

S. 6408--C

A. 9008--C

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

January 14, 2016

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

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

AN ACT intentionally omitted (Part A); intentionally omitted (Part B); intentionally omitted (Part C); to amend the vehicle and traffic law and the state finance law, in relation to the dedication of revenues and the costs of the department of motor vehicles; to amend chapter 751 of the laws of 2005 amending the insurance law and the vehicle and traffic law relating to establishing the accident prevention course internet technology pilot program, in relation to the effectiveness thereof; to repeal subdivision 2 of section 89-g of the state finance law relating to funds to be placed into the accident prevention course internet, and other technology pilot program fund; and to repeal certain provisions of the state finance law relating to the motorcycle safety fund (Part D); to amend the vehicle and traffic law, in relation to covered farm vehicles and to expand the scope of the P endorsement; and to repeal certain provisions of such law relating thereto (Part E); to amend the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part F); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effective-

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

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ness thereof (Part G); to establish the Transformational Economic Development Infrastructure and Revitalization Projects act; and providing for the repeal of such provisions upon expiration thereof (Part H); to authorize and direct the New York state energy research and development authority to make a payment to the general fund of up to \$913,000 (Part I); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, zero emissions vehicle and electric vehicle rebate and Fuel NY programs, and to finance the department of environmental conservation's climate change program, from an assessment on gas and electric corporations (Part J); to authorize the department of health to finance certain activities with revenues generated from an assessment on cable television companies (Part K); to amend the public service law, in relation to authorizing the department of public service to increase program efficiencies (Part L); to amend chapter 21 of the laws of 2003, amending the executive law, relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending the expiration date thereof (Part M); intentionally omitted (Part N); to amend the general business law, in relation to authorized combative sports and to the costs of boxer medical examinations; and to amend a chapter of the laws of 2016 amending the general business law and other laws relating to authorized combative sports, as proposed in legislative bill numbers S.5949-A and A.2604-C, in relation to the effectiveness thereof and the service of commissioners on the state athletic commission (Part O); to amend chapter 584 of the laws of 2011, amending the public authorities law relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, in relation to the effectiveness thereof (Part P); intentionally omitted (Part Q); intentionally omitted (Part R); to amend the New York state urban development corporation act, in relation to transferring the statutory authority for the promulgation of marketing orders from the department of agriculture and markets to the New York state urban development corporation; to repeal certain provisions of the agriculture and markets law relating to the marketing of agricultural products; and providing for the repeal of such provisions upon expiration thereof (Part S); to amend the environmental conservation law, in relation to waste tire management (Part T); to amend the state finance law, in relation to creating a new climate change mitigation and adaptation account in the environmental protection fund; to amend the environmental conservation law, in relation to local waterfront revitalization programs; to amend the environmental conservation law, in relation to climate smart community projects; and to amend the executive law, in relation to payments for local waterfront revitalization programs (Part U); intentionally omitted (Part V); to amend the New York state urban development corporation act, in relation to the criteria governing the award of grants from the beginning farmers NY fund (Part W); to amend the environmental conservation law, in relation to retrofit technology for diesel-fueled vehicles (Part X); to amend the vehicle and traffic law, in relation to the disposition of certain fees received from the registration of snowmobiles (Part Y); to amend the public service law, in relation to operation of farm waste electric generating equipment (Part Z); relating to establishing a zero emissions vehicle and clean

burning fuel vehicle rebate program (Part AA); and to amend subpart H of part C of chapter 20 of the laws of 2015, appropriating money for certain municipal corporations and school districts, in relation to funding to local government entities from the urban development corporation; and to repeal certain provisions of such law relating thereto (Part BB)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2016-2017
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through BB. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Intentionally Omitted

14 PART B

15 Intentionally Omitted

16 PART C

17 Intentionally Omitted

18 PART D

19 Section 1. Section 399-1 of the vehicle and traffic law, as added by
20 chapter 751 of the laws of 2005, is amended to read as follows:

21 S 399-1. Application. Applicants for participation in the pilot
22 program established pursuant to this article shall be among those acci-
23 dent prevention course sponsoring agencies that have a course approved
24 by the commissioner pursuant to article twelve-B of this title prior to
25 the effective date of this article and which deliver such course to the
26 public. Provided, however, the commissioner may, in his or her
27 discretion, approve applications after such date. In order to be
28 approved for participation in such pilot program, the course must comply
29 with the provisions of law, rules and regulations applicable thereto.
30 The commissioner may, in his or her discretion, impose a fee for the
31 submission of each application to participate in the pilot program
32 established pursuant to this article. Such fee shall not exceed seven
33 thousand five hundred dollars. The proceeds from such fee shall be
34 deposited [in the accident prevention course internet technology pilot
35 program fund as established by section eighty-nine-g of the state
36 finance law] BY THE COMPTROLLER INTO THE SPECIAL OBLIGATION RESERVE AND
37 PAYMENT ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTAB-

1 LISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW FOR
2 THE PURPOSES ESTABLISHED IN THIS SECTION.

3 S 2. Subdivision 2 of section 89-g of the state finance law is
4 REPEALED and subdivisions 3 and 4 are renumbered subdivisions 2 and 3.

5 S 3. Section 5 of chapter 751 of the laws of 2005, amending the insur-
6 ance law and the vehicle and traffic law relating to establishing the
7 accident prevention course internet technology pilot program, as amended
8 by section 1 of part E of chapter 57 of the laws of 2014, is amended to
9 read as follows:

10 S 5. This act shall take effect on the one hundred eightieth day after
11 it shall have become a law and shall expire and be deemed repealed [May
12 31, 2019] APRIL 1, 2020; provided that any rules and regulations neces-
13 sary to implement the provisions of this act on its effective date are
14 authorized and directed to be completed on or before such date.

15 S 4. Paragraph a of subdivision 5 of section 410 of the vehicle and
16 traffic law, as amended by section 16 of part G of chapter 59 of the
17 laws of 2009, is amended to read as follows:

18 a. The annual fee for registration or reregistration of a motorcycle
19 shall be eleven dollars and fifty cents. Beginning April first, nine-
20 teen hundred ninety-eight the annual fee for registration or reregistra-
21 tion of a motorcycle shall be seventeen dollars and fifty cents, of
22 which two dollars and fifty cents shall be deposited BY THE COMPTROLLER
23 into the [motorcycle safety fund established pursuant to section nine-
24 ty-two-g of the state finance law] SPECIAL OBLIGATION RESERVE AND
25 PAYMENT ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTAB-
26 LISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW FOR
27 THE PURPOSES ESTABLISHED IN THIS SECTION.

28 S 5. Paragraph (c-1) of subdivision 2 of section 503 of the vehicle
29 and traffic law, as added by chapter 435 of the laws of 1997, is amended
30 to read as follows:

31 (c-1) In addition to the fees established in paragraphs (b) and (c) of
32 this subdivision, a fee of fifty cents for each six months or portion
33 thereof of the period of validity shall be paid upon the issuance of any
34 permit, license or renewal of a license which is valid for the operation
35 of a motorcycle, except a limited use motorcycle. Fees collected pursu-
36 ant to this paragraph shall be deposited BY THE COMPTROLLER into the
37 [motorcycle safety fund established pursuant to section ninety-two-g of
38 the state finance law] SPECIAL OBLIGATION RESERVE AND PAYMENT ACCOUNT OF
39 THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTABLISHED PURSUANT TO
40 SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW FOR THE PURPOSES ESTAB-
41 LISHED IN THIS SECTION.

42 S 6. Subdivision 2 of section 92-g of the state finance law is
43 REPEALED and subdivisions 3 and 4 are renumbered subdivisions 2 and 3.

44 S 7. Section 92-g of the state finance law is REPEALED.

45 S 8. Section 317 of the vehicle and traffic law is amended by adding a
46 new subdivision 5 to read as follows:

47 5. ALL ASSESSMENTS CHARGED AND COLLECTED BY THE COMMISSIONER PURSUANT
48 TO THIS SECTION SHALL BE DEPOSITED BY THE COMPTROLLER INTO THE SPECIAL
49 OBLIGATION RESERVE AND PAYMENT ACCOUNT OF THE DEDICATED HIGHWAY AND
50 BRIDGE TRUST FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE
51 STATE FINANCE LAW.

52 S 9. Paragraph (b) of subdivision 1-a of section 318 of the vehicle
53 and traffic law, as amended by section 1-b of part A of chapter 63 of
54 the laws of 2005, is amended to read as follows:

55 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
56 sion, an order of suspension issued pursuant to paragraph (a) or (e) of

1 this subdivision may be terminated if the registrant pays to the commis-
2 sioner a civil penalty in the amount of eight dollars for each day up to
3 thirty days for which financial security was not in effect, plus ten
4 dollars for each day from the thirty-first to the sixtieth day for which
5 financial security was not in effect, plus twelve dollars for each day
6 from the sixty-first to the ninetieth day for which financial security
7 was not in effect. Of each eight dollar penalty, six dollars will be
8 deposited in the general fund and two dollars in the [miscellaneous
9 special revenue fund - compulsory insurance account] SPECIAL OBLIGATION
10 RESERVE AND PAYMENT ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST
11 FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE
12 LAW FOR THE PURPOSES ESTABLISHED IN THIS SECTION. Of each ten dollar
13 penalty collected, six dollars will be deposited in the general fund,
14 two dollars will be deposited in the [miscellaneous special revenue fund
15 - compulsory insurance account] SPECIAL OBLIGATION RESERVE AND PAYMENT
16 ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTABLISHED
17 PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW FOR THE
18 PURPOSES ESTABLISHED IN THIS SECTION, and two dollars shall be deposited
19 in the dedicated highway and bridge trust fund established pursuant to
20 section eighty-nine-b of the state finance law and the dedicated mass
21 transportation fund established pursuant to section eighty-nine-c of the
22 state finance law and distributed according to the provisions of subdi-
23 vision (d) of section three hundred one-j of the tax law. Of each twelve
24 dollar penalty collected, six dollars will be deposited into the general
25 fund, two dollars will be deposited into the [miscellaneous special
26 revenue fund - compulsory insurance account] SPECIAL OBLIGATION RESERVE
27 AND PAYMENT ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND
28 ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW
29 FOR THE PURPOSES ESTABLISHED IN THIS SECTION, and four dollars shall be
30 deposited in the dedicated highway and bridge trust fund established
31 pursuant to section eighty-nine-b of the state finance law and the dedi-
32 cated mass transportation fund established pursuant to section eighty-
33 nine-c of the state finance law and distributed according to the
34 provisions of subdivision (d) of section three hundred one-j of the tax
35 law. The foregoing provision shall apply only once during any thirty-six
36 month period and only if the registrant surrendered the certificate of
37 registration and number plates to the commissioner not more than ninety
38 days from the date of termination of financial security or submits to
39 the commissioner new proof of financial security which took effect not
40 more than ninety days from the termination of financial security.

41 S 10. Section 423-a of the vehicle and traffic law is amended by
42 adding a new subdivision 6 to read as follows:

43 6. ALL FUNDS COLLECTED FROM THE DEPARTMENT'S SHARE OF THE SALE OF
44 ASSETS PURSUANT TO THIS SECTION SHALL BE DEPOSITED BY THE COMPTROLLER
45 INTO THE SPECIAL OBLIGATION RESERVE AND PAYMENT ACCOUNT OF THE DEDICATED
46 HIGHWAY AND BRIDGE TRUST FUND ESTABLISHED PURSUANT TO SECTION
47 EIGHTY-NINE-B OF THE STATE FINANCE LAW.

48 S 11. Paragraph (a) of subdivision 3 of section 89-b of the state
49 finance law, as amended by section 8 of part C of chapter 57 of the laws
50 of 2014, is amended to read as follows:

51 (a) The special obligation reserve and payment account shall consist
52 (i) of all moneys required to be deposited in the dedicated highway and
53 bridge trust fund pursuant to the provisions of sections two hundred
54 five, two hundred eighty-nine-e, three hundred one-j, five hundred
55 fifteen and eleven hundred sixty-seven of the tax law, section four
56 hundred one of the vehicle and traffic law, and section thirty-one of

1 chapter fifty-six of the laws of nineteen hundred ninety-three, (ii) all
2 fees, fines or penalties collected by the commissioner of transportation
3 AND THE COMMISSIONER OF MOTOR VEHICLES pursuant to section fifty-two,
4 section three hundred twenty-six, section eighty-eight of the highway
5 law, subdivision fifteen of section three hundred eighty-five, SECTION
6 FOUR HUNDRED TWENTY-THREE-A, SECTION FOUR HUNDRED TEN, SECTION THREE
7 HUNDRED SEVENTEEN, SECTION THREE HUNDRED EIGHTEEN, ARTICLE TWELVE-C, AND
8 PARAGRAPH (C-1) OF SUBDIVISION TWO OF SECTION FIVE HUNDRED THREE of the
9 vehicle and traffic law, section two of the chapter of the laws of two
10 thousand three that amended this paragraph, subdivision (d) of section
11 three hundred four-a, paragraph one of subdivision (a) and subdivision
12 (d) of section three hundred five, subdivision six-a of section four
13 hundred fifteen and subdivision (g) of section twenty-one hundred twen-
14 ty-five of the vehicle and traffic law, section fifteen of this chapter,
15 excepting moneys deposited with the state on account of betterments
16 performed pursuant to subdivision twenty-seven or subdivision thirty-
17 five of section ten of the highway law, and sections ninety-four, one
18 hundred thirty-five, [one hundred forty-four] and one hundred forty-five
19 of the transportation law, (iii) any moneys collected by the department
20 of transportation for services provided pursuant to agreements entered
21 into in accordance with section ninety-nine-r of the general municipal
22 law, and (iv) any other moneys collected therefor or credited or trans-
23 ferred thereto from any other fund, account or source.

24 S 12. Paragraph (a) of subdivision 3 of section 89-b of the state
25 finance law, as amended by section 9 of part C of chapter 57 of the laws
26 of 2014, is amended to read as follows:

27 (a) The special obligation reserve and payment account shall consist
28 (i) of all moneys required to be deposited in the dedicated highway and
29 bridge trust fund pursuant to the provisions of sections two hundred
30 eighty-nine-e, three hundred one-j, five hundred fifteen and eleven
31 hundred sixty-seven of the tax law, section four hundred one of the
32 vehicle and traffic law, and section thirty-one of chapter fifty-six of
33 the laws of nineteen hundred ninety-three, (ii) all fees, fines or
34 penalties collected by the commissioner of transportation AND THE
35 COMMISSIONER OF MOTOR VEHICLES pursuant to section fifty-two, section
36 three hundred twenty-six, section eighty-eight of the highway law,
37 subdivision fifteen of section three hundred eighty-five, SECTION FOUR
38 HUNDRED TWENTY-THREE-A, SECTION FOUR HUNDRED TEN, SECTION THREE HUNDRED
39 SEVENTEEN, SECTION THREE HUNDRED EIGHTEEN, ARTICLE TWELVE-C, AND PARA-
40 GRAPH (C-1) OF SUBDIVISION TWO OF SECTION FIVE HUNDRED THREE of the
41 vehicle and traffic law, section fifteen of this chapter, excepting
42 moneys deposited with the state on account of betterments performed
43 pursuant to subdivision twenty-seven or subdivision thirty-five of
44 section ten of the highway law, and sections ninety-four, one hundred
45 thirty-five, [one hundred forty-four] and one hundred forty-five of the
46 transportation law, (iii) any moneys collected by the department of
47 transportation for services provided pursuant to agreements entered into
48 in accordance with section ninety-nine-r of the general municipal law,
49 and (iv) any other moneys collected therefor or credited or transferred
50 thereto from any other fund, account or source.

51 S 13. This act shall take effect immediately; provided, however, that
52 section seven of this act shall take effect April 1, 2020; provided
53 further, however, that the amendments to section 399-1 of the vehicle
54 and traffic law made by section one of this act shall not affect the
55 repeal of such section and shall be deemed repealed therewith; and
56 provided further, however, that the amendments to paragraph (a) of

subdivision 3 of section 89-b of the state finance law made by section eleven of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 13 of part U1 of chapter 62 of the laws of 2003, as amended, when upon such date the provisions of section twelve of this act shall take effect.

PART E

Section 1. Subparagraph (vi) of paragraph (b) of subdivision 2 of section 501 of the vehicle and traffic law is REPEALED.

S 2. Subparagraph (i) of paragraph (b) of subdivision 4 of section 501-a of the vehicle and traffic law, as amended by chapter 36 of the laws of 2009, is amended to read as follows:

(i) a personal use vehicle or a COVERED farm vehicle or a combination of such vehicles;

S 3. Subdivision 7 of section 501-a of the vehicle and traffic law is REPEALED, subdivision 8 is renumbered subdivision 7, and a new subdivision 8 is added to read as follows:

8. COVERED FARM VEHICLE. (A) A VEHICLE OR COMBINATION OF VEHICLES REGISTERED IN THIS STATE, WHICH (I) DISPLAYS A COVERED FARM VEHICLE DESIGNATION ISSUED BY THE COMMISSIONER, (II) IS OPERATED BY THE OWNER OR OPERATOR OF A FARM OR RANCH, OR AN EMPLOYEE OR FAMILY MEMBER OF AN OWNER OR OPERATOR OF A FARM OR RANCH, (III) IS USED TO TRANSPORT AGRICULTURAL COMMODITIES, LIVESTOCK, MACHINERY OR SUPPLIES TO OR FROM A FARM OR RANCH, (IV) IS NOT USED IN FOR-HIRE MOTOR CARRIER OPERATIONS, EXCLUSIVE OF OPERATION BY A TENANT PURSUANT TO A CROP SHARE FARM LEASE AGREEMENT TO TRANSPORT THE LANDLORD'S PORTION OF THE CROPS UNDER THAT AGREEMENT; AND (V) IS NOT USED FOR THE TRANSPORTATION OF HAZARDOUS MATERIALS.

(B) A COVERED FARM VEHICLE WITH A GROSS VEHICLE WEIGHT OR GROSS VEHICLE WEIGHT RATING, WHICHEVER IS GREATER, OF MORE THAN TWENTY-SIX THOUSAND POUNDS MAY ONLY BE OPERATED WITHIN ONE HUNDRED FIFTY AIR MILES OF THE FARM OR RANCH.

(C) THE COMMISSIONER SHALL, BY REGULATION, DESIGNATE AN ENDORSEMENT OR ENDORSEMENTS FOR THE OPERATION OF COVERED FARM VEHICLES WITH A GROSS VEHICLE WEIGHT OR GROSS VEHICLE WEIGHT RATING OF MORE THAN TWENTY-SIX THOUSAND POUNDS. SUCH ENDORSEMENT OR ENDORSEMENTS SHALL BE REQUIRED TO OPERATE SUCH A COVERED FARM VEHICLE OR COMBINATION OF COVERED FARM VEHICLES. THE IDENTIFICATION AND SCOPE OF SUCH ENDORSEMENT OR ENDORSEMENTS SHALL, AT A MINIMUM, INCLUDE A DISTINCTION BETWEEN THE OPERATION OF A COVERED FARM VEHICLE HAVING A GROSS VEHICLE WEIGHT OR GROSS VEHICLE WEIGHT RATING OF MORE THAN TWENTY-SIX THOUSAND POUNDS AND THE OPERATION OF A COMBINATION OF COVERED FARM VEHICLES HAVING A GROSS VEHICLE WEIGHT OR GROSS VEHICLE WEIGHT RATING OF MORE THAN TWENTY-SIX THOUSAND POUNDS.

(D) FOR THE PURPOSES OF THIS SUBDIVISION, THE GROSS VEHICLE WEIGHT OF A VEHICLE SHALL MEAN THE ACTUAL WEIGHT OF THE VEHICLE AND THE LOAD.

S 4. Subparagraph (iv) of paragraph (b) of subdivision 2 of section 501 of the vehicle and traffic law, as added by chapter 173 of the laws of 1990, is amended to read as follows:

(iv) P endorsement. Shall be required to operate a bus as defined in sections one hundred four and five hundred nine-a of this chapter OR ANY MOTOR VEHICLE WITH A GROSS VEHICLE WEIGHT OR GROSS VEHICLE WEIGHT RATING OF MORE THAN TWENTY-SIX THOUSAND POUNDS WHICH IS DESIGNED TO TRANSPORT PASSENGERS IN COMMERCE. FOR THE PURPOSES OF THIS SUBPARAGRAPH THE GROSS VEHICLE WEIGHT OF A VEHICLE SHALL MEAN THE ACTUAL WEIGHT OF THE VEHICLE AND THE LOAD.

1 S 5. This act shall take effect on the ninetieth day after it shall
2 have become a law.

3 PART F

4 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
5 of the laws of 1968 constituting the New York state urban development
6 corporation act, as amended by section 1 of part M of chapter 58 of the
7 laws of 2015, is amended to read as follows:

8 3. The provisions of this section shall expire, notwithstanding any
9 inconsistent provision of subdivision 4 of section 469 of chapter 309 of
10 the laws of 1996 or of any other law, on July 1, [2016] 2017.

11 S 2. This act shall take effect immediately and shall be deemed to
12 have been in full force and effect on and after July 1, 2016.

13 PART G

14 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
15 New York state urban development corporation act, relating to the powers
16 of New York state urban development corporation to make loans, as
17 amended by section 1 of part N of chapter 58 of the laws of 2015, is
18 amended to read as follows:

19 S 2. This act shall take effect immediately provided, however, that
20 section one of this act shall expire on July 1, [2016] 2017, at which
21 time the provisions of subdivision 26 of section 5 of the New York state
22 urban development corporation act shall be deemed repealed; provided,
23 however, that neither the expiration nor the repeal of such subdivision
24 as provided for herein shall be deemed to affect or impair in any manner
25 any loan made pursuant to the authority of such subdivision prior to
26 such expiration and repeal.

27 S 2. This act shall take effect immediately and shall be deemed to
28 have been in full force and effect on and after April 1, 2016.

29 PART H

30 Section 1. This act shall be known and may be cited as the "Transfor-
31 mational Economic Development Infrastructure and Revitalization Projects
32 act".

33 S 2. Definitions. For the purposes of this act, the following terms
34 shall have the following meanings:

35 1. "Transformational Economic Development Infrastructure and Revitali-
36 zation Projects act" or "projects" shall mean projects in the county of
37 New York related to the Jacob K. Javits Convention Center, the Empire
38 Station Complex, the James A. Farley Redevelopment, or the Pennsylvania
39 Station New York Redevelopment. The term "project" shall refer to any of
40 these construction projects.

41 2. "Authorized entity" shall mean the New York State Urban Development
42 Corporation, the New York Convention Center Development Corporation,
43 and/or their subsidiaries.

44 3. "Best value" shall mean the basis for awarding contracts for
45 services to the bidder that optimize quality, cost and efficiency, price
46 and performance criteria, which may include, but is not limited to:

47 (a) The quality of the contractor's performance on previous projects;

48 (b) The timeliness of the contractor's performance on previous
49 projects;

1 (c) The level of customer satisfaction with the contractor's perform-
2 ance on previous projects;

3 (d) The contractor's record of performing previous projects on budget
4 and ability to minimize cost overruns;

5 (e) The contractor's ability to limit change orders;

6 (f) The contractor's ability to prepare appropriate project plans;

7 (g) The contractor's technical capacities;

8 (h) The individual qualifications of the contractor's key personnel;

9 (i) The contractor's ability to assess and manage risk and minimize
10 risk impact; and

11 (j) The contractor's past record of encouraging women and minority-
12 owned business enterprise participation and compliance with article 15-A
13 of the executive law.

14 Such basis shall reflect, wherever possible, objective and quantifi-
15 able analysis.

16 4. "Design-build contract" shall mean, in conformity with the require-
17 ments of this act, a contract for the design and construction of the
18 projects with a single entity, which may be a team comprised of separate
19 entities.

20 5. "Procurement record" shall mean documentation of the decisions made
21 and the approach taken in the procurement process.

22 6. "Project labor agreement" shall mean a pre-hire collective bargain-
23 ing agreement between a contractor and a bona fide building and
24 construction trade labor organization establishing the labor organiza-
25 tion as the collective bargaining representative for all persons who
26 will perform work on the project, and which provides that only contrac-
27 tors and subcontractors who sign a pre-negotiated agreement with the
28 labor organization can perform project work.

29 S 3. Notwithstanding section 103 of the general municipal law or
30 section 135 of the state finance law or the provisions of any other law
31 to the contrary, in conformity with the requirements of this act, and
32 only when a project labor agreement is performed, the authorized entity
33 may utilize the alternative delivery method referred to as a design-
34 build contract for the project. The authorized entity shall ensure that
35 its procurement record reflects the design-build contract process
36 authorized by this act if utilized and applicable.

37 S 4. An entity selected by the authorized entity to enter into a
38 design-build contract for the project shall be selected through a two-
39 step method, as follows:

40 1. Step one. Generation of a list of entities that have demonstrated
41 the general capability to perform a design-build contract for the
42 project. Such list shall consist of a specified number of entities, as
43 determined by the authorized entity, and shall be generated based upon
44 the authorized entity's review of responses to a publicly advertised
45 request for qualifications for the project. The authorized entity's
46 request for qualifications for the project shall include a general
47 description of the project, the maximum number of entities to be
48 included on the list, and the selection criteria to be used in generat-
49 ing the list. Such selection criteria shall include the qualifications
50 and experience of the design and construction team, organization, demon-
51 strated responsibility, ability of the team or of a member or members of
52 the team to comply with applicable requirements, including the
53 provisions of articles 145, 147 and 148 of the education law, past
54 record of compliance with the labor law including prevailing wage
55 requirements under state and federal law; the past record of compliance
56 with existing labor standards and maintaining harmonious labor

1 relations; the record of protecting the health and safety of workers on
2 public works projects and job sites as demonstrated by the experience
3 modification rate for each of the last three years; the prospective
4 bidder's ability to undertake the particular type and complexity of
5 work; the financial capability, responsibility and reliability of the
6 prospective bidder for such type and complexity of work; the prospective
7 bidder's compliance with equal employment opportunity requirements and
8 anti-discrimination laws, and demonstrated commitment to working with
9 minority and women-owned businesses through joint ventures or subcon-
10 tractor relationships; whether or not the prospective bidder or a person
11 or entity with an interest of at least ten per centum in the prospective
12 bidder, is debarred for having disregarded obligations to employees
13 under the Davis-Bacon Act pursuant to 40 U.S.C. 3144 and 29 C.F.R. 5.12
14 and such other qualifications the authorized entity deems appropriate
15 which may include but are not limited to project understanding, finan-
16 cial capability and record of past performance. The authorized entity
17 shall evaluate and rate all entities responding to the request for qual-
18 ifications. Based upon such ratings, the authorized entity shall list
19 the entities that shall receive a request for proposals in accordance
20 with subdivision two of this section. To the extent consistent with
21 applicable federal law, the authorized entity shall consider, when
22 awarding any contract pursuant to this section, the participation of:
23 (a) firms certified pursuant to article 15-A of the executive law as
24 minority or women-owned businesses and the ability of other businesses
25 under consideration to work with minority and women-owned businesses so
26 as to promote and assist participation by such businesses; and (b) small
27 business concerns identified pursuant to subdivision (b) of section
28 139-g of the state finance law.

29 2. Step two. Selection of the proposal which is the best value to the
30 authorized entity. The authorized entity shall issue a request for
31 proposals for the project to the entities listed pursuant to subdivision
32 one of this section. If such an entity consists of a team of separate
33 entities, the entities that comprise such a team must remain unchanged
34 from the entity as listed pursuant to subdivision one of this section
35 unless otherwise approved by the authorized entity. The request for
36 proposals for the project shall set forth the project's scope of work,
37 and other requirements, as determined by the authorized entity includ-
38 ing, but not limited to, requiring either (a) a lump sum price or (b) a
39 fee for any preliminary professional services together with a specific
40 methodology for determining a cost-plus not to exceed guaranteed maximum
41 price for the balance of work that will be completed pursuant to the
42 design-build contract following the completion of any preliminary
43 professional services related to the project as long as any construction
44 work on the project is awarded by the contractor on a competitive basis
45 which is approved by the authorized entity. The request for proposals
46 shall specify the criteria to be used to evaluate the responses and the
47 relative weight of each such criteria. Such criteria shall include the
48 proposal's cost, the quality of the proposal's solution, the qualifica-
49 tions and experience of the design-build entity, and other factors
50 deemed pertinent by the authorized entity, which may include, but shall
51 not be limited to, the proposal's project implementation, ability to
52 complete the work in a timely and satisfactory manner, maintenance costs
53 of the completed project, maintenance of traffic approach, and community
54 impact. Any contract awarded pursuant to this act shall be awarded to a
55 responsive and responsible entity that submits the proposal, which, in
56 consideration of these and other specified criteria deemed pertinent to

1 the project, offers the best value to the authorized entity, as deter-
2 mined by the authorized entity. Nothing in this act shall be construed
3 to prohibit the authorized entity from negotiating final contract terms
4 and conditions including cost.

5 3. The design-build contract may be awarded to the contractor offering
6 the best value:

7 (a) Utilizing a cost-plus not to exceed guaranteed maximum price form
8 of contract in which the authorized entity shall be entitled to monitor
9 and audit all project costs. In establishing the schedule and process
10 for determining a guaranteed maximum price, the contract between the
11 authorized entity and the contractor shall:

12 (i) describe the scope of the work and the cost of performing such
13 work;

14 (ii) include a detailed line item cost breakdown;

15 (iii) include a list of all drawings, specifications and other infor-
16 mation on which the guaranteed maximum price is based;

17 (iv) include the dates for substantial and final completion on which
18 the guaranteed maximum price is based; and

19 (v) include a schedule of unit prices;

20 (b) Utilizing a lump sum contract in which the contractor agrees to
21 accept a set dollar amount for a contract which comprises a single bid
22 without providing a cost breakdown for all costs such as for equipment,
23 labor, materials, as well as such contractor's profit for completing all
24 items of work comprising the project; or

25 (c) The design-build contract may include both lump sum and cost-plus
26 not to exceed guaranteed maximum price, and also may provide for profes-
27 sional services on a fee-for-service basis.

28 4. Notwithstanding the foregoing provisions of this section, an enti-
29 ty selected by the authorized entity to enter into a design-build
30 contract for this project shall determine, before awarding any contracts
31 authorized by this act, whether the bidder, or a person or entity with
32 an interest of at least ten per centum in the bidder, is included in the
33 published list of debarred contractors pursuant to 40 U.S.C. 3144 and 29
34 C.F.R. 5.12, for having disregarded obligations to employees under the
35 Davis Bacon Act, and the bidder's inclusion on such list must be taken
36 into consideration in deciding whether the bidder is awarded any
37 contract.

38 S 5. Any contract entered into pursuant to this act shall include a
39 clause requiring that any professional services regulated by articles
40 145, 147 and 148 of the education law shall be performed and stamped and
41 sealed, where appropriate, by a professional licensed in accordance with
42 such articles.

43 S 6. The construction, demolition, reconstruction, excavation, reha-
44 bilitation, repair, renovation of the project undertaken by the author-
45 ized entity pursuant to this act shall be deemed a "public work" to be
46 performed in accordance with the provisions of article 8 of the labor
47 law, as well as subject to sections 200, 240, 241 and 242 of the labor
48 law and enforcement of prevailing wage requirements by the New York
49 state department of labor.

50 S 7. A project labor agreement shall be included as a requirement in
51 the request for proposals for the project, provided that, based upon a
52 study done by or for the authorized entity, the authorized entity deter-
53 mines that its interests are best met by requiring a project labor
54 agreement. The authorized entity shall conduct such a study and the
55 project labor agreement shall be performed consistent with the
56 provisions of section 222 of the labor law. If a project labor agree-

ment is performed on the project the authorized entity may utilize a design-build contract for the project and section 135 of the state finance law shall not apply to the project. If a project labor agreement is not performed on the project the authorized entity shall not utilize a design-build contract for the project and sections 101 and 103 of the general municipal law and section 135 of the state finance law shall apply to the project.

S 8. Each contract entered into by the authorized entity pursuant to this act shall comply, whenever practical, with the objectives and goals of minority and women-owned business enterprises pursuant to article 15-A of the executive law or, if the project receives federal aid, shall comply with applicable federal requirements for disadvantaged business enterprises.

S 9. The project undertaken by the authorized entity pursuant to this act shall be subject to the requirements of article 8 of the environmental conservation law, and, where applicable, the requirements of the national environmental policy act.

S 10. The submission of a proposal or responses or the execution of a design-build contract pursuant to this act shall not be construed to be a violation of section 6512 of the education law.

S 11. Nothing contained in this act shall limit the right or obligation of the authorized entity to comply with the provisions of any existing contract, including any existing contract with or for the benefit of the holders of the obligations of the authorized entity, or to award contracts as otherwise provided by law.

S 12. This act shall take effect immediately and shall expire and be deemed repealed 3 years after such date, provided that, projects with requests for qualifications issued prior to such repeal shall be permitted to continue under this act notwithstanding such repeal.

PART I

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

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2016.

PART J

Section 1. Expenditures of moneys by the New York state energy research and development authority for services and expenses of the energy research, development and demonstration program, including grants, the energy policy and planning program, the zero emissions vehicle and electric vehicle rebate program, and the Fuel NY program shall be subject to the provisions of this section. Notwithstanding the provisions of subdivision 4-a of section 18-a of the public service law, all moneys committed or expended in an amount not to exceed \$19,700,000 shall be reimbursed by assessment against gas corporations, as defined in subdivision 11 of section 2 of the public service law and electric corporations as defined in subdivision 13 of section 2 of the public service law, where such gas corporations and electric corporations have gross revenues from intrastate utility operations in excess of \$500,000 in the preceding calendar year, and the total amount which may be charged to any gas corporation and any electric corporation shall not

1 exceed one cent per one thousand cubic feet of gas sold and .010 cent
2 per kilowatt-hour of electricity sold by such corporations in their
3 intrastate utility operations in calendar year 2014. Such amounts shall
4 be excluded from the general assessment provisions of subdivision 2 of
5 section 18-a of the public service law. The chair of the public service
6 commission shall bill such gas and/or electric corporations for such
7 amounts on or before August 10, 2016 and such amounts shall be paid to
8 the New York state energy research and development authority on or
9 before September 10, 2016. Upon receipt, the New York state energy
10 research and development authority shall deposit such funds in the ener-
11 gy research and development operating fund established pursuant to
12 section 1859 of the public authorities law. The New York state energy
13 research and development authority is authorized and directed to: (1)
14 transfer \$1 million to the state general fund for services and expenses
15 of the department of environmental conservation and to transfer \$750,000
16 to the University of Rochester laboratory for laser energetics from the
17 funds received; and (2) commencing in 2016, provide to the chair of the
18 public service commission and the director of the budget and the chairs
19 and secretaries of the legislative fiscal committees, on or before
20 August first of each year, an itemized record, certified by the presi-
21 dent and chief executive officer of the authority, or his or her desig-
22 nee, detailing any and all expenditures and commitments ascribable to
23 moneys received as a result of this assessment by the chair of the
24 department of public service pursuant to section 18-a of the public
25 service law. This itemized record shall include an itemized breakdown
26 of the programs being funded by this section and the amount committed to
27 each program. The authority shall not commit for any expenditure, any
28 moneys derived from the assessment provided for in this section, until
29 the chair of such authority shall have submitted, and the director of
30 the budget shall have approved, a comprehensive financial plan encom-
31 passing all moneys available to and all anticipated commitments and
32 expenditures by such authority from any source for the operations of
33 such authority. Copies of the approved comprehensive financial plan
34 shall be immediately submitted by the chair to the chairs and secre-
35 taries of the legislative fiscal committees. Any such amount not
36 committed by such authority to contracts or contracts to be awarded or
37 otherwise expended by the authority during the fiscal year shall be
38 refunded by such authority on a pro-rata basis to such gas and/or elec-
39 tric corporations, in a manner to be determined by the department of
40 public service.

41 S 2. This act shall take effect immediately and shall be deemed to
42 have been in full force and effect on and after April 1, 2016.

43 PART K

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

49 S 2. This act shall take effect immediately and shall be deemed to
50 have been in full force and effect on and after April 1, 2016.

51 PART L

1 Section 1. Paragraph (c) of subdivision 12 of section 66 of the public
2 service law, as amended by chapter 162 of the laws of 1998, is amended
3 to read as follows:

4 (c) For the purpose of this subdivision, "major changes" shall mean an
5 increase in the rates and charges which would increase the aggregate
6 revenues of the applicant more than the greater of three hundred thou-
7 sand dollars or two and one-half percent, but shall not include changes
8 in rates, charges or rentals (I) allowed to go into effect by the
9 commission or made by the utility pursuant to an order of the commission
10 after hearings held upon notice to the public, OR (II) PROPOSED BY A
11 MUNICIPALITY.

12 S 2. This act shall take effect immediately.

13 PART M

14 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
15 executive law relating to permitting the secretary of state to provide
16 special handling for all documents filed or issued by the division of
17 corporations and to permit additional levels of such expedited service,
18 as amended by section 1 of part T of chapter 58 of the laws of 2015, is
19 amended to read as follows:

20 S 2. This act shall take effect immediately, provided however, that
21 section one of this act shall be deemed to have been in full force and
22 effect on and after April 1, 2003 and shall expire March 31, [2016]
23 2017.

24 S 2. This act shall take effect immediately and shall be deemed to
25 have been in full force and effect on and after March 31, 2016.

26 PART N

27 Intentionally Omitted

28 PART O

29 Section 1. Subdivision 2 of section 1010 of the general business law,
30 as added by a chapter of the laws of 2016 amending the general business
31 law and other laws relating to authorized combative sports, as proposed
32 in legislative bill numbers S.5949-A and A.2604-C, is amended to read as
33 follows:

34 2. Any professional applying for a license or renewal of a license to
35 participate in combative sports under this article shall undergo a
36 comprehensive physical examination including clinical neurological exam-
37 inations by a physician approved by the commission. If, at the time of
38 such examination, there is any indication of brain injury, or for any
39 other reason the physician deems it appropriate, the professional shall
40 be required to undergo further neurological examinations by a neurolo-
41 gist including magnetic resonance imaging or other medically equivalent
42 procedures. The commission shall not issue a license to a professional
43 until such examinations are completed and reviewed by the commission.
44 The results of all such examinations herein required shall become a part
45 of the professional's permanent medical record as maintained by the
46 commission. The costs of all such examinations [for professional boxers
47 shall be assumed by the state if such examinations are performed by a
48 physician or neurologist approved by the commission; the costs of all
49 such examinations for professional mixed martial arts participants]
50 shall be assumed by the applicant or promoter with which the profes-

sional [mixed martial arts participant] is affiliated, regardless of provider.

S 2. Section 11 of a chapter of the laws of 2016 amending the general business law and other laws relating to authorized combative sports, as proposed in legislative bill numbers S.5949-A and A.2604-C, is amended to read as follows:

S 11. This act shall take effect on the first day of the first month next succeeding the one hundred twentieth day after it shall have become a law and shall apply to gross receipts from combative sports held on or after that date; provided, however, that:

(A) the addition, amendment and/or repeal of any rule or regulation of the state athletic commission necessary for the implementation of this act on its effective date is authorized to be made on or before such effective date;

(B) SECTION 1003 OF THE GENERAL BUSINESS LAW, AS ADDED BY SECTION TWO OF THIS ACT, SHALL TAKE EFFECT IMMEDIATELY; AND

(C) NOTWITHSTANDING SECTION 1003 OF THE GENERAL BUSINESS LAW, AS ADDED BY SECTION TWO OF THIS ACT, THE COMMISSIONERS APPOINTED TO THE COMMISSION REPEALED BY THIS ACT MAY CONTINUE TO SERVE AS COMMISSIONERS ON THE COMMISSION CREATED BY THIS ACT, AND THEIR TERMS SHALL CONTINUE UNINTERRUPTED BY SUCH REPEAL.

S 3. This act shall take effect immediately, provided, however that section one of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2016 amending the general business law and other laws relating to authorized combative sports, as proposed in legislative bill numbers S.5949-A and A.2604-C, as amended, takes effect.

PART P

Section 1. Section 2 of chapter 584 of the laws of 2011, amending the public authorities law relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, as amended by section 1 of part X of chapter 57 of the laws of 2014, is amended to read as follows:

S 2. This act shall take effect immediately and shall expire and be deemed repealed on July 1, [2016] 2018; provided however, that the expiration of this act shall not impair or otherwise affect any of the powers, duties, responsibilities, functions, rights or liabilities of any subsidiary duly created pursuant to subdivision twenty-five of section 1678 of the public authorities law prior to such expiration.

S 2. This act shall take effect immediately.

PART Q

Intentionally Omitted

PART R

Intentionally Omitted

PART S

Section 1. Section 258-aa and article 25 of the agriculture and markets law are REPEALED.

1 S 2. Section 1 of chapter 174 of the laws of 1968, constituting the
2 New York state urban development corporation act, is amended by adding
3 three new sections 16-x, 16-y and 16-z to read as follows:

4 S 16-X. DAIRY PROMOTION ACT. 1. DECLARATION OF POLICY. (A) IT IS HERE-
5 BY DECLARED THAT THE MISSION OF THE CORPORATION IS TO PROMOTE A VIGOROUS
6 AND GROWING STATE ECONOMY. IN IMPLEMENTING THIS MISSION, THE CORPORATION
7 HAS UNDERTAKEN A VIGOROUS CAMPAIGN TO MARKET THE STATE'S ASSETS AND, BY
8 CARRYING OUT THE PROVISIONS OF THIS SECTION, WOULD FURTHER THIS MISSION
9 BY PROMOTING THE STATE'S DAIRY INDUSTRY.

10 (B) IT IS FURTHER DECLARED THAT THE CONTINUED EXISTENCE OF THE STATE
11 DAIRY INDUSTRY, AND THE CONTINUED PRODUCTION OF MILK ON THE FARMS OF
12 THIS STATE, IS OF VAST ECONOMIC IMPORTANCE TO THE STATE AND TO THE
13 HEALTH AND WELFARE OF THE INHABITANTS THEREOF; THAT IT IS ESSENTIAL, IN
14 ORDER TO ASSURE SUCH CONTINUED PRODUCTION OF MILK AND ITS HANDLING AND
15 DISTRIBUTION, THAT PRICES TO PRODUCERS BE SUCH AS TO RETURN REASONABLE
16 COSTS OF PRODUCTION, AND AT THE SAME TIME TO ASSURE AN ADEQUATE SUPPLY
17 OF MILK AND DAIRY PRODUCTS TO CONSUMERS AT REASONABLE PRICES; AND TO
18 THESE ENDS IT IS ESSENTIAL THAT CONSUMERS AND OTHERS BE ADEQUATELY
19 INFORMED AS TO THE DIETARY NEEDS AND ADVANTAGES OF MILK AND DAIRY
20 PRODUCTS AND AS TO THE ECONOMIES RESULTING FROM THE USE OF MILK AND
21 DAIRY PRODUCTS, AND TO COMMAND FOR MILK AND DAIRY PRODUCTS, CONSUMER
22 ATTENTION AND DEMAND CONSISTENT WITH THEIR IMPORTANCE AND VALUE. IT IS
23 FURTHER DECLARED THAT CONTINUED DECLINE IN THE CONSUMPTION OF FLUID MILK
24 AND SOME OTHER DAIRY PRODUCTS WILL JEOPARDIZE THE PRODUCTION OF ADEQUATE
25 SUPPLIES OF MILK AND DAIRY PRODUCTS BECAUSE OF INCREASING SURPLUSES
26 NECESSARILY RETURNING LESS TO PRODUCERS; AND THAT CONTINUED ADEQUATE
27 SUPPLIES OF MILK AND DAIRY PRODUCTS IS A MATTER OF VITAL CONCERN AS
28 AFFECTING THE HEALTH AND GENERAL WELFARE OF THE PEOPLE OF THIS STATE. IT
29 IS THEREFORE DECLARED TO BE THE LEGISLATIVE INTENT AND POLICY OF THE
30 STATE:

31 (I) TO ENABLE MILK PRODUCERS AND OTHERS IN THE DAIRY INDUSTRY, WITH
32 THE AID OF THE STATE, TO MORE EFFECTIVELY PROMOTE THE CONSUMPTION OF
33 MILK AND DAIRY PRODUCTS,

34 (II) TO PROVIDE METHODS AND MEANS FOR THE DEVELOPMENT OF NEW AND
35 IMPROVED DAIRY PRODUCTS, AND TO PROMOTE THEIR USE, AND

36 (III) TO THIS END, TO ELIMINATE THE POSSIBLE IMPAIRMENT OF THE
37 PURCHASING POWER OF THE MILK PRODUCERS OF THIS STATE AND TO ASSURE AN
38 ADEQUATE SUPPLY OF MILK FOR CONSUMERS AT REASONABLE PRICES.

39 2. DEFINITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE
40 THE FOLLOWING MEANINGS:

41 (A) "PRESIDENT" MEANS THE PRESIDENT OF THE CORPORATION.

42 (B) "DAIRY PRODUCTS" MEANS MILK AND PRODUCTS DERIVED THEREFROM, AND
43 PRODUCTS OF WHICH MILK OR A PORTION THEREOF IS A SIGNIFICANT PART.

44 (C) "PRODUCER" MEANS ANY PERSON IN THIS STATE WHO IS ENGAGED IN THE
45 PRODUCTION OF MILK OR WHO CAUSES MILK TO BE PRODUCED FOR ANY MARKET IN
46 THIS OR ANY OTHER STATE.

47 (D) "ADVISORY BOARD" MEANS THE PERSONS APPOINTED BY THE COMMISSIONER
48 FROM NOMINATIONS FROM PRODUCERS TO ASSIST THE PRESIDENT IN ADMINISTERING
49 A DAIRY PROMOTION ORDER.

50 (E) "MILK DEALER" MEANS ANY PERSON WHO PURCHASES OR HANDLES OR
51 RECEIVES OR SELLS MILK, INCLUDING INDIVIDUALS, PARTNERSHIPS, CORPO-
52 RATIONS, COOPERATIVE ASSOCIATIONS, AND UNINCORPORATED COOPERATIVE ASSO-
53 CIATIONS.

54 (F) "DAIRY PROMOTION ORDER" MEANS AN ORDER ISSUED BY THE PRESIDENT,
55 PURSUANT TO THE PROVISIONS OF THIS SECTION.

1 (G) "COOPERATIVE" MEANS AN ASSOCIATION OR FEDERATION OR COOPERATIVE OF
2 MILK PRODUCERS ORGANIZED UNDER THE LAWS OF NEW YORK STATE, OR ANY OTHER
3 STATE, HAVING AGREEMENTS WITH THEIR PRODUCER MEMBERS TO MARKET, BARGAIN
4 FOR OR SELL THE MILK OF SUCH PRODUCERS, AND IS ACTUALLY PERFORMING ONE
5 OR MORE OF THESE SERVICES IN THE MARKETING OF THE MILK PRODUCED BY THEIR
6 MEMBERS, THROUGH THE COOPERATIVE OR THROUGH A FEDERATION OF MILK COOPER-
7 ATIVES IN WHICH THE COOPERATIVE HAS MEMBERSHIP.

8 (H) "STATE" MEANS THE STATE OF NEW YORK.

9 (I) "DEPARTMENT" MEANS THE NEW YORK STATE DEPARTMENT OF AGRICULTURE
10 AND MARKETS.

11 (J) "COMMISSIONER" MEANS THE COMMISSIONER OF THE NEW YORK STATE
12 DEPARTMENT OF AGRICULTURE AND MARKETS.

13 3. POWERS AND DUTIES OF THE PRESIDENT. (A) THE PRESIDENT SHALL ADMIN-
14 ISTER AND ENFORCE THE PROVISIONS OF THIS SECTION. IN ORDER TO EFFECTUATE
15 THE DECLARED POLICY OF THIS SECTION THE PRESIDENT, IN CONSULTATION WITH
16 THE COMMISSIONER AND PRODUCERS, MAY, AFTER DUE NOTICE AND HEARING, MAKE
17 AND ISSUE A DAIRY PROMOTION ORDER, OR ORDERS.

18 (B) SUCH ORDER OR ORDERS SHALL, IN CONSULTATION WITH THE COMMISSIONER
19 AND PRODUCERS, BE ISSUED AND AMENDED OR TERMINATED IN ACCORDANCE WITH
20 THE FOLLOWING PROCEDURES:

21 (I) BEFORE ANY SUCH ORDER MAY BECOME EFFECTIVE IT MUST BE APPROVED BY
22 FIFTY-ONE PER CENTUM OF THE PRODUCERS OF MILK VOTING IN THE REFERENDUM
23 FOR THE AREA TO BE REGULATED BY SUCH ORDER. SUCH REFERENDUM SHALL NOT
24 CONSTITUTE VALID APPROVAL UNLESS FIFTY-ONE PER CENTUM OF ALL MILK
25 PRODUCERS FOR THE AREA TO BE REGULATED VOTE IN THE REFERENDUM. PRODUCERS
26 MAY VOTE BY INDIVIDUAL BALLOT OR THROUGH THEIR COOPERATIVES IN ACCORD-
27 ANCE WITH THE FOLLOWING PROCEDURES:

28 (A) COOPERATIVES MAY SUBMIT WRITTEN APPROVAL OF SUCH ORDER WITHIN A
29 PERIOD OF ONE HUNDRED TWENTY DAYS AFTER THE PRESIDENT HAS ANNOUNCED A
30 REFERENDUM ON A PROPOSED ORDER, FOR SUCH PRODUCERS WHO ARE LISTED AND
31 CERTIFIED TO THE PRESIDENT AS MEMBERS OF SUCH COOPERATIVE; PROVIDED,
32 HOWEVER, THAT ANY COOPERATIVE BEFORE SUBMITTING SUCH WRITTEN APPROVAL
33 SHALL GIVE AT LEAST SIXTY DAYS PRIOR WRITTEN NOTICE TO EACH PRODUCER WHO
34 IS ITS MEMBER, OF THE INTENTION OF THE COOPERATIVE TO APPROVE SUCH
35 PROPOSED ORDER, AND FURTHER PROVIDE THAT IF SUCH COOPERATIVE DOES NOT
36 INTEND TO APPROVE SUCH PROPOSED ORDER, IT SHALL LIKEWISE GIVE WRITTEN
37 NOTICE TO EACH SUCH PRODUCER WHO IS ITS MEMBER, OF ITS INTENTION NOT TO
38 APPROVE OF SUCH PROPOSED ORDER.

39 (B) ANY PRODUCER MAY OBTAIN A BALLOT FROM THE PRESIDENT SO THAT HE OR
40 SHE MAY REGISTER HIS OR HER OWN APPROVAL OR DISAPPROVAL OF THE PROPOSED
41 ORDER.

42 (C) A PRODUCER WHO IS A MEMBER OF A COOPERATIVE WHICH HAS NOTIFIED HIM
43 OR HER OF ITS INTENT TO APPROVE OR NOT TO APPROVE OF A PROPOSED ORDER,
44 AND WHO OBTAINS A BALLOT AND WITH SUCH BALLOT EXPRESSES HIS OR HER
45 APPROVAL OR DISAPPROVAL OF THE PROPOSED ORDER, SHALL NOTIFY THE PRESI-
46 DENT AS TO THE NAME OF THE COOPERATIVE OF WHICH HE OR SHE IS A MEMBER,
47 AND THE PRESIDENT SHALL REMOVE SUCH PRODUCER'S NAME FROM THE LIST CERTI-
48 FIED BY SUCH COOPERATIVE.

49 (D) IN ORDER TO ENSURE THAT ALL MILK PRODUCERS ARE INFORMED REGARDING
50 A PROPOSED ORDER, THE PRESIDENT SHALL NOTIFY ALL MILK PRODUCERS THAT AN
51 ORDER IS BEING CONSIDERED AND THAT EACH PRODUCER MAY REGISTER HIS OR HER
52 APPROVAL OR DISAPPROVAL WITH THE PRESIDENT EITHER DIRECTLY OR THROUGH
53 HIS OR HER COOPERATIVE.

54 (E) THE PRESIDENT SHALL CONSULT WITH THE MILK PRODUCERS AND ESTABLISH
55 A REFERENDUM ADVISORY COMMITTEE TO ASSIST AND ADVISE HIM OR HER IN THE
56 CONDUCT OF THE REFERENDUM. SUCH COMMITTEE SHALL REVIEW REFERENDUM PROCE-

1 DURES AND THE TABULATION OF RESULTS, AND SHALL ADVISE THE PRESIDENT OF
2 ITS FINDINGS. THE FINAL CERTIFICATION OF THE REFERENDUM RESULTS SHALL BE
3 MADE BY THE PRESIDENT. THE COMMITTEE SHALL BE SELECTED BY THE COMMIS-
4 SIONER IN CONSULTATION WITH THE PRESIDENT, AND SHALL CONSIST OF NOT LESS
5 THAN THREE MEMBERS, NONE OF WHOM SHALL BE PERSONS DIRECTLY AFFECTED BY
6 THE PROMOTION ORDER BEING VOTED UPON. TWO MEMBERS SHALL BE REPRES-
7 TATIVES OF GENERAL FARM ORGANIZATIONS WHICH ARE NOT DIRECTLY AFFECTED BY
8 THE ORDER BEING VOTED UPON. THE MEMBERS OF THE COMMITTEE SHALL NOT
9 RECEIVE A SALARY BUT SHALL BE ENTITLED TO ACTUAL AND REASONABLE EXPENSES
10 INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

11 (II) THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER, MAY, AND
12 UPON WRITTEN PETITION OF NOT LESS THAN TEN PER CENTUM OF THE PRODUCERS
13 IN THE AREA, EITHER AS INDIVIDUALS OR THROUGH COOPERATIVE REPRES-
14 TATION, SHALL, CALL A HEARING TO AMEND OR TERMINATE SUCH ORDER, AND ANY
15 SUCH AMENDMENT OR TERMINATION SHALL BE EFFECTIVE ONLY UPON APPROVAL OF
16 FIFTY-ONE PER CENTUM OF THE PRODUCERS OF MILK FOR THE AREA REGULATED
17 PARTICIPATING IN A REFERENDUM VOTE AS PROVIDED PURSUANT TO THIS PARA-
18 GRAPH.

19 (C) THE PRESIDENT, CONSULTING WITH AND SEEKING THE ADVICE AND CONSENT
20 OF THE ADVISORY BOARD, SHALL ADMINISTER AND ENFORCE ANY SUCH DAIRY
21 PROMOTION ORDER WHILE IT IS IN EFFECT, FOR THE PURPOSE OF:

22 (I) ENCOURAGING THE CONSUMPTION OF MILK AND DAIRY PRODUCTS BY
23 ACQUAINTING CONSUMERS AND OTHERS WITH THE ADVANTAGES AND ECONOMY OF
24 USING MORE OF SUCH PRODUCTS,

25 (II) PROTECTING THE HEALTH AND WELFARE OF CONSUMERS BY ASSURING AN
26 ADEQUATE SUPPLY OF MILK AND DAIRY PRODUCTS,

27 (III) PROVIDING FOR RESEARCH PROGRAMS DESIGNED TO DEVELOP NEW AND
28 IMPROVED DAIRY PRODUCTS,

29 (IV) PROVIDING FOR RESEARCH PROGRAMS DESIGNED TO ACQUAINT CONSUMERS
30 AND THE PUBLIC GENERALLY WITH THE EFFECTS OF THE USE OF MILK AND DAIRY
31 PRODUCTS ON THE HEALTH OF SUCH CONSUMERS,

32 (V) CARRYING OUT, IN OTHER WAYS, THE DECLARED POLICY AND INTENT OF
33 THIS SECTION.

34 4. PROVISIONS OF DAIRY PROMOTION ORDERS. ANY DAIRY PROMOTION ORDER OR
35 ORDERS MAY CONTAIN, AMONG OTHERS, ANY OR ALL OF THE FOLLOWING:

36 (A) PROVISION FOR LEVYING AN ASSESSMENT AGAINST ALL PRODUCERS SUBJECT
37 TO THE REGULATION FOR THE PURPOSE OF CARRYING OUT THE PROVISIONS OF SUCH
38 ORDER AND TO PAY THE COST OF ADMINISTERING AND ENFORCING SUCH ORDER. IN
39 ORDER TO COLLECT ANY SUCH ASSESSMENTS, PROVISION SHALL BE MADE FOR EACH
40 MILK DEALER WHO RECEIVES MILK FROM PRODUCERS TO DEDUCT THE AMOUNT OF
41 ASSESSMENT FROM MONEYS OTHERWISE DUE TO PRODUCERS FOR THE MILK SO DELIV-
42 ERED. THE RATE OF SUCH ASSESSMENT SHALL NOT EXCEED TWO PERCENT PER
43 HUNDREDWEIGHT OF THE GROSS VALUE OF THE PRODUCERS' MILK, AND THERE MAY
44 BE CREDITED AGAINST ANY SUCH ASSESSMENT THE AMOUNTS PER HUNDREDWEIGHT
45 OTHERWISE PAID BY ANY PRODUCER COVERED BY THE ORDER BY VOLUNTARY
46 CONTRIBUTION OR OTHERWISE PURSUANT TO ANY OTHER FEDERAL OR STATE MILK
47 MARKET ORDER FOR ANY SIMILAR RESEARCH PROMOTION OR ADVERTISING PROGRAM.
48 NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION THREE OF
49 THIS SECTION, THE PRESIDENT, UPON WRITTEN PETITION OF NO LESS THAN TWEN-
50 TY-FIVE PERCENT OF PRODUCERS IN THE AREA, EITHER AS INDIVIDUALS OR
51 THROUGH COOPERATIVE REPRESENTATION, AND IN CONSULTATION WITH THE COMMIS-
52 SIONER, MAY CALL A HEARING FOR THE SOLE PURPOSE OF ESTABLISHING A NEW
53 RATE OF ASSESSMENT HEREUNDER AND MAY SUBMIT A PROPOSED CHANGE IN THE
54 RATE OF ASSESSMENT TO THE PRODUCERS FOR ACCEPTANCE OR REJECTION WITHOUT
55 OTHERWISE AFFECTING THE ORDER. THE PRODUCERS IN THE AREA MAY VOTE ON THE
56 PROPOSED RATE EITHER AS INDIVIDUALS OR THROUGH COOPERATIVE REPRES-

TATION. NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS PARAGRAPH AND OF PARAGRAPH (B) OF SUBDIVISION THREE OF THIS SECTION, OR THE PROVISIONS OF ANY ORDER PROMULGATED PURSUANT TO THIS SECTION, THE RATE OF ASSESSMENT, FOR ANY PERIOD DURING WHICH A DAIRY PRODUCTS PROMOTION AND RESEARCH ORDER ESTABLISHED PURSUANT TO THE FEDERAL DAIRY AND TOBACCO ADJUSTMENT ACT OF 1983 IS IN EFFECT, SHALL NOT BE LESS THAN AN AMOUNT EQUAL TO THE MAXIMUM CREDIT WHICH PRODUCERS PARTICIPATING IN THIS STATE'S DAIRY PRODUCTS PROMOTION OR NUTRITION EDUCATION PROGRAMS MAY RECEIVE PURSUANT TO SUBDIVISION (G) OF SEC. 113 OF SAID FEDERAL ACT.

(B) PROVISION FOR PAYMENTS TO ORGANIZATIONS ENGAGED IN CAMPAIGNS BY ADVERTISEMENTS OR OTHERWISE, INCLUDING PARTICIPATION IN SIMILAR REGIONAL OR NATIONAL PLANS OR CAMPAIGNS TO PROMOTE THE INCREASED CONSUMPTION OF MILK AND DAIRY PRODUCTS, TO ACQUAINT THE PUBLIC WITH THE DIETARY ADVANTAGES OF MILK AND DAIRY PRODUCTS AND WITH THE ECONOMY OF THEIR INCLUSION IN THE DIET AND TO COMMAND, FOR MILK AND DAIRY PRODUCTS, CONSUMER ATTENTION CONSISTENT WITH THEIR IMPORTANCE AND VALUE.

(C) PROVISION FOR PAYMENTS TO INSTITUTIONS OR ORGANIZATIONS ENGAGED IN RESEARCH LEADING TO THE DEVELOPMENT OF NEW OR IMPROVED DAIRY PRODUCTS OR RESEARCH WITH RESPECT TO THE VALUE OF MILK AND DAIRY PRODUCTS IN THE HUMAN DIET.

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

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

(F) PROVISION FOR AN ADVISORY BOARD PURSUANT TO SUBDIVISION 10 OF THIS SECTION.

(G) PROVISION FOR THE PRESIDENT TO RETAIN MONEY COLLECTED UNDER ANY MARKETING ORDER ISSUED PURSUANT TO THIS SECTION, TO DEFRAY THE COSTS AND EXPENSES IN THE ADMINISTRATION THEREOF.

(H) SUCH OTHER PROVISIONS AS MAY BE NECESSARY TO EFFECTUATE THE DECLARED POLICIES OF THIS SECTION.

5. MATTERS TO BE CONSIDERED. IN CARRYING OUT THE PROVISIONS OF THIS SECTION AND PARTICULARLY IN DETERMINING WHETHER OR NOT A DAIRY PROMOTION ORDER SHALL BE ISSUED, THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER, SHALL TAKE INTO CONSIDERATION, AMONG OTHERS, FACTS AVAILABLE TO HIM OR HER WITH RESPECT TO THE FOLLOWING:

(A) THE TOTAL PRODUCTION OF MILK IN THE AREA AND THE PROPORTION OF SUCH MILK BEING UTILIZED IN FLUID FORM AND IN OTHER PRODUCTS,

(B) THE PRICES BEING RECEIVED FOR MILK BY PRODUCERS IN THE AREA,

(C) THE LEVEL OF CONSUMPTION PER CAPITA FOR FLUID MILK AND OF OTHER DAIRY PRODUCTS,

(D) THE PURCHASING POWER OF CONSUMERS,

(E) OTHER PRODUCTS WHICH COMPETE WITH MILK AND DAIRY PRODUCTS AND PRICES OF SUCH PRODUCTS.

6. INTERSTATE ORDERS FOR COMPACTS. THE COMMISSIONER IS AUTHORIZED TO CONFER AND COOPERATE WITH THE LEGALLY CONSTITUTED AUTHORITIES OF OTHER STATES AND OF THE UNITED STATES WITH RESPECT TO THE ISSUANCE AND OPERATION OF JOINT AND CONCURRENT DAIRY PROMOTION ORDERS OR OTHER ACTIVITIES TENDING TO CARRY OUT THE DECLARED INTENT OF THE ACT. THE COMMISSIONER MAY JOIN WITH SUCH OTHER AUTHORITIES IN CONDUCTING JOINT INVESTIGATIONS, HOLDING JOINT HEARINGS AND ISSUING JOINT OR CONCURRENT ORDER OR ORDERS COMPLEMENTARY TO THOSE OF THE FEDERAL GOVERNMENT AND THE PRESIDENT, AFTER CONSULTING WITH THE COMMISSIONER, SHALL HAVE THE AUTHORITY TO EMPLOY OR DESIGNATE A JOINT AGENT OR JOINT AGENCIES TO CARRY OUT AND ENFORCE SUCH JOINT, CONCURRENT OR SUPPLEMENTARY ORDERS.

1 7. PRIOR ASSESSMENTS. PRIOR TO THE EFFECTIVE DATE OF ANY DAIRY
2 PROMOTION ORDER AS PROVIDED IN THIS SECTION, THE PRESIDENT, IN CONSULTA-
3 TION WITH THE COMMISSIONER, MAY REQUIRE THAT COOPERATIVE ASSOCIATIONS
4 WHICH HAVE PETITIONED FOR SUCH AN ORDER AND THAT HAVE APPROVED OF THE
5 ISSUANCE OF SUCH AN ORDER, TO DEPOSIT WITH THE PRESIDENT SUCH AMOUNTS AS
6 HE OR SHE MAY DEEM NECESSARY TO DEFRAY THE EXPENSE OF ADMINISTERING AND
7 ENFORCING SUCH ORDER UNTIL SUCH TIME AS THE ASSESSMENTS AS HEREIN BEFORE
8 PROVIDED ARE ADEQUATE FOR THAT PURPOSE. SUCH FUNDS SHALL BE RECEIVED,
9 DEPOSITED AND DISBURSED BY THE PRESIDENT IN THE SAME MANNER AS OTHER
10 FUNDS RECEIVED BY HIM OR HER PURSUANT TO THIS SECTION AND THE PRESIDENT
11 SHALL REIMBURSE THOSE WHO PAID THESE PRIOR ASSESSMENTS FROM OTHER FUNDS
12 RECEIVED BY HIM OR HER PURSUANT TO THIS SECTION.

13 8. STATUS OF FUNDS. ANY MONEYS COLLECTED UNDER ANY MARKET ORDER ISSUED
14 PURSUANT TO THIS SECTION SHALL NOT BE DEEMED TO BE STATE OR CORPORATION
15 FUNDS AND SHALL BE DEPOSITED IN A BANK OR OTHER DEPOSITORY OF THE CORPO-
16 RATION, APPROVED BY THE PRESIDENT, ALLOCATED TO EACH DAIRY PROMOTION
17 ORDER UNDER WHICH THEY WERE COLLECTED, AND SHALL BE DISBURSED BY THE
18 PRESIDENT ONLY FOR THE NECESSARY EXPENSES INCURRED BY THE PRESIDENT WITH
19 RESPECT TO EACH SEPARATE ORDER, ALL IN ACCORDANCE WITH THE RULES AND
20 REGULATIONS OF THE PRESIDENT. ALL SUCH EXPENSES SHALL BE SUBJECT TO
21 AUDITS BY THE STATE COMPTROLLER. ANY MONEYS REMAINING IN SUCH FUND
22 ALLOCABLE TO A PARTICULAR ORDER, AFTER THE TERMINATION OF SUCH ORDER AND
23 NOT REQUIRED BY THE PRESIDENT TO DEFRAY THE EXPENSES OF OPERATING SUCH
24 ORDER, MAY IN THE DISCRETION OF THE PRESIDENT BE REFUNDED ON A PRO-RATA
25 BASIS TO ALL PERSONS FROM WHOM ASSESSMENTS THEREFOR WERE COLLECTED;
26 PROVIDED, HOWEVER, THAT IF THE PRESIDENT FINDS THAT THE AMOUNTS SO
27 REFUNDABLE ARE SO SMALL AS TO MAKE IMPRACTICABLE THE COMPUTATION AND
28 REFUNDING OF SUCH MONEYS, THE PRESIDENT MAY USE SUCH MONEYS TO DEFRAY
29 THE EXPENSES INCURRED BY HIM OR HER IN THE PROMULGATION, ISSUANCE,
30 ADMINISTRATION OR ENFORCEMENT OF ANY OTHER SIMILAR DAIRY PROMOTION ORDER
31 OR IN THE ABSENCE OF ANY OTHER SUCH DAIRY PROMOTION ORDER, THE PRESIDENT
32 MAY PAY SUCH MONEYS TO ANY ORGANIZATION OR INSTITUTION AS PROVIDED IN
33 PARAGRAPH (B) OR (C) OF SUBDIVISION FOUR OF THIS SECTION.

34 9. BUDGET. THE COMMISSIONER, IN CONSULTATION WITH THE PRESIDENT, SHALL
35 PREPARE A BUDGET FOR THE ADMINISTRATION AND OPERATING COSTS AND EXPENSES
36 INCLUDING ADVERTISING AND SALES PROMOTION WHEN REQUIRED IN ANY DAIRY
37 PROMOTION ORDER EXECUTED HEREUNDER AND TO PROVIDE FOR THE COLLECTION OF
38 SUCH NECESSARY FEES OR ASSESSMENTS TO DEFRAY COSTS AND EXPENSES, IN NO
39 CASE TO EXCEED TWO PERCENT PER HUNDREDWEIGHT OF THE GROSS VALUE OF MILK
40 MARKETING BY PRODUCERS IN THE AREA COVERED BY THE ORDER.

41 10. ADVISORY BOARD. (A) ANY DAIRY PROMOTION ORDER ISSUED PURSUANT TO
42 THIS SECTION SHALL PROVIDE FOR THE ESTABLISHMENT OF AN ADVISORY BOARD TO
43 ADVISE AND ASSIST THE PRESIDENT IN THE ADMINISTRATION OF SUCH ORDER.
44 THE PRESIDENT SHALL ADMINISTER AND ENFORCE ANY SUCH DAIRY PROMOTION
45 ORDER WHILE IT IS IN EFFECT, CONSULTING WITH THE ADVISORY BOARD AND
46 SEEKING ITS ADVICE AND CONSENT. THIS BOARD SHALL CONSIST OF NOT LESS
47 THAN FIVE MEMBERS AND SHALL BE APPOINTED BY THE COMMISSIONER FROM NOMI-
48 NATIONS SUBMITTED BY PRODUCERS MARKETING MILK IN THE AREA TO WHICH THE
49 ORDER APPLIES. NOMINATING PROCEDURE, QUALIFICATION, REPRESENTATION, AND
50 SIZE OF THE ADVISORY BOARD SHALL BE PRESCRIBED IN THE ORDER FOR WHICH
51 SUCH BOARD WAS APPOINTED.

52 (B) NO MEMBER OF AN ADVISORY BOARD SHALL RECEIVE A SALARY BUT SHALL BE
53 ENTITLED TO HIS OR HER ACTUAL AND REASONABLE EXPENSES INCURRED WHILE
54 PERFORMING HIS OR HER DUTIES AS AUTHORIZED IN THIS SECTION.

55 (C) THE DUTIES AND RESPONSIBILITIES OF THE ADVISORY BOARD SHALL BE
56 PRESCRIBED BY THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER, AND

1 HE OR SHE SHALL SPECIFICALLY DELEGATE TO THE ADVISORY BOARD, BY INCLU-
2 SION IN THE DAIRY PROMOTION ORDER THE FOLLOWING DUTIES AND RESPONSIBIL-
3 ITIES:

4 (I) THE RECOMMENDATION TO THE PRESIDENT OF ADMINISTRATIVE RULES AND
5 REGULATIONS RELATING TO THE ORDER.

6 (II) RECOMMENDING TO THE PRESIDENT SUCH AMENDMENTS TO THE ORDER AS
7 DEEMED ADVISABLE.

8 (III) THE PREPARATION AND SUBMISSION TO THE COMMISSIONER, IN CONSULTA-
9 TION WITH THE PRESIDENT, OF AN ESTIMATED BUDGET REQUIRED FOR THE PROPER
10 OPERATION OF THE ORDER.

11 (IV) RECOMMENDING TO THE PRESIDENT METHODS FOR ASSESSING PRODUCERS AND
12 METHODS FOR COLLECTING THE NECESSARY FUNDS.

13 (V) ASSISTING THE PRESIDENT IN THE COLLECTION AND ASSEMBLY OF INFORMA-
14 TION AND DATA NECESSARY FOR THE PROPER ADMINISTRATION OF THE ORDER.

15 (VI) THE PERFORMANCE OF SUCH OTHER DUTIES IN CONNECTION WITH THE ORDER
16 AS THE PRESIDENT SHALL DESIGNATE.

17 11. RULES AND REGULATIONS; ENFORCEMENT. (A) THE PRESIDENT MAY, WITH
18 THE ADVICE AND CONSENT OF THE ADVISORY BOARD, MAKE AND ISSUE SUCH RULES
19 AND REGULATIONS AS MAY BE NECESSARY TO EFFECTUATE THE PROVISIONS AND
20 INTENT OF THIS SECTION AND TO ENFORCE THE PROVISIONS OF ANY DAIRY
21 PROMOTION ORDER, ALL OF WHICH SHALL HAVE THE FORCE AND EFFECT OF LAW.

22 (B) THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER MAY INSTITUTE
23 SUCH ACTION AT LAW OR IN EQUITY AS MAY APPEAR NECESSARY TO ENFORCE
24 COMPLIANCE WITH ANY PROVISION OF THIS SECTION, OR ANY RULE OR REGU-
25 LATION, OR DAIRY PROMOTION ORDER COMMITTED TO HIS OR HER ADMINISTRATION,
26 AND MAY APPLY FOR RELIEF BY INJUNCTION IF NECESSARY TO PROTECT THE
27 PUBLIC INTEREST WITHOUT BEING COMPELLED TO ALLEGE OR PROVE THAT AN
28 ADEQUATE REMEDY AT LAW DOES NOT EXIST. SUCH APPLICATION SHALL BE MADE TO
29 THE SUPREME COURT IN ANY DISTRICT OR COUNTY PROVIDED IN THE CIVIL PRAC-
30 TICE LAW AND RULES, OR TO THE SUPREME COURT IN THE THIRD JUDICIAL
31 DISTRICT.

32 12. COOPERATION BY THE DEPARTMENT. THE PRESIDENT MAY REQUEST AND
33 RECEIVE, WITHIN NINETY DAYS OF SUCH REQUEST FROM THE DEPARTMENT SUCH
34 ASSISTANCE, INFORMATION AND COOPERATION AS MAY BE NECESSARY FOR THE
35 CORPORATION TO PROVIDE SERVICES WITH RESPECT TO THE ADMINISTRATION OF
36 THE PROCEDURES SET FORTH FOR THE ISSUANCE, TERMINATION OR AMENDMENT OF
37 ANY DAIRY PROMOTION ORDER AND/OR THE ADMINISTRATION OF ANY SUCH ORDER.
38 THE CORPORATION SHALL RETAIN AN AMOUNT EQUAL TO THE EXPENSES INCURRED BY
39 THE CORPORATION IN PERFORMING ITS DUTIES PURSUANT TO THIS SECTION AND
40 REIMBURSE THE DEPARTMENT AN AMOUNT EQUAL TO THE EXPENSES INCURRED BY THE
41 DEPARTMENT IN SUPPLYING SUCH SERVICES, SUBSEQUENT TO SUBMISSION AND
42 AUDIT OF A VOUCHER THEREFOR. SUCH REIMBURSEMENT SHALL NOT EXCEED THE
43 TOTAL AMOUNT OF FUNDS COLLECTED BY THE CORPORATION PURSUANT TO THIS
44 SECTION LESS THE REASONABLE EXPENSES INCURRED BY THE CORPORATION IN
45 PERFORMING ITS DUTIES PURSUANT TO THIS SECTION.

46 13. INDEMNIFICATION. THE STATE SHALL DEFEND, INDEMNIFY AND HOLD HARM-
47 LESS THE CORPORATION, ITS DIRECTORS, OFFICERS, AND EMPLOYEES, FROM AND
48 AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, DAMAGES, COSTS
49 AND EXPENSES WHATSOEVER ARISING DIRECTLY OR INDIRECTLY FROM, OR RELATING
50 TO, THE ADMINISTRATION OF A DAIRY PROMOTION ORDER ISSUED OR ADMINISTERED
51 PURSUANT TO THIS SECTION. IN CONNECTION WITH THE FOREGOING, THE CORPO-
52 RATION SHALL GIVE THE STATE (A) PROMPT WRITTEN NOTICE OF ANY ACTION,
53 CLAIM OR THREAT OF SUIT, (B) THE OPPORTUNITY TO TAKE OVER, SETTLE OR
54 DEFEND SUCH ACTION, CLAIM OR SUIT AT THE STATE'S SOLE EXPENSE, AND (C)
55 ASSISTANCE IN THE DEFENSE OF ANY SUCH ACTION AT THE EXPENSE OF THE
56 STATE.

14. CONTRACTUAL PROVISIONS. THE CORPORATION MAY CONTRACT FOR SERVICES WITH RESPECT TO THE IMPLEMENTATION OF THIS SECTION IN ACCORDANCE WITH THE CORPORATION'S POLICIES, PROCEDURES AND GUIDELINES. NOTWITHSTANDING SECTION 2879 OF THE PUBLIC AUTHORITIES LAW OR ANY OTHER LAW TO THE CONTRARY, ANY SUCH CONTRACT MAY BE PROCURED BY THE CORPORATION ON A SOLE-SOURCE BASIS, AND SHALL NOT BE SUBJECT TO COMPETITIVE BID OR COMPETITIVE REQUEST FOR PROPOSAL REQUIREMENTS.

S 16-Y. MARKETING OF AGRICULTURAL PRODUCTS. DECLARATION OF POLICY. (A) IT IS HEREBY DECLARED THAT THE MISSION OF THE CORPORATION IS TO PROMOTE A VIGOROUS AND GROWING STATE ECONOMY. IN IMPLEMENTING THIS MISSION, THE CORPORATION HAS UNDERTAKEN A VIGOROUS CAMPAIGN TO MARKET THE STATE'S ASSETS AND BY CARRYING OUT THE PROVISIONS OF THIS SECTION, WOULD FURTHER THIS MISSION BY PROMOTING THE DEVELOPMENT OF MARKETS FOR AGRICULTURAL PRODUCTS GROWN AND PRODUCED IN THE STATE.

(B) IT IS FURTHER DECLARED THAT THE MARKETING OF AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS IN THIS STATE, IN EXCESS OF REASONABLE AND NORMAL MARKET DEMANDS THEREFOR; DISORDERLY MARKETING OF SUCH COMMODITIES; IMPROPER PREPARATION FOR MARKET AND LACK OF UNIFORM GRADING AND CLASSIFICATION OF AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS; UNFAIR METHODS OF COMPETITION IN THE MARKETING OF SUCH COMMODITIES AND THE INABILITY OF INDIVIDUAL PRODUCERS TO DEVELOP NEW AND LARGER MARKETS FOR AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS, RESULT IN AN UNREASONABLE AND UNNECESSARY ECONOMIC WASTE OF THE AGRICULTURAL WEALTH OF THIS STATE. SUCH CONDITIONS AND THE ACCOMPANYING WASTE JEOPARDIZE THE FUTURE CONTINUED PRODUCTION OF ADEQUATE FOOD SUPPLIES FOR THE PEOPLE OF THIS AND OTHER STATES. THESE CONDITIONS VITALLY CONCERN THE HEALTH, SAFETY AND GENERAL WELFARE OF THE PEOPLE OF THIS STATE.

IT IS THEREFORE DECLARED THE LEGISLATIVE PURPOSE AND THE POLICY OF THIS STATE:

(I) TO ENABLE AGRICULTURAL PRODUCERS AND AQUATIC PRODUCERS OF THIS STATE, WITH THE AID OF THE STATE, MORE EFFECTIVELY TO CORRELATE THE MARKETING OF THEIR AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS WITH MARKET DEMANDS THEREFOR.

(II) TO ESTABLISH ORDERLY, EFFICIENT AND EQUITABLE MARKETING OF AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS.

(III) TO PROVIDE FOR UNIFORM GRADING AND PROPER PREPARATION OF AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS FOR MARKET.

(IV) TO PROVIDE METHODS AND MEANS FOR THE DEVELOPMENT OF NEW AND LARGER MARKETS FOR AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS PRODUCED IN NEW YORK.

(V) TO ELIMINATE OR REDUCE THE ECONOMIC WASTE IN THE MARKETING OF AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS.

(VI) TO ELIMINATE UNJUST IMPAIRMENT OF THE PURCHASING POWER OF AQUATIC PRODUCERS AND THE AGRICULTURAL PRODUCERS OF THIS STATE; AND

(VII) TO AID AGRICULTURAL AND AQUATIC PRODUCERS IN MAINTAINING AN INCOME AT AN ADEQUATE AND EQUITABLE LEVEL.

2. DEFINITIONS. (A) "AGRICULTURAL COMMODITY" MEANS ANY AND ALL AGRICULTURAL, HORTICULTURAL, VINEYARD PRODUCTS, CORN FOR GRAIN, OATS, SOYBEANS, BARLEY, WHEAT, POULTRY OR POULTRY PRODUCTS, BEES, MAPLE SAP AND PURE MAPLE PRODUCTS PRODUCED THEREFROM, CHRISTMAS TREES, LIVESTOCK, INCLUDING SWINE, AND HONEY, SOLD IN THE STATE EITHER IN THEIR NATURAL STATE OR AS PROCESSED BY THE PRODUCER THEREOF BUT DOES NOT INCLUDE MILK, TIMBER OR TIMBER PRODUCTS, OTHER THAN CHRISTMAS TREES, ALL HAY, RYE AND LEGUMES EXCEPT FOR SOYBEANS.

(B) "AQUACULTURE" MEANS THE CULTURE, CULTIVATION AND HARVEST OF AQUATIC PLANTS AND ANIMALS.

(C) "AQUATIC PRODUCTS" MEANS ANY FOOD OR FIBER PRODUCTS OBTAINED THROUGH THE PRACTICE OF AQUACULTURE, INCLUDING MARICULTURE; OR BY HARVEST FROM THE SEA WHEN SUCH PRODUCTS ARE CULTURED OR LANDED IN THIS STATE. SUCH PRODUCTS INCLUDE BUT ARE NOT LIMITED TO FISH, SHELLFISH, SEAWEED OR OTHER WATER BASED PLANT LIFE.

(D) "PRODUCER" MEANS ANY PERSON ENGAGED WITHIN THIS STATE IN THE BUSINESS OF PRODUCING, OR CAUSING TO BE PRODUCED FOR ANY MARKET, ANY AGRICULTURAL COMMODITY OR AQUATIC PRODUCT.

(E) "HANDLER" MEANS ANY PERSON ENGAGED IN THE OPERATION OF PACKING, GRADING, SELLING, OFFERING FOR SALE OR MARKETING ANY MARKETABLE AGRICULTURAL COMMODITIES OR AQUATIC PRODUCTS, WHO AS OWNER, AGENT OR OTHERWISE SHIPS OR CAUSES AN AGRICULTURAL COMMODITY TO BE SHIPPED.

(F) "PROCESSOR" MEANS ANY PERSON ENGAGED WITHIN THIS STATE IN PROCESSING, OR IN THE OPERATION OF RECEIVING, GRADING, PACKING, CANNING, FREEZING, DEHYDRATING, FERMENTING, DISTILLING, EXTRACTING, PRESERVING, GRINDING, CRUSHING, OR IN ANY OTHER WAY PRESERVING OR CHANGING THE FORM OF AN AGRICULTURAL PRODUCT OR AQUATIC PRODUCT FOR THE PURPOSE OF MARKETING SUCH COMMODITY BUT SHALL NOT INCLUDE A PERSON ENGAGED IN MANUFACTURING FROM AN AGRICULTURAL COMMODITY OR AQUATIC PRODUCT ANOTHER AND DIFFERENT PRODUCT.

(G) "DISTRIBUTOR" MEANS ANY PERSON ENGAGED WITHIN THIS STATE, IN SELLING, OFFERING FOR SALE, MARKETING OR DISTRIBUTING AN AGRICULTURAL COMMODITY OR AQUATIC PRODUCT WHICH HE OR SHE HAS PURCHASED OR ACQUIRED FROM A PRODUCER OR OTHER PERSON OR WHICH HE OR SHE IS MARKETING ON BEHALF OF A PRODUCER OR OTHER PERSON, WHETHER AS OWNER, AGENT, EMPLOYEE, BROKER OR OTHERWISE, BUT SHALL NOT INCLUDE A RETAILER, EXCEPT SUCH RETAILER WHO PURCHASES OR ACQUIRES FROM, OR HANDLES ON BEHALF OF ANY PRODUCER OR OTHER PERSON, AN AGRICULTURAL COMMODITY OR AQUATIC PRODUCT SUBJECT TO REGULATION BY THE MARKETING AGREEMENT OR ORDER COVERING SUCH COMMODITY.

(H) "PRESIDENT" MEANS THE PRESIDENT OF THE CORPORATION.

(I) "MARKETING AGREEMENT" MEANS AN AGREEMENT ENTERED INTO, WITH THE APPROVAL OF THE PRESIDENT, BY PRODUCERS WITH DISTRIBUTORS, PROCESSORS AND HANDLERS REGULATING THE PREPARATION, SALE AND HANDLING OF AGRICULTURAL COMMODITIES OR AQUATIC PRODUCTS.

(J) "MARKETING ORDER" MEANS AN ORDER ISSUED BY THE PRESIDENT PURSUANT TO THIS SECTION, PRESCRIBING RULES AND REGULATIONS GOVERNING THE MARKETING FOR PROCESSING, THE DISTRIBUTING, THE SALE OF, OR THE HANDLING IN ANY MANNER OF ANY AGRICULTURAL COMMODITY OR AQUATIC PRODUCT SOLD IN THIS STATE DURING ANY SPECIFIED PERIOD OR PERIODS.

(K) "COMMISSIONER" MEANS THE COMMISSIONER OF THE NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS.

(L) "DEPARTMENT" MEANS THE NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS.

3. POWERS AND DUTIES OF THE PRESIDENT. (A) IN ORDER TO EFFECTUATE THE DECLARED POLICY OF THIS SECTION, THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER, MAY, AFTER DUE NOTICE AND OPPORTUNITY FOR HEARING, APPROVE MARKETING AGREEMENTS, WHICH MARKETING AGREEMENTS SHALL THEREUPON BE BINDING UPON THE SIGNATORIES THERETO EXCLUSIVELY.

(B) THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER AND THE PRODUCERS, MAY MAKE AND ISSUE MARKETING ORDERS, AFTER DUE NOTICE AND OPPORTUNITY FOR HEARING, SUBJECT TO:

(I) APPROVAL OF NOT LESS THAN SIXTY-SIX AND TWO-THIRDS PER CENTUM OF THE PRODUCERS PARTICIPATING IN A REFERENDUM IN THE AREA AFFECTED, OR

(II) APPROVAL OF NOT LESS THAN SIXTY-FIVE PER CENTUM OF THE PRODUCERS PARTICIPATING IN A REFERENDUM VOTE, IN THE AREA AFFECTED, AND HAVING

MARKETED NOT LESS THAN FIFTY-ONE PER CENTUM OF THE TOTAL QUANTITY OF THE COMMODITY WHICH WAS MARKETED IN THE NEXT PRECEDING, ORDINARY MARKETING SEASON BY ALL PRODUCERS THAT VOTED IN THE REFERENDUM, OR

(III) APPROVAL OF NOT LESS THAN FIFTY-ONE PER CENTUM OF THE PRODUCERS PARTICIPATING IN A REFERENDUM VOTE, IN THE AREA AFFECTED, AND HAVING MARKETED NOT LESS THAN SIXTY-FIVE PER CENTUM OF THE TOTAL QUANTITY OF THE COMMODITY WHICH WAS MARKETED IN THE NEXT PRECEDING, ORDINARY MARKETING SEASON BY ALL PRODUCERS THAT VOTED IN THE REFERENDUM. THE PRESIDENT MAY, AND UPON WRITTEN PETITION DULY SIGNED BY TWENTY-FIVE PER CENTUM OF THE PRODUCERS IN THE AREA AMEND OR TERMINATE SUCH ORDER AFTER DUE NOTICE AND OPPORTUNITY FOR HEARING, BUT SUBJECT TO THE APPROVAL OF NOT LESS THAN FIFTY PER CENTUM OF SUCH PRODUCERS PARTICIPATING IN A REFERENDUM VOTE.

(C) THE PRESIDENT, CONSULTING WITH AND SEEKING THE ADVICE AND CONSENT OF THE ADVISORY BOARD SHALL ADMINISTER AND ENFORCE ANY MARKETING ORDER, WHILE IT IS IN EFFECT, TO:

(I) ENCOURAGE AND MAINTAIN STABLE PRICES RECEIVED BY PRODUCERS FOR SUCH AGRICULTURAL COMMODITY AND AQUATIC PRODUCT AT A LEVEL WHICH IS CONSISTENT WITH THE PROVISIONS AND AIMS OF THIS ACT.

(II) PREVENT THE UNREASONABLE OR UNNECESSARY WASTE OF LAND OR WATER BASED WEALTH.

(III) PROTECT THE INTERESTS OF CONSUMERS OF SUCH COMMODITY, BY EXERCISING THE POWERS OF THIS SECTION TO SUCH EXTENT AS IS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS ACT.

(IV) PROVIDE CONSULTATION TO THE COMMISSIONER WHO SHALL BUDGET FOR THE ADMINISTRATION AND OPERATING COSTS AND EXPENSES, SEEKING THE ADVICE AND CONSENT OF THE ADVISORY BOARD, INCLUDING ADVERTISING AND SALES PROMOTION WHEN REQUIRED IN ANY MARKETING AGREEMENT OR ORDER EXECUTED IN THIS SECTION AND TO PROVIDE FOR THE COLLECTION AND RETENTION OF SUCH NECESSARY FEES TO DEFRAY SUCH COSTS AND EXPENSES, IN NO CASE TO EXCEED FIVE PERCENT OF THE GROSS DOLLAR VOLUME OF SALES OR DOLLAR VOLUME OF PURCHASES OR AMOUNTS HANDLED, TO BE COLLECTED FROM EACH PERSON ENGAGED IN THE PRODUCTION, PROCESSING, DISTRIBUTING OR THE HANDLING OF ANY MARKETABLE AGRICULTURAL COMMODITY AND AQUATIC PRODUCT PRODUCED OR LANDED IN THIS STATE AND DIRECTLY AFFECTED BY ANY MARKETING ORDER ISSUED PURSUANT TO THIS SECTION FOR SUCH COMMODITY.

(V) CONFER AND COOPERATE WITH THE LEGALLY CONSTITUTED AUTHORITIES OF OTHER STATES AND THE UNITED STATES.

(D) ANY MARKETING AGREEMENT OR ORDER ISSUED BY THE PRESIDENT PURSUANT TO THIS SECTION, IN CONSULTATION WITH THE COMMISSIONER, MAY CONTAIN ANY OR ALL OF THE FOLLOWING:

(I) PROVISIONS FOR DETERMINING THE EXISTENCE AND EXTENT OF THE SURPLUS OF ANY AGRICULTURAL COMMODITY, OR OF ANY GRADE, SIZE OR QUALITY THEREOF, AND PROVIDING FOR THE REGULATION AND DISPOSITION OF SUCH SURPLUS.

(II) PROVISIONS FOR LIMITING THE TOTAL QUANTITY OF ANY AGRICULTURAL PRODUCT, OR OF ANY GRADE OR GRADES, SIZE OR SIZES, OR QUALITY OR PORTIONS OR COMBINATIONS THEREOF, WHICH MAY BE MARKETED DURING ANY SPECIFIED PERIOD OR PERIODS. SUCH TOTAL QUANTITY OF ANY SUCH COMMODITY SO REGULATED SHALL NOT BE LESS THAN THE QUANTITY WHICH THE PRESIDENT SHALL FIND IS REASONABLY NECESSARY TO SUPPLY THE MARKET DEMAND OF CONSUMERS FOR SUCH COMMODITY.

(III) PROVISIONS REGULATING TO THE PERIOD, OR PERIODS, DURING WHICH ANY AGRICULTURAL COMMODITY, OR ANY GRADE OR GRADES, SIZE OR SIZES OR QUALITY OR PORTIONS OR COMBINATIONS OF SUCH COMMODITY, MAY BE MARKETED.

(IV) PROVISIONS FOR THE ESTABLISHMENT OF UNIFORM GRADING, STANDARDS, AND INSPECTION OF ANY AGRICULTURAL COMMODITY DELIVERED BY PRODUCERS OR

1 OTHER PERSONS TO HANDLERS, PROCESSORS, DISTRIBUTORS OR OTHERS ENGAGING
2 IN THE HANDLING THEREOF, AND FOR THE ESTABLISHMENT OF GRADING OR STAND-
3 ARDS OF QUALITY, CONDITION, SIZE, MATURITY OR PACK FOR ANY AGRICULTURAL
4 COMMODITY, AND THE INSPECTION AND GRADING OF SUCH COMMODITY IN ACCORD-
5 ANCE WITH SUCH GRADING OR STANDARDS SO ESTABLISHED; AND FOR PROVISIONS
6 THAT NO PRODUCER, HANDLER, PROCESSOR OR DISTRIBUTOR OF ANY AGRICULTURAL
7 COMMODITY FOR WHICH GRADING OR STANDARDS ARE SO ESTABLISHED MAY, EXCEPT
8 AS OTHERWISE PROVIDED IN SUCH MARKETING AGREEMENT OR ORDER, SELL, OFFER
9 FOR SALE, PROCESS, DISTRIBUTE OR OTHERWISE HANDLE ANY SUCH COMMODITY
10 WHETHER PRODUCED WITHIN OR WITHOUT THIS STATE, NOT MEETING AND COMPLYING
11 WITH SUCH ESTABLISHED GRADING OR STANDARDS. FOR THE PURPOSES OF THIS
12 SECTION, THE FEDERAL-STATE INSPECTION SERVICE SHALL PERFORM ALL
13 INSPECTIONS MADE NECESSARY BY SUCH PROVISIONS.

14 (V) PROVISIONS FOR THE ESTABLISHMENT OF RESEARCH PROGRAMS DESIGNED TO
15 BENEFIT A SPECIFIED COMMODITY OR NEW YORK AGRICULTURE IN GENERAL.

16 (VI) PROVISIONS FOR THE PRESIDENT TO RETAIN MONEY COLLECTED UNDER ANY
17 MARKETING ORDER ISSUED PURSUANT TO THIS SECTION TO DEFRAY THE COSTS AND
18 EXPENSES IN THE ADMINISTRATION THEREOF.

19 (VII) SUCH OTHER PROVISIONS AS MAY BE NECESSARY TO EFFECTUATE THE
20 DECLARED POLICIES OF THIS SECTION.

21 (VIII) PROVISIONS TO ESTABLISH MARKETING PROMOTION AND RESEARCH
22 PROGRAMS FOR AQUATIC PRODUCTS WHICH MAY INCLUDE SUBPARAGRAPHS (I)
23 THROUGH (VII) OF THIS PARAGRAPH.

24 (E) THE PRESIDENT, SEEKING THE ADVICE AND THE CONSENT OF THE ADVISORY
25 BOARD, MAY TEMPORARILY SUSPEND THE OPERATION OF AN EFFECTIVE MARKETING
26 ORDER FOR A CONTINUING PERIOD OF NOT LONGER THAN ONE GROWING AND MARKET-
27 ING SEASON, IF THE PURPOSES OF THIS SECTION ARE DEEMED UNNECESSARY
28 DURING SUCH SEASON.

29 (F) IN CARRYING OUT THE PURPOSES OF THIS SECTION, THE PRESIDENT, IN
30 CONSULTATION WITH THE COMMISSIONER AND CONSULTING WITH AND SEEKING THE
31 ADVICE AND CONSENT OF THE ADVISORY BOARD, SHALL TAKE INTO CONSIDERATION
32 ANY AND ALL FACTS AVAILABLE TO HIM OR HER WITH RESPECT TO THE FOLLOWING
33 ECONOMIC FACTORS:

34 (I) THE QUANTITY OF SUCH AGRICULTURAL COMMODITY AVAILABLE FOR DISTRIB-
35 UTION.

36 (II) THE QUANTITY OF SUCH AGRICULTURAL COMMODITY NORMALLY REQUIRED BY
37 CONSUMERS.

38 (III) THE COST OF PRODUCING SUCH AGRICULTURAL COMMODITY.

39 (IV) THE PURCHASING POWER OF CONSUMERS.

40 (V) THE LEVEL OF PRICES OF COMMODITIES, SERVICES AND SECTIONS WHICH
41 THE FARMERS COMMONLY BUY.

42 (VI) THE LEVEL OF PRICES OF OTHER COMMODITIES WHICH COMPETE WITH OR
43 ARE UTILIZED AS SUBSTITUTES FOR SUCH AGRICULTURAL COMMODITY.

44 (G) THE EXECUTION OF SUCH MARKETING AGREEMENTS SHALL IN NO MANNER
45 AFFECT THE ISSUANCE, ADMINISTRATION OR ENFORCEMENT OF ANY MARKETING
46 ORDER PROVIDED FOR IN THIS SECTION. THE PRESIDENT, IN CONSULTATION WITH
47 THE COMMISSIONER, MAY ISSUE SUCH MARKETING ORDER WITHOUT EXECUTING A
48 MARKETING AGREEMENT OR MAY EXECUTE A MARKETING AGREEMENT WITHOUT ISSUING
49 A MARKETING ORDER COVERING THE SAME COMMODITY. THE PRESIDENT, IN HIS OR
50 HER DISCRETION, IN CONSULTATION WITH THE COMMISSIONER MAY HOLD A CONCUR-
51 RENT HEARING UPON A PROPOSED MARKETING AGREEMENT AND A PROPOSED MARKET-
52 ING ORDER IN THE MANNER PROVIDED FOR GIVING DUE NOTICE AND OPPORTUNITY
53 FOR HEARING FOR A MARKETING ORDER AS PROVIDED IN THIS SECTION.

54 (H) PRIOR TO THE ISSUANCE, AMENDMENT OR TERMINATION OF ANY MARKETING
55 ORDER, THE PRESIDENT MAY REQUIRE THE APPLICANTS FOR SUCH ISSUANCE,
56 AMENDMENT OR TERMINATION TO DEPOSIT WITH HIM OR HER SUCH AMOUNT AS HE OR

1 SHE MAY DEEM NECESSARY TO DEFRAY THE EXPENSES OF PREPARING AND MAKING
2 EFFECTIVE AMENDING OR TERMINATING A MARKETING ORDER. SUCH FUNDS SHALL BE
3 RECEIVED, DEPOSITED AND DISBURSED BY THE PRESIDENT IN THE SAME MANNER AS
4 OTHER FEES RECEIVED BY HIM OR HER UNDER THIS SECTION AND, IN THE EVENT
5 THE APPLICATION FOR ADOPTION, AMENDMENT OR TERMINATION OF A MARKETING
6 ORDER IS APPROVED IN A REFERENDUM, THE PRESIDENT SHALL REIMBURSE ANY
7 SUCH APPLICANT IN THE AMOUNT OF ANY SUCH DEPOSIT FROM ANY UNEXPENDED
8 MONIES COLLECTED UNDER THE MARKETING ORDER AFFECTED BY SUCH REFERENDUM.

9 (I) ANY MONEYS COLLECTED BY THE PRESIDENT PURSUANT TO THIS SECTION
10 SHALL NOT BE DEEMED STATE OR CORPORATION FUNDS AND SHALL BE DEPOSITED IN
11 A BANK OR OTHER DEPOSITORY OF THE CORPORATION, APPROVED BY THE PRESI-
12 DENT, ALLOCATED TO EACH MARKETING ORDER UNDER WHICH THEY ARE COLLECTED,
13 AND SHALL BE DISBURSED BY THE PRESIDENT ONLY FOR THE NECESSARY EXPENSES
14 INCURRED BY THE PRESIDENT WITH RESPECT TO EACH SUCH SEPARATE MARKETING
15 ORDER, ALL IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE PRESI-
16 DENT. ALL SUCH EXPENDITURES SHALL BE SUBJECT TO AUDITS BY THE STATE
17 COMPTROLLER. ANY MONEYS REMAINING IN SUCH FUND ALLOCABLE TO ANY PARTIC-
18 ULAR COMMODITY AFFECTED BY A MARKETING ORDER MAY, IN THE DISCRETION OF
19 THE PRESIDENT, BE REFUNDED AT THE CLOSE OF ANY MARKETING SEASON UPON A
20 PRO-RATA BASIS TO ALL PERSONS FROM WHOM ASSESSMENTS THEREFOR WERE
21 COLLECTED OR, WHENEVER THE PRESIDENT FINDS THAT SUCH MONEYS MAY BE
22 NECESSARY TO DEFRAY THE COST OF OPERATING SUCH MARKETING ORDER IN A
23 SUCCEEDING MARKETING SEASON, HE OR SHE MAY CARRY OVER ALL OR ANY PORTION
24 OF SUCH MONEYS INTO THE NEXT SUCH SUCCEEDING SEASON. UPON THE TERMI-
25 NATION BY THE PRESIDENT OF ANY MARKETING ORDER, ALL MONEYS REMAINING AND
26 NOT REQUIRED BY THE PRESIDENT TO DEFRAY THE EXPENSES OF OPERATING SUCH
27 MARKETING ORDER, SHALL BE REFUNDED BY THE PRESIDENT UPON A PRO-RATA
28 BASIS TO ALL PERSONS FROM WHOM ASSESSMENTS THEREFOR WERE COLLECTED;
29 PROVIDED, HOWEVER, THAT IF THE PRESIDENT FINDS THAT THE AMOUNTS SO
30 REFUNDABLE ARE SO SMALL AS TO MAKE IMPRACTICABLE THE COMPUTATION AND
31 REFUNDING OF SUCH REFUNDS, THE PRESIDENT MAY USE SUCH MONEYS TO DEFRAY
32 THE EXPENSES INCURRED BY HIM OR HER IN THE FORMULATION, ISSUANCE, ADMIN-
33 ISTRATION OR ENFORCEMENT OF ANY SUBSEQUENT MARKETING ORDER FOR SUCH
34 COMMODITY.

35 (J) ADVISORY BOARD. (I) ANY MARKETING ORDER ISSUED PURSUANT TO THIS
36 SECTION SHALL PROVIDE FOR THE ESTABLISHMENT OF AN ADVISORY BOARD, TO
37 CONSIST OF NOT LESS THAN FIVE MEMBERS NOR MORE THAN NINE MEMBERS, TO
38 ADVISE THE PRESIDENT IN THE ADMINISTRATION OF SUCH MARKETING ORDER IN
39 ACCORDANCE WITH ITS TERMS AND PROVISIONS. THE PRESIDENT SHALL ADMINISTER
40 AND ENFORCE ANY SUCH ORDER WHILE IT IS IN EFFECT, CONSULTING WITH THE
41 ADVISORY BOARD AND SEEKING ITS ADVICE AND CONSENT. THE MEMBERS OF SAID
42 BOARD SHALL BE APPOINTED BY THE COMMISSIONER FROM NOMINATIONS RECEIVED
43 FROM THE COMMODITY GROUP FOR WHICH THE MARKETING ORDER IS ESTABLISHED.
44 NOMINATING PROCEDURE, QUALIFICATION, REPRESENTATION AND SIZE OF THE
45 ADVISORY BOARD SHALL BE PRESCRIBED IN EACH MARKETING ORDER FOR WHICH
46 SUCH BOARD IS APPOINTED. EACH ADVISORY BOARD SHALL BE COMPOSED OF SUCH
47 PRODUCERS AND HANDLERS OR PROCESSORS AS ARE DIRECTLY AFFECTED BY THE
48 MARKETING ORDER IN SUCH PROPORTION OF REPRESENTATION AS THE ORDER SHALL
49 PRESCRIBE. THE COMMISSIONER MAY APPOINT ONE PERSON WHO IS NEITHER A
50 PRODUCER, PROCESSOR OR OTHER HANDLER TO REPRESENT THE DEPARTMENT OF
51 AGRICULTURE AND MARKETS, THE CORPORATION, OR THE PUBLIC GENERALLY.

52 (II) NO MEMBER OF AN ADVISORY BOARD SHALL RECEIVE A SALARY, BUT EACH
53 SHALL BE ENTITLED TO HIS OR HER ACTUAL EXPENSES INCURRED WHILE ENGAGED
54 IN PERFORMING HIS OR HER DUTIES HEREIN AUTHORIZED.

55 (III) THE DUTIES AND RESPONSIBILITIES OF EACH ADVISORY BOARD SHALL BE
56 PRESCRIBED BY THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER, AND

1 HE OR SHE SHALL SPECIFICALLY DELEGATE TO THE ADVISORY BOARD, BY INCLU-
2 SION IN THE MARKETING ORDER, THE FOLLOWING DUTIES AND RESPONSIBILITIES:

3 (A) THE RECOMMENDATION TO THE PRESIDENT OF ADMINISTRATIVE RULES AND
4 REGULATIONS RELATING TO THE MARKETING ORDER.

5 (B) RECOMMENDING TO THE PRESIDENT SUCH AMENDMENTS TO THE MARKETING
6 ORDER AS DEEMED ADVISABLE.

7 (C) THE PREPARATION AND SUBMISSION TO THE COMMISSIONER, IN CONSULTA-
8 TION WITH THE PRESIDENT, OF THE ESTIMATED BUDGET REQUIRED FOR THE PROPER
9 OPERATION OF THE MARKETING ORDER.

10 (D) RECOMMENDING TO THE PRESIDENT METHODS FOR ASSESSING MEMBERS OF THE
11 INDUSTRY AND METHODS FOR COLLECTING THE NECESSARY FUNDS.

12 (E) ASSISTING THE PRESIDENT IN THE COLLECTION AND ASSEMBLING OF INFOR-
13 MATION AND DATA NECESSARY TO THE PROPER ADMINISTRATION OF THE ORDER.

14 (F) THE PERFORMANCE OF SUCH OTHER DUTIES IN CONNECTION WITH THE
15 MARKETING ORDER AS THE PRESIDENT SHALL DESIGNATE.

16 4. RULES AND REGULATIONS; ENFORCEMENT. THE PRESIDENT, WITH THE ADVICE
17 AND CONSENT OF THE ADVISORY BOARD, MAY MAKE AND PROMULGATE SUCH RULES
18 AND REGULATIONS AS MAY BE NECESSARY TO EFFECTUATE THE PROVISIONS AND
19 INTENT OF THIS SECTION AND TO ENFORCE THE PROVISION OF ANY MARKETING
20 AGREEMENT OR ORDER, ALL OF WHICH SHALL HAVE THE FORCE AND EFFECT OF LAW.

21 THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER MAY INSTITUTE
22 SUCH ACTION AT LAW OR IN EQUITY AS MAY APPEAR NECESSARY TO ENFORCE
23 COMPLIANCE WITH ANY PROVISION OF THIS SECTION, OR ANY RULE OR REGU-
24 LATION, MARKETING AGREEMENT OR ORDER, COMMITTED TO HIS OR HER ADMINIS-
25 TRATION, AND IN ADDITION MAY APPLY FOR RELIEF BY INJUNCTION IF NECESSARY
26 TO PROTECT THE PUBLIC INTEREST WITHOUT BEING COMPELLED TO ALLEGE OR
27 PROVE THAT AN ADEQUATE REMEDY AT LAW DOES NOT EXIST. SUCH APPLICATION
28 MAY BE MADE TO THE SUPREME COURT IN ANY DISTRICT OR COUNTY AS PROVIDED
29 IN THE CIVIL PRACTICE LAW AND RULES, OR TO THE SUPREME COURT IN THE
30 THIRD JUDICIAL DISTRICT.

31 5. COOPERATION BY THE DEPARTMENT. THE PRESIDENT OF THE CORPORATION
32 MAY REQUEST AND RECEIVE, WITHIN NINETY DAYS OF SUCH REQUEST, FROM THE
33 DEPARTMENT SUCH ASSISTANCE, INFORMATION AND COOPERATION AS MAY BE NECES-
34 SARY FOR THE CORPORATION TO PROVIDE SERVICES WITH RESPECT TO THE ADMIN-
35 ISTRATION OF THE PROCEDURES SET FORTH FOR THE ISSUANCE, TERMINATION OR
36 AMENDMENT OF ANY AGRICULTURAL, COMMODITIES OR AQUATIC ORDER AND/OR THE
37 ADMINISTRATION OF ANY SUCH ORDER. THE CORPORATION SHALL RETAIN AN
38 AMOUNT EQUAL TO THE EXPENSES INCURRED BY THE CORPORATION IN PERFORMING
39 ITS DUTIES PURSUANT TO THIS SECTION AND REIMBURSE THE DEPARTMENT AN
40 AMOUNT EQUAL TO THE EXPENSES INCURRED BY THE DEPARTMENT IN SUPPLYING
41 SUCH SERVICES, SUBSEQUENT TO SUBMISSION AND AUDIT OF A VOUCHER THEREFOR.
42 SUCH REIMBURSEMENT SHALL NOT EXCEED THE TOTAL AMOUNT OF FUNDS COLLECTED
43 BY THE CORPORATION PURSUANT TO THIS SECTION LESS THE REASONABLE EXPENSES
44 INCURRED BY THE CORPORATION IN PERFORMING ITS DUTIES PURSUANT TO THIS
45 SECTION.

46 6. INDEMNIFICATION. THE STATE SHALL DEFEND, INDEMNIFY AND HOLD HARM-
47 LESS THE CORPORATION, ITS DIRECTORS, OFFICERS, AND EMPLOYEES, FROM AND
48 AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, DAMAGES, COSTS
49 AND EXPENSES WHATSOEVER ARISING DIRECTLY OR INDIRECTLY FROM, OR RELATING
50 TO, THE ADMINISTRATION OF ANY AGRICULTURAL, COMMODITIES OR AQUATIC
51 PROMOTION ORDER ISSUED OR ADMINISTERED PURSUANT TO THIS SECTION. IN
52 CONNECTION WITH THE FOREGOING, THE CORPORATION SHALL GIVE THE STATE (A)
53 PROMPT WRITTEN NOTICE OF ANY ACTION, CLAIM OR THREAT OF SUIT, (B) THE
54 OPPORTUNITY TO TAKE OVER, SETTLE OR DEFEND SUCH ACTION, CLAIM OR SUIT AT
55 THE STATE'S SOLE EXPENSE, AND (C) ASSISTANCE IN THE DEFENSE OF ANY SUCH
56 ACTION AT THE EXPENSE OF THE STATE.

7. CONTRACTUAL PROVISIONS. THE CORPORATION MAY CONTRACT FOR SERVICES WITH RESPECT TO THE IMPLEMENTATION OF THIS SECTION IN ACCORDANCE WITH THE CORPORATION'S POLICIES, PROCEDURES AND GUIDELINES. NOTWITHSTANDING SECTION 2879 OF THE PUBLIC AUTHORITIES LAW OR ANY OTHER LAW TO THE CONTRARY, ANY SUCH CONTRACT MAY BE PROCURED BY THE CORPORATION ON A SOLE-SOURCE BASIS, AND SHALL NOT BE SUBJECT TO COMPETITIVE BID OR COMPETITIVE REQUEST FOR PROPOSAL REQUIREMENTS.

S 16-Z. MARKETING ORDERS. THE MARKETING ORDERS, THE REGULATORY PROVISIONS RELATING THERETO, SET FORTH IN TITLE ONE OF THE OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK PARTS 40, 200, 201, 202, 203, 204, AND 205, AND THE CONTRACTS RELATING THERETO SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL AMENDED OR REPEALED PURSUANT TO THE STATUTORY AUTHORITY SET FORTH IN SECTIONS 16-X AND 16-Y OF THIS ACT EXCEPT THAT: (A) SUCH MARKETING ORDERS, THE REGULATORY PROVISIONS RELATING THERETO, AND THE CONTRACTS RELATING THERETO SHALL BE ADMINISTERED BY AND UNDER THE SUPERVISION OF THE PRESIDENT OF THE CORPORATION AS OF THE EFFECTIVE DATE OF SECTIONS 16-X AND 16-Y OF THIS ACT; (B) ALL UNDISBURSED FUNDS UNDER THE CONTROL OF THE DEPARTMENT OF AGRICULTURE AND MARKETS SHALL BE TRANSFERRED TO THE CORPORATION ON OR BEFORE SUCH EFFECTIVE DATE; AND (C) ANY ASSESSMENTS DUE AND PAYABLE UNDER SUCH MARKETING ORDERS SHALL BE REMITTED TO THE CORPORATION STARTING 30 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

S 3. This act shall take effect on the ninetieth day after it shall have become a law and shall expire and be deemed repealed two years after such date; provided, however, that any assessment due and payable under such marketing orders shall be remitted to the urban development corporation starting 30 days after such effective date.

PART T

Section 1. Subdivisions 1 and 2 of section 27-1905 of the environmental conservation law, as amended by section 1 of part G of chapter 58 of the laws of 2013, are amended to read as follows:

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

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

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

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

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

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

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

6 S 2. Subdivisions 1, 2 and 3 and paragraph (a) of subdivision 6 of
7 section 27-1913 of the environmental conservation law, as amended by
8 section 2 of part G of chapter 58 of the laws of 2013, are amended to
9 read as follows:

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

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

16 (a) recapped or resold tires;

17 (b) mail-order sales; or

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

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

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

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

30 3. Until March thirty-first, two thousand [seventeen] TWENTY, each
31 tire service maintaining a place of business in this state shall make a
32 return to the department of taxation and finance on a quarterly basis,
33 with the return for December, January, and February being due on or
34 before the immediately following March thirty-first; the return for
35 March, April, and May being due on or before the immediately following
36 June thirtieth; the return for June, July, and August being due on or
37 before the immediately following September thirtieth; and the return for
38 September, October, and November being due on or before the immediately
39 following December thirty-first.

40 (a) Each return shall include:

41 (i) the name of the tire service;

42 (ii) the address of the tire service's principal place of business and
43 the address of the principal place of business (if that is a different
44 address) from which the tire service engages in the business of making
45 retail sales of tires;

46 (iii) the name and signature of the person preparing the return;

47 (iv) the total number of new tires sold at retail for the preceding
48 quarter and the total number of new tires placed on motor vehicles prior
49 to original retail sale;

50 (v) the amount of waste tire management and recycling fees due; and

51 (vi) such other reasonable information as the department of taxation
52 and finance may require.

53 (b) Copies of each report shall be retained by the tire service for
54 three years.

1 If a tire service ceases business, it shall file a final return and
2 remit all fees due under this title with the department of taxation and
3 finance not more than one month after discontinuing that business.

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

18 S 3. Subdivision 6 of section 27-1915 of the environmental conserva-
19 tion law, as added by section 3 of part V-1 of chapter 62 of the laws of
20 2003, is amended to read as follows:

21 6. costs of the department of health for the following:

22 (a) recommendations to protect public health; [and]

23 (b) administration of requirements of this section[.]; AND

24 (C) PREVENTION OR CONTROL OF ON-SITE POPULATIONS OF VECTORS, AS
25 DEFINED IN SUBDIVISION TEN OF SECTION 27-2301 OF THIS ARTICLE, USING
26 TECHNIQUES APPROPRIATE FOR PROTECTION OF HUMAN HEALTH AND THE ENVIRON-
27 MENT TO PREVENT THE SITE FROM BEING A VECTOR BREEDING AREA.

28 S 4. This act shall take effect immediately.

29 PART U

30 Section 1. Paragraph a of subdivision 2 of section 92-s of the state
31 finance law, as added by chapter 610 of the laws of 1993, is amended to
32 read as follows:

33 a. The comptroller shall establish the following separate and distinct
34 accounts within the environmental protection fund:

35 (i) solid waste account;

36 (ii) parks, recreation and historic preservation account;

37 (iii) open space account; [and]

38 (iv) CLIMATE CHANGE MITIGATION AND ADAPTATION ACCOUNT; AND

39 (V) environmental protection transfer account.

40 S 2. Subdivision 6 of section 92-s of the state finance law is amended
41 by adding a new paragraph (f) to read as follows:

42 (F) MONEYS FROM THE CLIMATE CHANGE ACCOUNT SHALL BE AVAILABLE, PURSU-
43 ANT TO APPROPRIATION AND UPON CERTIFICATE OF APPROVAL OF AVAILABILITY BY
44 THE DIRECTOR OF THE BUDGET, FOR CLIMATE SMART COMMUNITIES PROJECTS
45 PURSUANT TO TITLE FIFTEEN OF ARTICLE FIFTY-FOUR OF THE ENVIRONMENTAL
46 CONSERVATION LAW.

47 S 3. Paragraph (b) of subdivision 6 of section 92-s of the state
48 finance law, as amended by chapter 432 of the laws of 1997, is amended
49 to read as follows:

50 (b) Moneys from the solid waste account shall be available, pursuant
51 to appropriation and upon certificate of approval of availability by the
52 director of the budget, for any non-hazardous municipal landfill closure
53 project; municipal waste reduction or recycling project, as defined in
54 article fifty-four of the environmental conservation law; for the

purposes of section two hundred sixty-one and section two hundred sixty-four of the economic development law; any project for the development, updating or revision of local solid waste management plans pursuant to sections 27-0107 and 27-0109 of the environmental conservation law; ENVIRONMENTAL JUSTICE PROJECTS AND GRANTS and for the development of the pesticide sales and use data base [in conjunction with Cornell University] pursuant to title twelve of article thirty-three of the environmental conservation law.

S 4. Subdivisions 1 and 2 of section 54-1101 of the environmental conservation law, subdivision 1 as amended by chapter 355 of the laws of 2014 and subdivision 2 as amended by chapter 309 of the laws of 1996, are amended to read as follows:

1. The secretary is authorized to provide on a competitive basis, within amounts appropriated, state assistance payments AND/OR TECHNICAL ASSISTANCE AS DEFINED IN SECTION NINE HUNDRED SEVENTEEN OF THE EXECUTIVE LAW, to municipalities toward the [cost] DEVELOPMENT of any local waterfront revitalization program, PURSUANT TO ARTICLE FORTY-TWO OF THE EXECUTIVE LAW including planning projects to mitigate future physical climate risks AND UPDATES TO EXISTING LOCAL WATERFRONT REVITALIZATION PROGRAM PLANS TO MITIGATE FUTURE PHYSICAL CLIMATE RISKS. Eligible costs include planning, studies, preparation of local laws, and construction projects.

2. State assistance payments AND/OR TECHNICAL ASSISTANCE, AS DEFINED IN SECTION NINE HUNDRED SEVENTEEN OF THE EXECUTIVE LAW, shall not exceed fifty percent of the cost of the program. For the purpose of determining the amount of state assistance payments, costs shall not be more than the amount set forth in the application for state assistance payments approved by the secretary. The state assistance payments shall be paid on audit and warrant of the state comptroller on a certificate of availability of the director of the budget.

S 5. Article 54 of the environmental conservation law is amended by adding a new title 15 to read as follows:

TITLE 15

CLIMATE SMART COMMUNITY PROJECTS

SECTION 54-1501. DEFINITION.

54-1503. CLIMATE SMART COMMUNITY PROJECTS.

54-1505. ELIGIBILITY TO RECEIVE STATE ASSISTANCE PAYMENTS FOR CLIMATE SMART COMMUNITY PROJECTS.

54-1507. CRITERIA FOR CLIMATE SMART COMMUNITY PROJECTS.

54-1509. STATE ASSISTANCE APPLICATION PROCEDURE.

54-1511. STATE ASSISTANCE PAYMENTS FOR CLIMATE SMART COMMUNITY PROJECTS.

54-1513. CLIMATE CHANGE MITIGATION EASEMENTS.

54-1515. CONTRACTS FOR STATE ASSISTANCE PAYMENTS FOR CLIMATE SMART COMMUNITY PROJECTS.

54-1517. POWERS AND DUTIES OF THE COMMISSIONER.

54-1519. POWERS AND DUTIES OF A MUNICIPALITY.

54-1521. CLEAN VEHICLE PROJECTS.

54-1523. CLIMATE ADAPTATION AND MITIGATION PROJECTS.

S 54-1501. DEFINITION.

FOR PURPOSES OF THIS TITLE, "CLIMATE SMART COMMUNITY PROJECTS" SHALL MEAN ADAPTATION AND MITIGATION PROJECTS, INCLUDING FLOOD MITIGATION AND COASTAL AND RIPARIAN RESILIENCY, GREENHOUSE GAS REDUCTIONS OUTSIDE THE POWER SECTOR AND CLIMATE CHANGE ADAPTATION PLANNING, AND CLEAN VEHICLE PROJECTS.

1 S 54-1503. CLIMATE SMART COMMUNITY PROJECTS.

2 THE COMMISSIONER, PURSUANT TO APPROPRIATION THEREFOR, IS AUTHORIZED TO
3 UNDERTAKE CLIMATE SMART COMMUNITY PROJECTS.

4 S 54-1505. ELIGIBILITY TO RECEIVE STATE ASSISTANCE PAYMENTS FOR CLIMATE
5 SMART COMMUNITY PROJECTS.

6 ANY MUNICIPALITY MAY APPLY FOR STATE ASSISTANCE PAYMENTS TOWARD THE
7 COST OF A CLIMATE SMART COMMUNITY PROJECT. ANY APPLICATION MUST COMPLY
8 WITH ALL APPLICABLE RULES AND REGULATIONS DETERMINED BY THE DEPARTMENT.

9 S 54-1507. CRITERIA FOR CLIMATE SMART COMMUNITY PROJECTS.

10 COSTS INCURRED PRIOR TO APRIL FIRST, TWO THOUSAND SIXTEEN, SHALL NOT
11 BE ELIGIBLE FOR STATE ASSISTANCE PAYMENTS FUNDED PURSUANT TO THIS TITLE.
12 PROJECTS MUST DEMONSTRATE AN ABILITY TO IDENTIFY, MITIGATE AND/OR ADAPT
13 TO CLIMATE CHANGE VULNERABILITY AND RISK OR DEMONSTRATE POTENTIAL TO
14 REDUCE GREENHOUSE GAS EMISSIONS OUTSIDE THE POWER SECTOR.

15 S 54-1509. STATE ASSISTANCE APPLICATION PROCEDURE.

16 1. A MUNICIPALITY, UPON THE APPROVAL OF ITS GOVERNING BODY, MAY SUBMIT
17 AN APPLICATION TO THE COMMISSIONER, IN SUCH FORM AND CONTAINING SUCH
18 INFORMATION AS THE COMMISSIONER MAY REQUIRE, FOR STATE ASSISTANCE
19 PAYMENTS TOWARD THE COST OF A PROJECT WHICH IS WITHIN THE STATE OF NEW
20 YORK AND WHICH IS ELIGIBLE FOR STATE ASSISTANCE PURSUANT TO THIS TITLE.

21 2. THE COMMISSIONER SHALL REVIEW SUCH PROJECT APPLICATION AND MAY
22 APPROVE, DISAPPROVE OR RECOMMEND MODIFICATIONS THERETO CONSISTENT WITH
23 APPLICABLE LAW, CRITERIA, STANDARDS OR RULES AND REGULATIONS RELATIVE TO
24 SUCH PROJECTS. IN REVIEWING APPLICATIONS FOR PROJECTS PURSUANT TO THIS
25 SECTION, THE COMMISSIONER SHALL GIVE DUE CONSIDERATION TO:

26 A. THE URGENCY OF NEED TO PROVIDE STATE ASSISTANCE PAYMENTS FOR THE
27 PROJECT IN RELATION TO THE PROVISION OF MONIES FOR OTHER PROJECT NEEDS
28 IN THE STATE KNOWN AT THE TIME SUCH APPLICATION IS MADE;

29 B. THE PROJECT'S CONTRIBUTION TO THE STATE'S CLIMATE GOALS; AND

30 C. THE ABILITY OF THE MUNICIPALITY TO PAY FOR THE COSTS OF THE CLIMATE
31 SMART COMMUNITY PROJECT.

32 S 54-1511. STATE ASSISTANCE PAYMENTS FOR CLIMATE SMART COMMUNITY
33 PROJECTS.

34 1. UNLESS OTHERWISE SPECIFIED BY LAW, THE COMMISSIONER IS AUTHORIZED
35 TO PROVIDE ON A COMPETITIVE BASIS, WITHIN AMOUNTS APPROPRIATED, STATE
36 ASSISTANCE PAYMENTS TO A MUNICIPALITY TOWARD THE COST OF ANY CLIMATE
37 SMART COMMUNITY PROJECT APPROVED BY THE COMMISSIONER PROVIDED THAT THE
38 COMMISSIONER DETERMINES THAT FUTURE PHYSICAL CLIMATE RISK DUE TO SEA
39 LEVEL RISE, AND/OR STORM SURGES AND/OR FLOODING, BASED ON AVAILABLE DATA
40 PREDICTING THE LIKELIHOOD OF FUTURE EXTREME WEATHER EVENTS, INCLUDING
41 HAZARD RISK ANALYSIS DATA IF APPLICABLE, HAS BEEN CONSIDERED, EXCEPT
42 THAT SUCH DETERMINATION SHALL NOT APPLY TO REBATES FOR ELIGIBLE
43 PURCHASES PURSUANT TO SECTION 54-1521 OF THIS TITLE.

44 2. THE COMMISSIONER AND A MUNICIPALITY MAY ENTER INTO A CONTRACT FOR
45 THE UNDERTAKING OF A CLIMATE SMART COMMUNITY PROJECT. SUCH PROJECT SHALL
46 BE RECOMMENDED TO THE COMMISSIONER BY THE GOVERNING BODY OF THE MUNICI-
47 PALITY, AND WHEN APPROVED BY THE COMMISSIONER, UNDERTAKEN BY THE MUNICI-
48 PALITY PURSUANT TO THIS ARTICLE AND ANY OTHER APPLICABLE PROVISIONS OF
49 LAW.

50 3. STATE ASSISTANCE PAYMENTS SHALL NOT EXCEED FIFTY PERCENT OF THE
51 PROJECT COST OR TWO MILLION DOLLARS, WHICHEVER IS LESS. SUCH COSTS ARE
52 SUBJECT TO FINAL COMPUTATION AND DETERMINATION BY THE COMMISSIONER UPON
53 COMPLETION OF THE PROJECT, AND SHALL NOT EXCEED THE MAXIMUM ELIGIBLE
54 COST SET FORTH IN THE CONTRACT.

55 4. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS WHICH SHALL
56 INCLUDE CRITERIA FOR DETERMINING ELIGIBLE EXPENDITURES AND PROCEDURES

FOR GOVERNING THE COMMITMENT AND DISBURSEMENT OF FUNDS APPROPRIATED IN ACCORDANCE WITH THIS TITLE. THE COMMISSIONER SHALL ALSO PROMULGATE RULES AND REGULATIONS WHICH SHALL INCLUDE APPLICATION PROCEDURES, REVIEW PROCESSES, AND PROJECT APPROVAL GUIDELINES AND CRITERIA.

S 54-1513. CLIMATE CHANGE MITIGATION EASEMENTS.

A MUNICIPALITY WHICH DEVELOPS, IMPROVES, RESTORES OR REHABILITATES REAL PROPERTY THAT IS NOT OWNED BY THE MUNICIPALITY PURSUANT TO THIS TITLE WITH FUNDS MADE AVAILABLE PURSUANT TO THIS TITLE SHALL OBTAIN A CLIMATE CHANGE MITIGATION EASEMENT FROM THE OWNER OF THE REAL PROPERTY. CLIMATE CHANGE MITIGATION EASEMENTS SHALL BE ENFORCED AS CONSERVATION EASEMENTS ARE ENFORCED IN SECTION 49-0305 OF THIS CHAPTER.

S 54-1515. CONTRACTS FOR STATE ASSISTANCE PAYMENTS FOR CLIMATE SMART COMMUNITY PROJECTS.

1. AFTER APPROVAL OF THE APPLICATION, THE COMMISSIONER MAY, IN THE NAME OF THE STATE, ENTER INTO CONTRACTS WITH MUNICIPALITIES, TO PROVIDE STATE ASSISTANCE PAYMENTS TOWARD THE COST OF CLIMATE SMART COMMUNITY PROJECTS, WHICH SHALL INCLUDE THE FOLLOWING PROVISIONS:

A. AN ESTIMATE OF THE COSTS OF THE PROJECT AS DETERMINED BY THE COMMISSIONER;

B. AN AGREEMENT BY THE COMMISSIONER TO MAKE STATE ASSISTANCE PAYMENTS TOWARD THE COST OF THE PROJECT BY PERIODICALLY REIMBURSING THE MUNICIPALITY DURING THE PROGRESS OF PROJECT DEVELOPMENT OR FOLLOWING COMPLETION OF THE PROJECT AS MAY BE AGREED UPON BY THE PARTIES, IN AN AMOUNT NOT TO EXCEED THE AMOUNTS ESTABLISHED ELSEWHERE IN THIS TITLE; AND

C. AN AGREEMENT BY THE MUNICIPALITY:

(I) TO PROCEED EXPEDITIOUSLY WITH AND COMPLETE THE PROJECT AS APPROVED BY THE COMMISSIONER;

(II) TO UNDERTAKE AND MAINTAIN THE CLIMATE SMART COMMUNITY PROJECT IN ACCORDANCE WITH APPLICABLE LAW AND RULES AND REGULATIONS;

(III) TO PROVIDE FOR THE PAYMENT OF THE MUNICIPALITY'S SHARE OF THE COST OF THE PROJECT;

(IV) TO ASSUME THE FULL COST OF ANY ADDITIONAL ELEMENTS OR CONTINUED OPERATION OF THE PROJECT;

(V) TO REPAY WITHIN ONE YEAR OF NOTIFICATION BY THE COMMISSIONER, ANY STATE ASSISTANCE PAYMENTS MADE TOWARD THE COST OF THE PROJECT OR AN EQUITABLE PORTION OF SUCH MONIES DECLARED APPROPRIATE BY THE COMMISSIONER, IF THE MUNICIPALITY FAILS TO COMPLETE THE PROJECT AS APPROVED. NO REPAYMENT, HOWEVER, SHALL BE REQUIRED WHERE THE COMMISSION DETERMINES THAT SUCH FAILURE, DISPOSITION OR CHANGE OF USE WAS IMMEDIATELY NECESSARY TO PROTECT PUBLIC HEALTH AND SAFETY; AND

(VI) TO APPLY FOR AND MAKE REASONABLE EFFORTS TO SECURE FEDERAL ASSISTANCE FOR THE PROJECT.

2. IN CONNECTION WITH EACH CONTRACT, THE COMMISSIONER SHALL KEEP ADEQUATE RECORDS OF THE AMOUNT OF THE PAYMENT BY THE STATE, IF ANY, RECEIVED BY THE MUNICIPALITY. SUCH RECORDS SHALL BE RETAINED BY THE COMMISSIONER AND SHALL ESTABLISH THE BASIS FOR RECALCULATION OF THE STATE PAYMENT AS REQUIRED HEREIN.

3. THE COMMISSIONER SHALL IMPOSE SUCH CONTRACTUAL REQUIREMENTS AND CONDITIONS UPON ANY MUNICIPALITY WHICH RECEIVES STATE ASSISTANCE PAYMENTS PURSUANT TO THIS TITLE AS MAY BE NECESSARY AND APPROPRIATE TO ENSURE THAT A PUBLIC BENEFIT SHALL ACCRUE FROM THE USE OF PUBLIC FUNDS BY SUCH MUNICIPALITY. SUCH CONDITIONS SHALL INCLUDE LIMITATIONS ON THE RIGHT OF THE MUNICIPALITY TO DEMOLISH OR CONVEY SUCH PROPERTY, PROVISIONS FOR PUBLIC ACCESS OR USE WHERE APPROPRIATE, A REQUIREMENT THAT ALL PLANS FOR RESTORATION, REHABILITATION, IMPROVEMENT, DEMOLITION

OR OTHER PHYSICAL CHANGE MUST BE SUBJECT TO THE COMMISSIONER'S APPROVAL, AND SUCH OTHER CONDITIONS WHICH SHALL ASSURE THE PRESERVATION AND PROTECTION OF THE PROJECT.

S 54-1517. POWERS AND DUTIES OF THE COMMISSIONER.

IN ADMINISTERING THE PROVISIONS OF THIS TITLE THE COMMISSIONER:

1. SHALL MAKE AN ITEMIZED ESTIMATE OF FUNDS OR APPROPRIATIONS REQUESTED ANNUALLY FOR INCLUSION IN THE EXECUTIVE BUDGET;

2. MAY, IN THE NAME OF THE STATE, AS FURTHER PROVIDED WITHIN THIS ARTICLE, CONTRACT TO MAKE, WITHIN THE LIMITATIONS OF APPROPRIATION AVAILABLE THEREFOR, STATE ASSISTANCE PAYMENTS TOWARD THE COSTS OF AN APPROVED PROJECT. SUCH CONTRACTS SHALL BE SUBJECT TO APPROVAL BY THE STATE COMPTROLLER AND, AS TO FORM, BY THE ATTORNEY GENERAL;

3. SHALL APPROVE VOUCHERS FOR THE PAYMENTS PURSUANT TO AN APPROVED CONTRACT. ALL SUCH PAYMENTS SHALL BE PAID ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER; AND

4. MAY PERFORM SUCH OTHER AND FURTHER ACTS AS MAY BE NECESSARY, PROPER OR DESIRABLE TO CARRY OUT THE PROVISIONS OF THIS ARTICLE.

S 54-1519. POWERS AND DUTIES OF A MUNICIPALITY.

A MUNICIPALITY SHALL HAVE THE POWER AND AUTHORITY TO:

1. UNDERTAKE AND CARRY OUT ANY PROJECT FOR WHICH STATE ASSISTANCE PAYMENTS PURSUANT TO CONTRACT ARE RECEIVED OR ARE TO BE RECEIVED PURSUANT TO THIS ARTICLE AND MAINTAIN AND OPERATE SUCH PROJECT;

2. EXPEND MONEY RECEIVED FROM THE STATE PURSUANT TO THIS ARTICLE FOR COSTS INCURRED IN CONJUNCTION WITH THE APPROVED PROJECT; AND

3. PERFORM SUCH OTHER AND FURTHER ACTS AS MAY BE NECESSARY, PROPER OR DESIRABLE TO CARRY OUT A PROJECT OR OBLIGATION, DUTY OR FUNCTION RELATED THERETO.

S 54-1521. CLEAN VEHICLE PROJECTS.

1. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

A. "ELIGIBLE INFRASTRUCTURE PROJECT" SHALL MEAN ANY FACILITY (NOT INCLUDING A BUILDING AND ITS STRUCTURAL COMPONENTS) THAT IS USED PRIMARILY FOR THE PUBLIC CHARGING AND/OR FUELING OF VEHICLES WHICH MEET THE ELIGIBLE VEHICLE DEFINITION THAT HAS RECEIVED REQUIRED FEDERAL, STATE AND LOCAL PERMITS AND AUTHORIZATIONS COMPLIES WITH ZONING.

B. "ELIGIBLE PURCHASE" SHALL MEAN THE PURCHASE BY A MUNICIPALITY TO OWN OR LEASE FOR A PERIOD OF NOT LESS THAN THIRTY-SIX MONTHS OF AN ELIGIBLE VEHICLE PLACED INTO SERVICE ON OR AFTER APRIL FIRST, TWO THOUSAND SIXTEEN AT A DEALER LOCATED WITHIN NEW YORK.

C. "ELIGIBLE VEHICLE" MEANS AND INCLUDES A NEW MOTOR VEHICLE THAT:

(I) HAS FOUR WHEELS;

(II) WAS MANUFACTURED FOR USE PRIMARILY ON PUBLIC STREETS, ROADS AND HIGHWAYS;

(III) THE POWERTRAIN OF WHICH HAS NOT BEEN MODIFIED FROM THE ORIGINAL MANUFACTURER'S SPECIFICATIONS;

(IV) IS RATED AT NOT MORE THAN EIGHT THOUSAND FIVE HUNDRED POUNDS GROSS VEHICLE WEIGHT;

(V) HAS A MAXIMUM SPEED CAPABILITY OF AT LEAST FIFTY-FIVE MILES PER HOUR; AND

(VI) IS PROPELLED AT LEAST IN PART BY AN ELECTRIC MOTOR AND ASSOCIATED POWER ELECTRONICS WHICH PROVIDE ACCELERATION TORQUE TO THE DRIVE WHEELS SOMETIME DURING NORMAL VEHICLE OPERATION, AND THAT DRAWS ELECTRICITY FROM A HYDROGEN FUEL CELL OR FROM A BATTERY THAT:

(A) HAS A CAPACITY OF NOT LESS THAN FOUR KILOWATT HOURS; AND

(B) IS CAPABLE OF BEING RECHARGED FROM AN EXTERNAL SOURCE OF ELECTRICITY.

1 2. A. UNTIL APRIL 1, 2023, THE COMMISSIONER, IN CONSULTATION WITH THE
2 NEW YORK STATE ENERGY RESEARCH DEVELOPMENT AUTHORITY, IS AUTHORIZED TO
3 ISSUE REBATES UNTIL THE ANNUAL ALLOCATION IS EXHAUSTED TO MUNICIPALITIES
4 TOWARD THE COST OF ANY ELIGIBLE INFRASTRUCTURE PROJECTS WHICH SUPPORT
5 THE DEVELOPMENT OF CLEAN VEHICLES.

6 B. THE DEPARTMENT, IN CONSULTATION WITH THE NEW YORK STATE ENERGY
7 RESEARCH AND DEVELOPMENT AUTHORITY, SHALL DETERMINE THE AMOUNT OF THE
8 REBATE FOR ELIGIBLE INFRASTRUCTURE PROJECTS, PROVIDED THAT AN APPLICANT
9 FOR SUCH ELIGIBLE INFRASTRUCTURE PROJECT REBATE MAY RECEIVE A MAXIMUM
10 REBATE OF TWO HUNDRED FIFTY THOUSAND DOLLARS PER FACILITY.

11 3. A. UNTIL APRIL 1, 2023, THE COMMISSIONER, IN CONSULTATION WITH THE
12 NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, IS AUTHORIZED
13 TO ISSUE REBATES UNTIL THE ANNUAL ALLOCATION IS EXHAUSTED TO MUNICI-
14 PALITIES TOWARD THE COST OF ELIGIBLE PURCHASES OF CLEAN VEHICLES.

15 B. THE DEPARTMENT, IN CONSULTATION WITH THE NEW YORK STATE ENERGY
16 RESEARCH AND DEVELOPMENT AUTHORITY, SHALL DETERMINE THE AMOUNT OF THE
17 REBATE TAKING INTO CONSIDERATION THE ELECTRIC RANGE OF THE VEHICLE,
18 PROVIDED THAT A REBATE OF AN ELIGIBLE PURCHASE SHALL BE NOT LESS THAN
19 SEVEN HUNDRED FIFTY DOLLARS PER VEHICLE AND NOT MORE THAN FIVE THOUSAND
20 DOLLARS PER VEHICLE.

21 4. THE DEPARTMENT, IN CONSULTATION WITH THE NEW YORK STATE ENERGY
22 RESEARCH AND DEVELOPMENT AUTHORITY, SHALL PROMULGATE RULES TO IMPLEMENT
23 AND ADMINISTER THIS TITLE INCLUDING RULES RELATING TO THE FORMS REQUIRED
24 TO CLAIM A REBATE, THE REQUIRED DOCUMENTATION FOR ESTABLISHING ELIGIBIL-
25 ITY FOR A REBATE, PROCEDURES AND GUIDELINES FOR CLAIMING A REBATE, AND
26 THE COLLECTION OF ECONOMIC IMPACT DATA FROM APPLICANTS AND ANY OTHER
27 REQUIREMENTS THE DEPARTMENT AND NEW YORK STATE ENERGY RESEARCH AND
28 DEVELOPMENT AUTHORITY DEEM NECESSARY. THE DEPARTMENT SHALL DETERMINE AND
29 PUBLISH ON ITS WEBSITE ON AN ONGOING BASIS THE AMOUNT OF AVAILABLE FUND-
30 ING FOR REBATES REMAINING IN EACH FISCAL YEAR.

31 5. NO LATER THAN APRIL FIRST, TWO THOUSAND EIGHTEEN AND ANNUALLY THER-
32 EAFTER, THE DEPARTMENT SHALL ISSUE A REPORT TO THE TEMPORARY PRESIDENT
33 OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY DETAILING THE STATUS OF
34 ITS PROGRAM TO ENCOURAGE THE DEPLOYMENT OF CLEAN VEHICLES. SUCH REPORT
35 SHALL INCLUDE:

36 A. THE AMOUNT OF FUNDING DEDICATED BY THE DEPARTMENT FOR THE PROGRAM
37 IN THE PRECEDING YEAR;

38 B. THE AMOUNT OF ELIGIBLE PURCHASES AND ELIGIBLE INFRASTRUCTURE
39 PROJECTS FOR WHICH A REBATE WAS AWARDED;

40 C. THE AMOUNT AND GEOGRAPHIC DISTRIBUTION OF REBATES; AND

41 D. ANY OTHER INFORMATION THE DEPARTMENT DEEMS NECESSARY.

42 S 54-1523. CLIMATE ADAPTATION AND MITIGATION PROJECTS.

43 1. THE COMMISSIONER IS AUTHORIZED TO PROVIDE ON A COMPETITIVE BASIS,
44 WITHIN AMOUNTS APPROPRIATED, STATE ASSISTANCE PAYMENTS TO A MUNICIPALITY
45 TOWARD THE COST OF ANY CLIMATE ADAPTATION OR MITIGATION PROJECTS. SUCH
46 PROJECTS SHALL INCLUDE:

47 A. THE CONSTRUCTION OF NATURAL RESILIENCY MEASURES, CONSERVATION OR
48 RESTORATION OF RIPARIAN AREAS AND TIDAL MARSH MIGRATION AREAS;

49 B. NATURE-BASED SOLUTIONS SUCH AS WETLAND PROTECTIONS TO ADDRESS PHYS-
50 ICAL CLIMATE RISK DUE TO SEA LEVEL RISE, AND/OR STORM SURGES AND/OR
51 FLOODING, BASED ON AVAILABLE DATA PREDICTING THE LIKELIHOOD OF FUTURE
52 EXTREME WEATHER EVENTS, INCLUDING HAZARD RISK ANALYSIS DATA IF APPLICA-
53 BLE;

54 C. RELOCATION OR RETROFIT OF FACILITIES TO ADDRESS PHYSICAL CLIMATE
55 RISK DUE TO SEA LEVEL RISE, AND/OR STORM SURGES AND/OR FLOODING BASED ON

1 AVAILABLE DATA PREDICTING THE LIKELIHOOD OF FUTURE EXTREME WEATHER
2 EVENTS, INCLUDING HAZARD RISK ANALYSIS DATA IF APPLICABLE;

3 D. FLOOD RISK REDUCTION;

4 E. GREENHOUSE GAS EMISSION REDUCTIONS OUTSIDE THE POWER SECTOR;

5 F. ENABLING COMMUNITIES TO BECOME CERTIFIED UNDER THE CLIMATE SMART
6 COMMUNITIES PROGRAM, INCLUDING BY DEVELOPING NATURAL RESOURCES INVENTO-
7 RIES, RIGHT SIZING OF MUNICIPAL FLEETS AND DEVELOPING CLIMATE ADAPTATION
8 STRATEGIES; AND

9 G. CLIMATE CHANGE ADAPTATION PLANNING AND SUPPORTING STUDIES, INCLUD-
10 ING BUT NOT LIMITED TO VULNERABILITY ASSESSMENT AND RISK ANALYSIS OF
11 MUNICIPAL DRINKING WATER, WASTEWATER, AND TRANSPORTATION INFRASTRUCTURE.

12 2. TO THE FULLEST EXTENT PRACTICABLE, IT IS THE POLICY OF THE STATE TO
13 PROMOTE AN EQUITABLE REGIONAL DISTRIBUTION OF CLIMATE ADAPTATION AND
14 MITIGATION PROJECTS, CONSISTENT WITH THE PURPOSE OF THIS TITLE, TAKING
15 INTO ACCOUNT REGIONAL DIFFERENCES IN CLIMATE CHANGE RISKS, SOCIOECONOMIC
16 CONDITIONS AND ECOLOGICAL RESOURCES.

17 3. NO MONIES SHALL BE EXPENDED FOR LAND ACQUISITION.

18 S 6. Paragraph (a) of subdivision 1 of section 33-1201 of the environ-
19 mental conservation law, as added by chapter 279 of the laws of 1996, is
20 amended to read as follows:

21 a. The department shall develop a pesticide sales and use computer
22 data base [in conjunction with Cornell University]. The data base shall
23 be maintained at the department.

24 S 7. Paragraph b of subdivision 1 of section 918 of the executive law,
25 as added by chapter 840 of the laws of 1981, is amended to read as
26 follows:

27 b. To any local government or local government agency for research,
28 design, and other activities which serve to facilitate construction
29 projects provided for in an approved waterfront revitalization program;
30 provided, however, THAT SUCH PROJECTS SHALL TAKE INTO ACCOUNT THE FUTURE
31 PHYSICAL CLIMATE RISK DUE TO SEA LEVEL RISE, AND/OR STORM SURGES AND/OR
32 FLOODING, BASED ON AVAILABLE DATA PREDICTING THE LIKELIHOOD OF FUTURE
33 EXTREME WEATHER EVENTS INCLUDING HAZARD RISK ANALYSIS DATA IF APPLICABLE
34 AND PROVIDED, FURTHER, that such grants or payments shall not exceed ten
35 percent of the estimated cost of such construction project.

36 S 8. Until January 1, 2018 or such time as regulations are adopted
37 pursuant to section 54-1521 of the environmental conservation law,
38 whichever is sooner, the department of environmental conservation, in
39 consultation with the New York state energy research and development
40 authority, is authorized to issue rebates pursuant to a request for
41 proposal which shall specify rules relating to the forms, procedures and
42 guidelines for claiming a rebate for the purchase of eligible vehicles
43 and eligible infrastructure projects. Until January 1, 2018 or such
44 time as regulations are adopted pursuant to section 54-1511 of the envi-
45 ronmental conservation law, whichever is sooner, the department of envi-
46 ronmental conservation is authorized to provide state assistance to
47 municipalities pursuant to one or more request for proposal which shall
48 include criteria for determining scoring of projects, eligible expendi-
49 tures and procedures governing the commitment and disbursement of funds
50 pursuant to section 54-1523 of the environmental conservation law. The
51 department shall make all information required to be included in a
52 request for proposal pursuant to this section publicly available.

53 S 9. Paragraph (h) of subdivision 1 of section 56-0303 of the environ-
54 mental conservation law, as added by chapter 413 of the laws of 1996, is
55 amended to read as follows:

(h) For state assistance payments for the cost of water quality improvement projects intended for any waters of the state FOR PROJECTS TO SUPPORT A STUDY OF GROUNDWATER QUALITY IN LONG ISLAND OR OPEN SPACE LAND CONSERVATION PROJECTS which have been (a) approved by the commissioner, (b) identified in plans in accordance with section 1455b of the federal [costal] COASTAL zone management act or article forty-two of the executive law and approved by the secretary of state, or (c) developed in accordance with title eleven-b of article two of the soil and water conservation districts law and approved by the state soil and water conservation committee and commissioner of agriculture and markets.

S 10. This act shall take effect immediately, provided, however, that section six of this act shall take effect on April 1, 2018.

PART V

Intentionally Omitted

PART W

Section 1. Subdivision 2 of section 16-w of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 1 of part FF of chapter 58 of the laws of 2015, is amended to read as follows:

2. The corporation shall consult with the department of agriculture and markets in order to establish such criteria governing the award of grants as authorized herein, as the corporation and such department deem necessary. Such criteria shall include, but not be limited to[:

(a)], farmers who have not produced an "agricultural product" as defined by section three hundred twenty-eight of the agriculture and markets law, for more than ten consecutive years, and who will materially and substantially participate in the production of an agricultural product within a region of the state.

[(b) farms of one hundred fifty acres or less.]

S 2. This act shall take effect immediately.

PART X

Section 1. Subdivisions 3, 5 and 7 of section 19-0323 of the environmental conservation law, subdivisions 3 and 5 as amended by section 1 and subdivision 7 as amended by section 2 of part II of chapter 58 of the laws of 2015, are amended to read as follows:

3. Any diesel powered heavy duty vehicle that is owned by, operated by or on behalf of, or leased by a state agency and state and regional public authority with more than half of its governing body appointed by the governor shall utilize the best available retrofit technology for reducing the emission of pollutants. The commissioner shall promulgate regulations for the implementation of this subdivision specifying that all vehicles covered by this subdivision shall have best available retrofit technology on or before December 31, [2016] 2017.

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

5. In addition to any waiver which may be issued pursuant to subdivision four of this section, the department shall issue a waiver to a state agency, a state or regional public authority, or a person operating any diesel-powered heavy duty vehicle on behalf of a state agency,

1 state or regional public authority, upon a request in a form acceptable
2 to the department for a waiver from the provisions of subdivision three
3 of this section for a vehicle engine provided that such vehicle engine
4 will cease to be used in the state on or before December thirty-first,
5 two thousand [seventeen] EIGHTEEN. Any waiver issued pursuant to this
6 subdivision shall expire when a state agency, a state or regional public
7 authority, or a person operating any diesel-powered heavy duty vehicle
8 on behalf of a state agency, state or regional public authority ceases
9 to use the engine in the state but not later than December thirty-first,
10 two thousand [seventeen] EIGHTEEN.

11 7. On or before January 1, 2008 and every year thereafter, the commis-
12 sioner shall report to the governor and legislature on the use of ultra
13 low sulfur diesel fuel. On or before January 1, [2017] 2018 and every
14 year thereafter, the commissioner shall include in the report to the
15 governor and legislature the use of the best available retrofit technol-
16 ogy as required under this section. The information contained in this
17 report shall include, but not be limited to, for each state agency and
18 public authority covered by this section: (a) the total number of diesel
19 fuel-powered motor vehicles owned or operated by such agency and author-
20 ity; (b) the number of such motor vehicles that were powered by ultra
21 low sulfur diesel fuel; (c) the total number of diesel fuel-powered
22 motor vehicles owned or operated by such agency and authority having a
23 gross vehicle weight rating of more than 8,500 pounds; (d) the number of
24 such motor vehicles that utilized the best available retrofit technolo-
25 gy, including a breakdown by motor vehicle model, engine year and the
26 type of technology used for each vehicle; (e) the number of such motor
27 vehicles that are equipped with an engine certified to the applicable
28 2007 United States environmental protection agency standard for particu-
29 late matter as set forth in section 86.007-11 of title 40 of the code of
30 federal regulations or to any subsequent United States environmental
31 protection agency standard for particulate matter that is at least as
32 stringent; and (f) all waivers, findings, and renewals of such findings,
33 which, for each waiver, shall include, but not be limited to, the quan-
34 tity of diesel fuel needed to power diesel fuel-powered motor vehicles
35 owned or operated by such agency and authority; specific information
36 concerning the availability of ultra low sulfur diesel fuel.

37 S 2. This act shall take effect immediately.

38

PART Y

39 Section 1. The opening paragraph of section 2231 of the vehicle and
40 traffic law is designated subdivision 1 and a new subdivision 2 is added
41 to read as follows:

42 2. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, THE COMMISSIONER
43 SHALL ALSO DEPOSIT FIVE DOLLARS OF THE FEES COLLECTED PURSUANT TO PARA-
44 GRAPHS (A), (B) AND (C) OF SUBDIVISION FOUR OF SECTION TWO THOUSAND TWO
45 HUNDRED TWENTY-TWO OF THIS ARTICLE, TO THE CREDIT OF THE SNOWMOBILE
46 TRAIL DEVELOPMENT AND MAINTENANCE FUND.

47 S 2. This act shall take effect October 1, 2016.

48

PART Z

49 Section 1. Paragraph (e) of subdivision 1 of section 66-j of the
50 public service law, as amended by chapter 355 of the laws of 2009, and
51 the opening paragraph as amended by chapter 336 of the laws of 2010, is
52 amended to read as follows:

(e) "Farm waste electric generating equipment" means equipment that generates electric energy from biogas produced by the anaerobic digestion of agricultural waste, such as livestock manure, farming wastes and food processing wastes with a rated capacity of not more than [one] TWO thousand kilowatts, that is:

(i) manufactured, installed, and operated in accordance with applicable government and industry standards;

(ii) connected to the electric system and operated in conjunction with an electric corporation's transmission and distribution facilities;

(iii) operated in compliance with any standards and requirements established under this section;

(iv) fueled at a minimum of ninety percent on an annual basis by biogas produced from the anaerobic digestion of agricultural waste such as livestock manure materials, crop residues, and food processing waste; and

(v) fueled by biogas generated by anaerobic digestion with at least fifty percent by weight of its feedstock being livestock manure materials on an annual basis.

S 2. This act shall take effect immediately.

PART AA

Section 1. Zero emissions vehicle and electric vehicle rebate program.
1. Definitions. For purposes of this act, the following terms shall have the following meanings:

a. "Authority" shall mean the New York state energy research and development authority.

b. "Eligible vehicle" means and includes a new motor vehicle that:

(i) has four wheels;

(ii) was manufactured for use primarily on public streets, roads and highways;

(iii) the powertrain of which has not been modified from the original manufacturer's specifications;

(iv) is rated at not more than eight thousand five hundred pounds gross vehicle weight;

(v) has a maximum speed capability of at least fifty-five miles per hour; and

(vi) is propelled at least in part by an electric motor and associated power electronics which provide acceleration torque to the drive wheels sometime during normal vehicle operation, and that draws electricity from a hydrogen fuel cell or from a battery that:

(A) has a capacity of not less than four kilowatt hours; and

(B) is capable of being recharged from an external source of electricity.

2. No later than one year after the effective date of this act, the authority shall develop a program to encourage the deployment of zero emissions vehicles and electric vehicles.

3. The program created pursuant to this act shall include rebates for eligible purchases, provided that a rebate for an eligible purchase shall not exceed two thousand dollars.

4. Within one year of the effective date of this act, the authority shall implement and administer this act including rules relating to the forms required to claim a rebate, the required documentation for establishing eligibility for a rebate, procedures and guidelines for claiming a rebate, and the collection of economic impact data from applicants and any other requirements the authority deems necessary.

1 The authority shall determine and publish on its website on an ongoing
2 basis the amount of available funding for rebates remaining in each
3 fiscal year.

4 5. No later than April 1, 2018 and annually thereafter, the authority
5 shall issue a report to the temporary president of the senate, the
6 speaker of the assembly, the chair of the senate committee on energy and
7 telecommunications and the chair of the assembly committee on energy
8 detailing the status of its program to encourage the deployment of zero
9 emissions vehicles and electric vehicles. Such report shall include:

10 a. the amount of funding dedicated by the authority for the program in
11 the preceding year;

12 b. the amount of eligible purchases for which a rebate was awarded;

13 c. the amount and geographic distribution of rebates; and

14 d. any other information the authority deems necessary.

15 S 2. This act shall take effect immediately.

16 PART BB

17 Section 1. Sections 1 and 2 of subpart H of part C of chapter 20 of
18 the laws of 2015, appropriating money for certain municipal corporations
19 and school districts are REPEALED and two new sections 1 and 2 are added
20 to read as follows:

21 SECTION 1. CONTINGENT UPON AVAILABLE FUNDING, AND NOT TO EXCEED
22 \$30,000,000, MONEYS FROM THE URBAN DEVELOPMENT CORPORATION SHALL BE
23 AVAILABLE FOR A LOCAL GOVERNMENT ENTITY, WHICH FOR THE PURPOSES OF THIS
24 SECTION SHALL MEAN A COUNTY, CITY, TOWN, VILLAGE, SCHOOL DISTRICT OR
25 SPECIAL DISTRICT, WHERE (I) ON OR AFTER JUNE 25, 2015, AN ELECTRIC
26 GENERATING FACILITY LOCATED WITHIN SUCH LOCAL GOVERNMENT ENTITY HAS
27 CEASED OPERATIONS, AND (II) THE CLOSING OF SUCH FACILITY HAS CAUSED A
28 REDUCTION IN THE REAL PROPERTY TAX COLLECTIONS OR PAYMENTS IN LIEU OF
29 TAXES OF AT LEAST TWENTY PERCENT OWED BY SUCH ELECTRIC GENERATING FACIL-
30 ITY. SUCH MONEYS ATTRIBUTABLE TO THE CESSATION OF OPERATIONS, SHALL BE
31 PAID ANNUALLY ON A FIRST COME, FIRST SERVED BASIS BY THE URBAN DEVELOP-
32 MENT CORPORATION TO SUCH LOCAL GOVERNMENT ENTITY WITHIN A REASONABLE
33 TIME UPON CONFIRMATION FROM THE STATE OFFICE OF REAL PROPERTY TAX
34 SERVICES OR THE LOCAL INDUSTRIAL DEVELOPMENT AUTHORITY ESTABLISHED
35 PURSUANT TO TITLES ELEVEN AND FIFTEEN OF ARTICLE EIGHT OF THE PUBLIC
36 AUTHORITIES LAW, OR THE LOCAL INDUSTRIAL DEVELOPMENT AGENCY ESTABLISHED
37 PURSUANT TO ARTICLE EIGHTEEN-A OF THE GENERAL MUNICIPAL LAW THAT SUCH
38 CESSATION HAS RESULTED IN A REDUCTION IN THE REAL PROPERTY TAX
39 COLLECTIONS OR PAYMENTS IN LIEU OF TAXES, PROVIDED, HOWEVER, THAT THE
40 URBAN DEVELOPMENT CORPORATION SHALL NOT PROVIDE ASSISTANCE TO SUCH LOCAL
41 GOVERNMENT ENTITY FOR MORE THAN FIVE YEARS, AND SHALL NOT AWARD IN THE
42 FIRST YEAR MORE THAN EIGHTY PERCENT OF THE LOSS OF REVENUES DUE TO THE
43 CESSATION OF OPERATIONS. A LOCAL GOVERNMENT ENTITY SHALL BE ELIGIBLE FOR
44 ONLY ONE PAYMENT OF FUNDS HEREUNDER PER YEAR. A LOCAL GOVERNMENT ENTITY
45 MAY SEEK ASSISTANCE UNDER THE ELECTRIC GENERATION FACILITY CESSATION
46 MITIGATION FUND ONCE A GENERATOR HAS SUBMITTED ITS NOTICE TO THE FEDER-
47 ALLY DESIGNATED ELECTRIC BULK SYSTEM OPERATOR (BSO) SERVING THE STATE OF
48 NEW YORK OF ITS INTENT TO RETIRE THE FACILITY OR OF ITS INTENT TO VOLUN-
49 TARILY REMOVE THE FACILITY FROM SERVICE SUBJECT TO ANY RETURN-TO-SERVICE
50 PROVISIONS OF ANY TARIFF, AND THAT THE FACILITY ALSO IS INELIGIBLE TO
51 PARTICIPATE IN THE MARKETS OPERATED BY THE BSO. THE DATE OF SUBMISSION
52 OF A LOCAL GOVERNMENT ENTITY'S APPLICATION FOR ASSISTANCE SHALL ESTAB-
53 LISH THE ORDER IN WHICH ASSISTANCE IS PAID TO PROGRAM APPLICANTS, EXCEPT
54 THAT IN NO EVENT SHALL ASSISTANCE BE PAID TO A LOCAL GOVERNMENT ENTITY

1 UNTIL SUCH TIME THAT AN ELECTRIC GENERATING FACILITY HAS RETIRED OR
2 BECOME INELIGIBLE TO PARTICIPATE IN THE MARKETS OPERATED BY THE BSO. FOR
3 PURPOSES OF THIS SECTION, ANY LOCAL GOVERNMENT ENTITY SEEKING ASSISTANCE
4 UNDER THE ELECTRIC GENERATION FACILITY CESSATION MITIGATION FUND MUST
5 SUBMIT AN ATTESTATION TO THE DEPARTMENT OF PUBLIC SERVICE THAT A FACILI-
6 TY IS NO LONGER PRODUCING ELECTRICITY AND IS NO LONGER PARTICIPATING IN
7 MARKETS OPERATED BY THE BSO. AFTER RECEIPT OF SUCH ATTESTATION, THE
8 DEPARTMENT OF PUBLIC SERVICE SHALL CONFIRM SUCH INFORMATION WITH THE
9 BSO. IN THE CASE THAT THE BSO CONFIRMS TO THE DEPARTMENT OF PUBLIC
10 SERVICE THAT THE FACILITY IS NO LONGER PRODUCING ELECTRICITY AND PARTIC-
11 IPATING IN MARKETS OPERATED BY SUCH BSO, IT SHALL BE DEEMED THAT THE
12 ELECTRIC GENERATING FACILITY LOCATED WITHIN THE LOCAL GOVERNMENT ENTITY
13 HAS CEASED OPERATION. THE DEPARTMENT OF PUBLIC SERVICE SHALL PROVIDE
14 SUCH CONFIRMATION TO THE URBAN DEVELOPMENT CORPORATION UPON RECEIPT. THE
15 DETERMINATION OF THE AMOUNT OF SUCH ANNUAL PAYMENT SHALL BE DETERMINED
16 BY THE PRESIDENT OF THE URBAN DEVELOPMENT CORPORATION BASED ON THE
17 AMOUNT OF THE DIFFERENTIAL BETWEEN THE ANNUAL REAL PROPERTY TAXES AND
18 PAYMENTS IN LIEU OF TAXES IMPOSED UPON THE FACILITY, EXCLUSIVE OF INTER-
19 EST AND PENALTIES, DURING THE LAST YEAR OF OPERATIONS AND THE CURRENT
20 REAL PROPERTY TAXES AND PAYMENTS IN LIEU OF TAXES IMPOSED UPON THE
21 FACILITY, EXCLUSIVE OF INTEREST AND PENALTIES. THE TOTAL AMOUNT AWARDED
22 FROM THIS PROGRAM SHALL NOT EXCEED \$30,000,000.

23 S 2. NOTWITHSTANDING ANY PROVISION OF LAW, RULE, OR REGULATION TO THE
24 CONTRARY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY
25 (AUTHORITY) IS AUTHORIZED AND DIRECTED TO MAKE A CONTRIBUTION TO THE
26 URBAN DEVELOPMENT CORPORATION FOR THE PURPOSES OF THIS ACT, AN AMOUNT
27 NOT TO EXCEED \$30,000,000 FOR THE STATE FISCAL YEAR COMMENCING APRIL 1,
28 2016 FROM PROCEEDS COLLECTED BY THE AUTHORITY FROM THE AUCTION OR SALE
29 OF CARBON DIOXIDE EMISSION ALLOWANCES ALLOCATED BY THE DEPARTMENT OF
30 ENVIRONMENTAL CONSERVATION.

31 S 2. This act shall take effect immediately provided, however, that
32 the amendments to subpart H of part C of chapter 20 of the laws of 2015
33 made by section one of this act shall not affect the repeal of such
34 subpart and shall be deemed repealed therewith.

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

44 S 3. This act shall take effect immediately provided, however, that
45 the applicable effective date of Parts A through BB of this act shall be
46 as specifically set forth in the last section of such Parts.