
36 [corporation] COMMISSIONER, or [its] HIS OR HER representative, in any
37 such matters within [its] HIS OR HER authority, or shall resist or
38 oppose the [corporation] COMMISSIONER in the execution of the said
39 duties, such person shall be liable to a penalty not to exceed one
40 hundred dollars, recoverable by the [corporation] COMMISSIONER in any
41 court of competent jurisdiction, and payable into the canal fund.

42 S 50. Section 79 of the canal law, as amended by chapter 335 of the
43 laws of 2001, is amended to read as follows:

44 S 79. Floating elevators. Any person owning or leasing, in whole or in
45 part, any floating elevator used for loading grain, coal, sand, or other
46 material, shall, upon application to and in the discretion of the
47 [corporation] COMMISSIONER, be assigned a place for and permitted to
48 keep said floating elevator in the waters of the canal system of this
49 state, at such point as may be most convenient for and for such period
50 of time as may be necessary for the transaction of the business of load-
51 ing or unloading grain, coal, sand, or other material, shipped or to be
52 shipped on the canals; provided, however, that such floating elevator
53 shall cause no obstruction to the free and uninterrupted use of the
54 canal system by floats navigating thereon. While such elevators are in
55 operation, they shall be equipped with such device or devices as the

1 [corporation] COMMISSIONER may determine to prevent the material being
2 loaded or unloaded from such float, from falling into such waters.

3 S 51. Section 80 of the canal law, as amended by chapter 335 of the
4 laws of 2001, is amended to read as follows:

5 S 80. Supplying deficiencies of water. Whenever the navigation of any
6 part of the canal system is endangered by reason of a deficiency of
7 water, the [corporation] COMMISSIONER shall, without delay, supply such
8 deficiency. For that purpose [it] THE COMMISSIONER shall resume the
9 temporary use of all the surplus water leased, licensed or withdrawn
10 under revocable permit from the part of the canal system where such
11 deficiency exists. If there still be a deficiency of water, [it] THE
12 COMMISSIONER may enter upon and use all lands, streams and waters which,
13 in [its] HIS OR HER judgment, may be necessary or proper to be used to
14 procure a temporary supply of water for such part of the canal system.
15 The [corporation] COMMISSIONER may enter into an agreement with the
16 owner or owners of any property used for such temporary purpose under
17 this section covering the amount of damage sustained. Such agreement
18 when approved by the attorney-general shall become an obligation of the
19 [corporation] COMMISSIONER and paid from moneys available therefor. In
20 case no agreement is consummated the amount of damages sustained may be
21 determined as provided in section one hundred twenty of this chapter. No
22 damages shall be allowed in any case for resuming the use of any surplus
23 water which has been withdrawn under lease, license or revocable permit.

24 S 52. Section 81 of the canal law, as amended by chapter 335 of the
25 laws of 2001, is amended to read as follows:

26 S 81. Deposit of refuse in navigable waters. It shall be unlawful to
27 throw from or otherwise deposit, either from or out of any float or from
28 the shore, wharf, manufacturing establishment or mill of any kind,
29 refuse or other matter of any description, into any of the waters of the
30 canal system or into any waters dredged at public expense and used for
31 canal purposes. Every person that shall violate the provisions of this
32 section shall be subject to damages to the amount as will compensate the
33 [corporation] COMMISSIONER for the expenses involved in restoring such
34 waters to its useful condition to meet the needs of canal navigation. It
35 shall also be unlawful for any person to obstruct the navigation of a
36 canal by the improper mooring, management or conduct of a float, or by
37 placing any obstruction on the banks thereof.

38 S 53. Section 82 of the canal law, as amended by chapter 335 of the
39 laws of 2001, is amended to read as follows:

40 S 82. Seizure of obstruction. The [corporation] COMMISSIONER may cause
41 to be seized and removed any object, article, float or sunken thing
42 found within the limits of the canal system not under the care or charge
43 of any person. [It] THE COMMISSIONER shall sell or offer for sale all
44 seized objects, articles, floats or sunken things either before or after
45 their removal, as [it] HE OR SHE deems essential for maintenance of the
46 canal system. The sale shall be at public auction after giving ten days'
47 written notice of such proposed sale conspicuously posted at two public
48 places in the city or town where such object, article, float or sunken
49 thing is found unless before the time of such sale the owner thereof
50 appears and claims same and pays to the [corporation] DEPARTMENT the
51 cost and expense which has been incurred by it in connection with the
52 seizure, removal and proposed sale. The owner thereof shall be liable
53 for the cost and expense of such seizure, removal and sale of the said
54 object, article, float or sunken thing which cost and expense may be
55 recovered by the attorney-general in an appropriate action or proceeding
56 brought in the name of the people of the state in any court of competent

1 jurisdiction. The avails of such sale shall be accounted for by the
2 [corporation] COMMISSIONER to the department of taxation and finance
3 which may on the application of the owner and upon due proof of owner-
4 ship pay over such proceeds to him OR HER after deducting all costs,
5 expenses and reasonable charges of the seizure, removal and sale there-
6 of. Whenever in the opinion of the [corporation] COMMISSIONER the navi-
7 gation or operation of any part of the canal system is interrupted or
8 endangered, the [corporation] COMMISSIONER may cause to be cut up,
9 destroyed or otherwise removed any object, article, float or sunken
10 thing in or partly in the waters of the canal system which may, in its
11 judgment, be causing such interruption or damage. The [corporation]
12 COMMISSIONER may enter into an agreement with the owner or owners of any
13 property so cut up, destroyed, or otherwise removed, covering the amount
14 of damage sustained. Such agreement when approved by the attorney-gener-
15 al shall become an obligation of the [corporation] DEPARTMENT and paid
16 from moneys available therefor. In case no agreement is consummated, the
17 amount of damages sustained may be determined as provided in section one
18 hundred twenty of this chapter.

19 S 54. Section 84 of the canal law, as amended by chapter 335 of the
20 laws of 2001, is amended to read as follows:

21 S 84. Damage caused by termination of canal navigation. No part of the
22 canal system of the state which was improved pursuant to chapter seven
23 hundred ten of the laws of nineteen hundred seven and the acts supple-
24 mental thereto and amendatory thereof, shall be abandoned or navigation
25 thereof permanently closed, nor shall the state cede or transfer owner-
26 ship, jurisdiction or control thereof to the United States pursuant to
27 authority conferred by constitutional amendment, until the expiration of
28 one year after the [corporation] COMMISSIONER shall have been authorized
29 and empowered by law to cause a notice of intention to take such action
30 to be published once in each month during such year in at least one
31 newspaper published in each county adjacent to the part of such canal
32 system affected by such notice. Each person, who, at the time of the
33 first publication of such notice, is the owner of a commercial float
34 registered pursuant to the provisions of this chapter, which, at the
35 close of navigation in such year, shall have been actually engaged in
36 the navigation of the part of such canal system so abandoned, closed,
37 ceded or transferred, or so relinquished to the jurisdiction or control
38 of the United States, may present a claim for damages against the state
39 [including the corporation] to a court of competent jurisdiction, which
40 court shall hear and determine the liability [of the corporation] there-
41 for; and, if the court shall find that such person has suffered or
42 sustained damages by reason of such abandonment, closing, ceding, trans-
43 fer, or relinquishment which the [corporation] DEPARTMENT, in right and
44 justice, or in law or equity, is obligated to pay, such damages shall
45 constitute a valid and legal claim against the [corporation] DEPARTMENT,
46 and the [corporation] DEPARTMENT shall be deemed liable therefor, and
47 the court may make an award to such person and render a judgment in his
48 OR HER favor against the [corporation] DEPARTMENT in such sums as it
49 shall find to be just and equitable. It is declared to be the purpose of
50 this section to encourage and induce the construction of boats for use
51 upon such canal system and their operation thereon and to protect from
52 loss, financial investments made in such construction and operation
53 caused by an abrupt, permanent termination of navigation, or the
54 creation of conditions, which would result in the impairment, limitation
55 or destruction of navigation of such canal system by such floats.

1 S 55. Section 85 of the canal law, as amended by chapter 335 of the
2 laws of 2001, is amended to read as follows:

3 S 85. Rules and regulations. The [corporation] COMMISSIONER shall
4 prescribe and enforce rules and regulations, not inconsistent with law,
5 governing navigation on the canals and for the use of the terminals
6 connected with the canals and for the use of all other property of the
7 [corporation] DEPARTMENT under the [corporation's] COMMISSIONER OR
8 DEPARTMENT'S control and maintained as a part of the canal system. The
9 [corporation] COMMISSIONER shall provide rules and regulations for the
10 government of all employees under [its] HIS OR HER control, engaged in
11 the improvement, repair and maintenance of the canals. [It] THE COMMIS-
12 SIONER shall cause such rules and regulations to be printed and a copy
13 filed in the office of the department of state and a sufficient number
14 distributed to the various district engineers and other field officers
15 to be kept in their respective offices for public inspection.

16 S 56. Section 90 of the canal law, as amended by chapter 335 of the
17 laws of 2001, is amended to read as follows:

18 S 90. Record of operating expenses. The [corporation] COMMISSIONER
19 shall keep an accurate account of all moneys appropriated by the legis-
20 lature for the improvement, maintenance, repair and operation of the
21 canal system and shall cause to be prepared and filed in the [office of
22 the corporation] DEPARTMENT on or about January first of each year, a
23 statement showing all such moneys appropriated and how expended during
24 the preceding fiscal year. The [corporation] COMMISSIONER shall keep an
25 accurate account of the recoveries made in all actions brought by [it]
26 HIM or HER OR at [its] HIS OR HER direction, for the recovery of penal-
27 ties or damages under authority of this chapter and of the cost and
28 expenses thereof and pay into the canal fund the amount of all such
29 recoveries and account for the same with the department of audit and
30 control.

31 S 57. Section 91 of the canal law, as amended by chapter 335 of the
32 laws of 2001, is amended to read as follows:

33 S 91. Tonnage statistics. The [corporation] COMMISSIONER shall collect
34 and compile accurate records of the tonnage transported on the canals
35 during each season of navigation. Such data, together with all other
36 necessary information relative to canal transportation shall be arranged
37 in convenient form and furnished to those interested. The [corporation]
38 COMMISSIONER shall publish from time to time such data and information
39 as, in [its] HIS OR HER opinion, will promote and encourage commerce on
40 the canals.

41 S 58. Section 92 of the canal law, as amended by chapter 335 of the
42 laws of 2001, is amended to read as follows:

43 S 92. Annual report. The [corporation] COMMISSIONER shall during the
44 month of January make a report to the legislature covering the activ-
45 ities of the [corporation] DEPARTMENT with respect to the canal system
46 for the preceding calendar year ending December thirty-first, including
47 therein details as to the tonnage transported upon the canals of the
48 state, the condition of the canals, and the work and improvements
49 connected therewith; the several amounts of moneys appropriated and
50 expended during the preceding fiscal year and submit recommendations of
51 such measures in relation to the canals as, in [its] HIS OR HER judg-
52 ment, the public interest requires.

53 S 59. Section 100 of the canal law, as amended by chapter 335 of the
54 laws of 2001, is amended to read as follows:

55 S 100. Granting revocable permits. The [corporation] COMMISSIONER is
56 hereby authorized, in [its] HIS OR HER discretion, to issue revocable

1 permits granting certain limited privileges therein, whenever the same
2 can be done without detriment to canal navigation or damage to the banks
3 or other structures thereof. [It] THE COMMISSIONER shall prescribe the
4 terms and conditions by which such revocable permits may be issued for
5 the temporary use of canal lands or structures and for the diversion of
6 canal waters for sanitary, farm purposes, or industrial use. [It] THE
7 COMMISSIONER may also issue permits, as [it] HE OR SHE shall deem to be
8 advantageous to the [corporation] STATE, to any person, firm or corpo-
9 ration, to cut, gather and haul away ice from the canals. Whenever any
10 space and facilities are available at any canal terminal and when no
11 detriment or injury to canal traffic or delay in handling same would
12 result, the [corporation] COMMISSIONER may issue a revocable permit for
13 the temporary and restricted use or occupancy, of such canal terminal
14 and the facilities thereof, pursuant to the rules and regulations which
15 [it] HE OR SHE may prescribe. All permits heretofore granted by the
16 corporation and not canceled, are hereby legalized and confirmed and
17 made effectual and valid in accordance with the terms and conditions in
18 said permit as fully as if this chapter had been in force on the date of
19 issuance of such permit. No liability of any kind shall attach to or
20 rest upon the state[, including the corporation,] for any damage on
21 account of the granting or revocation of any permit. Existing permit
22 holders within the Adirondack park in compliance with the terms of
23 permits which have been properly issued pursuant to law shall continue
24 to be afforded permits at least until the first day of June, nineteen
25 hundred ninety-four, unless such permit holders fail to apply for permit
26 renewal within six months of the expiration of such existing or former
27 permit or permits, or by the first day of August, nineteen hundred nine-
28 ty-three, whichever is later; provided, however, that no additional
29 development right or rights may be included in any permit renewed prior
30 to the first day of June, nineteen hundred ninety-five. Any revenue
31 realized from the issuance of such permits shall be deposited into the
32 canal fund.

33 S 60. Section 101 of the canal law, as amended by chapter 335 of the
34 laws of 2001, is amended to read as follows:

35 S 101. Railroads operating over canals. The [corporation] COMMISSIONER
36 shall have a general supervisory power over so much of any railroad as
37 passes over any canal or feeder belonging to the state or approaches
38 within ten rods thereof, so far as may be necessary to preserve the free
39 and perfect use of such canals or feeders, or for making any repairs,
40 improvements or alterations thereupon. No railroad corporation shall
41 construct its railroad over or at any place within ten rods of any canal
42 or feeder belonging to the state, unless it submits to the [corporation]
43 COMMISSIONER a map, plan and profile of such canal or feeder and of the
44 route designated for its railroad, exhibiting distinctly and accurately
45 the relation of each to the other at all the places within the limits of
46 ten rods thereof, and obtains the written permission of the [corpo-
47 ration] COMMISSIONER for the construction of such railroad, with such
48 conditions, directions and instructions as in its judgment the free and
49 perfect use of any such canal or feeder may require.

50 Whenever any street railroad shall cross over any bridge spanning a
51 canal, or canal feeder, the company owning, maintaining and operating
52 the same, shall be deemed liable for and shall pay all damages that may
53 occur or arise, either to the state or to persons, by reason of its
54 laying and maintaining its tracks or rail over, upon and across any such
55 bridge, or by reason of the operation of its cars over the same; and any
56 such company shall, upon demand of the [corporation] COMMISSIONER, make

1 any repairs to such structure to insure the continued safety thereof, as
2 shall have been rendered necessary by reason of such use of said struc-
3 ture by said company. Any company maintaining or operating a street
4 railroad over, upon and across any such bridge shall indemnify the state
5 [including the corporation] against any and all loss, damages or claims
6 for damages for injuries to persons or property of passengers which
7 shall be incurred by or made against such state by reason of the opera-
8 tion of such railroad over any such bridge, and the [or corporation]
9 COMMISSIONER may, in [its] HIS OR HER discretion, require any company so
10 maintaining or operating a street railroad to furnish a bond, with sure-
11 ties to be approved by [it] HIM OR HER to indemnify the state [including
12 the corporation] from all such loss, damage or claim. All such permits
13 heretofore or hereafter granted shall be revocable whenever the free and
14 perfect use of any such canal or feeder may so require, or if such rail-
15 road company shall fail to make any such repairs when required by the
16 [corporation] COMMISSIONER. The railroad company using or occupying any
17 bridge over the same shall, within a reasonable time after the service
18 upon it, by the [corporation] COMMISSIONER of a written notice of such
19 revocation, or to make such repairs, remove at its own cost and expense,
20 its railroad from such bridge and from the limits of ten rods of said
21 canal or feeder.

22 S 61. Section 102 of the canal law, as amended by chapter 335 of the
23 laws of 2001, is amended to read as follows:

24 S 102. Pipe lines crossing canals. No pipe line shall be constructed
25 upon or across any of the canals of this state, except by the consent of
26 and in a manner and upon the terms prescribed by the [corporation]
27 COMMISSIONER, unless constructed upon a fixed bridge across such canal
28 and with the consent of the person, firm or corporation for whose bene-
29 fit such bridge is constructed and maintained, or upon such a bridge
30 over the canal, at the crossing of a public highway, or street, with the
31 consent of the public officers having the supervision thereof, or of the
32 municipal authorities of any village or city within whose limits such
33 bridge may be, nor shall the pipes of any such corporation be laid
34 through, on or along the banks of any of the canals of this state,
35 unless such pipes shall be encased so as to prevent leakage, in such
36 manner as shall be approved by the [corporation] COMMISSIONER.

37 S 62. Subdivision 1 of section 103 of the canal law, as amended by
38 chapter 335 of the laws of 2001, is amended to read as follows:

39 1. The [corporation] COMMISSIONER shall have the power to impose tolls
40 for the passage through locks and lift bridges by vessels which are
41 propelled in whole or in part by mechanical power, and to collect such
42 tolls by the sale of lock and lift bridge passes issued for such periods
43 of time as the [corporation] COMMISSIONER shall determine. Tolls for
44 such lock and lift bridge passes shall be established by regulation of
45 the [corporation] COMMISSIONER with the advice of the canal recreation-
46 way commission and following no fewer than two public hearings at
47 geographically dispersed locations on the canal system. In addition, the
48 [corporation] COMMISSIONER may provide by regulation for the sale of
49 lock and lift bridge passes by any other entity, and may allow a charge
50 for handling by such other entities not to exceed one dollar for each
51 pass. No tolls shall be imposed or collected prior to the first day of
52 April, nineteen hundred ninety-three. Vessels owned by the United
53 States, a state, or subdivision thereof shall be exempted from the tolls
54 authorized by this section.

55 S 63. Section 104 of the canal law, as amended by chapter 335 of the
56 laws of 2001, is amended to read as follows:

1 S 104. Use of dry docks for repairs. The [corporation] COMMISSIONER
2 may grant permission to owners of vessels operating upon the canals to
3 use the state dry docks to the extent space is not required for the
4 needs of canal maintenance vessels, and the [corporation] COMMISSIONER
5 shall collect from such owners equitable charges for the use thereof.
6 All sums collected for such use shall be paid into the canal fund.

7 S 64. Section 112 of the canal law, as amended by chapter 335 of the
8 laws of 2001, is amended to read as follows:

9 S 112. Exemption of canal officers from arrest in civil actions.
10 Neither the [corporation] COMMISSIONER, THE DEPARTMENT, nor any officer
11 or responsible employee in the [corporation] DEPARTMENT in charge of
12 canal structures or forces thereof, or other public officer employed
13 upon or in charge of the canal system or part thereof shall be liable to
14 arrest or to be held to bail in any civil action for any act done or
15 omitted to be done by it in the exercise of its official duties, nor be
16 subject to military duty while actually engaged in their respective
17 employments upon the canal system while the same is navigable.

18 S 65. Section 113 of the canal law, as amended by chapter 335 of the
19 laws of 2001, is amended to read as follows:

20 S 113. Delivery of property on discharge of employees. Every person
21 employed upon the canal system and occupying any house, office, build-
22 ing, or land belonging thereto, who is discharged from his OR HER
23 employment or otherwise separated from the service, and the spouse and
24 family of every such person, shall deliver to the [corporation or a
25 person designated by it] COMMISSIONER OR HIS OR HER DESIGNEE, the
26 possession of the premises so occupied and of all books, papers, matters
27 or other articles and things belonging to the canal system acquired by
28 virtue of such employment, within seven days after notice is served for
29 that purpose by the [corporation] COMMISSIONER. In case of a refusal or
30 neglect to make such delivery, any court of competent jurisdiction in
31 the county where such premises are situate, may, on application, issue a
32 warrant ordering any peace officer, when acting pursuant to his OR HER
33 special duties, or police officer, with such assistance as may be neces-
34 sary, to enter, in the daytime, upon the premises so occupied and remove
35 therefrom all persons found in possession thereof, and to take into his
36 OR HER custody all books, papers, articles and things there found
37 belonging to the canal system, and deliver the same to the [corporation
38 or to some person designated by it] COMMISSIONER OR HIS OR HER DESIGNEE,
39 and such officer shall execute such warrant accordingly.

40 S 66. Section 114 of the canal law, as amended by chapter 335 of the
41 laws of 2001, is amended to read as follows:

42 S 114. Functions, powers or duties imposed upon officers or employees
43 by statutory name. Whenever a function, power or duty is imposed upon
44 the [corporation] COMMISSIONER OR DEPARTMENT, and an officer or employ-
45 ee, or a group or class thereof is designated in this chapter by a stat-
46 utory or specific title or name to exercise such function or power or
47 perform such duty, the exercise or performance thereof shall be deemed
48 to be imposed upon the officer or employee in such [corporation] DEPART-
49 MENT who shall be assigned thereto by such [corporation] DEPARTMENT,
50 with the same force and effect, and such [corporation] DEPARTMENT may
51 make such assignment as though no statutory or specific title or name
52 had been used in this chapter to designate the particular officer or
53 employee or group or class thereof charged with the exercise of such
54 function or power, or the performance of such duty.

55 S 67. Section 120 of the canal law, as amended by chapter 335 of the
56 laws of 2001, is amended to read as follows:

1 S 120. Claims for damage generally. There shall be allowed and paid to
2 every person sustaining damages from the canals or from their use or
3 management, or resulting or arising from the neglect or conduct of any
4 officer of the state [or the corporation] having charge thereof, or
5 resulting or arising from any accident, or other matter or thing
6 connected with the canals, the amount of such damages to be ascertained
7 and determined by the proper action or proceedings before the court of
8 claims, but no judgment shall be awarded by such court for such damages
9 in any case unless the facts provided therein make out a case which
10 would create a legal liability against the state [or the corporation,]
11 were the same established in evidence in a court of justice against an
12 individual or corporation; but the [corporation] COMMISSIONER may make
13 settlement of any such claim in any case where the amount thereof does
14 not exceed the sum of five hundred dollars but no settlement shall be
15 effective against the state [including the corporation] until the same
16 has been approved by the attorney-general; provided that the provisions
17 of this section shall not extend to claims arising from damages result-
18 ing from the navigation of canals, and further provided that the
19 provisions herein relating to damages resulting from navigation of the
20 canals shall control notwithstanding any contrary or inconsistent
21 provisions of any other law, general or special. The [corporation]
22 COMMISSIONER shall not pay any damages awarded, or the amount of any
23 commutations agreed on for the appropriation of land or water, or for
24 the erection of a farm bridge, until a satisfactory abstract of title
25 and certificate of search as to encumbrances is furnished, showing the
26 person demanding such damages or commutations to be legally entitled
27 thereto, which abstract and search shall be filed in the [office of the
28 corporation] DEPARTMENT.

29 S 68. Section 121 of the canal law, as amended by chapter 335 of the
30 laws of 2001, is amended to read as follows:

31 S 121. Adjustment of claims of owners of private dams. Whenever the
32 state [including the corporation] in the course of the construction of
33 the improved canals in the rivers or waterways of the state, for the
34 purpose of obtaining a sufficient depth or supply of water for canal
35 purposes, has utilized private dams theretofore lawfully constructed or
36 maintained, in such a manner as to constitute the same an essential part
37 or portion of the improved canals, the [corporation] COMMISSIONER may
38 compromise, settle and adjust the claims and demands of the owners of
39 any such dams on such terms and conditions, including the payment to the
40 owners of any such dams of such sums of money as to [it] HIM OR HER may
41 seem just and proper, and, by contract or otherwise, make proper
42 provision with respect to the ownership of and for the maintenance and
43 upkeep of any such dams, provided, however, that [it] HE OR SHE shall
44 not sell, transfer or convey to any such owner any right, title or
45 interest in or to the use of any part or portion of the water impounded
46 by such dams.

47 S 69. Section 130 of the canal law, as amended by chapter 335 of the
48 laws of 2001, is amended to read as follows:

49 S 130. Operation of hydro-electric plants at Crescent and Vischer
50 Ferry. The [corporation] COMMISSIONER shall have charge of the hydro-e-
51 lectric plants constructed pursuant to chapter five hundred thirty-two
52 of the laws of nineteen hundred twenty-two for the development and
53 generation into electric energy of water power available at the struc-
54 tures known as the Crescent and Vischer Ferry dams located on the canal-
55 ized Mohawk river between the city of Schenectady and the village of
56 Waterford, and shall exercise the same powers over such structures as

1 [it] HE OR SHE has over other structures on the canal system. The said
2 structures shall be maintained and operated as a part of the canal
3 system.

4 Notwithstanding any general or special law to the contrary, the
5 [corporation] COMMISSIONER, upon the approval of the state comptroller,
6 and the division of the budget, is authorized to enter into a negotiated
7 contract for the sale of surplus electricity produced at the Crescent
8 and Vischer Ferry dams, upon such terms and conditions as are beneficial
9 to the state [including the corporation]. Any revenue realized from the
10 sale of such surplus electricity shall be deposited into the canal fund.

11 S 70. Section 131 of the canal law, as amended by chapter 335 of the
12 laws of 2001, is amended to read as follows:

13 S 131. Emergency repairs. When, in the opinion of the [corporation]
14 COMMISSIONER, an emergency exists endangering the canal system the
15 [corporation] COMMISSIONER may seize any lands, equipment, materials or
16 supplies necessary to avert such damage or to restore the banks or other
17 property which may be threatened or have been damaged. [It] THE COMMIS-
18 SIONER may subsequently return or otherwise dispose of such lands,
19 equipment, materials or supplies so seized which may be no longer
20 required in such manner and upon such terms as in [its] HIS OR HER judg-
21 ment will be for the best interest of the state [including the corpo-
22 ration]. [It] THE COMMISSIONER may enter into an agreement with the
23 owner or owners of any property seized for such emergency repairs under
24 this section covering the amount of damages sustained. Such agreement,
25 when approved by the attorney-general, shall become an obligation of the
26 [corporation] DEPARTMENT and paid from moneys available therefor. In
27 case no agreement is consummated, the amount of damages sustained may be
28 determined as provided in section one hundred twenty of this chapter.

29 S 71. Section 132 of the canal law, as amended by chapter 335 of the
30 laws of 2001, is amended to read as follows:

31 S 132. Investigate matters relating to the canal system; immunity of
32 witnesses. 1. The [corporation] COMMISSIONER may, whenever [the corpo-
33 ration] HE OR SHE shall deem it necessary, to effectively accomplish the
34 purposes of this chapter, investigate any or all matters and trans-
35 actions connected with or relating to the canal system. The [corpo-
36 ration] COMMISSIONER shall hear and take proofs in regard to any matter
37 pending before [it] HIM OR HER or which [it] HE OR SHE is authorized to
38 examine or investigate. [It] THE COMMISSIONER shall have power to inves-
39 tigate into the official conduct of any subordinate officer or employee
40 and shall have the power to issue subpoenas for and require the attend-
41 ance of witnesses and the production of all books and papers relating to
42 any matter under inquiry. All such subpoenas shall be issued under the
43 hand and seal of the [corporation] COMMISSIONER. A subpoena issued under
44 this section shall be regulated by the civil practice law and rules. The
45 testimony of witnesses in any such proceedings shall be under oath and
46 the state officer instituting the proceedings shall have power to admin-
47 ister oaths. A witness may have counsel and his OR HER examination by
48 such counsel shall be reduced in writing as part of his OR HER deposi-
49 tion.

50 2. In any investigation under this article, the [corporation] COMMIS-
51 SIONER may confer immunity in accordance with the provisions of section
52 50.20 of the criminal procedure law.

53 3. All evidence taken under this section shall be filed with the
54 attorney-general. The expenses incurred in such investigation shall be
55 paid from the canal fund.

1 S 72. Section 133 of the canal law, as amended by chapter 335 of the
2 laws of 2001, is amended to read as follows:

3 S 133. Impose penalties and power to remit. The [corporation] COMMIS-
4 SIONER may, in [its] HIS OR HER discretion, remit either absolutely, or
5 on such conditions as [it] HE OR SHE shall prescribe, any forfeiture
6 incurred by a violation of any provision of this chapter, or any of the
7 rules and regulations established by [it] HIM OR HER, on the written
8 petition of the person liable for the forfeiture, with due proof of the
9 facts on which the application for the remission is founded, which peti-
10 tion and proof and the order thereon shall be filed and preserved in the
11 office of the department of audit and control.

12 S 73. Section 134 of the canal law, as amended by chapter 335 of the
13 laws of 2001, is amended to read as follows:

14 S 134. Actions for penalties. All actions for penalties and forfei-
15 tures imposed in this chapter, or for damages, on behalf of the state
16 [including the corporation,] shall be prosecuted in the name of the
17 [corporation] COMMISSIONER OR DEPARTMENT, by the [corporation] DEPART-
18 MENT, unless otherwise specifically provided. All money recovered in
19 such actions shall be accounted for and paid into the canal fund. The
20 imposition or recovery of any such penalty or forfeiture shall not be a
21 bar to recovery of any damages resulting to the [corporation] COMMIS-
22 SIONER OR DEPARTMENT or any person, because of such violation.

23 S 74. Paragraph a of subdivision 1 and subdivision 2 of section 138-a
24 of the canal law, paragraph a of subdivision 1 as amended by chapter 243
25 of the laws of 1993, and subdivision 2 as added by chapter 766 of the
26 laws of 1992, are amended to read as follows:

27 a. the [chairman of the authority, the] commissioner [of transporta-
28 tion], the commissioner of the office of parks, recreation and historic
29 preservation and the commissioner of environmental conservation, or
30 their representatives;

31 2. The chairperson of the commission shall be the [chairman of the
32 authority] COMMISSIONER. The members of the commission may elect a
33 secretary and other necessary officers to serve for such a period as the
34 members shall decide.

35 S 75. Section 138-b of the canal law, as amended by chapter 335 of the
36 laws of 2001, is amended to read as follows:

37 S 138-b. Functions, powers and duties. The commission shall:

38 1. Develop, maintain and periodically revise a statewide canal recrea-
39 tionway plan (hereinafter referred to as the "plan") for the canal
40 system. Such plan shall be developed in accordance with the provisions
41 of section one hundred thirty-eight-c of this article and shall be
42 submitted to the [authority] DEPARTMENT for its consideration no later
43 than the first day of June, nineteen hundred ninety-four.

44 2. Solicit input from counties intersecting or bordering the canal
45 system and incorporate it to the greatest degree practicable in the
46 development of the plan. In order to facilitate such incorporation
47 commission members representing each of the regional planning boards
48 shall request from and provide assistance to each county it represents
49 in the preparation of a county canal plan. Multi-county canal plans may
50 be requested by the regional planning board representative, as deemed
51 appropriate, in lieu of individual county canal plans. In a region where
52 a regional planning board does not exist, the commission shall solicit
53 county canal plans from each of the chief executive officers of those
54 counties outside the jurisdiction of a regional planning board. The
55 commission shall prescribe uniform guidelines concerning the format of
56 plans to be used by the regional planning board representatives to

1 assist counties in the preparation of county canal plans. The regional
2 planning board representative shall encourage the development of county
3 canal plans that reflect participation by diverse local interests by
4 seeking advice, to the extent possible, from individuals and organiza-
5 tions from such counties with an interest in recreation, hunting and
6 fishing, the environment, canal related tourism businesses, historic
7 preservation and commercial development along the canal. In order to be
8 considered in the formulation of the plan, county canal plans must be
9 submitted to the commission not later than the first day of June, nine-
10 teen hundred ninety-three.

11 3. Ensure public comment on the plan, including at least three public
12 hearings on the plan prior to submission of the plan to the [authority]
13 DEPARTMENT. The commission may also hold hearings on other matters it
14 deems appropriate.

15 4. If deemed appropriate, request that studies, surveys or analyses be
16 performed by the [corporation, the] departments of transportation,
17 economic development and environmental conservation and/or the office of
18 parks, recreation and historic preservation to assist in the develop-
19 ment, promotion, marketing and/or preservation of the canal system or
20 the preparation of the plan. At the request of the commission, state
21 agencies and public authorities shall cooperate fully and shall provide
22 requested information in a timely manner.

23 5. Advise and assist the [corporation] DEPARTMENT in carrying out its
24 duties and obligations related to the canal in the following manner:

25 a. evaluate and make recommendations for new operational, maintenance
26 and capital initiatives or projects to enhance the canal;

27 b. establish criteria and procedures for the review by the commission
28 for consistency with the canal recreationway plan of abandonments of
29 canal lands, canal terminals and canal terminal lands, and leases of
30 canal lands, canal terminals, and canal terminal lands proposed by the
31 [corporation] COMMISSIONER pursuant to article six-A of this chapter;
32 provided, however, that where local zoning laws and zoning ordinances
33 are in effect on lands proposed to be leased or on lands adjacent to
34 those lands proposed to be leased such review shall include, to the
35 extent practicable, the consideration of the compatibility of such leas-
36 es with the requirements of such local zoning laws and zoning ordi-
37 nances; and provided further that the commission may determine that
38 certain categories of leases do not require review;

39 c. submit to the [corporation] COMMISSIONER, the director of the budg-
40 et and the chairpersons of the senate finance committee and the assembly
41 ways and means committee, on the first day of October, nineteen hundred
42 ninety-two, and on or before the first day of August in each year there-
43 after, a budget request for the operations of the commission. Such
44 request shall include provisions for staff services and other adminis-
45 trative assistance as deemed necessary by the commission to perform its
46 functions and meet its responsibilities during the next calendar year.
47 The [corporation] DEPARTMENT shall provide staff services to the commis-
48 sion and such other administrative assistance as may be necessary for
49 the commission to carry out its functions, powers and duties;

50 d. submit to the [corporation] COMMISSIONER, the director of the budg-
51 et and the chairpersons of the senate finance committee and the assembly
52 ways and means committee, on the first day of October, nineteen hundred
53 ninety-two, and on or before the first day of August in each year there-
54 after, a budget request for the expenditure of funds available from the
55 canal fund, for the purposes established by section ninety-two-u of the
56 state finance law. Submissions made during the initial years shall give

1 funding priority for expenditures related to the development and/or
2 promotion of the canal system;

3 e. undertake a comprehensive study of alternative waterway and canal
4 toll and fee structures, including but not limited to, a comparative
5 analysis of other existing waterway and canal systems, the impact of
6 various toll and fee structures on recreational use, tourism, and
7 commercial activity; and the revenue implications for each of these
8 alternatives. The commission shall make recommendations to the [authori-
9 ty] COMMISSIONER by the first day of April, nineteen hundred ninety-
10 three, on appropriate tolls and fees to be charged for the use of the
11 canal system and shall provide an update on the implementation of such
12 recommendations by the first day of April, nineteen hundred ninety-five;
13 and

14 f. utilize information provided by the [authority] DEPARTMENT and
15 other state agencies and departments, pursuant to section ten of this
16 chapter, surveying canal lands within the Adirondack park and studying
17 current land uses, to make recommendations to the authority, no later
18 than the first day of June, nineteen hundred ninety-four, concerning the
19 future use of canal lands within the Adirondack park, including but not
20 limited to the utilization of existing properties under revocable
21 permits; and the identification of any property not needed for canal
22 purposes that may be transferred to the department of environmental
23 conservation.

24 6. Establish committees as it deems appropriate on matters relating to
25 the commission's functions, powers and duties; such committees shall be
26 chaired by a commission member but may include persons not members of
27 the commission who provide expertise of interest specific to the charge
28 of such committee.

29 a. the commission shall create a temporary committee which shall
30 include the commissioner of the department of economic development and
31 the commissioner of the office of parks, recreation and historic preser-
32 vation or their representatives and others with appropriate expertise to
33 identify opportunities for achieving the economic development potential
34 of the recreationway and to make recommendations for specific implemen-
35 tation of these opportunities, including recommendations for marketing
36 and promotion designed to attract tourists.

37 b. the commission shall create a temporary committee, which may
38 include appropriately accredited professionals, to assess and report to
39 the [authority] COMMISSIONER on issues associated with managing the
40 waters of the canal system, including issues relating to recreational
41 use, habitats and flood prone areas.

42 7. Report on or before March thirty-first of each year commencing
43 nineteen hundred ninety-four to the [corporation] COMMISSIONER, the
44 governor, the temporary president of the senate and the speaker of the
45 assembly on the activities of the commission with respect to the func-
46 tions, powers and duties established in this section.

47 S 76. Section 138-c of the canal law, as amended by chapter 335 of the
48 laws of 2001, is amended to read as follows:

49 S 138-c. Canal recreationway plan. 1. The commission shall, in accord-
50 ance with the provisions of section one hundred thirty-eight-b of this
51 article, formulate a statewide canal recreationway plan for the canal
52 system that is based upon the inventory prepared pursuant to subdivision
53 twenty-three of section ten of this chapter and that is consistent with
54 the land use concepts contained in the state land acquisition plan
55 prepared pursuant to section 49-0207 of the environmental conservation
56 law and in the statewide comprehensive outdoor recreation plan prepared

1 pursuant to section 3.15 of the parks, recreation and historic preserva-
2 tion law. The plan shall include, but not be limited to:

3 a. criteria for uses of the canal system which will effectuate the
4 goal and objective of developing the canal into a recreationway system;

5 b. provisions for fostering a canal system characterized by clusters
6 of development connected by stretches of undeveloped open space in areas
7 between cities, villages and hamlets which will be conducive to the
8 preservation of waterfowl, fish and wildlife habitats;

9 c. provisions for the consideration of environmental resources,
10 including lands which possess significance for wildlife management,
11 recreation or natural resource protection purposes and significant
12 freshwater wetlands;

13 d. provisions which protect the public interest in such lands and
14 waters for purposes of commerce, navigation, fishing, hunting, bathing,
15 recreation and access to the lands and waters of the state, and other-
16 wise encourage increased public access to the canal through the estab-
17 lishment of parks, scenic by ways and recreational trails on the canal
18 system. Such provisions shall ensure the public safety;

19 e. provisions to protect agricultural uses of canal land and waters;

20 f. provisions for appropriate development of businesses in appropriate
21 locations which will support outdoor recreation activities;

22 g. provisions which give guidance to the [authority] DEPARTMENT with
23 respect to managing water levels in reservoirs to provide water to the
24 canal system and retain water for recreational purposes;

25 h. provisions to protect commercial shipping interests on the canal
26 system; and

27 i. provisions for the consideration of historic buildings, sites and
28 districts.

29 2. The plan shall establish goals and objectives with respect to
30 implementation, with provision for amendment of the plan to reflect
31 changing conditions.

32 3. a. The [corporation] COMMISSIONER shall act upon the plan submitted
33 by the commission within four months after its submission and shall
34 approve such plan unless [it] HE OR SHE finds that the plan, or any part
35 thereof: (i) is not financially or operationally feasible; (ii) would
36 violate any federal or state law, rule or regulation; (iii) violates
37 agreements with noteholders or bondholders [of the authority]; (iv)
38 interferes with existing contracts; or (v) is inconsistent with the
39 findings of the generic environmental impact statement undertaken pursu-
40 ant to section three hundred eighty-two of the public authorities law.

41 b. In the event that the [corporation] COMMISSIONER finds that the
42 plan cannot be approved in its entirety, [it] HE OR SHE may approve such
43 portions of the plan as [it] HE OR SHE deems appropriate, and shall
44 recommend changes to the remaining portions of the plan to the commis-
45 sion. The commission shall then have three months in which to consider
46 the recommendations of the [corporation] COMMISSIONER and submit a
47 revised plan or portions thereof to the [corporation] COMMISSIONER.

48 c. Upon the approval of the plan or a portion of the plan as provided
49 in this section, the [corporation] COMMISSIONER shall deliver within ten
50 days a copy of the plan or portion of the plan to the governor, the
51 temporary president of the senate and the speaker of the assembly, with
52 a dated notice of such approval.

53 S 77. Paragraph (i) of subdivision 1 of section 19 of the public offi-
54 cers law, as added by chapter 115 of the laws of 2000, is amended to
55 read as follows:

1 (i) For purposes of this section, the term "employee" shall include
2 directors, officers and employees of the thruway authority [and its
3 subsidiary, the canal corporation]. In those cases where the definition
4 of the term "employee" provided in this paragraph is applicable, the
5 term "state", as utilized in subdivisions two, three, and four of this
6 section, shall mean the thruway authority when the employee is a direc-
7 tor, officer, or employee of the thruway authority[, or its subsidiary,
8 the canal corporation, when the employee is a director, officer, or
9 employee of the canal corporation].

10 S 78. The opening paragraph of subdivision 1 and subdivision 2 of
11 section 209-a of the state finance law, as amended by chapter 138 of the
12 laws of 1997, are amended to read as follows:

13 Notwithstanding any other law, rule or regulation to the contrary,
14 where, and to the extent that, an agreement between the state [or the
15 New York state canal corporation] and an employee organization entered
16 into pursuant to article fourteen of the civil service law on behalf of
17 employees in a collective negotiating unit established pursuant to arti-
18 cle fourteen of the civil service law provides for the payment of a
19 supplement to the workers' compensation award, such supplement shall be
20 paid in accordance with such agreement. Officers and employees serving
21 in positions in the executive branch which are designated managerial or
22 confidential pursuant to article fourteen of the civil service law,
23 civilian state employees of the division of military and naval affairs
24 of the executive department whose positions are not in, or are excluded
25 from representation rights in any recognized or certified negotiating
26 unit, those excluded from representation rights under article fourteen
27 of the civil service law pursuant to rules and regulations of the public
28 employment relations board and officers and employees of the legislature
29 shall receive a supplement to the workers' compensation award provided,
30 however, that officers and employees serving in positions in the execu-
31 tive branch which are designated managerial or confidential pursuant to
32 article fourteen of the civil service law, civilian state employees of
33 the division of military and naval affairs of the executive department
34 whose positions are not in, or are excluded from representation rights
35 in any recognized or certified negotiating unit and those excluded from
36 representation rights under article fourteen of the civil service law
37 pursuant to rules and regulations of the public employment relations
38 board shall receive such supplement only with respect to an absence
39 resulting from an occupational injury or disease occurring on or before
40 June thirtieth, nineteen hundred ninety-two. Such supplement shall be
41 paid in accordance with rules and regulations to be promulgated by the
42 president of the civil service commission.

43 2. Notwithstanding any other law, rule or regulation to the contrary,
44 where, and to the extent that, an agreement between the state [or the
45 New York state canal corporation] and an employee organization entered
46 into pursuant to article fourteen of the civil service law on behalf of
47 employees in a collective negotiating unit established pursuant to arti-
48 cle fourteen of the civil service law so provides, an employee placed on
49 an authorized leave without pay during the course of an absence result-
50 ing from an occupational injury or disease found to be compensable by
51 the workers' compensation board shall be deemed to be on the payroll at
52 such employee's prevailing rate of annual compensation for the purpose
53 of retirement credit and employer contributions to the retirement
54 system. Officers and employees serving in positions in the executive
55 branch which are designated managerial or confidential pursuant to arti-
56 cle fourteen of the civil service law, civilian state employees of the

1 division of military and naval affairs of the executive department whose
2 positions are not in, or are excluded from representation rights in any
3 recognized or certified negotiating unit and those excluded from repre-
4 sentation rights under article fourteen of the civil service law pursu-
5 ant to rules and regulations of the public employment relations board
6 who are placed on an authorized leave without pay during the course of
7 an absence resulting from an occupational injury or disease found to be
8 compensable by the workers' compensation board occurring on or after
9 July first, nineteen hundred ninety-two, shall be deemed to be on the
10 payroll at such officer's or employee's prevailing rate of compensation
11 for the purpose of retirement credit and employer contributions to the
12 retirement system. Any employee contribution relating to the retirement
13 credit provided by this subdivision shall be paid directly by such
14 employee to the retirement system pursuant to the rules and regulations
15 of the comptroller. The retirement credit provided by this subdivision
16 shall only apply to a period of authorized leave without pay occurring
17 during the first twelve months of absence related to such occupational
18 injury or disease.

19 S 79. Section 30 of the navigation law, as amended by chapter 486 of
20 the laws of 2003, is amended to read as follows:

21 S 30. Navigation, jurisdiction over. The commissioner shall have
22 jurisdiction over navigation on the navigable waters of the state and,
23 except as otherwise provided, shall enforce the provisions of this chap-
24 ter and the regulations established thereunder. As a guide to the inter-
25 pretation and application of this article, nothing authorized [here-
26 under] IN THIS SECTION shall be construed to convey any property rights,
27 either in real estate or material, or any exclusive privilege; nor
28 authorize any injury to private property or invasion of private rights
29 or any infringement of federal, state or local laws or regulations, but
30 shall express the assent of the state so far as it concerns the public
31 rights of navigation. Nothing contained in this section shall be
32 construed to limit, impair or affect the general powers and duties of
33 the [canal corporation] COMMISSIONER OF TRANSPORTATION OR DEPARTMENT OF
34 TRANSPORTATION relating to canals as set forth in section ten of the
35 canal law.

36 S 80. Subdivision 2 of section 45-cc of the navigation law, as added
37 by chapter 486 of the laws of 2003, is amended to read as follows:

38 2. Notwithstanding any other provisions of this chapter or any incon-
39 sistent local laws, no vessel shall be operated on such canal system
40 within one hundred feet of the shore, a dock, pier, raft, float or an
41 anchored or moored vessel at a speed exceeding five miles per hour,
42 unless such vessel is being operated near such shore, dock, float, pier,
43 raft, or anchored vessel for the purpose of enabling a person engaged in
44 water skiing to take off or land, and except in those areas where the
45 [canal corporation] COMMISSIONER OF TRANSPORTATION has established a
46 different speed by rule and regulation pursuant to the canal law. A
47 violation of this subdivision or any applicable rules and regulations
48 shall be a violation punishable as set forth in section seventy-three-c
49 of this article.

50 S 81. Article 21 of the transportation law is REPEALED.

51 S 82. Paragraph 2 of subdivision (a) of section 168 of the economic
52 development law, as amended by chapter 33 of the laws of 2006, is
53 amended to read as follows:

54 (2) the chairman or his or her designated representative of the New
55 York state thruway authority, the New York power authority, and the
56 tourism advisory council, the New York state council on the arts, [the

1 canal corporation,] the canal recreationway commission, the Olympic
2 regional development authority, and the Hudson River park trust;

3 S 83. Subdivision 1 of section 9-1705 of the environmental conserva-
4 tion law, as added by chapter 674 of the laws of 2007, is amended to
5 read as follows:

6 1. There is hereby established the New York invasive species council.
7 Such council shall consist of a total of [nine] EIGHT members and shall
8 include the commissioner, the commissioners of agriculture and markets,
9 transportation, parks, recreation and historic preservation, education,
10 the secretary of state, the chairperson of the New York state thruway
11 authority, [the director of the New York state canal corporation,] and
12 the chairperson of the Adirondack Park agency, or a designee of such
13 department, agency or public authority.

14 S 84. Subdivision 1 of section 73-0105 of the environmental conserva-
15 tion law, as amended by chapter 336 of the laws of 2008, is amended to
16 read as follows:

17 1. The task force shall consist of [fourteen] THIRTEEN members; [nine]
18 EIGHT of whom shall be the [director of the canal corporation,] commis-
19 sioner of the department of environmental conservation, the secretary of
20 state, the commissioner of transportation, the director of the state
21 emergency management office, the commissioner of parks, recreation and
22 historic preservation, the commissioner of agriculture and markets, the
23 chairman of the power authority of the state of New York and the commis-
24 sioner of economic development or designee; and five additional members
25 who shall be from outside the public offices listed in this section and
26 who shall have professional experience in the fields of hydrology, civil
27 engineering, climatology, emergency management and soil and water
28 conservation. The governor shall appoint three of the five additional
29 members and the temporary president of the senate and speaker of the
30 assembly shall each appoint one of each of the five additional members.

31 S 85. Subdivision 3 of section 73-0107 of the environmental conserva-
32 tion law, as added by chapter 456 of the laws of 2007, is amended to
33 read as follows:

34 3. The department and the [canal corporation] DEPARTMENT OF TRANSPOR-
35 TATION shall provide the task force with such facilities, assistance and
36 data as will enable the task force to carry out its powers and duties.
37 Additionally, all other agencies of the state or subdivisions thereof
38 shall, at the request of the chair provide the task force with such
39 facilities, assistance, and data as will enable the task force to carry
40 out its powers and duties.

41 S 86. Subdivision 1 of section 37.05 of the parks, recreation and
42 historic preservation law, as amended by chapter 64 of the laws of 2000,
43 is amended to read as follows:

44 1. The Mohawk Valley heritage corridor commission is hereby estab-
45 lished to be a body corporate and politic constituting a public benefit
46 corporation and to consist of up to seventeen voting members who shall
47 reside within the heritage corridor. One member each shall be appointed
48 by the chief elected official from each of the counties of Albany, Sche-
49 nectady, Montgomery, Schoharie, Herkimer, Fulton, Saratoga and Oneida.
50 The legislative body of each city, town and village in such counties may
51 recommend prospective appointees to its respective county. The Capital
52 District Regional Planning Commission and the Oneida/Herkimer Counties
53 Comprehensive Planning Program each may designate a representative to
54 participate as non-voting members of the commission. The remaining nine
55 members shall be appointed as follows: two members shall be appointed by
56 the temporary president of the senate; two members shall be appointed by

1 the speaker of the assembly; one member shall be appointed by the minor-
2 ity leader of the senate; one member shall be appointed by the minority
3 leader of the assembly; three members shall be appointed by the gover-
4 nor, at least one of whom shall be the chief elected official of a city,
5 town or village located in whole or in part within the Mohawk Valley
6 area. The commission may increase the number of its members by one, to
7 reach a total of eighteen members, to provide for representation of a
8 Native American Indian nation with federal and/or state legal recogni-
9 tion who resides in the Mohawk Valley. All persons responsible for
10 appointing members of the commission shall be mindful of the importance
11 of assuring adequate representation on the commission of the interests
12 of various municipal entities, conservationists, business owners and
13 operators, tourism promotion agencies, persons engaged in agricultural
14 pursuits, minorities and educators, and persons having an interest and
15 experience with at least one of the four heritage area goals of preser-
16 vation, recreation, education, and economic development. The commis-
17 sioner, the commissioner of economic development, the commissioner of
18 agriculture and markets, the commissioner of environmental conservation,
19 THE COMMISSIONER OF TRANSPORTATION, the chairman of the New York state
20 thruway authority [and canal corporation] and other members of the New
21 York state heritage areas advisory council, or their representatives,
22 and the mayors, supervisors or other chief elected officer of any city,
23 town, or village located in whole or part in the Mohawk Valley area may
24 participate in commission meetings as non-voting members and shall
25 receive notice of all commission meetings. Appointment to the commission
26 shall be filed with the commissioner who shall convene the first meeting
27 of the commission following the commissioner's approval of the manage-
28 ment plan and the filing of a majority of the appointments.

29 S 87. Paragraph 1 of subdivision j of section 41 of the retirement and
30 social security law, as amended by chapter 18 of the laws of 2012, is
31 amended to read as follows:

32 1. In addition to any other service credit to which he or she is enti-
33 tled, a member who meets the requirements set forth in paragraphs two
34 and three of this subdivision shall be granted one day of additional
35 service credit for each day of accumulated unused sick leave which he or
36 she has at time of retirement for service, but such credit shall not (a)
37 exceed one hundred sixty-five days, (b) be considered in meeting any
38 service or age requirements prescribed in this chapter, and (c) be
39 considered in computing final average salary. However, for an executive
40 branch member designated managerial or confidential pursuant to article
41 fourteen of the civil service law or in the collective negotiating units
42 established by article fourteen of the civil service law designated the
43 professional, scientific and technical services unit, the rent regu-
44 lation services negotiating unit, the security services negotiating
45 unit, the security supervisors negotiating unit, the state university
46 professional services negotiating unit, the administrative services
47 negotiating unit, the institutional services negotiating unit, the oper-
48 ational services negotiating unit and the division of military and naval
49 affairs negotiating unit such service credit limitation provided in
50 subparagraph (a) of this paragraph shall not exceed two hundred days.
51 For a nonjudicial officer or employee of the unified court system not in
52 a collective negotiating unit or in a collective negotiating unit speci-
53 fied in section one of chapter two hundred three of the laws of two
54 thousand four, for employees of the New York state dormitory authority,
55 for employees of the New York state thruway authority, [the New York
56 state canal corporation] and the state university construction fund and

1 for employees of the New York liquidation bureau such service credit
2 limitation provided in subparagraph (a) of this paragraph shall not
3 exceed two hundred days. For members who first become members of a
4 public retirement system of the state on or after April first, two thou-
5 sand twelve, such credit shall not exceed one hundred days.

6 S 88. Subdivisions 10 and 12 of section 351 of the public authorities
7 law, subdivision 10 as added by chapter 766 of the laws of 1992 and
8 subdivision 12 as amended by chapter 586 of the laws of 1993, are
9 amended to read as follows:

10 10. The term "New York state canal system" shall mean all of the
11 canals, canal lands, feeder canals, reservoirs, canal terminals, canal
12 terminal lands and other property under the jurisdiction of the [author-
13 ity] DEPARTMENT OF TRANSPORTATION pursuant to article one-A of the canal
14 law.

15 12. The term "thruway system" shall mean: (a) the thruway; AND (b) the
16 [New York state canal system; and (c) the] Tappan Zee ferry service.

17 S 89. Subdivision 13 of section 351 of the public authorities law is
18 REPEALED.

19 S 90. Subdivision 10 of section 354 of the public authorities law, as
20 amended by chapter 766 of the laws of 1992, is amended to read as
21 follows:

22 10. To construct, reconstruct or improve on or along the thruway
23 system in the manner herein provided, suitable facilities for gas
24 stations, restaurants, and other facilities for the public, or to lease
25 the right to construct, reconstruct or improve and operate such facili-
26 ties; such facilities shall be publicly offered for leasing for opera-
27 tion, or the right to construct, reconstruct or improve and operate such
28 facilities shall be publicly offered under rules and regulations to be
29 established by the authority, provided, however, that lessees operating
30 such facilities at the time this act becomes effective, may reconstruct
31 or improve them or may construct additional like facilities, in the
32 manner and upon such terms and conditions as the board shall determine;
33 and provided further, however, that such facilities constructed, recon-
34 structed or improved on or along the canal system shall be consistent
35 with the canal recreationway plan approved pursuant to section one
36 hundred thirty-eight-c of the canal law [and section three hundred
37 eighty-two of this title];

38 S 91. Section 355 of the public authorities law, as amended by chapter
39 138 of the laws of 1997, is amended to read as follows:

40 S 355. Officers and employees; transfer, promotion and seniority. 1.
41 Officers and employees of state departments[,] OR agencies[, or the
42 canal corporation] may be transferred to the authority and officers,
43 agents and employees of the authority may be transferred to state
44 departments[, OR agencies[, or the canal corporation,] without examina-
45 tion and without loss of any civil service status or rights. No such
46 transfer from the authority [or canal corporation] to any state depart-
47 ment, agency, or division may, however, be made except with the approval
48 of the head of the state department, agency, or division involved and
49 the director of the budget and in compliance with the rules and regu-
50 lations of the state civil service commission.

51 2. Promotions from positions in state departments and agencies to
52 positions in the authority [or canal corporation], and vice versa, may
53 be made from interdepartmental promotion lists resulting from promotion
54 examinations in which employees of the authority[, employees of the
55 canal corporation,] and employees of the state are eligible to partic-
56 ipate.

1 3. In computing seniority for purposes of promotion or for purposes of
2 suspension or demotion upon the abolition of positions in the service of
3 the authority or in the service of the state, in the case of an employee
4 of the authority a period of prior employment in the service of the
5 state shall be counted in the same manner as though such period of
6 employment had been in the service of the authority, and in the case of
7 an employee of the state a period of prior employment in the service of
8 the authority shall be counted in the same manner as though such period
9 of employment had been in the service of the state. For the purposes of
10 the establishment and certification of preferred lists, employees
11 suspended from the authority shall be eligible for reinstatement in the
12 service of the state, and employees suspended from the service of the
13 state shall be eligible for reinstatement in the service of the authori-
14 ty, in the same manner as though the authority were a department of the
15 state. [All provisions contained within this subdivision shall apply to
16 the canal corporation in the same manner that they apply to the authori-
17 ty.]

18 S 92. Section 357 of the public authorities law, as amended by chapter
19 766 of the laws of 1992, is amended to read as follows:

20 S 357. Right of authority to use state property; payment for improve-
21 ments. On assuming jurisdiction of a thruway highway section or
22 connection or any part thereof, or of a highway connection, [or of the
23 New York state canal system,] the authority shall have the right to
24 possess and use for its corporate purposes so long as its corporate
25 existence shall continue, any real property and rights in real property
26 theretofore acquired by the state, including all improvements thereon
27 [and state canal lands and properties; provided that the use by the
28 authority of canal lands and properties for highway purposes shall not
29 interfere with the use thereof for canal purposes].

30 S 93. Subdivision 1 of section 359 of the public authorities law, as
31 amended by chapter 766 of the laws of 1992, is amended to read as
32 follows:

33 1. On assuming jurisdiction of a thruway section or connection or any
34 part thereof, or of a highway connection, [or of the New York state
35 canal system,] the authority shall proceed with the construction, recon-
36 struction or improvement thereof. All such work shall be done pursuant
37 to a contract or contracts which shall be let to the lowest responsible
38 bidder, by sealed proposals publicly opened, after public advertisement
39 and upon such terms and conditions as the authority shall require;
40 provided, however, that the authority may reject any and all proposals
41 and may advertise for new proposals, as herein provided, if in its opin-
42 ion, the best interests of the authority will thereby be promoted;
43 provided further, however, that at the request of the authority, all or
44 any portion of such work, together with any engineering required by the
45 authority in connection therewith, shall be performed by the commission-
46 er and his OR HER subordinates in the department of transportation as
47 agents for, and at the expense of, the authority.

48 S 94. Section 359-a of the public authorities law, as added by chapter
49 140 of the laws of 2002, is amended to read as follows:

50 S 359-a. Procurement contracts. For the purposes of section twenty-
51 eight hundred seventy-nine of this chapter as applied to the authority
52 [or the canal corporation], the term "procurement contract" shall mean
53 any written agreement for the acquisition of goods or services of any
54 kind by the authority [or the canal corporation] in the actual or esti-
55 mated amount of fifteen thousand dollars or more.

1 S 95. Section 360 of the public authorities law, as amended by chapter
2 766 of the laws of 1992, is amended to read as follows;

3 S 360. Operation and maintenance. Operation and maintenance by the
4 authority of any thruway section or connection or any part thereof or of
5 a highway connection[, the New York state canal system] of which it has
6 assumed jurisdiction shall be performed (a) by the use of authority
7 forces and equipment at the expense of the authority or by agreement at
8 the expense of the state or other parties; (b) by contract with municipi-
9 palities or independent contractors; (c) at the request of the authori-
10 ty, by the commissioner and his OR HER subordinates in the department of
11 transportation as agents for, and at the expense of the authority, or
12 (d) by a combination of such methods.

13 S 96. Section 362 of the public authorities law, as amended by chapter
14 766 of the laws of 1992, is amended to read as follows:

15 S 362. Assistance by state officers, departments, boards, divisions
16 and commissions. At the request of the authority, engineering and legal
17 services for such authority shall be performed by forces or officers of
18 the department of transportation and the department of law respectively,
19 and all other state officers, departments, boards, divisions and commis-
20 sions shall render services within their respective functions. At the
21 request of the authority, services in connection with the collection of
22 any charges or fees for the use of the thruway[, the New York state
23 canal system] or any part thereof may be performed by the department of
24 motor vehicles.

25 S 97. Paragraph (a) of subdivision 1 of section 365 of the public
26 authorities law, as amended by chapter 766 of the laws of 1992, is
27 amended to read as follows:

28 (a) Subject to the provisions of section three hundred sixty-six of
29 this title, the authority shall have the power and is hereby authorized
30 from time to time to issue its negotiable notes and bonds in conformity
31 with applicable provisions of the uniform commercial code in such prin-
32 cipal amount as, in the opinion of the authority, shall be necessary to
33 provide sufficient moneys for achieving the corporate purposes thereof,
34 including construction, reconstruction and improvement of the thruway
35 sections and connections, and highway connections herein described, [the
36 New York state canal system subject to the provisions of section three
37 hundred eighty-three of this title,] together with suitable facilities
38 and appurtenances, the payment of all indebtedness to the state, the
39 cost of acquisition of all real property, the expense of maintenance and
40 operation, interest on notes and bonds during construction and for a
41 reasonable period thereafter, establishment of reserves to secure notes
42 or bonds, and all other expenditures of the authority incident to and
43 necessary or convenient to carry out its corporate purposes and powers.

44 S 98. Paragraph (i) of subdivision 3 of section 365 of the public
45 authorities law, as amended by chapter 766 of the laws of 1992, is
46 amended to read as follows:

47 (i) the acquisition of jurisdiction over, and of property for, thru-
48 ways[, the New York state canal system,] and the construction, recon-
49 struction, improvement, maintenance or operation thereof;

50 S 99. Sections 382 and 383 of the public authorities law are REPEALED.

51 S 100. Paragraph e of subdivision 6 of section 2897 of the public
52 authorities law is REPEALED.

53 S 101. Subdivisions 2 and 5 of section 92-u of the state finance law,
54 subdivision 2 as added by chapter 766 of the laws of 1992 and subdivi-
55 sion 5 as amended by chapter 483 of the laws of 1996, are amended to
56 read as follows:

1 2. Such fund shall consist of all revenues received from the operation
2 of the New York state canal system as defined in section [three hundred
3 fifty-one of the public authorities law and section] two of the canal
4 law, including payments on leases for use of canal lands, terminals and
5 terminal lands, tolls received for lock and lift bridge passage,
6 payments for hydroelectric easements and sales, for purchase of other
7 abandoned canal lands, payments for any permits and leases for use of
8 the water and lands of the system and payments for use of dry docks and
9 other moneys made available to the fund from any other source [other
10 than a grant, loan or other inter-corporate transfer of funds of the New
11 York state thruway authority], and any income earned by, or incremental
12 to, the fund due to investment thereof, or any repayment of any moneys
13 advanced by the fund.

14 5. Moneys of the fund, following appropriation by the legislature,
15 shall be available to the [New York state thruway authority] DEPARTMENT
16 OF TRANSPORTATION and shall be expended by such [authority or subsidiary
17 corporation thereof] DEPARTMENT only for the maintenance, construction,
18 reconstruction, development or promotion of the canal system; provided,
19 however, that in the initial years, expenditures of moneys of the fund
20 for the development and/or promotion of the canal system shall be
21 accorded a priority by the [authority or subsidiary corporation thereof]
22 DEPARTMENT. In addition, moneys of the fund may be used for the
23 purposes of interpretive signage and promotion for appropriate histor-
24 ically significant Erie canal lands and related sites. Moneys shall be
25 paid out of the fund by the state comptroller on certificates issued by
26 the director of the budget.

27 S 102. Subdivision 1 of section 373 of the public authorities law, as
28 amended by chapter 776 of the laws of 1951, is amended to read as
29 follows:

30 1. The state does pledge to and agree with the holders of notes,
31 bonds, or other obligations of the authority not guaranteed by the state
32 that the state will not limit or alter the rights hereby vested in the
33 authority to establish and collect such fees, rentals and charges as may
34 be convenient or necessary to produce sufficient revenue to meet the
35 expense of maintenance and operation and to fulfill the terms of any
36 agreements made with the holders thereof, or in any way impair the
37 rights and remedies of such holders until such notes, bonds, and other
38 obligations, together with the interest thereon, with interest on any
39 unpaid installments of interest, and all costs and expenses in
40 connection with any action or proceedings by or on behalf of such hold-
41 ers, are fully met and discharged; PROVIDED, HOWEVER, THAT IF ANY TOLL,
42 FEE, CHARGE OR ANY COMBINATION THEREOF IMPOSED ON A VEHICLE FOR THE USE
43 OF THE THRUWAY, EXCLUDING ANY TOLLS, FEES, OR CHARGES FOR THE USE OF A
44 BRIDGE OR SET OF BRIDGES, EXCEEDS THE TOLL, FEE, CHARGE OR COMBINATION
45 THEREOF THAT SUCH VEHICLE WOULD HAVE BEEN SUBJECT TO ON THE FIRST DAY OF
46 JANUARY, TWO THOUSAND TWELVE DIVIDED BY THE NATIONAL CONSUMER PRICE
47 INDEX DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR JANUARY,
48 TWO THOUSAND TWELVE AND MULTIPLIED BY THE NATIONAL CONSUMER PRICE INDEX
49 DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE MOST RECENT
50 MONTH PUBLISHED, THEN THE ENTIRE AMOUNT THAT THE TOLL, FEE, CHARGE OR
51 COMBINATION THEREOF EXCEEDS THE AMOUNT THAT THE VEHICLE WOULD HAVE BEEN
52 SUBJECT TO ON THE FIRST DAY OF JANUARY, TWO THOUSAND TWELVE MUST BE
53 PLACED IN A SEPARATE FUND IN ACCORDANCE WITH SUCH REQUIREMENTS AS THE
54 STATE COMPTROLLER MAY PRESCRIBE. THE AUTHORITY SHALL USE SUCH FUNDS AND
55 ANY INTEREST EARNED THEREON TO PAY INSTALLMENTS ON NOTES, BONDS OR OTHER
56 OBLIGATIONS DUE BEFORE THE END OF THE CURRENT CALENDAR YEAR OR TO

1 PURCHASE NOTES, BONDS OR OTHER OBLIGATIONS OF THE AUTHORITY ISSUED AT
2 LEAST TWO YEARS PRIOR AND NOT GUARANTEED BY THE STATE, WHICH SHALL THERE-
3 UPON BE CANCELLED, AT A PRICE NOT EXCEEDING (A) IF THE NOTES OR BONDS
4 ARE THEN REDEEMABLE, THE REDEMPTION PRICE THEN APPLICABLE PLUS ACCRUED
5 INTEREST TO THE NEXT INTEREST PAYMENT DATE THEREON, OR (B) IF THE NOTES
6 OR BONDS ARE NOT THEN REDEEMABLE, THE REDEMPTION PRICE APPLICABLE ON THE
7 FIRST DATE AFTER SUCH PURCHASE UPON WHICH THE NOTES OR BONDS BECOME
8 SUBJECT TO REDEMPTION PLUS ACCRUED INTEREST TO SAID DATE. THE AUTHORITY
9 SHALL MAKE A GOOD FAITH EFFORT TO EXHAUST SUCH FUND BY THE LAST DAY OF
10 DECEMBER EACH YEAR.

11 S 103. (a) Notwithstanding any other provision of law to the contrary,
12 all employees of the New York state canal corporation, as constituted
13 pursuant to chapter 766 of the laws of 1992, as a subsidiary of the New
14 York state thruway authority, and such other employees of the thruway
15 authority as may be mutually agreed to by the chairman of the authority
16 and the commissioner of transportation shall be transferred to the
17 department of transportation. Employees so transferred shall be trans-
18 ferred without further examination or qualification and shall retain
19 their respective civil service classification status. In addition, the
20 New York state canal corporation as constituted pursuant to chapter 766
21 of the laws of 1992 as a subsidiary of the New York state thruway
22 authority shall, for a period of two years following the effective date
23 of this act, be considered the former agency of such employees trans-
24 ferred pursuant to this section for the purposes of subdivision 8 of
25 section 73 of the public officers law.

26 (b) Any such employee who at the time of such transfer shall have been
27 in a negotiating unit represented by an employee organization which was
28 certified or recognized pursuant to article 14 of the civil service law,
29 and whose job function or duties have remained essentially the same,
30 shall continue to be represented by said employee organization, in a
31 bargaining unit within the department of transportation. Successor
32 employees to the positions held by such transferred employees in the
33 department of transportation shall, consistent with the provisions of
34 article 14 of the civil service law, be included in the same unit as
35 their predecessors. Nothing in this section shall be construed to
36 affect (i) the rights of employees pursuant to an existing or most
37 recently expired collective bargaining agreement, or (ii) existing law
38 with respect to an application by the public employment relations board
39 seeking designation by the board that certain persons are managerial or
40 confidential. Nothing in this section shall preclude changes in negoti-
41 ating units of such employees consistent with the provisions of article
42 14 of the civil service law.

43 S 104. Severability. If any clause, sentence, paragraph, section or
44 part of this act shall be adjudged by any court of competent jurisdic-
45 tion to be invalid, such judgment shall not affect, impair or invalidate
46 the remainder thereof, but shall be confined in its operation to the
47 clause, sentence, paragraph, section or part thereof directly involved
48 in the controversy in which such judgment shall have been rendered. In
49 addition, this act, being necessary for the welfare of the state and its
50 inhabitants, shall be liberally construed so as to effectuate its
51 purposes.

52 S 105. This act shall take effect immediately; provided, however, that
53 the amendments made to sections 73-0105 and 73-0107 of the environmental
54 conservation law by sections eighty-four and eighty-five of this act
55 shall not affect the repeal of such sections as provided in section 3 of
56 chapter 456 of the laws of 2007, as amended and shall be deemed repealed

1 therewith; provided, further, that the amendments to subdivision 1 of
2 section 37.05 of the parks, recreation, and historic preservation law
3 made by section eighty-six of this act shall not affect the repeal of
4 such section and shall be deemed to be repealed therewith.