

STATE OF NEW YORK

S. 59--B

A. 159--B

SENATE - ASSEMBLY

(Prefiled)

January 7, 2009

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

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

AN ACT to amend chapter 279 of the laws of 1998 amending the transportation law relating to enabling the commissioner of transportation to establish a single audit pilot program, in relation to extending such provisions (Part A); to authorize funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2009-2010; and making an appropriation therefor (Part B); to amend chapter 312 of the laws of 1994, amending the vehicle and traffic law relating to suspensions of licenses pending prosecution of certain alcohol-related charges, and authorizations for probationary and conditional driver's licenses, in relation to the effectiveness thereof (Part C); to amend chapter 533 of the laws of 1993 amending the vehicle and traffic law and the correction law relating to suspension and revocation of driver's licenses upon conviction of certain drug-related offenses, in relation to the effectiveness thereof (Part D); to amend chapter 84 of the laws of 2002, amending the state finance law relating to the costs of the department of motor vehicles, in relation to the effectiveness thereof (Part E); to amend the vehicle and traffic law, in relation to license fees (Part F); to amend the vehicle and traffic law, in relation to motor vehicle registration fees (Part G); to amend the vehicle and traffic law, in relation to the fee for number plates (Part H); to amend the vehicle and traffic law, in relation to eliminating the cap on surcharges (Part I); to amend chapter 569 of the laws of 1981, amend-

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

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ing the vehicle and traffic law relating to motor vehicle liability insurance, financial security, criminal acts and penalties for non-compliance, in relation to the effectiveness of certain provisions; to amend chapter 781 of the laws of 1983, amending the vehicle and traffic law and other laws relating to motor vehicle liability insurance, financial security, criminal acts and certain penalties for non-compliance, in relation to the effectiveness of certain provisions (Part J); to amend the vehicle and traffic law and the transportation law, in relation to the disqualifications of commercial driver's license holders (Part K); to amend the vehicle and traffic law, in relation to authorizing the department of motor vehicles to charge certain entities a fee for course completion certificates (Part L); Intentionally omitted (Part M); Intentionally omitted (Part N); to amend the state finance law, in relation to reporting requirements for the dedicated highway and bridge trust fund (Part O); to amend chapter 62 of the laws of 2003 amending the general business law and other laws relating to implementing the state fiscal plan for the 2003-2004 state fiscal year, in relation to the effectiveness thereof (Part P); to amend the agriculture and markets law, in relation to increasing the penalty amounts for first, second and subsequent violations (Part Q); to amend the executive law, in relation to the community services block grant program; to amend chapter 728 of the laws of 1982 and chapter 710 of the laws of 1983, amending the executive law relating to community services block grant programs, in relation to the effectiveness thereof; and to repeal subdivision 1 of section 159-e of the executive law relating thereto (Part R); Intentionally omitted (Part S); to amend the tax law and the state finance law, in relation to real estate transfer tax revenue deposits into the environmental protection fund (Part T); 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 U); to amend the racing, pari-mutuel wagering and breeding law, in relation to a fee for the start of a horse in New York state pari-mutuel races (Part V); Intentionally omitted (Part W); to amend the New York state urban development corporation act relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part X); to authorize the New York State Energy Research and Development Authority to finance a portion of its research, development and demonstration and policy and planning programs from assessments on gas and electric corporations (Part Y); to require appropriations in the executive budget to the New York Power Authority (Part Z); to amend the public authorities law, in relation to authorizing the battery park city authority to make contributions to the state treasury (Part AA); authorizing the New York state urban development corporation to make contributions to the Governors Island Preservation and Education Corporation (Part BB); Intentionally omitted (Part CC); Intentionally omitted (Part DD); Intentionally omitted (Part EE); to amend the public authorities law, in relation to state cost recovery on the issuance of certain bonds (Part FF); to transfer the functions, powers, duties, obligations and assets of the State Northeastern Queens Nature and Historical Preserve Commission to the office of parks, recreation and historic preservation; and to repeal chapter 919 of the laws of 1973, relating to establishing the State Northeastern Queens Nature and Historical Preserve (Part GG); Intentionally omitted (Part HH); to amend the agriculture and markets law, in relation to increasing tonnage fees (Part II); to amend the environmental conser-

vation law, in relation to fees for the state pollution discharge elimination system program (Part JJ); to amend the environmental conservation law, in relation to fees for hunting, fishing and trapping licenses (Part KK); to amend the environmental conservation law, in relation to establishing a recreational marine fishing license and sets fees for such license; to review the allocations and expenditures of the department of environmental conservation related to the marine resources account; and to repeal subdivision 6 of section 11-0707 of the environmental conservation law relating to the exemption from having a fishing license in the marine district and on the Hudson River, south of the Troy barrier dam (Part LL); Intentionally omitted (Part MM); to amend the public service law, in relation to financing the operations of the department of public service, the public service commission, department support and energy management services provided by other state agencies, to increase the utility assessment cap and the minimum threshold for collection thereunder, and to establish a temporary state energy and utility service conservation assessment and provide for the collection thereof; and providing for the repeal of certain provisions upon the expiration thereof (Part NN); to amend the vehicle and traffic law, in relation to increasing the penalties for violations by official inspection stations, motor vehicle repair shops, manufacturers, transporters and dealers (Part OO); to amend the vehicle and traffic law, in relation to suspension, termination and license application fees (Part PP); to amend the state finance law, in relation to dedicating the local share of revenue generated by the gaming facility located in the city of Buffalo; and allocating moneys appropriated to the city of Niagara Falls for road improvement projects (Part QQ); 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 the effectiveness thereof (Part RR); to amend the environmental conservation law and the economic development law, in relation to including additional beverage containers and providing for the return of unclaimed deposits on beverage containers to the state for deposit into the environmental protection fund; and to repeal certain provisions of the environmental conservation law relating thereto (Part SS); to amend the parks, recreation and historic preservation law, in relation to requiring that a written determination by the commissioner of parks, recreation and historic preservation be made prior to future sales of merchandise, goods, commodities and food service items by the office of parks, recreation and historic preservation (Part TT); to amend the public authorities law, in relation to the assessment and reimbursement of state expenditures (Part UU); to amend the tax law, in relation to bad checks and failed electronic fund withdrawal fees; in relation to the registration of tax return preparers; creates a taskforce to address issues in the regulation of tax return preparers and commercial tax return preparers; to amend the general business law, in relation to refund anticipation loans and refund anticipation checks and the consumer bill of rights regarding taxpayers; and to repeal paragraphs 1 and 2 of subsection (u) of section 685 of the tax law (Part VV); to authorize annual cable television assessments to provide funds from cable television assessment revenues to the department of health (Part WW); to amend the urban development corporation act, in relation to establishing the healthy food / healthy communities initiative (Part XX); to

amend the environmental conservation law, in relation to fees for pesticide applicators, registration and application (Part YY); to amend the environmental conservation law, in relation to fees for mined land reclamation (Part ZZ); to amend the environmental conservation law, in relation to wetland permit application fees (Part AAA); to amend the environmental conservation law, in relation to operating permit program fees (Part BBB); to amend the environmental conservation law, in relation to water withdrawal reporting (Part CCC); to amend the environmental conservation law, in relation to requiring a mandatory surcharge for offenses (Part DDD); and in relation to the New York state urban development corporation submitting a comprehensive financial plan to the director of the budget and the establishment of accounts and subaccounts within the treasury of such corporation; and providing for the repeal of such provisions upon the expiration thereof (Part EEE)

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 2009-2010
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through EEE. The effective date for each partic-
5 ular provision contained within such Part is set forth in the last
6 section of such Part. Any provision in any section contained within a
7 Part, including the effective date of the Part, which makes a reference
8 to a section "of this act", when used in connection with that particular
9 component, shall be deemed to mean and refer to the corresponding
10 section of the Part in which it is found. Section three of this act sets
11 forth the general effective date of this act.

12

PART A

13 Section 1. Section 2 of chapter 279 of the laws of 1998, amending the
14 transportation law relating to enabling the commissioner of transporta-
15 tion to establish a single audit pilot program, as amended by section 1
16 of part D of chapter 59 of the laws of 2008, is amended to read as
17 follows:

18 § 2. This act shall take effect on December 31, 1998, except that the
19 commissioner of transportation is immediately authorized to promulgate
20 rules and regulations necessary for the implementation of this act and
21 shall expire December 31, [~~2009~~] 2010 when upon such date the provisions
22 of this act shall be deemed repealed.

23 § 2. This act shall take effect immediately.

24

PART B

25 Section 1. The sum of four hundred two million seven hundred ninety-
26 seven thousand dollars (\$402,797,000), or so much thereof as shall be
27 necessary, and in addition to amounts previously appropriated by law, is
28 hereby made available, in accordance with subdivision 1 of section 380
29 of the public authorities law as amended, according to the following
30 schedule. Payments pursuant to subdivision (a) of this section shall be
31 made available as moneys become available for such payments. Payments
32 pursuant to subdivisions (b) and (c) of this section shall be made

1 available on the fifteenth day of June, September, December and March or
 2 as soon thereafter as moneys become available for such payments. No
 3 moneys of the state in the state treasury or any of its funds shall be
 4 available for payments pursuant to this section:

5 SCHEDULE

6 (a) Thirty-nine million seven hundred thousand dollars (\$39,700,000)
 7 to municipalities for repayment of eligible costs of federal aid municipi-
 8 pal street and highway projects pursuant to section 15 of chapter 329 of
 9 the laws of 1991, as added by section 9 of chapter 330 of the laws of
 10 1991, as amended. The department of transportation shall provide such
 11 information to the municipalities as may be necessary to maintain the
 12 federal tax exempt status of any bonds, notes, or other obligations
 13 issued by such municipalities to provide for the non-federal share of
 14 the cost of projects pursuant to chapter 330 of the laws of 1991 or
 15 section 80-b of the highway law.

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

20 State Fiscal Year	Amount
21 2009-10	\$39,700,000

22 (b) Three hundred four million three hundred thousand dollars
 23 (\$304,300,000) to counties, cities, towns and villages for reimbursement
 24 of eligible costs of local highway and bridge projects pursuant to
 25 sections 16 and 16-a of chapter 329 of the laws of 1991, as added by
 26 section 9 of chapter 330 of the laws of 1991, as amended. For the
 27 purposes of computing allocations to municipalities, the amount distrib-
 28 uted pursuant to section 16 of chapter 329 of the laws of 1991 shall be
 29 deemed to be \$121,520,000. The amount distributed pursuant to section
 30 16-a of chapter 329 of the laws of 1991 shall be deemed to be
 31 \$182,780,000. Notwithstanding the provisions of any general or special
 32 law, the amounts deemed distributed in accordance with section 16 of
 33 chapter 329 of the laws of 1991 shall be adjusted so that such amounts
 34 will not be less than 83.807 percent of the "funding level" as defined
 35 in subdivision 5 of section 10-c of the highway law for each such muni-
 36 cipality. In order to achieve the objectives of section 16 of chapter
 37 329 of the laws of 1991, to the extent necessary, the amounts in excess
 38 of 83.807 percent of the funding level to be deemed distributed to each
 39 municipality under this subdivision shall be reduced in equal propor-
 40 tion.

41 (c) Fifty-eight million seven hundred ninety-seven thousand dollars
 42 (\$58,797,000) to municipalities for reimbursement of eligible costs of
 43 local highway and bridge projects pursuant to sections 16 and 16-a of
 44 chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of
 45 the laws of 1991, as amended. For the purposes of computing allocations
 46 to municipalities, the amount distributed pursuant to section 16 of
 47 chapter 329 of the laws of 1991 shall be deemed to be \$23,480,000. The
 48 amount distributed pursuant to section 16-a of chapter 329 of the laws
 49 of 1991 shall be deemed to be \$35,317,000. Notwithstanding the
 50 provisions of any general or special law, the amounts deemed distributed
 51 in accordance with section 16 of chapter 329 of the laws of 1991 shall
 52 be adjusted so that such amounts will not be less than 16.193 percent of
 53 the "funding level" as defined in subdivision 5 of section 10-c of the
 54 highway law for each such municipality. In order to achieve the objec-
 55 tives of section 16 of chapter 329 of the laws of 1991, to the extent
 56 necessary, the amounts in excess of 16.193 percent of the funding level

1 to be deemed distributed to each municipality under this paragraph shall
 2 be reduced in equal proportion. To the extent that the total of remain-
 3 ing payment allocations calculated herein varies from \$58,797,000, the
 4 payment amounts to each locality shall be adjusted by a uniform percent-
 5 age so that the total payments equal \$58,797,000.

6 The program authorized pursuant to sections 16 and 16-a of chapter 329
 7 of the laws of 1991, as added by section 9 of chapter 330 of the laws of
 8 1991, as amended, shall additionally make payments for reimbursement
 9 according to the following schedule:

10	State Fiscal Year	Amount
11	2009-10	\$363,097,000

12 § 2. This act shall take effect immediately.

13

PART C

14 Section 1. Section 7 of chapter 312 of the laws of 1994, amending the
 15 vehicle and traffic law relating to suspensions of licenses pending
 16 prosecution of certain alcohol-related charges, and authorizations for
 17 probationary and conditional driver's licenses, as amended by section 1
 18 of part C of chapter 59 of the laws of 2007, is amended to read as
 19 follows:

20 § 7. This act shall take effect immediately; provided however that
 21 sections three, four, five and six of this act shall take effect on the
 22 first day of November next succeeding the date on which it shall have
 23 become a law and shall apply to offenses committed on or after such
 24 date; provided further, however, that the amendment to paragraph (c) of
 25 subdivision 2 of section 1193 of the vehicle and traffic law made by
 26 section two of this act shall take effect on the same date as such para-
 27 graph takes effect pursuant to section 9 of chapter 533 of the laws of
 28 1993, as amended, provided, further, that the provisions of section four
 29 of this act shall remain in full force and effect until October 1,
 30 [~~2009~~] 2011 when upon such date the provisions of such section shall be
 31 deemed repealed and the provisions of law amended by such section shall
 32 revert to and be read as if the provisions of such section had not been
 33 enacted.

34 § 2. This act shall take effect immediately, and shall be deemed to
 35 have been in full force and effect on and after April 1, 2009.

36

PART D

37 Section 1. Section 9 of chapter 533 of the laws of 1993, amending the
 38 vehicle and traffic law and the correction law relating to suspension
 39 and revocation of driver's licenses upon conviction of certain drug-re-
 40 lated offenses, as amended by section 1 of part N of chapter 59 of the
 41 laws of 2007, is amended to read as follows:

42 § 9. This act shall take effect September 30, 1993 and shall apply to
 43 convictions based on offenses which occurred on or after such date and
 44 shall remain in full force and effect until October 1, [~~2009~~] 2011 when
 45 upon such date the provisions of this act shall be deemed repealed and
 46 the provisions of law amended by this act shall revert to and be read as
 47 if the provisions of this act had not been enacted.

48 § 2. This act shall take effect immediately and shall be deemed to
 49 have been in full force and effect on and after April 1, 2009.

50

PART E

1 Section 1. Section 2 of part B of chapter 84 of the laws of 2002,
2 amending the state finance law relating to the costs of the department
3 of motor vehicles, as amended by section 1-b of part A of chapter 63 of
4 the laws of 2005, is amended to read as follows:

5 § 2. This act shall take effect April 1, 2002; provided, however, if
6 this act shall become a law after such date it shall take effect imme-
7 diately and shall be deemed to have been in full force and effect on and
8 after April 1, 2002; provided further, however, that this act shall
9 expire and be deemed repealed on March 31, ~~2010~~ 2015.

10 § 2. This act shall take effect immediately, and shall be deemed to
11 have been in full force and effect on and after April 1, 2009.

12 PART F

13 Section 1. Paragraphs (b) and (c) of subdivision 2 of section 503 of
14 the vehicle and traffic law, as amended by chapter 55 of the laws of
15 1992, are amended to read as follows:

16 (b) Learner permit/license fee. (i) Upon passage of the knowledge test
17 required to obtain a learner's permit, the applicant for a commercial
18 driver's license shall be required to pay an additional fee of ~~seven~~
19 nine dollars and fifty cents for each six months or portion thereof of
20 the period of validity of a learner's permit or license which is or may
21 be issued as well as a fee of forty dollars for a road test which must
22 be passed before a license will be issued.

23 (ii) Upon passage of the knowledge test required to obtain a learner's
24 permit, the applicant for a class C license which does not have an H, P
25 or X endorsement or a class E license shall be required to pay ~~five~~
26 six dollars and twenty-five cents for each six months or portion thereof
27 of the period of validity of a learner's permit or license which is or
28 may be issued, and an applicant for a class D, DJ, M or MJ license shall
29 be required to pay ~~two~~ three dollars and ~~fifty~~ twenty-five cents for
30 each six months or portion thereof of the period of validity of a
31 learner's permit or license which is or may be issued. No additional fee
32 shall be required of any such applicant to take up to two road tests.
33 Such road test must be passed before a license will be issued.

34 (iii) If an applicant fails to pass the road test required for issu-
35 ance of a license in the number of times specified in subparagraph (i)
36 or (ii) of this paragraph, an additional fee of forty dollars will be
37 required for each additional test applied for in order to obtain a
38 commercial driver's license and an additional fee of ten dollars will be
39 required for up to two tests applied for in order to obtain any license
40 other than a commercial driver's license.

41 (iv) Notwithstanding any inconsistent provision of this section, the
42 difference collected between the fees set forth in this paragraph in
43 effect on and after September first, two thousand nine and the fees set
44 forth in this paragraph in effect prior to such date shall be deposited
45 to the credit of the dedicated highway and bridge trust fund.

46 (c) Renewal fee. Fees for renewal of a license issued by the commis-
47 sioner shall be as follows:

48 (i) For a commercial driver's license, ~~seven~~ nine dollars and fifty
49 cents for each six months or portion thereof.

50 (ii) For a class C license which does not have an H, P or X endorse-
51 ment or a class E license, ~~five~~ six dollars and twenty-five cents for
52 each six months or portion thereof.

53 (iii) For a class D, DJ, M or MJ license, ~~two~~ three dollars and
54 ~~fifty~~ twenty-five cents, for each six months or portion thereof.

1 (iv) Notwithstanding any inconsistent provision of this section, the
2 difference collected between the fees set forth in this paragraph in
3 effect on and after September first, two thousand nine and the fees set
4 forth in this paragraph in effect prior to such date shall be deposited
5 to the credit of the dedicated highway and bridge trust fund.

6 § 2. Paragraph (f) of subdivision 2 of section 503 of the vehicle and
7 traffic law, as amended by section 1-b of part A of chapter 63 of the
8 laws of 2005, is amended to read as follows:

9 (f) Photo image fee. In addition to any other fee prescribed herein, a
10 fee of [~~ten~~] twelve dollars and fifty cents shall be charged for the
11 processing of each learner permit or license document requiring a photo
12 image. Of each such fee collected, five dollars shall be deposited to
13 the credit of the general fund and five dollars shall be deposited in
14 the dedicated highway and bridge trust fund established pursuant to
15 section eighty-nine-b of the state finance law and the dedicated mass
16 transportation fund established pursuant to section eighty-nine-c of the
17 state finance law and distributed according to the provisions of subdi-
18 vision (d) of section three hundred one-j of the tax law.

19 Notwithstanding any inconsistent provision of this section, the
20 difference collected between the fees set forth in this paragraph in
21 effect on and after September first, two thousand nine and the fees set
22 forth in this paragraph in effect prior to such date shall be deposited
23 to the credit of the dedicated highway and bridge trust fund.

24 § 3. This act shall take effect September 1, 2009 and shall apply to
25 licenses issued and renewed on and after such date.

26 PART G

27 Section 1. Paragraph a of subdivision 6 of section 401 of the vehicle
28 and traffic law, as amended by section 74 of part A of chapter 56 of the
29 laws of 1998, is amended to read as follows:

30 a. The following fees shall be paid to the commissioner, or agent,
31 upon the registration or reregistration of a motor vehicle, including a
32 suburban, in accordance with the provisions of this article:

33 If such motor vehicle, fully equipped, weighs thirty-five hundred
34 pounds or less, [~~sixty four and one half~~] eighty-one cents for each one
35 hundred pounds or major fraction thereof; if such motor vehicle, fully
36 equipped, weighs more than thirty-five hundred pounds, [~~sixty four and~~
37 ~~one half~~] eighty-one cents for each one hundred pounds up to thirty-five
38 hundred pounds, and [~~ninety seven~~] one dollar and twenty-one cents for
39 each hundred pounds, or major fraction thereof, in excess of thirty-five
40 hundred pounds; provided, however, that the total fees for the registra-
41 tion or reregistration of any passenger motor vehicle propelled by elec-
42 tricity shall be [~~twelve dollars and ninety four~~] sixteen dollars and
43 eighteen cents, of a six, eight, or twelve cylinder motor vehicle not
44 less than [~~twelve dollars and ninety four~~] sixteen dollars and eighteen
45 cents, and of any other motor vehicle not less than [~~ten dollars and~~
46 ~~thirty five~~] twelve dollars and ninety-five cents; and provided further
47 that for motor vehicles described in subdivision seven of this section,
48 the fee for such registration shall be as therein prescribed. Provided
49 further, however, that the maximum registration fee under this paragraph
50 shall not exceed [~~fifty six dollars and six~~] seventy dollars and eight
51 cents per registration year. For the purposes of this section a "subur-
52 ban" shall be a motor vehicle with a convertible or interchangeable body
53 or with removable seats, usable for both passenger and delivery
54 purposes, and including motor vehicles, commonly known as station or

1 depot wagons. The manufacturer's weight of motor vehicle shall be
2 accepted as the weight for the purpose of registration under this para-
3 graph.

4 § 2. Subdivision 2 of section 420 of the vehicle and traffic law, as
5 amended by chapter 190 of the laws of 1990, is amended to read as
6 follows:

7 2. Such seller or owner may, however, register another vehicle and use
8 said number plates thereon, if appropriate, upon making application for
9 such registration, paying a transfer fee of [~~seven~~ ten dollars [~~and~~
10 ~~seventy-five cents~~], and paying the proportional excess, if any, of the
11 annual fee for registering the second vehicle over the annual fee for
12 registering the first vehicle for each day or fraction thereof consti-
13 tuting the unexpired registration period. If the number plates of the
14 first vehicle are not appropriate for the second vehicle, the commis-
15 sioner or his or her agent shall, upon the surrender of such number
16 plates, furnish appropriate number plates.

17 § 3. Subdivision 21 of section 401 of the vehicle and traffic law is
18 amended by adding twelve new undesignated paragraphs to read as follows:

19 Notwithstanding any inconsistent provision of this section, the
20 difference collected between the registration fees set forth in para-
21 graph a of subdivision six of this section in effect on and after
22 September first, two thousand nine and the registration fees set forth
23 in such paragraph in effect prior to such date shall be deposited to the
24 credit of the dedicated highway and bridge trust fund.

25 Notwithstanding any inconsistent provision of this section, the
26 difference collected between the registration fees set forth in schedule
27 A of subdivision seven of this section in effect on and after September
28 first, two thousand nine and the registration fees set forth in such
29 schedule in effect prior to such date shall be deposited to the credit
30 of the dedicated highway and bridge trust fund.

31 Notwithstanding any inconsistent provision of this section, the
32 difference collected between the registration fees set forth in schedule
33 B of subdivision seven of this section in effect on and after September
34 first, two thousand nine and the registration fees set forth in such
35 schedule in effect prior to such date shall be deposited to the credit
36 of the dedicated highway and bridge trust fund.

37 Notwithstanding any inconsistent provision of this section, the
38 difference collected between the registration fees set forth in schedule
39 C of subdivision seven of this section in effect on and after September
40 first, two thousand nine and the registration fees set forth in such
41 schedule in effect prior to such date shall be deposited to the credit
42 of the dedicated highway and bridge trust fund.

43 Notwithstanding any inconsistent provision of this section, the
44 difference collected between the registration fees set forth in schedule
45 E of subdivision seven of this section in effect on and after September
46 first, two thousand nine and the registration fees set forth in such
47 schedule in effect prior to such date shall be deposited to the credit
48 of the dedicated highway and bridge trust fund.

49 Notwithstanding any inconsistent provision of this section, the
50 difference collected between the registration fees set forth in schedule
51 F of subdivision seven of this section in effect on and after September
52 first, two thousand nine and the registration fees set forth in such
53 schedule in effect prior to such date shall be deposited to the credit
54 of the dedicated highway and bridge trust fund.

55 Notwithstanding any inconsistent provision of this section, the
56 difference collected between the registration fees set forth in schedule

1 G of subdivision seven of this section in effect on and after September
2 first, two thousand nine and the registration fees set forth in such
3 schedule in effect prior to such date shall be deposited to the credit
4 of the dedicated highway and bridge trust fund.

5 Notwithstanding any inconsistent provision of this section, the
6 difference collected between the registration fees set forth in schedule
7 I of subdivision seven of this section in effect on and after September
8 first, two thousand nine and the registration fees set forth in such
9 schedule in effect prior to such date shall be deposited to the credit
10 of the dedicated highway and bridge trust fund.

11 Notwithstanding any inconsistent provision of this section, the
12 difference collected between the registration fees set forth in subdivi-
13 sion eight of this section in effect on and after September first, two
14 thousand nine and the registration fees set forth in such subdivision in
15 effect prior to such date shall be deposited to the credit of the dedi-
16 cated highway and bridge trust fund.

17 Notwithstanding any inconsistent provision of this section, the regis-
18 tration fees collected pursuant to subdivisions two, six and eight of
19 section four hundred twenty of this title shall be deposited pursuant to
20 the provisions of this subdivision; provided, however, the difference
21 collected between the registration fees set forth in such subdivisions
22 two, six and eight in effect on and after September first, two thousand
23 nine and the registration fees set forth in such subdivisions in effect
24 prior to such date shall be deposited to the credit of the dedicated
25 highway and bridge trust fund.

26 Notwithstanding any inconsistent provision of this section, the regis-
27 tration fees collected pursuant to paragraph (b) of subdivision three of
28 section twenty-two hundred sixty-one of this chapter shall be deposited
29 pursuant to the provisions of this subdivision; provided, however, the
30 difference collected between the registration fees set forth in para-
31 graph (b) of subdivision three of section twenty-two hundred sixty-one
32 of this chapter in effect on and after September first, two thousand
33 nine and the registration fees set forth in such paragraph in effect
34 prior to such date shall be deposited to the credit of the dedicated
35 highway and bridge trust fund.

36 Notwithstanding any inconsistent provision of this section, eleven
37 dollars and fifty cents of the registration fees collected pursuant to
38 paragraph (a) of subdivision five of section four hundred ten of this
39 title shall be deposited pursuant to this subdivision. Three dollars and
40 fifty cents of such fees collected in relation to applications for new
41 registrations and renewals of existing registrations expiring on and
42 after September first, two thousand nine shall be deposited to the cred-
43 it of the dedicated highway and bridge trust fund. Two dollars and fifty
44 cents of such registration fees shall be deposited into the motorcycle
45 safety fund established pursuant to section ninety-two-g of the state
46 finance law.

47 § 4. Paragraphs (a) and (b) of subdivision 4 of section 2282 of the
48 vehicle and traffic law, as amended by chapter 402 of the laws of 1986,
49 are amended to read as follows:

50 (a) An annual fee of [~~ten~~] twelve dollars and fifty cents for each
51 individual resident registration.

52 (b) An annual fee of [~~ten~~] twelve dollars and fifty cents for each
53 individual nonresident registration.

54 Notwithstanding any inconsistent provision of this section, the differ-
55 ence collected between the fees set forth in paragraphs (a) and (b) of
56 this subdivision in effect on and after September first, two thousand

1 nine and the fees set forth in such paragraphs in effect prior to such
2 date shall be deposited to the credit of the dedicated highway and
3 bridge trust fund.

4 § 5. Subdivision 3 of section 2251 of the vehicle and traffic law, as
5 amended by section 2 of part K-1 of chapter 62 of the laws of 2003, is
6 amended to read as follows:

7 3. Fees. The triennial fee for registration of a vessel shall be:
8 [~~eighteen~~] twenty-two dollars and fifty cents and a vessel surcharge of
9 three dollars and seventy-five cents, if less than sixteen feet in
10 length; [~~thirty-six~~] forty-five dollars and a vessel surcharge of [~~ten~~]
11 twelve dollars and fifty cents, if sixteen feet or over but less than
12 twenty-six feet in length; [~~sixty~~] seventy-five dollars and a vessel
13 surcharge of [~~fifteen~~] eighteen dollars and seventy-five cents, if twen-
14 ty-six feet or over. All funds derived from the collection of the vessel
15 access surcharge pursuant to this subdivision are to be deposited in a
16 subaccount of the "I love NY waterways" [~~boating safety fund~~] vessel
17 access account established pursuant to section ninety-seven-nn of the
18 state finance law. The vessel access surcharge shall not be considered a
19 registration fee for purposes of section seventy-nine-b of the naviga-
20 tion law.

21 Notwithstanding any inconsistent provision of this section, the differ-
22 ence collected between the fees set forth in this subdivision in effect
23 on and after September first, two thousand nine and the fees set forth
24 in this subdivision prior to such date shall be deposited to the credit
25 of the dedicated highway and bridge trust fund. Notwithstanding any
26 inconsistent provision of this section, the difference collected between
27 the vessel surcharge set forth in this subdivision in effect on and
28 after September first, two thousand nine and the vessel surcharge set
29 forth in this subdivision in effect prior to such date shall be deposit-
30 ed to the credit of the dedicated highway and bridge trust fund.

31 § 6. Schedule A of subdivision 7 of section 401 of the vehicle and
32 traffic law, as amended by chapter 55 of the laws of 1992, is amended to
33 read as follows:

34 A. Schedule for buses.

35 For each such vehicle having a seating capacity for passengers of five
36 passengers or less, and meeting the requirements of subdivisions twenty
37 and twenty-one, notwithstanding the capacity limitation of subdivision
38 twenty-one, of section three hundred seventy-five of this chapter, the
39 annual fee of [~~seventeen~~] twenty-one dollars and [~~twenty-five~~] fifty-six
40 cents.

41 For each such vehicle having a seating capacity for passengers of not
42 less than six passengers, nor more than seven passengers, and meeting
43 the requirements of subdivisions twenty and twenty-one, notwithstanding
44 the capacity limitation of subdivision twenty-one, of section three
45 hundred seventy-five of this chapter, the annual fee of [~~twenty-eight~~]
46 thirty-five dollars and [~~eighteen~~] twenty-three cents.

47 For each such vehicle having a seating capacity for passengers of not
48 less than eight passengers, nor more than ten passengers, and meeting
49 the requirements of subdivisions twenty and twenty-one, notwithstanding
50 the capacity limitation of subdivision twenty-one, of section three
51 hundred seventy-five of this chapter, the annual fee of [~~thirty-five~~]
52 forty-three dollars and [~~eight~~] eighty-five cents.

53 For each such vehicle having a seating capacity for passengers of not
54 less than eleven passengers, nor more than fourteen passengers, and
55 meeting the requirements of subdivisions twenty and twenty-one, notwith-
56 standing the capacity limitation of subdivision twenty-one, of section

1 three hundred seventy-five of this chapter, the annual fee of [~~forty-~~
2 ~~nine~~] sixty-one dollars and [~~forty-five~~] eighty-one cents.

3 For each such vehicle having a seating capacity for passengers of not
4 less than fifteen passengers, nor more than twenty passengers, the annu-
5 al fee of [~~fifty-nine~~] seventy-four dollars and [~~eighty~~] seventy-five
6 cents.

7 For each such vehicle having a seating capacity for passengers of not
8 less than twenty-one passengers, nor more than twenty-two passengers,
9 the annual fee of [~~sixty-three~~] seventy-nine dollars and [~~twenty-five~~]
10 six cents.

11 For each such vehicle having a seating capacity for passengers of not
12 less than twenty-three passengers, nor more than twenty-six passengers,
13 the annual fee of [~~seventy~~] eighty-eight dollars and [~~seventy-three~~]
14 forty-one cents.

15 For each such vehicle having a seating capacity for passengers of not
16 less than twenty-seven passengers, nor more than thirty passengers, the
17 annual fee of [~~seventy-seven~~] ninety-seven dollars and [~~sixty-three~~]
18 four cents.

19 For each such vehicle having a seating capacity for passengers in
20 excess of thirty passengers, the fee of [~~seventy-seven~~] ninety-seven
21 dollars and [~~sixty-three~~] four cents, and the additional fee of two
22 dollars and [~~thirty~~] eighty-eight cents for each passenger (measured by
23 seating capacity) in excess of thirty passengers.

24 For the purposes of this schedule, the term "seating capacity for
25 passengers" shall exclude the driver.

26 The words "seating capacity for passengers", as used in this section,
27 shall mean seating capacity for adults. The commissioner shall have
28 authority to determine, for registration purposes, the manner of comput-
29 ing the seating capacity of any vehicle.

30 Provided, however, that in the case of a bus operated entirely by
31 electricity not generated by an engine contained therein the fees to be
32 paid upon registration or reregistration thereof shall be fifty per
33 centum in excess of the foregoing rates.

34 The foregoing schedules shall not apply to omnibuses operated pursuant
35 to a franchise or franchises over streets designated in said franchise
36 or franchises wholly within a city or cities, provided the holder of the
37 franchise or franchises pays for the same a percentage of its gross
38 earnings or gross receipts and for any such omnibus, without regard to
39 the seating capacity; nor shall the foregoing schedules apply to omni-
40 buses operated pursuant to a certificate of public convenience and
41 necessity granted under the transportation law and based upon the
42 consent of the local authorities of any city, town or village, other
43 than in the counties of Nassau, Suffolk and Westchester, as required by
44 the transportation corporations law or, in the county of Nassau, based
45 upon the consent of the board of supervisors of such county or of any
46 city or village therein, or of both such county and any city or village
47 therein or, in the counties of Suffolk and Westchester, based upon the
48 consent of the county board of legislators of such counties, as required
49 by chapter eight hundred seventy-nine of the laws of nineteen hundred
50 thirty-six, provided the holder of such local consent pays for the same
51 an annual fee to any such county, city, town or village, and for any
52 such omnibus, without regard to the seating capacity, the annual fee
53 shall be [~~ten~~] twelve dollars and fifty cents. The foregoing schedules
54 shall not apply to trackless trolleys, but if such omnibus shall not be
55 operated in local transit service pursuant to a certificate of conven-

1 ience and necessity issued by the commissioner of transportation the
2 foregoing schedule of fees shall apply.

3 § 7. Paragraphs 1 and 2 of schedule B of subdivision 7 of section 401
4 of the vehicle and traffic law, as amended by chapter 55 of the laws of
5 1992, are amended to read as follows:

6 1. For each auto truck or light delivery car, the annual fee of [~~two~~
7 three dollars and [~~eighty-eight~~] sixty cents for each five hundred
8 pounds maximum gross weight or fraction thereof, except that the annual
9 fee for such motor vehicle operated entirely by electricity not gener-
10 ated by an engine contained therein shall be [~~four~~] five dollars and
11 [~~thirty-one~~] thirty-nine cents for each five hundred pounds maximum
12 gross weight or fraction thereof, but in computing the weight of such an
13 electric vehicle the weight of electric batteries shall be excluded and
14 except also that the annual fee for each auto truck having a maximum
15 gross weight in excess of eighteen thousand pounds used exclusively in
16 the transportation of household goods (as defined by the commissioner of
17 transportation of this state or the interstate commerce commission) by a
18 carrier under authority of the commissioner of transportation of this
19 state or of the interstate commerce commission shall be [~~seven~~] nine
20 dollars and [~~seventy-six~~] seventy cents for each five hundred pounds
21 maximum gross weight or fraction thereof. Provided however, that no
22 motor vehicle registered pursuant to this paragraph may be charged a
23 registration fee in excess of that charged for a motor vehicle regis-
24 tered with a maximum gross weight of eighty thousand pounds.

25 2. For each tractor of any weight the annual fee of one dollar and
26 [~~twenty-one~~] fifty-one cents for each one hundred pounds, or major frac-
27 tion thereof, of maximum gross weight, except that the annual fee for
28 each tractor of any weight used exclusively in the transportation of
29 household goods (as defined by the commissioner of transportation of
30 this state or the interstate commerce commission) by a carrier under
31 authority of the commissioner of transportation of this state or of the
32 interstate commerce commission shall be [~~one dollar~~] two dollars and
33 [~~seventy-three~~] sixteen cents for each one hundred pounds, or major
34 fraction thereof, of maximum gross weight. Provided however, that no
35 motor vehicle registered pursuant to this paragraph may be charged a
36 registration fee in excess of that charged for a motor vehicle regis-
37 tered with a maximum gross weight of eighty thousand pounds.

38 § 8. Schedule C of subdivision 7 of section 401 of the vehicle and
39 traffic law, as amended by chapter 55 of the laws of 1992, is amended to
40 read as follows:

41 C. Schedule for taxicabs and livery. For each taxicab or livery having
42 a seating capacity for passengers, excluding the driver, of five persons
43 or less, the annual fee of [~~twenty-five~~] thirty-one dollars and [~~thirty~~]
44 sixty-three cents. For each such vehicle having a seating capacity for
45 passengers, excluding the driver, of not less than six persons, nor more
46 than seven persons, the annual fee of [~~forty-one~~] fifty-one dollars and
47 [~~forty~~] seventy-five cents. For each such vehicle having a seating
48 capacity for passengers, excluding the driver, of at least eight
49 persons, but not more than ten persons, the annual fee of [~~fifty-one~~]
50 sixty-four dollars and [~~seventy-five~~] sixty-nine cents. For each such
51 vehicle having a seating capacity for passengers, excluding the driver,
52 of at least eleven persons, but not more than fourteen persons, the
53 annual fee of [~~seventy-three~~] ninety-two dollars [~~and sixty cents~~]. Any
54 registration issued pursuant to this schedule shall be revoked upon
55 receipt by the commissioner of a notice of revocation of any license or
56 permit necessary for the issuance of such registration from the local

1 authority which issued such license or permit, or upon receipt of
2 evidence by the commissioner that the registrant has been convicted of a
3 violation of any local law requiring the issuance of a license or permit
4 in order to engage in for-hire operation. Provided, however, that upon
5 surrender to the commissioner of any such revoked registration and
6 number plates and upon payment of the proper registration fee, a regis-
7 tration may be issued for the vehicle for which such registration has
8 been revoked pursuant to the provisions of subdivision six of this
9 section.

10 § 9. Paragraph 1 of schedule E of subdivision 7 of section 401 of the
11 vehicle and traffic law, as amended by chapter 55 of the laws of 1992,
12 is amended to read as follows:

13 1. For each agricultural truck, the annual fee of two dollars and [~~one~~
14 ~~cent~~] fifty-one cents for each five hundred pounds maximum gross weight,
15 or fraction thereof.

16 § 10. Paragraph (a) of schedule F of subdivision 7 of section 401 of
17 the vehicle and traffic law, as amended by chapter 55 of the laws of
18 1992, is amended to read as follows:

19 (a) For each road roller, tractor crane, truck crane, power shovel,
20 road building machine, snow plow, road sweeper, sand spreader, well
21 driller, well servicing rig, feed processing machine, mobile car crusher
22 (whether self-propelled or a combination used exclusively as one unit),
23 earth mover, which shall mean a motor-driven vehicle in excess of eight
24 feet in width equipped with pneumatic tires designed and constructed for
25 moving or transporting earth and rock in connection with excavation and
26 grading work, and truck with small wheels used in a factory, warehouse
27 or railroad station, for each spreader or sprayer (generally meaning an
28 agricultural vehicle used to spread or spray agricultural chemicals,
29 agricultural lime and/or agricultural fertilizers) and fire vehicles, an
30 annual fee of [~~eleven~~] fourteen dollars and [~~fifty~~] thirty-eight cents;
31 provided, however, that the provisions of paragraph b of subdivision six
32 of this section relating to the exemption of certain motor vehicles from
33 the payment of registration fees thereon shall apply to the motor vehi-
34 cles specified in this schedule. A tractor-trailer combination designed
35 and used as a unit exclusively for the same purpose as a vehicle specif-
36 ically included in this schedule shall be considered as a single vehicle
37 and registered as a motor vehicle under this schedule rather than as a
38 tractor and trailer separately.

39 § 11. Paragraph 2 of schedule I of subdivision 7 of section 401 of the
40 vehicle and traffic law, as amended by chapter 55 of the laws of 1992,
41 is amended to read as follows:

42 2. For each rental vehicle of the passenger or suburban type having a
43 seating capacity for passengers, including the driver, of five persons
44 or less, the annual fee of [~~forty-two~~] fifty-three dollars and [~~fifty-~~
45 ~~five~~] nineteen cents. For each such vehicle having a seating capacity
46 for passengers, including the driver, of not less than six persons, nor
47 more than seven persons, the annual fee of [~~fifty-nine~~] seventy-four
48 dollars and [~~eighty~~] seventy-five cents. For each such vehicle having a
49 seating capacity for passengers, including the driver, of at least eight
50 persons, but not more than ten persons, the annual fee of [~~sixty-nine~~]
51 eighty-six dollars and twenty-five cents. For each such vehicle having
52 a seating capacity for passengers, including the driver, of at least
53 eleven persons, but not more than fifteen persons, the annual fee of
54 [~~ninety~~] one hundred thirteen dollars and [~~eighty-five~~] fifty-six cents.

1 § 12. Schedule K of subdivision 7 of section 401 of the vehicle and
2 traffic law, as added by chapter 621 of the laws of 1998, is amended to
3 read as follows:

4 K. Schedule for heavy duty vehicles: Notwithstanding any inconsistent
5 provision of this section, the registration fee for any vehicle
6 described in this paragraph shall be increased by up to [~~two~~ three and
7 [~~six-tenths~~ twenty-five one hundredths percent of such registration fee
8 in effect on [~~June~~ September first, [~~nineteen hundred ninety-eight~~ two
9 thousand nine, to fund the direct and indirect costs of the development
10 and implementation of a heavy duty emissions inspection program pursuant
11 to section 19-0320 of the environmental conservation law, including
12 planning, development of regulations and guidance, state implementation
13 plan development, personnel costs attributable to the program, and
14 enforcement costs. Such fee is authorized to be collected, commencing
15 June first, nineteen hundred ninety-nine, at the time of registration of
16 any vehicle required to be registered in New York having a gross vehicle
17 weight of greater than eight thousand five hundred pounds and powered by
18 diesel fuels except for those vehicles defined in section one hundred
19 one of this chapter, subparagraph two of paragraph E and subparagraph
20 (a) of paragraph F of this subdivision, and vehicles specified in subdivi-
21 sion thirteen of this section, and farm type tractors and all terrain
22 type vehicles used exclusively for agricultural or mowing purposes, or
23 for snow plowing, other than for hire, farm equipment, including self-
24 propelled machines used exclusively in growing, harvesting or handling
25 farm produce, and self-propelled caterpillar or crawler-type equipment
26 while being operated on the contract site, and timber harvesting equip-
27 ment such as harvesters, wood chippers, forwarders, log skidders, and
28 other processing equipment used exclusively off highway for timber
29 harvesting and logging purposes. Notwithstanding any provision of law
30 to the contrary, any fee amount collected pursuant to this paragraph
31 shall be deposited in the clean air fund, to the credit of the mobile
32 source account, in accordance with the provisions of section ninety-sev-
33 en-oo of the state finance law. Notwithstanding any inconsistent
34 provision of this section, the difference collected between the increase
35 of the percentage of the registration fees set forth in this schedule in
36 effect on and after September first, two thousand nine and the percent-
37 age of the registration fees set forth in this schedule in effect prior
38 to such date shall be deposited to the credit of the dedicated highway
39 and bridge trust fund.

40 § 13. Paragraph a of subdivision 8 of section 401 of the vehicle and
41 traffic law, as amended by chapter 55 of the laws of 1992, is amended to
42 read as follows:

43 a. The provisions of this chapter in relation to registration books
44 and registration, certificates of registration, number plates, dupli-
45 cates of certificates and number plates, times of registration and
46 reregistration and the duration thereof, for motor vehicles, shall apply
47 also to trailers. The following fees shall be paid upon the registration
48 or reregistration of a trailer, other than a coach or house trailer or a
49 semitrailer, in accordance with the provisions of this article: The
50 annual fee of [~~four~~ five dollars and [~~thirty-one~~ thirty-nine cents for
51 each five hundred pounds or fraction thereof of maximum gross weight but
52 in no case shall the annual fee be less than [~~eleven~~ fourteen dollars
53 and [~~fifty~~ thirty-eight cents. The following fees shall be paid upon
54 the registration or reregistration of a coach or house trailer in
55 accordance with the provisions of this article: The annual fee of one
56 dollar and [~~thirty-eight~~ seventy-three cents for each one hundred

1 pounds or major fraction thereof of unladen weight but in no case shall
2 the annual fee be less than [~~seventeen~~] twenty-one dollars and [~~twenty-~~
3 ~~five~~] fifty-seven cents. The following fees shall be paid upon the
4 registration or reregistration of a semitrailer in accordance with
5 provisions of this article: The annual fee of [~~twenty-three~~] twenty-
6 eight dollars and seventy-five cents. However, upon the request of the
7 applicant upon the registration or renewal of a registration of a nine-
8 teen hundred eighty-nine or later model year semitrailer, such semi-
9 trailer may be registered for a period of not less than five and one-
10 half nor more than six and one-half years for a fee of [~~sixty-nine~~]
11 eighty-six dollars and twenty-five cents. A semitrailer, used with any
12 device for converting it to a trailer, other than one being drawn by a
13 tractor semitrailer combination as part of a double tandem combination,
14 shall be registered as a trailer.

15 For the purposes of this paragraph, the unladen weight of a coach or
16 house trailer shall include the weight of any equipment permanently
17 attached to or installed in such trailer. Notwithstanding the foregoing
18 provisions and pursuant to regulations and limitations to be established
19 by the commissioner and upon payment of a fee of two dollars and thirty
20 cents therefor a temporary permit to move a coach or house trailer on
21 the public highways from one site to another shall be issued to the
22 owner thereof upon application therefor. Such application shall be made
23 in the manner prescribed by the commissioner.

24 § 14. Subdivisions 2 and 3 of section 405-c of the vehicle and traffic
25 law, as added by chapter 755 of the laws of 1987, are amended and a new
26 subdivision 4 is added to read as follows:

27 2. In addition to the registration fees provided in subdivision one of
28 this section, each applicant for such registration shall pay a fee of
29 two dollars and fifty cents for each cab card, including a duplicate,
30 issued by the commissioner in accordance with such agreement. If a
31 number plate or plates is or are to be issued as a result of such appli-
32 cation, the applicant shall also pay any fee which would be required of
33 any applicant for registration of a similar type vehicle under section
34 four hundred one of this [~~chapter~~] title for the issuance of a number
35 plate or plates.

36 3. The fee for a trip permit which allows operation of a vehicle with-
37 in this state shall be [~~fifteen~~] eighteen dollars and seventy-five
38 cents.

39 4. Notwithstanding any inconsistent provision of this section, the
40 difference collected between the fees set forth in subdivisions two and
41 three of this section in effect on and after September first, two thou-
42 sand nine and the fees set forth in such subdivisions in effect prior to
43 such date shall be deposited to the credit of the dedicated highway and
44 bridge trust fund.

45 § 15. The opening paragraph of section 401-a of the vehicle and traf-
46 fic law, as amended by chapter 289 of the laws of 1992, is amended to
47 read as follows:

48 The owner of a vehicle intended to be operated upon a public highway
49 or street only for the purpose of transporting the same to a jurisdic-
50 tion, within this state or to any other state, where the same is to be
51 registered, may file with the commissioner or any agent of the commis-
52 sioner an application for issuance of an in-transit permit for such
53 vehicle. The application shall be made on a form furnished by the
54 commissioner for such purpose and shall contain such information as the
55 commissioner shall require. If satisfied that the vehicle is to be oper-
56 ated as provided in this section, the commissioner shall upon payment of

1 a fee of [~~ten~~] twelve dollars and fifty cents assign to such vehicle a
2 distinctive number and issue and deliver to the applicant an in-transit
3 permit, valid for a period of thirty days from the date of issuance, in
4 such form as the commissioner shall prescribe, indicating the extent to
5 which the vehicle covered by such permit may be operated on the public
6 highways and such vehicle may be operated only as so indicated.
7 Notwithstanding any inconsistent provision of this section, the differ-
8 ence collected between the fees set forth in this paragraph in effect on
9 and after September first, two thousand nine and the fees set forth in
10 this paragraph in effect prior to such date shall be deposited to the
11 credit of the dedicated highway and bridge trust fund.

12 § 16. Paragraph a of subdivision 5 of section 410 of the vehicle and
13 traffic law, as amended by chapter 435 of the laws of 1997, is amended
14 to read as follows:

15 a. The annual fee for registration or reregistration of a motorcycle
16 shall be eleven dollars and fifty cents. Beginning April first, nine-
17 teen hundred ninety-eight the annual fee for registration or reregistra-
18 tion of a motorcycle shall be [~~fourteen~~] seventeen dollars and fifty
19 cents, of which two dollars and fifty cents shall be deposited into the
20 motorcycle safety fund established pursuant to section ninety-two-g of
21 the state finance law.

22 § 17. Subdivision 1 of section 411-a of the vehicle and traffic law,
23 as added by chapter 962 of the laws of 1981, is amended to read as
24 follows:

25 1. The commissioner may issue special number plates to applicants
26 therefor in the same manner as other number plates are issued pursuant
27 to this article. Such special number plates shall be issued only upon
28 payment of an annual service charge of [~~fifteen~~] eighteen dollars and
29 seventy-five cents in addition to the regular fee prescribed by section
30 four hundred ten of this [~~chapter~~] article. Application for special
31 number plates shall be made in accordance with regulations promulgated
32 by the commissioner with respect to issuance of such number plates.
33 Notwithstanding any inconsistent provision of this section, the differ-
34 ence collected between the service charge set forth in this subdivision
35 in effect on and after September first, two thousand nine and the
36 service charge set forth in this subdivision in effect prior to such
37 date shall be deposited to the credit of the dedicated highway and
38 bridge trust fund.

39 § 18. Section 411-b of the vehicle and traffic law, as added by chap-
40 ter 30 of the laws of 1989, is amended to read as follows:

41 § 411-b. Registration fee schedule for historical motorcycles. For
42 each motorcycle which is owned and operated as an exhibition piece or
43 collectors item, and is used for participation in club activities,
44 exhibit, tours, parades, occasional transportation and similar uses, but
45 not used for general daily transportation, an annual fee of [~~twenty~~]
46 twenty-five dollars. For purposes of this section, a historical motorcy-
47 cle shall mean any motorcycle manufactured more than twenty-five years
48 prior to the current calendar year, and any other model, year and type
49 motorcycle which has unique characteristics and which is determined by
50 the commissioner to be of historical, classic or exhibition value.
51 Registration plates for such motorcycles shall be of a type and design
52 approved by the commissioner, but shall be of a distinctive nature,
53 except that, with the approval of the commissioner, an owner of any such
54 motorcycle may utilize registration plates of this state with the date
55 of year corresponding to the model year date when the vehicle was manu-
56 factured, if the model year date registration plate is legible and serv-

1 iceable, as determined by the department, in lieu of the registration
2 plates otherwise required by this chapter. Such plates shall be used
3 only for the operation of the motorcycle listed on the registration
4 application and on other motorcycles which would qualify for registra-
5 tion under this schedule owned by persons other than the registrant for
6 the purpose of test driving by the registrant or his agent in antic-
7 ipation of possible purchase. No such registration will be issued unless
8 evidence of financial security, in a form prescribed by the commis-
9 sioner, is submitted which provides coverage for the motorcycle listed on
10 the registration application and for non-owned motorcycles being oper-
11 ated with such plates. Notwithstanding any inconsistent provision of
12 this section, the difference collected between the fees set forth in
13 this section in effect on and after September first, two thousand nine
14 and the fees set forth in this section in effect prior to such date
15 shall be deposited to the credit of the dedicated highway and bridge
16 trust fund.

17 § 19. Paragraph (b) of subdivision 3 of section 2261 of the vehicle
18 and traffic law, as added by chapter 869 of the laws of 1976, is amended
19 to read as follows:

20 (b) The annual fee for the registration, renewal, reregistration or
21 amendment or duplicate of a registration of a limited use motorcycle
22 shall be [~~five~~] six dollars and twenty-five cents. Any such registra-
23 tion will commence and expire on dates to be determined by the commis-
24 sioner. A fee for a registration for periods of more or less than one
25 year shall not be prorated.

26 § 20. Subparagraph A of paragraph e of subdivision 6 of section 401
27 of the vehicle and traffic law, as added by chapter 793 of the laws of
28 1977, is amended to read as follows:

29 A. In addition to any other fee for registration required to be paid
30 pursuant to this article, the commissioner may require the payment of an
31 annual service charge of [~~five~~] six dollars and twenty-five cents upon
32 the issuance of a radio operator number plate which he, in his
33 discretion, is hereby authorized to do as provided by this paragraph.
34 Notwithstanding any inconsistent provision of this section, the differ-
35 ence collected between the registration fees set forth in this paragraph
36 in effect on and after September first, two thousand nine and the regis-
37 tration fees set forth in this paragraph in effect prior to such date
38 shall be deposited to the credit of the dedicated highway and bridge
39 trust fund.

40 § 21. Subdivision 1 of section 404 of the vehicle and traffic law, as
41 amended by chapter 170 of the laws of 1994, is amended to read as
42 follows:

43 1. The commissioner may issue special number plates to applicants
44 therefor in the same manner as other number plates are issued pursuant
45 to this article. Such special number plates shall be issued only upon
46 payment of an annual service charge of [~~twenty-five~~] thirty-one dollars
47 and twenty-five cents in addition to the regular fee prescribed by
48 section four hundred one of this [~~chapter~~] article. Application for
49 special number plates shall be made in accordance with regulations
50 promulgated by the commissioner with respect to issuance of such number
51 plates. Provided, however, in lieu of the annual fee specified herein,
52 the commissioner may establish specific categories of plates for which
53 an annual fee of not less than [~~fifteen~~] eighteen dollars and seventy-
54 five cents nor more than [~~twenty-five~~] thirty-one dollars and twenty-
55 five cents may be charged subject to the approval of the director of the
56 division of the budget. Notwithstanding any inconsistent provision of

1 this section, the difference collected between the special plates fee or
2 service charge set forth in this subdivision in effect on and after
3 September first, two thousand nine and the special plates fee or service
4 charge set forth in this subdivision in effect prior to such date shall
5 be deposited to the credit of the dedicated highway and bridge trust
6 fund.

7 § 22. Subdivision 2 of section 404 of the vehicle and traffic law, as
8 separately amended by chapters 158 and 190 of the laws of 1990, is
9 amended to read as follows:

10 2. For purposes of this section, a special number plate shall be a
11 plate which contains not more than eight letters, numerals or any combi-
12 nation thereof and which is reserved by the commissioner for issuance in
13 accordance with the provisions of this section, or a plate reserved for
14 issuance in a series for vehicles owned by public officers, physicians,
15 visiting nurses, accredited representatives of the press or other
16 groups. In issuing special number plates the commissioner shall give
17 those applicants who held a special number plate at the time of the
18 enactment of this section the right to retain such special number plate
19 upon the payment of the annual service charge of [~~twenty-five~~] thirty-
20 one dollars and twenty-five cents. Provided, however, that such right
21 of retention shall apply only to the first renewal of the registration
22 of such special number plate following the enactment of this section.
23 Notwithstanding any inconsistent provision of this section, the differ-
24 ence collected between the annual service charge set forth in this
25 subdivision in effect on and after September first, two thousand nine
26 and the annual service charge set forth in this subdivision in effect
27 prior to such date shall be deposited to the credit of the dedicated
28 highway and bridge trust fund.

29 § 23. Subdivision 2 of section 404-1 of the vehicle and traffic law,
30 as amended by chapter 170 of the laws of 1994, is amended to read as
31 follows:

32 2. A distinctive plate issued pursuant to this section shall be issued
33 in the same manner as other number plates upon payment of the regular
34 registration fee prescribed by section four hundred one of this article
35 provided, however, that an additional annual service charge of [~~twenty-~~
36 ~~five~~] thirty-one dollars and twenty-five cents shall be charged for such
37 plates, and provided that a further additional annual service charge of
38 [~~twenty-five~~] thirty-one dollars and twenty-five cents shall be charged
39 for any such plate containing specially requested numerals and/or
40 letters. Provided, however, in lieu of the annual fee specified herein,
41 the commissioner may establish specific categories of plates for which
42 an annual fee of not less than [~~fifteen~~] eighteen dollars and seventy-
43 five cents nor more than [~~twenty-five~~] thirty-one dollars and twenty-
44 five cents may be charged subject to the approval of the director of the
45 division of the budget. Notwithstanding any inconsistent provision of
46 this section, the difference collected between the annual service charge
47 or fee set forth in this subdivision in effect on and after September
48 first, two thousand nine and the annual service charge or fee set forth
49 in this subdivision in effect prior to such date shall be deposited to
50 the credit of the dedicated highway and bridge trust fund.

51 § 24. Paragraph b of subdivision 3 of section 401 of the vehicle and
52 traffic law, as amended by chapter 548 of the laws of 1986, is amended
53 to read as follows:

54 b. During a registration period the commissioner may, upon application
55 by the owner of a registered motor vehicle and upon payment of a fee of
56 three dollars and seventy-five cents, change the distinctive number

1 assigned to such motor vehicle and issue a new set of number plates
2 provided the original registration and number plates are surrendered.
3 Notwithstanding any inconsistent provision of this section, the differ-
4 ence collected between the fees set forth in this subdivision in effect
5 on and after September first, two thousand nine and the fees set forth
6 in this subdivision in effect prior to such date shall be deposited to
7 the credit of the dedicated highway and bridge trust fund.

8 § 25. Schedule G of subdivision 7 of section 401 of the vehicle and
9 traffic law, as amended by chapter 710 of the laws of 2004, is amended
10 to read as follows:

11 G. Schedule for historical motor vehicles. For each motor vehicle
12 which is owned and operated as an exhibition piece or collectors item,
13 and is used for participation in club activities, exhibit, tours,
14 parades, occasional transportation and similar uses, but not used for
15 general daily transportation, an annual fee of [~~twenty-three~~] twenty-
16 eight dollars and seventy-five cents. For purposes of this paragraph, a
17 historical motor vehicle shall mean any vehicle manufactured more than
18 twenty-five years prior to the current calendar year, and any other
19 model, year and type vehicle which has unique characteristics and which
20 is determined by the commissioner to be of historical, classic or exhi-
21 bition value. Registration plates for such vehicles shall be of a type
22 and design approved by the commissioner, but shall be of a distinctive
23 nature. Except that, with the approval of the commissioner, an owner of
24 any such vehicle may utilize registration plates issued in the year
25 corresponding to the model year date in which the vehicle was manufac-
26 tured, if the registration plate is legible, durable, and serviceable,
27 of this state, and accurate in color, as determined by the department.
28 Nothing in this paragraph shall be construed to prohibit the use of
29 previously issued registration plates that have been restored, without
30 deviation from their original alphanumeric or pictorial content, to such
31 condition as otherwise satisfies all applicable requirements. Such
32 plates shall be used only for the operation of the motor vehicle listed
33 on the registration application and on other motor vehicles which would
34 qualify for registration under this schedule owned by persons other than
35 the registrant for the purpose of test driving by the registrant or his
36 or her agent in anticipation of possible purchase. No such registration
37 will be issued unless evidence of financial security, in a form
38 prescribed by the commissioner, is submitted which provides coverage for
39 the motor vehicle listed on the registration application and for non-
40 owned motor vehicles being operated with such plates.

41 § 26. Subdivisions 6 and 8 of section 420 of the vehicle and traffic
42 law, as amended by chapter 190 of the laws of 1990, are amended to read
43 as follows:

44 6. Provided, further, that the registration of a vehicle registered in
45 the names of two or more persons, as partners or otherwise, shall not
46 expire upon a change in ownership of the vehicle so long as any of the
47 persons named in such registration as owners of the vehicle is the owner
48 or part owner of the vehicle. However, when any change in the ownership
49 of such a vehicle occurs and the registration does not expire, the owner
50 or owners after such change shall forthwith file with the commissioner a
51 statement of the ownership of such vehicle in such form as the commis-
52 sioner shall require, together with a fee of [~~seven~~] ten dollars [~~and~~
53 ~~seventy-five cents~~], and the commissioner shall issue a new certificate
54 of registration.

55 8. The owner of a registered motor vehicle, motorcycle or trailer may
56 transfer the registration and, if appropriate, the number plates thereof

1 to another vehicle owned by him or her upon making application for such
2 transfer, paying a transfer fee of [~~seven~~ ten dollars [~~and seventy-five~~
3 ~~cents~~], and paying the proportionate excess, if any, of the annual fee
4 for registering the second vehicle over the annual fee for registering
5 the first vehicle for each day or fraction thereof constituting the
6 unexpired registration period, provided, however, that the registration
7 and number plates for the second vehicle, if such vehicle is registered
8 in this state, are either surrendered to the commissioner or transferred
9 to another vehicle as provided herein. If the number plates of the first
10 vehicle are not appropriate for the second vehicle, the commissioner or
11 his or her agent shall, upon the surrender of such number plates,
12 furnish appropriate number plates. Whenever a total fee for reregistra-
13 tion prescribed in this section shall amount to a fee other than a whole
14 dollar amount, the fee required to be paid shall be rounded to the near-
15 est twenty-five cents.

16 § 27. This act shall take effect September 1, 2009; provided, howev-
17 er, that sections one, four through thirteen, sixteen, eighteen, nine-
18 teen and twenty-five of this act shall apply to registrations issued or
19 renewed on and after such date; provided, further, that section two of
20 this act shall apply to registrations transferred on and after such
21 date; provided, further, that section fourteen of this act shall apply
22 to cab cards and trip permits issued on and after such date; provided,
23 further, that section fifteen of this act shall apply to in-transit
24 permits issued on and after such date; provided, further, that sections
25 seventeen and twenty-one through twenty-four of this act shall apply to
26 license plates issued or renewed on and after such date; and provided,
27 further, that section twenty-six of this act shall apply to registra-
28 tions transferred and changes in ownership occurring on and after such
29 date.

30

PART H

31 Section 1. Paragraph a of subdivision 3 of section 401 of the vehicle
32 and traffic law, as amended by section 1 of part B of chapter 62 of the
33 laws of 2003, is amended to read as follows:

34 a. Upon filing of such application and the payment of the fee herein-
35 after provided, the commissioner shall assign to such motor vehicle a
36 distinctive number and, without expense to the applicant, issue and
37 deliver in such manner as the commissioner may select to the owner a
38 certificate of registration, in such form as the commissioner shall
39 prescribe, and two number plates at a place within the state of New York
40 named by the applicant in his or her application. A number plate, with-
41 in the meaning of this chapter, may, in the discretion of the commis-
42 sioner, be a plate of a permanent nature, treated with reflectorized
43 material according to specifications prescribed by the commissioner, and
44 with a date tag attached to such plate or to the vehicle as prescribed
45 by regulations of the commissioner indicating the validity of the plate
46 during a certain period and the issuance of such a number plate with
47 such date tag to a person possessing such a number plate shall be deemed
48 the issuance of a number plate. An additional fee, not to exceed
49 [~~fifteen~~ twenty-five dollars, shall be paid to the commissioner whenev-
50 er a set of reflectorized number plates is issued for any vehicle for
51 which a registration fee is normally charged except that, with respect
52 to any number plate which is specifically requested by the applicant,
53 such fee shall be paid to the commissioner upon approval of such
54 request. In the event of the loss, mutilation or destruction of any

1 certificate of registration, any number plate or set of number plates
2 whether with or without a date tag or tags, or any date tag or set of
3 date tags provided for in this article, the owner of a registered motor
4 vehicle may file such statement and proof of the facts as the commis-
5 sioner shall require, with a fee of three dollars, in the office of the
6 commissioner, or, unless and until the commissioner shall otherwise
7 direct, in the office of the agent who issued the certificate, plate,
8 plates, tag or tags and the commissioner or his or her agent, as the
9 case may be, shall issue a duplicate or substitute. It shall be the duty
10 of every owner holding a certificate of registration to notify the
11 commissioner in writing of any change of residence of such person within
12 ten days after such change occurs, and to inscribe on such certificate,
13 in the place provided by the commissioner, a record of such change of
14 residence.

15 § 2. This act shall take effect on April 1, 2010 and shall apply to
16 applications for new registrations and renewals of existing registra-
17 tions of any vehicle required to be registered on or after such date.

18

PART I

19 Section 1. Subdivision 2 of section 1809 of the vehicle and traffic
20 law, as amended by section 3 of part M of chapter 62 of the laws of
21 2003, is amended to read as follows:

22 2. Where a person is convicted of two or more such crimes or traffic
23 infractions committed through a single act or omission, or through an
24 act or omission which in itself constituted one of the crimes or traffic
25 infractions and also was a material element of the other, the court or
26 administrative tribunal shall impose a crime victim assistance fee and a
27 mandatory surcharge mandated by subdivision one of this section for each
28 such conviction; provided however, that in no event shall the total
29 amount of such crime victim assistance fees and mandatory surcharges
30 imposed pursuant to paragraph (a) or (c) of subdivision one of this
31 section exceed one hundred eighty dollars.

32 § 2. This act shall take effect on the ninetieth day after it shall
33 have become a law; provided, however, that the amendments to subdivision
34 2 of section 1809 of the vehicle and traffic law made by section one of
35 this act shall not affect the expiration of such subdivision and shall
36 be deemed to expire therewith.

37

PART J

38 Section 1. Section 12 of chapter 569 of the laws of 1981, amending the
39 vehicle and traffic law relating to motor vehicle liability insurance,
40 financial security, criminal acts and penalties for non-compliance, as
41 amended by section 1 of part I of chapter 59 of the laws of 2007, is
42 amended to read as follows:

43 § 12. This act shall take effect on the first day of September, 1982
44 and the amendments made to the provisions of the vehicle and traffic law
45 by sections one through nine of this act shall expire on June 30, [2009]
46 2011 and shall apply to the use and operation of motor vehicles during
47 such period. Upon such expiration date the provisions of such sections
48 of such law shall revert to and be read as set out in law on the date
49 immediately preceding the effective date of this act. The commissioner
50 shall widely publicize the provisions of this act and take all actions
51 necessary to prepare for its implementation prior to the effective date.

1 § 2. Section 15 of chapter 781 of the laws of 1983, amending the vehi-
2 cle and traffic law and other laws relating to motor vehicle liability
3 insurance, financial security, criminal acts and certain penalties for
4 non-compliance, as amended by section 2 of part I of chapter 59 of the
5 laws of 2007, is amended to read as follows:

6 § 15. This act shall take effect immediately except that sections ten
7 and eleven hereof shall take effect on June 30, [2009] 2011; the amend-
8 ments made to the provisions of the vehicle and traffic law and the
9 insurance law by sections one through seven of this act shall expire
10 June 30, [2009] 2011; upon such date the provisions of such sections of
11 such laws shall revert to and be read as set out in law on the date
12 immediately preceding the effective date of this act.

13 § 3. This act shall take effect immediately and shall be deemed to
14 have been in full force and effect on and after April 1, 2009.

15

PART K

16 Section 1. Item 2 of clause (A) of subparagraph (ii) of paragraph (i)
17 of subdivision 1 of section 201 of the vehicle and traffic law, as
18 amended by chapter 251 of the laws of 2007, is amended to read as
19 follows:

20 (2) fifteen years for violating an out of service order as provided
21 for in the rules and regulations of the department of [~~motor vehicles~~]
22 transportation while operating a commercial motor vehicle.

23 § 2. Subdivision 5 of section 502 of the vehicle and traffic law is
24 amended by adding a new paragraph (b) to read as follows:

25 (b) The commissioner shall, with respect to the issuance of a hazard-
26 ous materials endorsement, comply with the requirements imposed upon
27 states pursuant to sections 383.141 and 1572.13 of title 49 of the code
28 of federal regulations.

29 § 3. Paragraph (a) of subdivision 6 of section 502 of the vehicle and
30 traffic law, as amended by chapter 81 of the laws of 1995, is amended to
31 read as follows:

32 (a) A license issued pursuant to subdivision five of this section
33 shall be valid until the expiration date contained thereon, unless such
34 license is suspended, revoked or cancelled. Such license may be renewed
35 by submission of an application for renewal, the fee prescribed by law,
36 proofs of prior licensing, fitness and acceptable vision prescribed by
37 the commissioner, the applicant's social security number, and if
38 required by the commissioner a photo image of the applicant in such
39 numbers and form as the commissioner shall prescribe. In addition, an
40 applicant for renewal of a license containing a hazardous material
41 endorsement shall pass an examination to retain such endorsement. The
42 commissioner shall, with respect to the renewal of a hazardous materials
43 endorsement, comply with the requirements imposed upon states by
44 sections 383.141 and 1572.13 of title 49 of the code of federal regu-
45 lations. A renewal of such license shall be issued by the commissioner
46 upon approval of such application, except that no such license shall be
47 issued if its issuance would be inconsistent with the provisions of
48 section five hundred sixteen of this [~~chapter~~] title, and except that
49 the commissioner may refuse to renew such license if the applicant is
50 the holder of a currently valid or renewable license to drive issued by
51 another state or foreign country unless the applicant surrenders such
52 license.

1 § 4. Subparagraph (i) of paragraph (d) of subdivision 2 of section 501
2 of the vehicle and traffic law, as amended by section 6 of part E of
3 chapter 60 of the laws of 2005, is amended to read as follows:

4 (i) Notwithstanding the foregoing provisions of this subdivision, a
5 motor vehicle or combination of vehicles, other than a motorcycle, that
6 is a military vehicle operated by a member of the armed forces, or a
7 police or fire vehicle during its use in an emergency operation, as
8 defined in section one hundred fourteen-b of this chapter, or a vehicle
9 owned and identified as being owned by the state, a political subdivi-
10 sion thereof, an ambulance service as defined in subdivision two of
11 section three thousand one of the public health law or a voluntary ambu-
12 lance service as defined in subdivision three of such section and used
13 to provide emergency medical service as defined in section three thou-
14 sand one of the public health law may be operated with any class license
15 other than a class DJ, M or MJ license. For the purposes of this para-
16 graph the term "member of the armed forces" shall include active duty
17 military personnel; members of the reserve components of the armed forc-
18 es; members of the national guard on active duty, including personnel on
19 full time active guard duty, personnel on part-time national guard
20 training, and national guard military technicians (civilians who are
21 required to wear military uniforms); and active duty United States coast
22 guard personnel. The term shall not include United States reserve tech-
23 nicians. Notwithstanding the provisions of section one hundred four-
24 teen-b of this chapter, for the purposes of this subparagraph, the term
25 "emergency operation" shall include returning from emergency service.

26 § 5. Paragraph (b) of subdivision 4 of section 501-a of the vehicle
27 and traffic law, as amended by chapter 251 of the laws of 2007, is
28 amended to read as follows:

29 (b) However, a commercial motor vehicle shall not include: (i) a
30 personal use vehicle or a farm vehicle or a combination of such vehi-
31 cles; (ii) any motor vehicle or combination of motor vehicles operated
32 by a member of the armed forces for military purposes; (iii) a police or
33 fire vehicle or a vehicle during its use in an emergency operation, as
34 defined in section one hundred fourteen-b of this chapter, owned and
35 identified as being owned by the state, a political subdivision thereof,
36 an ambulance service as defined in subdivision two of section three
37 thousand one of the public health law or a voluntary ambulance service
38 as defined in subdivision three of such section and used to provide
39 emergency medical service as defined in section three thousand one of
40 the public health law or combination of such vehicles; or (iv) a vehicle
41 or combination of vehicles which is designed and primarily used for
42 purposes other than the transportation of persons or property and which
43 is operated on a public highway only occasionally for the purpose of
44 being transported to a construction or off-highway site at which its
45 primary purpose is to be performed except as may otherwise be specif-
46 ically provided by regulation of the commissioner. For the purposes of
47 this paragraph, the term "member of the armed forces" shall include
48 active duty military personnel; members of the reserve components of the
49 armed forces; members of the national guard on active duty, including
50 personnel on full time active guard duty, personnel on part-time
51 national guard training, and national guard military technicians (civili-
52 ans who are required to wear military uniforms); and active duty United
53 States coast guard personnel. The term shall not include United States
54 reserve technicians. Notwithstanding the provisions of section one
55 hundred fourteen-b of this chapter, for the purposes of this paragraph,

1 the term "emergency operation" shall include returning from emergency

2 service.

3 § 6. Paragraphs (a) and (b) of subdivision 2 of section 510-a of the
4 vehicle and traffic law, as amended by section 2 of part J of chapter 59
5 of the laws of 2006, are amended to read as follows:

6 (a) Except as otherwise provided in paragraph (b) of this subdivision,
7 where revocation of a commercial driver's license is mandatory pursuant
8 to paragraph (a), ~~(c)~~, (d) or (e) of subdivision one of this section no
9 new commercial driver's license shall be issued for at least one year
10 nor thereafter except in the discretion of the commissioner, except that
11 if such person has previously been found to have refused a chemical test
12 pursuant to section eleven hundred ninety-four of this chapter or has a
13 prior conviction of any of the following offenses: any violation of
14 section eleven hundred ninety-two of this chapter, any violation of
15 subdivision one or two of section six hundred of this chapter, or any
16 felony involving the use of a motor vehicle pursuant to paragraph (a) of
17 subdivision one of this section, or has been convicted of operating a
18 commercial motor vehicle when, as a result of prior violations committed
19 while operating a commercial motor vehicle, the driver's commercial
20 driver's license is revoked, suspended, or canceled, or the driver is
21 disqualified from operating a commercial motor vehicle, or has been
22 convicted of causing a fatality through the negligent operation of a
23 commercial motor vehicle, including but not limited to the crimes of
24 vehicular manslaughter or criminally negligent homicide, then such
25 commercial driver's license revocation shall be permanent.

26 (b) Where revocation is mandatory pursuant to paragraph (a), ~~(c)~~, (d)
27 or (e) of subdivision one of this section and the commercial motor vehi-
28 cle was transporting hazardous materials, no new commercial driver's
29 license shall be issued for at least three years nor thereafter except
30 in the discretion of the commissioner, except that if such person has
31 previously been found to have refused a chemical test pursuant to
32 section eleven hundred ninety-four of this chapter or has a prior
33 conviction of any of the following offenses: any violation of section
34 eleven hundred ninety-two of this chapter, any violation of subdivision
35 one or two of section six hundred of this chapter, or any felony involv-
36 ing the use of a motor vehicle pursuant to paragraph (a) of subdivision
37 one of this section, or been convicted of operating a commercial motor
38 vehicle when, as a result of prior violations committed while operating
39 a commercial motor vehicle the driver's commercial driver's license is
40 revoked, suspended, or canceled, or the driver is disqualified from
41 operating a commercial motor vehicle, or has been convicted of causing a
42 fatality through the negligent operation of a commercial motor vehicle,
43 including but not limited to the crimes of vehicular manslaughter or
44 criminally negligent homicide, then such commercial driver's license
45 revocation shall be permanent.

46 § 7. Paragraphs (a) and (b) of subdivision 3 of section 510-a of the
47 vehicle and traffic law, paragraph (a) as added by chapter 173 of the
48 laws of 1990 and paragraph (b) as amended by chapter 251 of the laws of
49 2007, are amended to read as follows:

50 (a) A commercial driver's license shall be suspended by the commis-
51 sioner for a period of sixty days where the holder is convicted[~~, during~~
52 ~~any three year period,~~] of two serious traffic violations as defined in
53 subdivision four of this section committed within a three year period,
54 in separate incidents whether such convictions occurred within or
55 outside of this state.

1 (b) A commercial driver's license shall be suspended by the commis-
2 sioner for a period of one hundred twenty days where the holder is
3 convicted[~~, during any three year period,~~] of three serious traffic
4 violations as defined in subdivision four of this section committed
5 within a three year period, in separate incidents whether such
6 convictions occurred within or outside of this state. Such suspension
7 shall take effect upon the termination of any other suspension already
8 in effect pursuant to paragraph (a) of this subdivision or this para-
9 graph.

10 § 8. Subparagraphs (i) and (ii) of paragraph (d) of subdivision 3 of
11 section 510-a of the vehicle and traffic law, as amended by chapter 569
12 of the laws of 2002, are amended to read as follows:

13 (i) for a period of [~~ninety~~] one hundred eighty days where the holder
14 was found to have operated a commercial motor vehicle designed or used
15 to transport property as defined in subparagraphs (i) and (ii) of para-
16 graph (a) of subdivision four of section five hundred one-a of this
17 title, in violation of an out-of-service order as provided for in the
18 rules and regulations of the department of transportation whether such
19 violation was committed within this state or was the same or a similar
20 violation involving an out-of-service order committed outside of this
21 state;

22 (ii) for a period of [~~one year~~] two years if, during any ten-year
23 period, the holder is found to have committed two such violations not
24 arising from the same incident whether such violations were committed
25 within or outside of the state;

26 § 9. Subdivision 6 of section 510-a of the vehicle and traffic law, as
27 added by chapter 173 of the laws of 1990, is amended to read as follows:

28 6. Application of section to persons not holding a commercial driver's
29 license. Whenever a person who is not the holder of a commercial driv-
30 er's license issued by the commissioner is convicted of a violation
31 arising out of the operation of a commercial motor vehicle which would
32 require the mandatory revocation or suspension of a commercial driver's
33 license pursuant to this section or clause (i) or (ii) of subparagraph
34 five of paragraph (b) or clause b of subparagraph three of paragraph (e)
35 of subdivision two of section eleven hundred ninety-three, or clause c
36 of subparagraph one of paragraph (d) of subdivision two of section elev-
37 en hundred ninety-four of this chapter, the privilege of such person to
38 operate a commercial motor vehicle and/or to obtain a commercial driv-
39 er's license issued by the commissioner will be suspended or revoked for
40 the same periods of time and subject to the same conditions provided in
41 this section, or clause (i) or (ii) of subparagraph five of paragraph
42 (b) or clause b of subparagraph three of paragraph (e) of subdivision
43 two of section eleven hundred ninety-three, or clause c of subparagraph
44 one of paragraph (d) of subdivision two of section eleven hundred nine-
45 ty-four of this chapter, which would be applicable to the holder of a
46 commercial driver's license [~~and in addition, the driver's license or~~
47 ~~privilege of operating a motor vehicle by such person shall be suspended~~
48 ~~or revoked for the same periods of time for which the privilege of oper-~~
49 ~~ating a commercial motor vehicle or the privilege to obtain a commercial~~
50 ~~driver's license are suspended or revoked].~~

51 § 10. Subparagraphs (v) and (vi) of paragraph d of subdivision 2 of
52 section 140 of the transportation law, subparagraph (v) as amended by
53 section 2 of part K of chapter 412 of the laws of 1999 and subparagraph
54 (vi) as added by chapter 173 of the laws of 1990, are amended to read as
55 follows:

1 (v) (a) [~~Operation of any motor vehicle after it has been placed out-~~
2 ~~of service~~] A driver who is convicted of violating an out-of-service
3 order as provided for in the department's safety rules and regulations
4 shall ~~[constitute]~~ be guilty of a [misdemeanor and] traffic infraction
5 which shall be punishable by a fine of not less than ~~[one]~~ two thousand
6 five hundred dollars nor more than ~~[two]~~ four thousand ~~[five hundred]~~
7 dollars [~~, or by imprisonment for not more than ninety days, or by both~~
8 ~~such fine and imprisonment~~] upon the first offense, and upon being found
9 guilty of a second or subsequent offense within eighteen months by a
10 fine of not less than ~~[two]~~ five thousand ~~[five hundred]~~ dollars nor
11 more than ~~[five]~~ six thousand dollars [~~or by imprisonment for not more~~
12 ~~than one hundred eighty days or by both such fine and imprisonment~~].

13 (b) No person, corporation, limited liability company or business
14 entity, joint stock association, partnership, or any officer or agent
15 thereof, shall knowingly allow, require, permit or authorize any person
16 to operate a commercial motor vehicle as defined by section five hundred
17 one-a of the vehicle and traffic law during any period in which such
18 person ~~[or]~~, such commercial motor vehicle, or such motor carrier opera-
19 tion has been placed out of service as provided for in the department's
20 safety rules and regulations and shall be subject to a fine of not less
21 than two thousand ~~[five]~~ seven hundred fifty dollars and not more than
22 ~~[ten]~~ twenty-five thousand dollars for any violation thereof.

23 (c) No person, corporation, limited liability company or business
24 entity, joint stock association, partnership, or any officer or agent
25 thereof, shall knowingly allow, require, permit or authorize any person
26 to operate a commercial motor vehicle as defined in section five hundred
27 one-a of the vehicle and traffic law in violation of section eleven
28 hundred seventy-one or eleven hundred seventy-six of the vehicle and
29 traffic law and, upon conviction thereof, shall be subject to a fine of
30 not more than ten thousand dollars for any violation thereof.

31 (vi) If any person, corporation, company, association, joint stock
32 association, partnership, person or any officer or agent thereof, does
33 not appear in response to an appearance ticket or the court's direction,
34 or pay any fine imposed by the court or a civil penalty imposed pursuant
35 to the provisions of section one hundred forty-five of this article, the
36 commissioner of motor vehicles shall have the power to suspend the
37 registration or privilege of operation of any vehicle operated or
38 alleged to have been operated in violation of the department's safety
39 rules and regulations.

40 § 11. This act shall take effect immediately; provided, however, that
41 sections six, seven, and nine of this act shall apply only to violations
42 occurring on or after such effective date; and provided, further, that
43 sections eight and ten of this act shall take effect on the sixtieth day
44 after it shall have become a law and shall apply only to violations
45 occurring on or after such effective date.

46 PART L

47 Section 1. Subdivision 4 of section 502 of the vehicle and traffic law
48 is amended by adding a new paragraph (h) to read as follows:

49 (h) Course completion certificate fee. The fee for a course
50 completion certificate provided by the department to an entity that is
51 approved by the commissioner to offer the pre-licensing course, required
52 by this subdivision, for issuance by such entity to students upon their
53 completion of such pre-licensing course shall be one dollar. Such fee

1 shall be paid by such entity and shall not be charged to a person who
2 takes the course in any manner.

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

5 PART M

6 Intentionally omitted.

7 PART N

8 Intentionally omitted.

9 PART O

10 Section 1. Paragraph (e) of subdivision 3 of section 22-c of the state
11 finance law, as added by section 1 of part Z of chapter 62 of the laws
12 of 2006, subparagraph (vi) as amended by section 1 of part Q of chapter
13 61 of the laws of 2006, is amended to read as follows:

14 (e) A comprehensive financial report and plan for the dedicated high-
15 way and bridge trust fund established by section eighty-nine-b of this
16 chapter, which shall be submitted to the comptroller at the same time as
17 the plan is submitted to the legislature, and which shall include the
18 following information pertaining to the dedicated highway and bridge
19 trust fund separately stated for the last completed fiscal year, ~~the~~
20 ~~completed quarters of~~ the current fiscal year and the next five fiscal
21 years:

22 (i) a detailed description of all actual and projected revenues of the
23 dedicated highway and bridge trust fund, separately stating the amount
24 received or expected to be received from bond proceeds, and the amounts,
25 separately identified, received or expected to be received from taxes,
26 fees, transfers, or other sources;

27 (ii) a detailed description of ~~[actual or proposed appropriations and~~
28 ~~reappropriations from the dedicated highway and bridge trust fund, and~~
29 ~~the]~~ actual or planned disbursements ~~[pursuant to such appropriations~~
30 ~~and reappropriations]~~ and transfers from the dedicated highway and
31 bridge trust fund, separately stating in the aggregate the amounts
32 ~~[appropriated, reappropriated, and]~~ disbursed or transferred or planned
33 to be disbursed or transferred for (A) debt service costs, (B) capital
34 project costs, (C) state operations costs, (D) costs of contracts for
35 engineering and similar or related services related to capital project
36 costs and state operations, and (E) the costs of state employees to
37 provide similar services on projects for which service contracts are not
38 expected to be used, and further separately stating the amounts of such
39 ~~[debt service,]~~ capital project and state operations costs ~~[appropri-~~
40 ~~ated, reappropriated, and]~~ disbursed or planned to be disbursed for
41 personal service and non-personal service costs~~;~~

42 ~~(iii) a detailed description of each capital project supported by the~~
43 ~~dedicated highway and bridge trust fund for the completed prior year,~~
44 ~~and the capital projects anticipated or available to be performed in~~
45 ~~whole or in part in the next year including the information required by~~
46 ~~paragraph (d) of this subdivision together with the probable life of the~~
47 ~~work as determined in accordance with section sixty one of this chapter;~~

48 ~~(iv) for prior periods,]~~ (f) For the preceding four fiscal years and
49 the current fiscal year, the bond coverage ratio on ~~[a biennial]~~ an

1 annual basis, including the formula used to compute such ratio and the
2 source of that formula[~~†~~].

3 [~~(v) an~~] (g) An explanation of any deficit projected for the end of
4 any fiscal year covered by the plan stating whether the projected defi-
5 cit is expected to be caused by an imbalance between projected revenues
6 and projected expenditures, or by the timing of payments within a fiscal
7 year, or by other causes[~~†~~].

8 [~~(vi) an~~] (h) A detailed description of actual or proposed appropri-
9 ations and reappropriations from the dedicated highway and bridge trust
10 fund, and the actual or planned disbursements pursuant to such appropri-
11 ations and reappropriations.

12 (i) An explanation of any actions proposed to be taken to achieve
13 increased opportunity for meaningful participation in the performance of
14 state contracts by minority and women-owned business enterprises in
15 accordance with article fifteen-A of the executive law, including a
16 compliance report to be submitted by July first of each year commencing
17 with the two thousand five--two thousand six fiscal year and for each
18 subsequent year thereafter that includes: all the items of information
19 required in accordance with regulations promulgated by the director of
20 the division of minority and women's business development in the depart-
21 ment of economic development under article fifteen-A of the executive
22 law; goals for participation by certified minority or women-owned busi-
23 ness enterprises for such fiscal year; and a description of the types of
24 expenditures, projects or contracts[~~† and~~].

25 [~~(vii) such~~] (j) Such other information as shall be necessary to pres-
26 ent a full and accurate description of the financial position of the
27 dedicated highway and bridge trust fund.

28 § 2. Subdivision 2 of section 24 of the state finance law, as amended
29 by section 3 of part Z of chapter 62 of the laws of 2006, is amended to
30 read as follows:

31 2. (a) On or after January first, nineteen hundred eighty-four, no
32 budget bill submitted by the governor may include any proposed appropri-
33 ation or reappropriation for any capital project which is not included
34 in the capital plan presented as part of the budget submitted pursuant
35 to section twenty-two of this article. Each proposed appropriation or
36 reappropriation for a capital project shall bear the capital plan
37 project reference number or numbers to which it shall pertain, and shall
38 be classified into the same category as the associated capital project
39 or projects have been classified in such capital plan. Reappropriations
40 of appropriations effective for fiscal years beginning prior to April
41 first, nineteen hundred eighty-four may be presented by the categories
42 of appropriation contained in the bill originally enacting such appro-
43 priation.

44 (b) On or after January first, two thousand [~~seven~~] ten, any budget
45 bill submitted by the governor containing a proposed appropriation [~~or~~
46 ~~reappropriation~~] from the dedicated highway and bridge trust fund shall
47 be itemized to show the following information for each such appropri-
48 ation [~~or reappropriation~~]:

49 (i) each amount appropriated [~~or reappropriated~~] from the dedicated
50 highway and bridge trust fund for capital purposes;

51 (ii) [~~the amount of each such appropriation or reappropriation to be~~
52 ~~financed by pay as you go moneys, as defined in paragraph (c) of subdivi-~~
53 ~~sion one of section twenty two c of this article;~~

54 [~~(iii)~~] the amount of each such appropriation [~~or reappropriation~~] to
55 be used for personal service expenses; and

1 [~~(iv)~~] (iii) the amount of each such appropriation [~~or reappropri-~~
2 ~~ation~~] to be used for non-personal service expenses[~~;~~ and

3 ~~(v) the citation of the statutory provision authorizing the use of the~~
4 ~~dedicated highway and bridge trust fund for such capital project or~~
5 ~~other purpose~~].

6 § 3. Subdivision 6 of section 89-b of the state finance law, as
7 amended by section 4 of part Z of chapter 62 of the laws of 2006, is
8 amended to read as follows:

9 6. All payments of moneys from the dedicated highway and bridge trust
10 fund shall be made on audit and warrant of the comptroller. Not later
11 than ~~[ten]~~ twenty days after the end of each calendar quarter, the comp-
12 troller shall submit to the director of the budget and the chairpersons
13 of the fiscal committees of the legislature a report showing the amount
14 of receipts identified as bond proceeds and the amounts, separately
15 identified, received from taxes, fees, transfers, or other sources, and
16 the amounts disbursed from the dedicated highway and bridge trust fund
17 for state operations, capital projects and transfers to other funds.
18 [~~Not later than thirty days after receiving such report, the director of~~
19 ~~the budget shall submit to the comptroller and the chairpersons of the~~
20 ~~fiscal committees of the legislature a detailed report identifying the~~
21 ~~amount of the previous quarter's disbursements that will be financed~~
22 ~~with state or public authority bond proceeds, taxes, fees, transfers, or~~
23 ~~other available sources.~~]

24 § 4. Section 89-b of the state finance law is amended by adding four
25 new subdivisions 8, 9, 10 and 11 to read as follows:

26 8. The state comptroller shall at the commencement of each month
27 certify to the director of the budget, the chairpersons of the senate
28 finance and assembly ways and means committees, the commissioner of
29 transportation, and the chairman of the thruway authority the amount
30 disbursed from the dedicated highway and bridge trust fund in the
31 preceding month, the amounts reimbursed by the thruway authority, the
32 revenues received in the fund, and the unreimbursed disbursements, in
33 accordance with section ten-e of the highway law.

34 9. Not later than sixty days after the end of the state fiscal year,
35 the department of transportation shall provide to the state comptroller,
36 the chairpersons of the senate finance and assembly ways and means
37 committees and the division of the budget, a detailed description of
38 each capital project let during the completed prior year that is funded
39 fully or partially from the dedicated highway and bridge trust fund.
40 Such description shall include a project identification number, a
41 description of the project in less than thirty words, the work type, the
42 estimated total cost of the project and the probable life of each such
43 project.

44 10. Not later than March first of each state fiscal year, the depart-
45 ment of transportation shall provide to the state comptroller, the
46 chairpersons of the senate finance and assembly ways and means commit-
47 tees and the division of the budget, a detailed description of each
48 capital project anticipated or available to be let in the next fiscal
49 year that is planned to be funded fully or partially from the dedicated
50 highway and bridge trust fund. Such description shall include a project
51 identification number, a description of the project in less than thirty
52 words, the work type, the estimated total cost of the project and the
53 probable life of each such project.

54 11. The department of transportation shall provide to the state comp-
55 troller and the chairpersons of the senate finance and assembly ways and
56 means committees, not later than fourteen days subsequent to reimburse-

1 ment from bond proceeds to the dedicated highway and bridge trust fund,
2 a cooperative agreement schedule of all projects so reimbursed. Such
3 schedule shall include, but not be limited to, an identifying project
4 number, the work type, project description, county, total cost, percent-
5 age of federal funding, letting date, scheduled completion date, life to
6 date dedicated highway and bridge trust fund disbursements, prior amount
7 of thruway authority bond proceeds reimbursement, the amount of the
8 current reimbursement, and the probable life of each such project.

9 § 5. This act shall take effect immediately.

10

PART P

11 Section 1. Section 13 of part U1 of chapter 62 of the laws of 2003
12 amending the general business law and other laws relating to implement-
13 ing the state fiscal plan for the 2003-2004 state fiscal year, as
14 amended by section 1-b of part A of chapter 63 of the laws of 2005, is
15 amended to read as follows:

16 § 13. This act shall take effect immediately; provided however that
17 sections one through nine of this act shall expire and be deemed
18 repealed on March 31, [~~2010~~] 2015; provided further, however, that the
19 provisions of section eleven of this act shall take effect April 1, 2004
20 and shall expire and be deemed repealed on March 31, [~~2010~~] 2015.

21 § 2. This act shall take effect immediately, and shall be deemed to
22 have been in full force and effect on and after April 1, 2009.

23

PART Q

24 Section 1. Section 39 of the agriculture and markets law, as amended
25 by chapter 189 of the laws of 2008, is amended to read as follows:

26 § 39. Penalties for violation of chapter or other laws. Every person
27 violating any of the provisions of this chapter, or of any other law the
28 enforcement of which is within the jurisdiction of the department shall,
29 except where other penalties are hereinafter prescribed, be subject to a
30 penalty in the sum of not more than [~~three hundred~~] six hundred dollars
31 for the first violation, nor more than [~~six hundred~~] one thousand two
32 hundred dollars for the second and each subsequent violation and
33 provided further, however, that for a violation of subdivision thirteen
34 or fifteen of section two hundred of this chapter, the minimum penalty
35 shall be five hundred dollars and the maximum penalty shall be one thou-
36 sand dollars and that for the second and subsequent offenses such person
37 may also be subject to an administrative order suspending the manufac-
38 ture and/or sale of such confectionery for a period of time up to three
39 months for each such violation. When such violation consists of the
40 manufacture or production of any prohibited article, each day during
41 which or any part of which such manufacture or production is carried on
42 or continued, shall be deemed a separate violation. When the violation
43 consists of the sale, or the offering or exposing for sale or exchange
44 of any prohibited article or substance, the sale of each one of several
45 packages shall constitute a separate violation, and each day on which
46 any such article or substance is offered or exposed for sale or exchange
47 shall constitute a separate violation. If the sale be of milk and it be
48 in cans, bottles or containers of any kind and if the milk in any one of
49 such containers be adulterated, it shall be deemed a violation whether
50 such vendor be selling all the milk in all of his containers to one
51 person or not. When the use of any such article or substance is prohib-
52 ited, each day during which or any part of which such article or

1 substance is so used or furnished for use, shall constitute a separate
 2 violation, and the furnishing of the same for use to each person to whom
 3 the same may be furnished shall constitute a separate violation. When
 4 the storage of any article is prohibited beyond a certain period, each
 5 day during which or any part of which any article is so stored beyond
 6 the period provided for by this chapter, shall constitute a separate
 7 violation. A right of action for the recovery of, or a liability for,
 8 penalties incurred as provided in this chapter, or in any other law the
 9 enforcement of which is within the jurisdiction of the department, may
 10 be released, settled or compromised before the matter is referred to the
 11 attorney general as provided in section forty-four of this article, and
 12 thereafter may be released, settled or compromised by the attorney
 13 general, either before or after an action is brought to recover such
 14 penalties.

15 § 2. Section 40 of the agriculture and markets law, as amended by
 16 chapter 55 of the laws of 1992, is amended to read as follows:

17 § 40. Penalty for violation of rule or order. ~~[1.]~~ Every person,
 18 association or corporation and all agents, officers and employees there-
 19 of, shall obey every order made as provided in this chapter, so long as
 20 such order shall be in force. A person, association or corporation who
 21 shall fail by himself, itself or through his or its agents, officers and
 22 employees, to obey any order of the commissioner, or who shall violate
 23 any rule of the department shall be subject to a penalty not exceeding
 24 the sum of ~~[two hundred]~~ four hundred dollars for each and every first
 25 offense, and a penalty not exceeding the sum of ~~[four hundred]~~ eight
 26 hundred dollars for a second and each subsequent offense. Every
 27 violation of such order, or of the rules of the department, shall be a
 28 separate and distinct offense, and in case of a continuing violation,
 29 every day's continuance thereof shall be a separate and distinct
 30 offense.

31 § 3. This act shall take effect immediately.

32

PART R

33 Section 1. Subdivision 1 of section 159-e of the executive law is
 34 REPEALED.

35 § 2. Subdivision 2 of section 159-e of the executive law, as amended
 36 by chapter 710 of the laws of 1983, is renumbered subdivision 1 and
 37 amended to read as follows:

38 1. "Eligible entity" shall mean any organization ~~[which was]~~
 39 (a) officially designated as a community action agency or a community
 40 action program under the provisions of section two hundred ten of the
 41 economic opportunity act of 1964 for fiscal year 1981, unless such
 42 community action agency or a community action program lost its desig-
 43 nation under section two hundred ten of such act as a result of a fail-
 44 ure to comply with the provisions of such act; or
 45 (b) designated by the process described in section one hundred fifty-
 46 nine-m of this article (including an organization serving migrant or
 47 seasonal farmworkers that is so described or designated).

48 Such eligible entity shall have a tripartite board as its governing
 49 board ~~[which is constituted so as to assure that one third of the~~
 50 ~~members of the board are elected public officials, currently holding~~
 51 ~~office, or their representatives, to be selected by the chief elected~~
 52 ~~officials of the state or local government or combination thereof, who~~
 53 ~~possess the authority to designate an eligible entity pursuant to this~~
 54 ~~article, except that if the number of elected officials reasonably~~

1 ~~available and willing to serve is less than one-third of the membership~~
2 ~~of the board, membership on the board of appointive public officials may~~
3 ~~be counted in meeting such one-third requirements. At least one-third of~~
4 ~~the members are persons chosen in accordance with any democratic~~
5 ~~selection procedure which assures maximum feasible participation of poor~~
6 ~~persons residing in the area to be served by the eligible entity; and~~
7 ~~the remainder of the members are representatives of interest groups and~~
8 ~~private organizations within the community to be served, including but~~
9 ~~not limited to social service agencies, educational institutions, busi-~~
10 ~~ness, industrial, labor and religious organizations] which fully partic-~~
11 ~~ipates in the development, planning, implementation, and evaluation of~~
12 ~~the program to serve low-income communities and through which the entity~~
13 ~~shall administer the community services block grant program. However,~~
14 ~~such eligible entities which are public organizations shall have either~~
15 ~~a tripartite board or another mechanism specified by the state to assure~~
16 ~~decision making and participation by low-income individuals in the~~
17 ~~development, planning, implementation, and evaluation of programs funded~~
18 ~~under this article.~~

19 § 3. Section 159-e of the executive law is amended by adding a new
20 subdivision 2 to read as follows:

21 2. "Tripartite board" shall mean

22 (a) the governing board of a private nonprofit entity selected by the
23 entity and composed so as to assure that

24 (1) one-third of the members of the board are elected public offi-
25 cial, holding office on the date of selection, or their represen-
26 tatives, except that if the number of such elected officials reasonably
27 available and willing to serve on the board is less than one-third of
28 the membership of the board, membership on the board of appointive
29 public officials or their representatives may be counted in meeting such
30 one-third requirement;

31 (2) (A) not fewer than one-third of the members are persons chosen in
32 accordance with democratic selection procedures adequate to assure that
33 these members are representative of low-income individuals and families
34 in the neighborhood served; and

35 (B) each representative of low-income individuals and families
36 selected to represent a specific neighborhood within a community under
37 clause (A) of this subparagraph resides in the neighborhood represented
38 by the member; and

39 (3) the remainder of the members are officials or members of business,
40 industry, labor, religious, law enforcement, education, or other major
41 groups and interests in the community served; or

42 (b) the governing board of a public organization, which shall have
43 members selected by the organization and shall be composed so as to
44 assure that not fewer than one-third of the members are persons chosen
45 in accordance with democratic selection procedures adequate to assure
46 that these members

47 (1) are representative of low-income individuals and families in the
48 neighborhood served;

49 (2) reside in the neighborhood served; and

50 (3) are able to participate actively in the development, planning,
51 implementation, and evaluation of programs funded under this article.

52 § 4. Section 159-i of the executive law, as amended by section 1 of
53 part R of chapter 59 of the laws of 2008, is amended to read as follows:

54 § 159-i. Distribution of funds. For federal fiscal year two thousand
55 ~~nine] ten~~ at least ninety percent of the community services block grant
56 funds received by the state shall be distributed pursuant to a contract

1 by the secretary to ~~[grantees]~~ eligible entities as defined in subdivi-
2 sion one of section one hundred fifty-nine-e of this article. Each such
3 ~~[grantee]~~ eligible entity shall receive the same proportion of community
4 services block grant funds as was the proportion of funds received in
5 the immediately preceding federal fiscal year ~~[nineteen hundred eighty-~~
6 ~~one by such grantee]~~ under the federal community services ~~[adminis-~~
7 ~~tration]~~ block grant program ~~[account numbers 01 and 05 pursuant to~~
8 ~~section two hundred twenty one of title II and for migrant and seasonal~~
9 ~~farm worker organizations pursuant to section two hundred twenty two of~~
10 ~~title II of the economic opportunity act of 1964, as amended,]~~ as
11 compared to the total amount received by all ~~[grantees]~~ eligible enti-
12 ties in the state, under the federal community services ~~[administration]~~
13 block grant program ~~[account numbers 01 and 05 pursuant to section two~~
14 ~~hundred twenty one of title II and for migrant and seasonal farm worker~~
15 ~~organizations pursuant to section two hundred twenty two of title II of~~
16 ~~such act in federal fiscal year nineteen hundred eighty one].~~

17 For federal fiscal year two thousand ~~[nine]~~ ten the secretary shall,
18 pursuant to section one hundred fifty-nine-h of this article, retain not
19 more than five percent of the community services block grant funds for
20 administration at the state level.

21 For federal fiscal year two thousand ~~[nine]~~ ten the remainder of the
22 community services block grant funds received by the state shall be
23 distributed pursuant to a contract by the secretary in the following
24 order of preference: a sum of up to one-half of one percent of the
25 community services block grant funds received by the state to Indian
26 tribes and tribal organizations as defined in this article, on the basis
27 of need; ~~[community action agencies established in federal fiscal year~~
28 ~~nineteen hundred eighty three; counties which do not have a community~~
29 ~~action agency in existence and seek to establish an organization which~~
30 ~~is consistent with the objectives of an eligible entity; limited purpose~~
31 ~~agencies which had received funding during federal fiscal year nineteen~~
32 ~~hundred eighty one under section two hundred twenty one, section two~~
33 ~~hundred twenty two(a)(4) or section two hundred thirty two of title II~~
34 ~~of the economic opportunity act of 1964, as amended,]~~ and to community
35 based organizations. Such remainder funds received by eligible entities
36 will not be included in determining the proportion of funds received by
37 any such entity in the immediately preceding federal fiscal year under
38 the federal community services block grant program.

39 § 5. Section 159-1 of the executive law, as added by chapter 710 of
40 the laws of 1983, is renumbered section 159-n and amended and two new
41 sections 159-1 and 159-m are added to read as follows:

42 § 159-1. Decertification and reduction of entity shares. 1. Any eligi-
43 ble entity that received funding in the previous federal fiscal year
44 through a community services block grant made under this article shall
45 not have its funding terminated under this article or reduced below the
46 proportional share of funding the entity received in the immediately
47 preceding federal fiscal year, as determined pursuant to section one
48 hundred fifty-nine-i of this article, unless, after providing notice and
49 an opportunity for a hearing on the record, the state determines that
50 cause exists for such termination or such reduction, subject to review
51 by the secretary of the United States department of health and human
52 services. For purposes of making a determination that cause exists for:

53 (a) a funding reduction, the term "cause" shall include

54 (1) a statewide redistribution of funds provided through a community
55 services block grant under this article to respond to

1 (A) the results of the most recently available census or other appro-
2 prate data;

3 (B) the designation of a new eligible entity; or

4 (C) severe economic dislocation; and

5 (2) the failure of an eligible entity to comply with the terms of an
6 agreement or a state plan, or to meet a state requirement, as described
7 in this section; or

8 (b) a termination, the term "cause" includes the failure of an eligi-
9 ble entity to comply with the terms of an agreement or a state plan, or
10 to meet a state requirement, as described in this section.

11 2. If the state determines, on the basis of a final decision in a
12 review pursuant to this article, that an eligible entity fails to comply
13 with the terms of an agreement or the state plan to provide services
14 under this article or to meet appropriate standards, goals, and other
15 requirements established by the state (including performance objec-
16 tives), the state shall:

17 (a) inform the entity of the deficiency to be corrected;

18 (b) require the entity to correct the deficiency;

19 (c) (1) offer training and technical assistance, if appropriate, to
20 help correct the deficiency, and prepare and submit to the secretary of
21 the United States department of health and human services a report stat-
22 ing the reasons for the determination; or

23 (2) if the state determines that such training and technical assist-
24 ance are not appropriate, it shall prepare and submit to the secretary
25 of the United States department of health and human services a report
26 stating the reasons for the determination;

27 (d) (1) at the discretion of the state (taking into account the seri-
28 ousness of the deficiency and the time reasonably required to correct
29 the deficiency), allow the entity to develop and implement and submit to
30 the state, within sixty days after being informed of the deficiency, a
31 quality improvement plan to correct such deficiency within a reasonable
32 period of time, as determined by the state; and

33 (2) not later than thirty days after receiving from an eligible entity
34 a proposed quality improvement plan pursuant to subparagraph one of this
35 paragraph, either approve such proposed plan or specify the reasons why
36 the proposed plan cannot be approved; and

37 (e) after providing adequate notice and an opportunity for a hearing,
38 initiate proceedings to terminate the designation of or reduce the fund-
39 ing under this article of the eligible entity unless the entity corrects
40 the deficiency.

41 3. A determination to terminate the designation or reduce the funding
42 of an eligible entity pursuant to subdivision two of this section is
43 reviewable by the secretary of the United States department of health
44 and human services, pursuant to the processes set forth in the federal
45 community services block grant act of 1981, as amended.

46 § 159-m. Designation and redesignation of eligible entities in
47 unserved areas. 1. Qualified organization in or near area. (a) In
48 general. If any geographic area of the state is not, or ceases to be,
49 served by an eligible entity under this article, and if the governor
50 decides to serve such area, the governor may solicit applications from,
51 and designate as an eligible entity

52 (1) a private nonprofit organization (which may include an eligible
53 entity) that is geographically located in the unserved area, that is
54 capable of providing a broad range of services designed to eliminate
55 poverty and foster self-sufficiency, and that meets the requirements of
56 this article; and

1 (2) a private nonprofit eligible entity that is geographically located
2 in an area contiguous to or within reasonable proximity of the unserved
3 area and that is already providing related services in the unserved
4 area.

5 (b) Requirement. In order to serve as the eligible entity for the
6 area, an entity described in subparagraph two of paragraph (a) of this
7 subdivision shall agree to add additional members to the board of the
8 entity to ensure adequate representation

9 (1) in each of the three required categories described in paragraph
10 (a) of subdivision two of section one hundred fifty-nine-e of this arti-
11 cle, by members that reside in the community comprised by the unserved
12 area; and

13 (2) in the category described in subparagraph two of paragraph (a) of
14 subdivision two of section one hundred fifty-nine-e of this article, by
15 members that reside in the neighborhood to be served.

16 2. Special consideration. In designating an eligible entity under
17 subdivision one of this section, the governor shall grant the desig-
18 nation to an organization of demonstrated effectiveness in meeting the
19 goals and purposes of this article and may give priority, in granting
20 the designation, to eligible entities that are providing related
21 services in the unserved area, consistent with the needs identified by a
22 community-needs assessment.

23 3. No qualified organization in or near area. If no private, nonprofit
24 organization is identified or determined to be qualified under subdivi-
25 sion one of this section to serve the unserved area as an eligible enti-
26 ty the governor may designate an appropriate political subdivision of
27 the state to serve as an eligible entity for the area. In order to serve
28 as the eligible entity for that area, the political subdivision shall
29 have a tripartite board or other mechanism as required in section one
30 hundred fifty-nine-e of this article.

31 § 159-n. Report of the secretary. The secretary of state shall report
32 to the governor and the legislature by [~~January~~] March fifteenth of each
33 year on the administration of the community services block grant
34 program. The report shall include, but not be limited to, the results of
35 the monitoring and evaluation of recipients of funds under the program
36 and any recommendation for changes which the secretary of state deems
37 necessary for the effective administration of the program.

38 § 6. Section 5 of chapter 728 of the laws of 1982, amending the execu-
39 tive law relating to community services block grant programs, as amended
40 by section 2 of part R of chapter 59 of the laws of 2008, is amended to
41 read as follows:

42 § 5. This act shall take effect immediately provided, however, that
43 section four hereof shall take effect October 1, 1982 and provided
44 further, however, that the provisions of sections two, three and four of
45 this act shall be in full force and effect only until September 30, 1983
46 and section one of this act shall be in full force and effect until
47 September 30, [~~2009~~] 2010, provided, however, that the distribution of
48 funds pursuant to section 159-i of the executive law shall be limited to
49 the federal fiscal year expressly set forth in such section.

50 § 7. Section 7 of chapter 710 of the laws of 1983, amending the execu-
51 tive law relating to community services block grant programs, as amended
52 by section 3 of part R of chapter 59 of the laws of 2008, is amended to
53 read as follows:

54 § 7. This act shall take effect September 30, 1983 and shall be in
55 full force and effect only until September 30, [~~2009~~] 2010 at which time
56 the amendments and additions made pursuant to the provisions of this act

1 shall be deemed to be repealed, provided, however, that the distribution
2 of funds pursuant to section 159-i of the executive law shall be limited
3 to the federal fiscal year expressly set forth in such section.

4 § 8. This act shall take effect immediately; provided, however, the
5 amendments to section 159-e of the executive law made by section three
6 of this act shall not affect the expiration of such section as provided
7 in section 5 of chapter 728 of the laws of 1982, as amended, and shall
8 be deemed to expire therewith; provided, further, that the amendments to
9 sections 159-e and 159-i of the executive law made by sections two and
10 four of this act shall not affect the expiration of such sections as
11 provided in section 5 of chapter 728 of the laws of 1982, as amended,
12 and section 7 of chapter 710 of the laws of 1983, as amended, and shall
13 be deemed to expire therewith; provided, further, that the addition of
14 sections 159-l and 159-m to article 6-D of the executive law, made by
15 section five of this act shall not affect the expiration of such article
16 as provided in section 5 of chapter 728 of the laws of 1982, as amended,
17 and such sections shall be deemed to expire therewith; and provided,
18 further, that the amendments to section 159-n of the executive law made
19 by section five of this act shall not affect the repeal of such section
20 as provided in section 7 of chapter 710 of the laws of 1983, as amended,
21 and shall be deemed repealed therewith.

22 PART S

23 Intentionally omitted.

24 PART T

25 Section 1. Section 1421 of the tax law, as amended by chapter 258 of
26 the laws of 2007, is amended to read as follows:

27 § 1421. Deposit and dispositions of revenues. From the taxes, interest
28 and penalties attributable to the tax imposed pursuant to section four-
29 teen hundred two of this article, the amount of thirty-three and one-
30 half million dollars shall be deposited by the comptroller in the envi-
31 ronmental protection fund established pursuant to section ninety-two-s
32 of the state finance law for the fiscal year beginning April first,
33 nineteen hundred ninety-five; the amount of eighty-seven million dollars
34 shall be deposited in such fund for the fiscal years beginning April
35 first, nineteen hundred ninety-six and nineteen hundred ninety-seven;
36 the amount of one hundred twelve million dollars shall be deposited in
37 such fund for the fiscal years beginning April first, nineteen hundred
38 ninety-eight, nineteen hundred ninety-nine, two thousand, two thousand
39 one, two thousand two, two thousand three, two thousand four and two
40 thousand five; the amount of one hundred thirty-seven million dollars
41 shall be deposited in such fund for the fiscal year beginning April
42 first, two thousand six; the amount of two hundred twelve million
43 dollars shall be deposited in such fund for the fiscal year beginning
44 April first, two thousand seven; the amount of two hundred thirty-seven
45 million dollars shall be deposited in such fund for the fiscal year
46 beginning April first, two thousand eight; ~~and the amount of two~~
47 ~~hundred eighty seven million dollars shall be deposited in such fund for~~
48 ~~the fiscal year beginning April first, two thousand nine] the amount of~~
49 one hundred ninety-nine million three hundred thousand dollars shall be
50 deposited in such fund for four fiscal years beginning April first, two
51 thousand nine; and for each fiscal year thereafter; provided however
52 that at the direction of the director of the budget, an additional

1 amount of up to twenty-five million dollars may be deposited in such
2 fund for the fiscal year beginning April first, two thousand seven and
3 ending March thirty-first, two thousand eight, for disposition as
4 provided under such section. On or before June twelfth, nineteen hundred
5 ninety-five and on or before the twelfth day of each month thereafter
6 (excepting the first and second months of each fiscal year), the comp-
7 troller shall deposit into such fund from the taxes, interest and penal-
8 ties collected pursuant to such section fourteen hundred two of this
9 article which have been deposited and remain to the comptroller's credit
10 in the banks, banking houses or trust companies referred to in section
11 one hundred seventy-one-a of this chapter at the close of business on
12 the last day of the preceding month, an amount equal to one-tenth of the
13 annual amount required to be deposited in such fund pursuant to this
14 section for the fiscal year in which such deposit is required to be
15 made. In the event such amount of taxes, interest and penalties so
16 remaining to the comptroller's credit is less than the amount required
17 to be deposited in such fund by the comptroller, an amount equal to the
18 shortfall shall be deposited in such fund by the comptroller with subse-
19 quent deposits, as soon as the revenue is available. Beginning April
20 first, nineteen hundred ninety-seven, the comptroller shall transfer
21 monthly to the clean water/clean air fund established pursuant to
22 section ninety-seven-bbb of the state finance law, all moneys remaining
23 from such taxes, interest and penalties collected that are not required
24 for deposit in the environmental protection fund.

25 § 2. Subdivision 3 of section 92-s of the state finance law, as
26 amended by chapter 145 of the laws of 2004, is amended to read as
27 follows:

28 3. Such fund shall consist of the amount of revenue collected within
29 the state from the amount of revenue, interest and penalties deposited
30 pursuant to section fourteen hundred twenty-one of the tax law, the
31 amount of fees and penalties received from easements or leases pursuant
32 to subdivision fourteen of section seventy-five of the public lands law
33 and the money received as annual service charges pursuant to section
34 four hundred four-1 of the vehicle and traffic law, all moneys required
35 to be deposited therein from the contingency reserve fund pursuant to
36 section two hundred ninety-four of chapter fifty-seven of the laws of
37 nineteen hundred ninety-three, all moneys required to be deposited
38 pursuant to section thirteen of chapter six hundred ten of the laws of
39 nineteen hundred ninety-three, repayments of loans made pursuant to
40 section 54-0511 of the environmental conservation law, all moneys to be
41 deposited from the Northville settlement pursuant to section one hundred
42 twenty-four of chapter three hundred nine of the laws of nineteen
43 hundred ninety-six, provided however, that such moneys shall only be
44 used for the cost of the purchase of private lands in the core area of
45 the central Suffolk pine barrens pursuant to a consent order with the
46 Northville industries signed on October thirteenth, nineteen hundred
47 ninety-four and the related resource restoration and replacement plan,
48 the amount of penalties required to be deposited therein by section
49 71-2724 of the environmental conservation law, all moneys required to be
50 deposited pursuant to article thirty-three of the environmental conser-
51 vation law, all fees collected pursuant to subdivision eight of section
52 70-0117 of the environmental conservation law, as added by a chapter of
53 the laws of two thousand nine, all moneys collected pursuant to title
54 thirty-three of article fifteen of the environmental conservation law,
55 as added by a chapter of the laws of two thousand nine and all other
56 moneys credited or transferred thereto from any other fund or source

1 pursuant to law. All such revenue shall be initially deposited into the
2 environmental protection fund, for application as provided in subdivi-
3 sion five of this section.

4 § 3. This act shall take effect immediately.

5

PART U

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

10 § 2. This act shall take effect immediately and shall be deemed to
11 have been in full force and effect on and after April 1, 2009.

12

PART V

13 Section 1. The racing, pari-mutuel wagering and breeding law is
14 amended by adding a new section 112 to read as follows:

15 § 112. Fee for the start of a horse in New York state pari-mutuel
16 racers. 1. In order to provide supplemental funding to support the oper-
17 ations of the state racing and wagering board, a fee in the amount of
18 ten dollars shall be assessed and paid upon every horse entered in a
19 pari-mutuel race in New York state that actually starts in the race.
20 Such fee shall be refunded to the owner or credited to the owner's
21 account in the event the horse does not actually start in the race. The
22 state racing and wagering board shall, as a condition of racing, require
23 any corporation authorized under this chapter to conduct pari-mutuel
24 betting at a race meeting or races run thereat, to require that each
25 owner racing a horse shall have placed on deposit at the time of entry
26 with the horsemen's bookkeeper or similar office of such corporation the
27 required fee in the amount of ten dollars per horse entered in a pari-
28 mutuel race. Unless refunded or credited, the total fee amount collected
29 during the preceding month by the horsemen's bookkeeper or similar
30 office of such corporation shall be paid to the racing and wagering
31 board on the first business day of each month. Payment shall be accompa-
32 nyed by a report, under oath, showing such information as the board may
33 require. A penalty of five percent, and interest at the rate of one
34 percent per month from the date the report is required to be filed to
35 the date of the payment of the fee, shall be payable in case any fee
36 imposed by this subdivision is not paid when due. If the board deter-
37 mines that any fees received by it under this subdivision were paid in
38 error, the board may cause the same to be refunded without interest out
39 of any monies collected hereunder, provided an application therefor is
40 filed with the board within one year from the time the erroneous payment
41 is made.

42 2. The board or its duly authorized representatives shall have the
43 power to examine or cause to be examined the books and records of such
44 corporations required to pay over the fee imposed by this section for
45 the purpose of examining and checking the same and ascertaining whether
46 the proper amount or amounts due are being paid. If in the opinion of
47 the board, after such examination, any such report is incorrect, the
48 board is authorized to issue an assessment fixing the correct amount of
49 such fee. Such assessments may be issued within three years from the
50 filing of any report. Any such assessment shall be final and conclusive
51 unless an application for a hearing is filed by the reporting entity
52 within thirty days of the assessment. The action of the board in making

1 such final assessment shall be reviewable in the supreme court in the
2 manner provided by and subject to the provisions of article seventy-
3 eight of the civil practice law and rules.

4 3. The board shall pay into the racing regulation account, under the
5 joint custody of the comptroller and the board, the total amount of the
6 fees collected pursuant to this section. With the approval of the direc-
7 tor of the budget, monies to be utilized to pay the costs and expenses
8 of the operations of the state racing and wagering board shall be paid
9 out of such account on the audit and warrant of the comptroller on
10 vouchers, certified and approved by the director of the division of the
11 budget or his or her duly designated official.

12 § 2. This act shall take effect on the thirtieth day after it shall
13 have become a law.

14 PART W

15 Intentionally omitted.

16 PART X

17 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
18 New York state urban development corporation act relating to the powers
19 of the New York state urban development corporation to make loans, as
20 amended by section 1 of part W of chapter 59 of the laws of 2008, is
21 amended to read as follows:

22 § 2. This act shall take effect immediately provided, however, that
23 section one of this act shall expire on July 1, [~~2009~~] 2010, at which
24 time the provisions of subdivision 26 of section 5 of the New York state
25 urban development corporation act shall be deemed repealed; provided,
26 however, that neither the expiration nor the repeal of such subdivision
27 as provided for herein shall be deemed to affect or impair in any manner
28 any loan made pursuant to the authority of such subdivision prior to
29 such expiration and repeal.

30 § 2. This act shall take effect immediately and shall be deemed to
31 have been in full force and effect on and after April 1, 2009.

32 PART Y

33 Section 1. Expenditures of moneys appropriated in a chapter of the
34 laws of 2009 to the energy research and development authority from the
35 special revenue funds - other/state operations, miscellaneous special
36 revenue fund-339, energy research and planning account, and special
37 revenue funds - other/aid to localities, miscellaneous special revenue
38 fund - 339, energy research and planning account under the research,
39 development and demonstration and policy and planning programs for
40 services and expenses for the research, development and demonstration
41 and policy and planning programs shall be subject to the provisions of
42 this section. Notwithstanding the provisions of subdivision 4-a of
43 section 18-a of the public service law, all moneys committed or expended
44 shall be reimbursed by assessment against gas corporations and electric
45 corporations as defined in section 2 of the public service law, and the
46 total amount which may be charged to any gas corporation and any elec-
47 tric corporation shall not exceed one cent per one thousand cubic feet
48 of gas sold and .010 cent per kilowatt-hour of electricity sold by such
49 corporations in their intrastate utility operations in calendar year
50 2007. Such amounts shall be excluded from the general assessment

1 provisions of subdivision 2 of section 18-a of the public service law,
2 but shall be billed and paid in the manner set forth in such subdivision
3 and upon receipt shall be paid to the state comptroller for deposit in
4 the state treasury for credit to the miscellaneous special revenue fund.
5 The director of the budget shall not issue a certificate of approval
6 with respect to the commitment and expenditure of moneys hereby appro-
7 priated until the chair of such authority shall have submitted, and the
8 director of the budget shall have approved, a comprehensive financial
9 plan encompassing all moneys available to and all anticipated commit-
10 ments and expenditures by such authority from any source for the oper-
11 ations of such authority. Copies of the approved comprehensive financial
12 plan shall be immediately submitted by the director of the budget to the
13 chairs and secretaries of the legislative fiscal committees.

14 § 2. This act shall take effect immediately and shall be deemed to
15 have been in full force and effect on and after April 1, 2009.

16

PART Z

17 Section 1. Notwithstanding any other provision of law, the governor
18 shall include an appropriation in a budget bill for each state fiscal
19 year that reflects the value of the assets transferred from the power
20 authority of the state of New York to the state of New York pursuant to
21 a memorandum of understanding between the power authority of the state
22 of New York and the state of New York relating to the transfer to the
23 state of New York of assets aggregating \$318,000,000 presently held in
24 certain accounts of the power authority of the state of New York. The
25 state comptroller shall encumber the amount so appropriated before the
26 end of the fiscal year for which such appropriation is made. If for any
27 of the fiscal years commencing during the period from April 1, 2009
28 until such time as the assets have been returned by the state of New
29 York to the power authority of the state of New York the governor fails
30 to submit a budget bill containing an appropriation of such amount, such
31 amount appropriated to and encumbered during the preceding fiscal year
32 shall be payable to the authority on the last day of June of such year.

33 § 2. This act shall take effect immediately.

34

PART AA

35 Section 1. Subdivisions 2, 3 and 4 of section 1975 of the public
36 authorities law are renumbered subdivisions 3, 4 and 5, and a new subdi-
37 vision 2 is added to read as follows:

38 2. Notwithstanding any provision of law to the contrary, the authority
39 is hereby authorized to contribute twenty million dollars to the state
40 treasury to the credit of the general fund.

41 § 2. Subdivision 1 of section 1977-a of the public authorities law is
42 amended by adding a new paragraph (e) to read as follows:

43 (e) Additional authorizations. For the purpose of financing costs of
44 the state, the authority may, in addition to the authorizations
45 contained elsewhere in this title, borrow money by issuing bonds or
46 notes in an aggregate principal amount not exceeding two hundred fifty
47 million dollars plus a principal amount of bonds or notes issued (i) to
48 fund any related debt service reserve fund, (ii) to provide capitalized
49 interest, and (iii) to provide for fees and other charges and expenses
50 including any underwriters' discounts, related to the issuance of such
51 bonds or notes, all as determined by the authority, excluding bonds and

1 notes issued to refund outstanding bonds and notes issued pursuant to
2 this section.

3 § 3. This act shall take effect April 1, 2009.

4 PART BB

5 Section 1. Notwithstanding any provisions of law to the contrary, the
6 New York state urban development corporation is authorized to contribute
7 up to seven million dollars to the Governors Island Preservation and
8 Education Corporation, from excess receipts which are authorized to be
9 paid to the urban development corporation under certain provisions of
10 the public authorities control board resolutions, 04-UD-838A and 06-UD-
11 900.

12 § 2. This act shall take effect immediately and shall be deemed to
13 have been in full force and effect on and after April 1, 2009.

14 PART CC

15 Intentionally omitted.

16 PART DD

17 Intentionally omitted.

18 PART EE

19 Intentionally omitted.

20 PART FF

21 Section 1. Subdivision 2 of section 2976 of the public authorities
22 law, as amended by section 1 of part X of chapter 85 of the laws of
23 2002, is amended to read as follows:

24 2. The bond issuance charge shall be computed by multiplying the prin-
25 cipal amount of bonds issued by the percentage set forth in the schedule
26 below, provided that: (a) the charge applicable to the principal amount
27 of single family mortgage revenue bonds shall be seven one-hundredths of
28 one percent; (b) the issuance of bonds shall not include the remarketing
29 of bonds; and (c) the issuance of bonds shall not include the current
30 refunding of short term bonds, notes or other obligations for which the
31 bond issuance charge provided by this section has been paid, provided
32 that such current refunding (i) occurs within one year from the issuance
33 of the refunded obligations, or (ii) is part of a program created by a
34 single indenture or bond resolution that provides for the periodic issu-
35 ance and refunding of short term obligations.

36 SCHEDULE

37 Principal Amount of Bonds Issued	Percentage Charge
38 a. \$1,000,000 or less	[.14%] <u>.168%</u>
39 b. \$1,000,001 to \$5,000,000	[.28%] <u>.336%</u>
40 c. \$5,000,001 to \$10,000,000	[.42%] <u>.504%</u>
41 d. \$10,000,001 to \$20,000,000	[.56%] <u>.672%</u>
42 e. More than \$20,000,000	[.70%] <u>.84%</u>

43 § 2. This act shall take effect immediately and shall be deemed to
44 have been in full force and effect on and after March 31, 2009.

45 PART GG

1 Section 1. Notwithstanding any provision of law to the contrary, all
2 functions, powers, duties, obligations and assets of the State North-
3 eastern Queens Nature and Historical Preserve Commission, as established
4 by chapter 919 of the laws of 1973, are transferred and assigned to, and
5 assumed by, the office of parks, recreation and historic preservation.

6 § 2. All books, papers, records and property of the State Northeastern
7 Queens Nature and Historical Preserve Commission are transferred and
8 assigned to, and assumed and devolved upon, the office of parks, recre-
9 ation and historic preservation.

10 § 3. Any business or other matter undertaken or commenced by the State
11 Northeastern Queens Nature and Historical Preserve Commission relating
12 to the functions, powers, duties and obligations of such commission and
13 pending on the effective date of this act, may be conducted and
14 completed by the office of parks, recreation and historic preservation
15 in the same manner and under the same terms and conditions and with the
16 same effect as if conducted by the State Northeastern Queens Nature and
17 Historical Preserve Commission.

18 § 4. All rules, regulations, acts, determinations and decisions of the
19 State Northeastern Queens Nature and Historical Preserve Commission with
20 respect to the functions, powers, duties and obligations of such commis-
21 sion in force and effect on the effective date of this act shall contin-
22 ue in force and effect as rules, regulations, acts, determinations and
23 decisions of the office of parks, recreation and historic preservation
24 until amended or revised by such office.

25 § 5. Whenever the functions, powers, duties and obligations relating
26 to the State Northeastern Queens Nature and Historical Preserve Commis-
27 sion are referred to or designated in any law, contract or document,
28 such reference or designation shall be deemed to refer to the appropri-
29 ate functions, powers, duties and obligations of the office of parks,
30 recreation and historic preservation.

31 § 6. No existing right or remedy of any character shall be lost,
32 impaired or affected by reason of this act.

33 § 7. Chapter 919 of the laws of 1973, relating to establishing the
34 State Northeastern Queens Nature and Historical Preserve, is REPEALED.

35 § 8. This act shall take effect immediately.

36 PART HH

37 Intentionally omitted.

38 PART II

39 Section 1. Subdivision 1 of section 133-a of the agriculture and
40 markets law, as amended by chapter 233 of the laws of 1996, is amended
41 to read as follows:

42 1. Any person who distributes in this state any feed ingredient or
43 commercial feed, except a pet food or specialty pet food, shall pay to
44 the commissioner a tonnage fee at the rate of [~~five~~ ten cents per ton
45 for each ingredient or feed distributed, subject to the following:

46 (a) No fee shall be paid on a feed ingredient or commercial feed if
47 payment has been made for the particular ingredient or feed by a previ-
48 ous distributor;

49 (b) No fee shall be paid on a customer-formula feed if the tonnage fee
50 has been paid on the commercial feeds which are used as ingredients
51 therein[~~7~~

1 ~~(c) No fee shall be paid by persons distributing less than one hundred~~
2 ~~tons per year of any feed ingredient or commercial feed in this state].~~

3 § 2. The second undesignated paragraph of section 251-z-3 of the agri-
4 culture and markets law, as amended by chapter 80 of the laws of 2006,
5 is amended to read as follows:

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

29 § 3. Subdivision 5 of section 500 of the agriculture and markets law,
30 as added by section 8 of part II of chapter 62 of the laws of 2003, is
31 amended to read as follows:

32 5. Licensure. No person shall maintain or operate a retail food store,
33 food service establishment or food warehouse unless such establishment
34 is licensed pursuant to the provisions of this article, provided, howev-
35 er, that establishments registered, permitted or licensed by the depart-
36 ment pursuant to other provisions of this chapter, under permit and
37 inspection by the state department of health or by a local health agency
38 which maintains a program certified and approved by the state commis-
39 sioner of health, or subject to inspection by the United States depart-
40 ment of agriculture pursuant to the federal meat, poultry or egg
41 inspection programs, shall be exempt from licensure under this article.
42 Application for licensure of a retail food store, food service estab-
43 lishment or food warehouse shall be made, upon a form prescribed by the
44 commissioner, on or before December first of every other year for the
45 registration period beginning January first following. Upon submission
46 of a completed application, together with the applicable licensing fee,
47 the commissioner shall license the retail food store, food service
48 establishment or food warehouse described in the application for two
49 years from the applicable registration commencement period set forth in
50 this section. The licensing fee shall be [~~one hundred~~] two hundred fifty
51 dollars provided, however, that food warehouses shall pay a licensing
52 fee of [~~two~~] four hundred dollars. [~~The commissioner shall prorate the~~
53 ~~licensing fee for any person licensed after the commencement of the~~
54 ~~licensing period.]~~

55 § 4. This act shall take effect immediately.

1

PART JJ

2 Section 1. Subdivisions a, b, c, d, e, f, g, h, q and r of section
3 72-0602 of the environmental conservation law, subdivisions a and b as
4 amended by chapter 62 of the laws of 1989, subdivisions c, d, e, f, g
5 and h as amended by section 1 of part T1 of chapter 62 of the laws of
6 2003 and subdivision q as added and subdivision r as amended by section
7 1 of part Q of chapter 59 of the laws of 2004, are amended and a new
8 subdivision s is added to read as follows:

9 a. ~~[\$100.00]~~ \$300.00 for any P/C/I facilities having a permit to
10 discharge or discharging at an average daily rate of less than 100,000
11 gallons;

12 b. ~~[\$200.00]~~ \$600.00 for P/C/I facilities having a permit to discharge
13 or discharging at an average daily rate of 100,000 gallons or more;

14 c. ~~[\$475.00]~~ \$600.00 for industrial facilities having a permit to
15 discharge or discharging at an average daily rate of less than 10,000
16 gallons;

17 d. ~~[\$1,575.00]~~ \$2,000.00 for industrial facilities having a permit to
18 discharge or discharging at an average daily rate of between 10,000
19 gallons and 99,999 gallons;

20 e. ~~[\$4,750.00]~~ \$6,000.00 for industrial facilities having a permit to
21 discharge or discharging at an average daily rate of between 100,000
22 gallons and 499,999 gallons;

23 f. ~~[\$15,750.00]~~ \$20,000.00 for industrial facilities having a permit
24 to discharge or discharging at an average daily rate of between 500,000
25 and 999,999 gallons;

26 g. ~~[\$23,500.00]~~ \$30,000.00 for industrial facilities having a permit
27 to discharge or discharging at an average daily rate of between
28 1,000,000 and 9,999,999 gallons;

29 h. ~~[\$47,000.00]~~ \$50,000.00 for industrial facilities having a permit
30 to discharge or discharging at an average daily rate of 10,000,000
31 gallons or more;

32 q. ~~[\$50.00]~~ \$100.00 per acre disturbed plus ~~[\$300.00]~~ \$600.00 per
33 future impervious acre for any facility, not owned or managed by a local
34 government or a state department, agency, or authority, discharging or
35 authorized to discharge pursuant to a SPDES permit for stormwater
36 discharges from construction activity. For the purposes of this subdivi-
37 sion, acres disturbed are acres subject to clearing, grading, or exca-
38 vating subject to SPDES permitting and future impervious acres are acres
39 that will be newly paved or roofed during construction;

40 r. \$50.00 for a medium concentrated animal feeding operation discharg-
41 ing or authorized to discharge pursuant to a general permit;

42 s. \$50.00 for a large concentrated animal feeding operation discharg-
43 ing or authorized to discharge pursuant to a general permit;

44 t. ~~[\$50.00]~~ \$100.00 for any facility, other than a municipal separate
45 storm sewer as defined by 40 CFR §122.26 (b) (8), discharging or author-
46 ized to discharge pursuant to a general permit[~~7~~] unless a [higher]
47 specific fee is imposed pursuant to subdivisions a through [q] s of this
48 section for such discharge or authorization to discharge[~~7~~, ~~provided that~~
49 ~~the department may by regulation, establish a general permit fee lower~~
50 ~~than the permit fee imposed pursuant to subdivisions a through q of this~~
51 ~~section].~~

52 § 2. This act shall take effect immediately, and shall be deemed to
53 have been in full force and effect on and after April 1, 2009.

54

PART KK

1 Section 1. Subdivision 5 of section 11-0701 of the environmental
2 conservation law is amended by adding a new paragraph c to read as
3 follows:

4 c. A combined resident fishing, small and big game, muzzle-loading
5 stamp and trapping license, hereinafter in this article referred to as a
6 resident trapper super-sportsman license, entitles the holder to the
7 privileges the holder would have if the holder held separately a fishing
8 license, a small and big game license, a muzzle-loading stamp, a trap-
9 ping license, and a turkey permit.

10 § 2. Subdivision 1 of section 11-0702 of the environmental conserva-
11 tion law, as amended by section 18 of part F of chapter 82 of the laws
12 of 2002, is amended to read as follows:

13 1. There are hereby created the following lifetime hunting, fishing,
14 trapping, archery and muzzle-loading licenses and fees therefor subject
15 to the same privileges and obligations of a comparable short term
16 license:

Licenses	Fees
17 a. Lifetime sportsman 18 license and turkey 19 permit. If purchased, 20 for a child four years 21 of age or younger	[\$300.00] <u>\$380.00</u>
23 for a child age five through 24 eleven years of age	[\$420.00] <u>\$535.00</u>
25 for a person age twelve through 26 [sixty-four] <u>sixty-nine</u> 27 years of age	[\$600.00] <u>\$765.00</u>
28 for a person age [sixty-five] <u>seventy</u> 29 and over.	[\$ 50.00] <u>\$65.00</u>
30 b. Lifetime small and 31 big game license.	[\$350.00] <u>\$535.00</u>
32 c. Lifetime fishing 33 license <u>for a person age</u> 34 <u>sixty-nine or younger.</u>	[\$350.00] <u>\$460.00</u>
35 d. <u>Lifetime fishing license</u> 36 <u>for a person age seventy and over.</u>	<u>\$ 65.00</u>
37 e. Lifetime trapping 38 license.	[\$300.00] <u>\$395.00</u>
39 [e.] f. Lifetime archery 40 stamp.	[\$180.00] <u>\$235.00</u>
41 [f.] g. Lifetime muzzle- 42 loading stamp.	[\$180.00] <u>\$235.00</u>

43 The holder of a lifetime small and big game license or fishing license
44 may, at any time, convert such license to a lifetime sportsman license

1 and turkey permit for an additional fee equal to the existing differen-
2 tial.

3 § 3. Subdivision 2 of section 11-0715 of the environmental conserva-
4 tion law, as amended by chapter 418 of the laws of 2004, is amended to
5 read as follows:

6 2. A ~~[resident in the state for thirty days immediately prior to the~~
7 ~~date of application who has attained the age of seventy is entitled to~~
8 ~~receive all licenses, stamps, tags, buttons, and permits authorized by~~
9 ~~this title for which he or she is eligible, except turkey permits,~~
10 ~~renewable each year for a five dollar fee; a]~~ member of the Shinnecock
11 tribe or the Poospatuck tribe or a member of the six nations, residing
12 on any reservation wholly or partly within the state, is entitled to
13 receive free of charge a fishing license, a small and big game license,
14 a sportsman license, a muzzle-loading stamp, a trapping license, and a
15 bow hunting stamp; a resident of the state who is a member of the United
16 States armed forces in active service who is not stationed within the
17 state and has not been herein longer than thirty days on leave or
18 furlough, is entitled to receive free of charge a fishing license, a
19 small and big game license, and a trapping license; a resident of the
20 state who is an active member of the organized militia of the state of
21 New York as defined by section one of the military law, or the reserve
22 components of the armed forces of the United States, and excluding
23 members of the inactive national guard and individual ready reserve, is
24 entitled to receive free of charge a fishing license, a small and big
25 game license, and a trapping license; and a resident who is blind is
26 entitled to receive a fishing license free of charge. For the purposes
27 of this subdivision a person is blind only if either: (a) his or her
28 central visual acuity does not exceed 20/200 in the better eye with
29 correcting lenses, or (b) his or her visual acuity is greater than
30 20/200 but is accompanied by a limitation of the field of vision such
31 that the widest diameter of the visual field subtends an angle no great-
32 er than 20 degrees.

33 A resident in the state for a period of thirty days immediately prior
34 to the date of application who has attained the age of ~~[sixty five]~~
35 seventy is entitled to receive a sportsman license at the cost of ~~[five]~~
36 ten dollars as a license fee.

37 A resident in the state for a period of thirty days immediately prior
38 to the date of application who has attained the age of seventy is enti-
39 tled to receive a fishing license, and a trapping license, at a cost of
40 five dollars for each license.

41 A resident in the state for a period of thirty days immediately prior
42 to the date of application who has attained the age of seventy is enti-
43 tled to receive free of charge a bowhunting stamp and a muzzle-loading
44 stamp.

45 § 4. Subdivision 3 of section 11-0715 of the environmental conserva-
46 tion law, as amended by chapter 344 of the laws of 2008, is amended to
47 read as follows:

48 3. Each applicant for a license, permit or stamp shall pay to the
49 issuing officer a fee, according to the license, permit or stamp issued
50 and the residence or other qualification of the applicant.

51 a. In the case of persons who have been residents of the state for
52 more than thirty days immediately preceding the date of application or
53 who are enrolled in a full-time course at a college or university within
54 the state and who are in residence in the state for the school year,
55 Indians residing off reservations in the state and members of the United

1 States armed forces in active service stationed in this state regardless
2 of place of residence at the time of entry into service:

3	License	Fee
4	(1) Super-sportsman	[\$68.00] <u>\$88.00</u>
5	(2) <u>Trapper Super-sportsman</u>	<u>\$88.00</u>
6	(3) <u>(3)</u> Sportsman	[\$37.00] <u>\$47.00</u>
7	[+3] <u>(4)</u> Small and big game	[\$19.00] <u>\$29.00</u>
8	[+4] <u>(5)</u> Fishing	[\$19.00] <u>\$29.00</u>
9	[+5] <u>(6)</u> Trapping	[\$16.00] <u>\$21.00</u>
10	[+6] <u>(7)</u> Small game	[\$16.00] <u>\$26.00</u>
11	[+7] <u>(8)</u> Junior trapping	\$ 6.00
12	[+8] <u>(9)</u> Muzzle-loading stamp	[\$16.00] <u>\$21.00</u>
13	[+9] <u>(10)</u> Bowhunting stamp	[\$16.00] <u>\$21.00</u>
14	[+10] <u>(11)</u> Turkey permit	[\$ 5.00] <u>\$10.00</u>
15	[+11] <u>(12)</u> Seven-day fishing	[\$12.00] <u>\$15.00</u>
16	[+12] <u>(13)</u> Conservation legacy	[\$76.00] <u>\$96.00</u>
17	<u>(14) One-day fishing</u>	<u>\$ 5.00</u>

18 b. In the case of a non-resident and persons resident in the state for
19 less than thirty days, other than persons who are enrolled in a full-
20 time course at a college or university within the state and who are in
21 residence in the state for the school year and those members of the
22 United States armed forces as to whom fees are specified in paragraph a
23 of this subdivision:

24	License	Fee
25	(1) Big game	[\$110.00] <u>\$140.00</u>
26	(2) Small game	[\$ 55.00] <u>\$85.00</u>
27	(3) Fishing	[\$ 40.00] <u>\$70.00</u>
28	(4) Seven-day fishing	[\$ 25.00] <u>\$35.00</u>
29	(5) Trapping	[\$255.00] <u>\$310.00</u>
30	(6) Super-sportsman	[\$250.00] <u>\$280.00</u>
31	(7) Bowhunting	[\$110.00] <u>\$140.00</u>
32	(8) Muzzle-loading	[\$110.00] <u>\$140.00</u>
33	(9) Bear tag	[\$ 30.00] <u>\$50.00</u>
34	(10) Turkey permit	[\$ 30.00] <u>\$50.00</u>
35	<u>(11) One-day fishing</u>	<u>\$15.00</u>

36 c. In all cases:

37	(1) Certificates in lieu of lost license or stamp	
38	or tag	\$ 5.00
39	(2) Duplicate for lost or destroyed permit, button	
40	or tag	\$10.00
41	(3) Junior hunting license	\$ 5.00
42	(4) Junior archery license	\$ 9.00
43	(5) One-day fishing license	\$15.00
44	(6) Conservation patron license	\$12.00

45 § 5. Subdivision 4 of section 11-0715 of the environmental conserva-
46 tion law, as amended by section 31 of part F of chapter 82 of the laws
47 of 2002, is amended to read as follows:

48 4. A person, resident in the state for at least thirty days immediate-
49 ly prior to the date of application, who has been honorably discharged
50 from service in the armed forces of the United States and certified as
51 having a forty percent or greater service-connected disability is enti-
52 tled to receive all licenses, stamps, tags, buttons, and permits author-
53 ized by this title for which he or she is eligible, except turkey
54 permits, renewable each year for a five dollar fee.

1 § 6. Subdivision 7 of section 11-0913 of the environmental conserva-
2 tion law, as amended by section 48 of part F of chapter 82 of the laws
3 of 2002, is amended to read as follows:

4 7. The department shall charge and receive a fee of ten dollars for
5 the application and the processing of such permit or permits. Applicants
6 who are successful in the computerized selection shall receive the
7 permit or permits free of any additional charge. The application fee
8 shall be non-refundable. The department may waive the application fee
9 for holders of a lifetime sportsman license existing as of October
10 first, two thousand nine, junior archery [~~sportsman~~] license, resident
11 super-sportsman [~~, conservation legacy or non-resident super-sportsman~~]
12 license, or junior hunting license.

13 § 7. This act shall take effect October 1, 2009. Effective immediate-
14 ly, the addition, amendment, and/or repeal of any rule or regulation
15 necessary for the implementation of this act on its effective date are
16 authorized to be made on or before such date.

17 PART LL

18 Section 1. Subdivisions 4 and 16 of section 11-0701 of the environ-
19 mental conservation law, subdivision 4 as amended by chapter 470 of the
20 laws of 1994, and subdivision 16 as added by section 17 of part F of
21 chapter 82 of the laws of 2002, are amended to read as follows:

22 4. A fishing license entitles the holder to take fish by angling,
23 spearing, hooking, longbow and tipups, to take frogs by spearing, catch-
24 ing with the hands or by use of a club or hook, and to take bait fish
25 for personal use, as provided in titles 9 and 13 of this article, except
26 that such license shall not entitle the holder to take migratory fish of
27 the sea or to take fish from the waters of the marine district.

28 16. A conservation legacy license entitles the holder to fish, except
29 for migratory fish of the sea or from the waters of the marine district,
30 hunt wildlife, hunt big game with a longbow and a muzzle-loading firearm
31 during special seasons therefor, hunt turkey, enjoy the benefits of a
32 voluntary habitat stamp and receive the "New York State Conservationist"
33 magazine as if the holder of such license held separately a resident
34 super-sportsman license, a voluntary habitat stamp and a subscription to
35 the "New York State Conservationist" magazine.

36 § 2. Subdivision 1 of section 11-0702 of the environmental conserva-
37 tion law, as amended by section 18 of part F of chapter 82 of the laws
38 of 2002, is amended to read as follows:

39 1. There are hereby created the following lifetime hunting, fishing,
40 trapping, archery and muzzle-loading licenses and fees therefor subject
41 to the same privileges and obligations of a comparable short term
42 license:

43 Licenses	Fees
44 a. Lifetime sportsman 45 license and turkey 46 permit. If purchased, 47 for a child four years 48 of age or younger	\$300.00
49 for a child age five through 50 eleven years of age	\$420.00

1	for a person age twelve through	
2	sixty-four years of age	\$600.00
3	for a person age sixty-five	
4	and over.	\$ 50.00
5	b. Lifetime small and	
6	big game license.	\$350.00
7	c. Lifetime fishing	
8	license.	\$350.00
9	d. Lifetime trapping	
10	license.	\$300.00
11	e. Lifetime archery	
12	stamp.	\$180.00
13	f. Lifetime muzzle-	
14	loading stamp.	\$180.00
15	<u>g. Lifetime recreational</u>	
16	<u>marine fishing license.</u>	<u>\$150.00</u>
17	<u>h. Lifetime combination fishing</u>	
18	<u>and recreational marine fishing</u>	
19	<u>license.</u>	<u>\$450.00</u>

20 The holder of a lifetime small and big game license or fishing license
 21 may, at any time, convert such license to a lifetime sportsman license
 22 and turkey permit for an additional fee equal to the existing differen-
 23 tial.

24 § 3. Subdivision 6 of section 11-0707 of the environmental conserva-
 25 tion law is REPEALED.

26 § 4. Subdivisions 1 and 5 of section 11-0713 of the environmental
 27 conservation law, paragraph a of subdivision 1 as amended by section 4
 28 of part D of chapter 61 of the laws of 2000, paragraph b of subdivision
 29 1 as relettered by chapter 470 of the laws of 1994, paragraph d of
 30 subdivision 1 as amended by chapter 108 of the laws of 1995 and subdivi-
 31 sion 5 as added by chapter 316 of the laws of 1996 and as renumbered by
 32 section 5 of part D of chapter 61 of the laws of 2000, are amended to
 33 read as follows:

34 1. a. All licenses, stamps, tags, buttons, permits, and permit appli-
 35 cations authorized by this title or section 13-0355 of this chapter, and
 36 any additional privileges authorized by the department shall be issued
 37 by:

38 (1) clerks of a county, town or city, except a city having a popu-
 39 lation of one million or more, although such clerks may request authori-
 40 zation from the department to cease issuing such licenses,

41 (2) clerks of a village having more than one thousand inhabitants
 42 according to the last preceding federal census, or of a village in a
 43 county of less than five hundred thousand inhabitants, adjoining a city
 44 of over one million inhabitants, both according to such census, although
 45 such clerks may request authorization from the department to cease issu-
 46 ing such licenses, and

1 (3) [~~License~~] license issuing officers as may be appointed by the
2 commissioner. Applicants for designation as license issuing officers
3 shall be over the age of eighteen years and shall meet such other
4 requirements of eligibility, including posting bond, as the department
5 may by regulation specify. Such issuing officers shall be entitled to
6 receive and keep the same fees for issuing licenses and stamps that are
7 specified in section 11-0715 of this [~~article~~] title for issuing clerks
8 and section 13-0355 of this chapter, and shall file reports and remit
9 license fees to the appropriate regional environmental conservation
10 officer or the department as required by regulation.

11 b. Special antlerless deer licenses shall be issued by the department
12 as provided in subdivision 6 of section 11-0903 of this article.

13 [~~d.~~] c. One-day fishing licenses and one-day recreational marine fish-
14 ing licenses may be issued by any person who has never been convicted of
15 or pleaded guilty to a misdemeanor under this chapter within the past
16 three years, and has not been convicted of a crime under any other law.
17 [~~One-day fishing~~] Such licenses shall be issued to any such person
18 following payment of [~~ten dollars~~] the applicable license fee for each
19 license. One-day fishing licenses and one-day recreational marine fish-
20 ing licenses may be sold by the initial purchaser for no more than [~~ten~~
21 ~~dollars as a~~] the applicable license fee [~~and~~], plus one dollar for the
22 person selling such license. In the case of misuse or fraud in handling
23 the fishing licenses, the department shall have the authority to revoke
24 the privilege to buy and sell the licenses.

25 5. The commissioner shall establish a toll-free telephone number or a
26 dedicated number for use to purchase sporting licenses by credit card
27 purchasers. Notwithstanding any inconsistent provision of this chapter,
28 the commissioner may authorize the sale of licenses via the internet,
29 telephone or mail and establish procedures therefor, and may, through
30 bulk sales or otherwise, furnish licenses for retail sale to outdoor and
31 recreational outlets and not-for-profit organizations, and the depart-
32 ment may sell licenses at department facilities. Except as provided in
33 subdivision 1 of this section, a license sold at retail shall not be
34 sold for a price which exceeds the fee for such license established in
35 the fish and wildlife law.

36 § 5. Subdivision 1 of section 13-0336 of the environmental conserva-
37 tion law, as added by chapter 263 of the laws of 1997, is amended to
38 read as follows:

39 1. No owner or operator of a party boat or charter boat shall carry
40 recreational fishing passengers in the marine and coastal district or
41 land fish taken outside the territorial waters of the state without
42 holding a party or charter boat license issued by the department for an
43 annual fee of two hundred fifty dollars and a recreational marine fish-
44 ing license issued by the department for an annual fee of four hundred
45 dollars. Such [~~license~~] licenses shall be issued only to persons domi-
46 ciled in the state or in a state which affords reciprocal fishing privi-
47 leges to persons domiciled in New York. Such [~~license~~] licenses shall
48 be available on the vessel at all times. For purposes of this subdivi-
49 sion, party boats and charter boats are vessels used to carry passengers
50 for hire wherein a fee is charged, either directly or indirectly, for
51 the purpose of taking or attempting to take marine fish for recreational
52 purposes.

53 § 6. The environmental conservation law is amended by adding a new
54 section 13-0355 to read as follows:

55 § 13-0355. Recreational marine fishing license.

1 1. Definitions of licenses; privileges. a. A recreational marine
2 fishing license entitles the holder who is sixteen years of age or older
3 to take fish from the waters of the marine and coastal district and to
4 take migratory fish of the sea from all waters of the state, except as
5 provided in sections 13-0333 and 13-0335 of this title. A recreational
6 marine fishing license is effective for a license year beginning January
7 first and ending December thirty-first.

8 b. A seven-day recreational marine fishing license entitles the holder
9 to exercise the privileges of a recreational marine fishing license for
10 the seven consecutive days specified in such license.

11 c. A one-day recreational marine fishing license entitles the holder
12 to exercise the privileges of a recreational marine fishing license on
13 the day specified on such license.

14 2. General provisions. a. The privileges of a recreational marine
15 fishing license may be exercised only at the times and places, and in
16 the manner and to the extent, permitted by the fish and wildlife law and
17 applicable regulations of the department.

18 b. Recreational marine fishing licenses are not transferable. No
19 person shall alter, change, lend to another person or attempt to trans-
20 fer to another person any recreational marine fishing license.

21 c. A license issued in lieu of a lost or destroyed license is void if
22 it is obtained: (i) by fraud; or (ii) by a person who is not authorized
23 to hold it or who makes a false statement in applying for it.

24 d. No license authorizes the holder (a) to trespass upon private
25 lands or waters or to interfere with property belonging to another
26 person; (b) to take fish or wildlife on an Indian reservation; (c) to
27 enter upon, or to take or disturb fish or wildlife upon, state lands or
28 waters posted by the department except in accordance with a written
29 permit from the department or an order adopted by the department; (d) to
30 take any fish or wildlife in any area closed to the taking of fish or
31 wildlife, or to take any species of fish, wildlife or protected insect
32 in an area closed to the taking of such species.

33 3. Failure to carry license. a. The holder of a recreational marine
34 fishing license shall:

35 (i) at all times have such license on the holder's person while exer-
36 cising any privilege of that license; and

37 (ii) shall exhibit such license on demand to any police officer, peace
38 officer, or owner, lessee or other person in control of the lands or
39 waters or the designees of the owner, lessee or person in control of the
40 lands or waters on which the license holder is present and is exercising
41 the privileges thereof.

42 b. Failure to have a recreational marine fishing license on one's
43 person while exercising any privilege of that license is presumptive
44 evidence that such person is fishing without holding the license
45 required by this section.

46 4. Fees. Each applicant for a recreational marine fishing license
47 shall pay to the issuing officer a fee according to the license issued
48 and the residence or other qualification of the applicant, as follows:

49 a. In the case of persons who have been residents of the state for
50 thirty days or more immediately preceding the date of application or who
51 are enrolled in a full-time course at a college or university within the
52 state and who are in residence in the state for the school year, Indians
53 residing off reservations in the state and members of the United States
54 armed forces in active service stationed in this state regardless of
55 place of residence at the time of entry into service:

<u>License</u>	<u>Fee</u>
(1) <u>Recreational marine fishing</u>	<u>\$10.00</u>
(2) <u>Seven-day recreational marine fishing</u>	<u>\$8.00</u>
(3) <u>One-day recreational marine fishing</u>	<u>\$ 4.00</u>

b. In the case of a non-resident and persons resident in the state for less than thirty days, other than persons who are enrolled in a full-time course at a college or university within the state and who are in residence in the state for the school year and those members of the United States armed forces as to whom fees are specified in paragraph a of this subdivision:

<u>License</u>	<u>Fee</u>
(1) <u>Recreational marine fishing</u>	<u>\$15.00</u>
(2) <u>Seven-day recreational marine fishing</u>	<u>\$10.00</u>
(3) <u>One-day recreational marine fishing</u>	<u>\$ 5.00</u>

c. A person eligible for any free license pursuant to subdivision 2 of section 11-0715 of this chapter shall be eligible for a free recreational marine fishing license.

d. License issuing officers may retain 5.5 percent of the gross proceeds from the sale of all recreational marine fishing licenses.

5. Exemption from requirement of recreational marine fishing license.
a. Minors under the age of sixteen may take fish as if they held a recreational marine fishing license.

b. Recreational fishing passengers on a marine and coastal district party or charter boat licensed pursuant to section 13-0336 of this title may take fish as if they held a recreational marine fishing license.

6. Recreational marine fishing license data. a. The department is authorized to collect data on holders of recreational marine fishing licenses, which shall include but not be limited to, a licensee's name, address and date of birth.

b. License holder data collected by the department or available to the department shall be confidential and shall not be disclosed except as required to comply with section 401(g) of the Magnuson-Stevens fisheries management and conservation act (16 U.S.C. 1881), as may be amended from time to time, or by court order, except that the department may release or make public any statistics in an aggregate or summary form which does not make it possible to identify any person who submits such data. The department may prescribe such procedures as may be necessary to preserve such confidentiality.

7. Reciprocity in boundary waters. If persons holding recreational marine fishing licenses issued under the New York fish and wildlife law are not required to have licenses issued by a state named in paragraph a, b or c of this subdivision when fishing in that part of the waters, specified in such paragraph, which lies within that state then, in such case, a person holding a similar license issued by such state may, without a recreational marine fishing license issued under the New York fish and wildlife law, take fish as provided in this title, from that part of such waters specified in paragraph a, b or c of this subdivision which lies within this state:

a. License issued by Connecticut: those parts of Long Island Sound lying between New York and Connecticut.

1 b. License issued by New Jersey: those parts of New York Harbor,
2 Hudson River, Kill Van Kull, Arthur Kill, Raritan Bay and Atlantic Ocean
3 lying between New York and New Jersey.

4 c. License issued by Rhode Island: those parts of Long Island Sound,
5 Block Island Sound and Atlantic Ocean lying between New York and Rhode
6 Island.

7 § 7. Subdivision 2 of section 13-0503 of the environmental conserva-
8 tion law, as amended by chapter 263 of the laws of 2007, is amended to
9 read as follows:

10 2. The board shall have the power and duty to: (a) receive and review,
11 and to approve or deny, applications from eligible recipients for grants
12 from the marine and coastal district of New York conservation, educa-
13 tion, and research fund, created pursuant to section ninety-five-c of
14 the state finance law, for conservation, research, and education
15 projects relating to such marine and coastal district. Approval of any
16 such proposed project may be granted only by unanimous vote of all three
17 members of the board. In the event a member of the board is unable to
18 vote, the alternate for such member may vote in his or her place[. ~~The~~
19 board shall have the power to];

20 (b) make by-laws for the management of its affairs and to do all
21 things necessary or convenient to carry out the powers expressly given
22 in this title;

23 (c) review the allocations and expenditures of the department related
24 to the marine resources account. To assist the board in its review, the
25 department shall by September first of each year make available to the
26 board, the governor and the legislature current and anticipated income
27 and expenditures for the account, including planned expenditures by time
28 and activity code for the next fiscal year;

29 (d) consult with marine fish and wildlife interests and render annual
30 reports to the commissioner on fiscal needs and make recommendations on
31 expenditures and how such needs shall be met; and

32 (e) make recommendations regarding the maximum fees for the recre-
33 ational marine fishing licenses identified in section 13-0355 of this
34 article. In recommending such fees, the board shall consider economic
35 indicators, the general financial condition of the saltwater recreati-
36 onal fishing industry and the status of the marine resources account,
37 including the viability of the marine resources program, as it may deem
38 appropriate.

39 § 8. This act shall take effect October 1, 2009; provided, however,
40 that effective immediately, any regulations necessary for the timely
41 implementation of this act on its effective date are authorized to be
42 promulgated before such date.

43 PART MM

44 Intentionally omitted.

45 PART NN

46 Section 1. Legislative findings. The legislature finds that the nature
47 of the work of the department of public service has become increasingly
48 complex. The public service commission has instituted proceedings with
49 statewide environmental and economic implications in addition to its
50 core ratemaking and consumer protection responsibilities for the elec-
51 tric, natural gas, water, steam and telephone industries. The current
52 amount of the cap set forth in section 18-a of the public service law,

1 established in 1972, may no longer be adequate to meet the responsibil-
2 ities of the department and related costs of other state agencies and
3 authorities that are and will continue to be supported through this
4 assessment. Increasing the assessment cap will allow the department, the
5 commission and other agencies to continue their oversight of the state's
6 utilities and the development of important environmental and efficiency
7 policies and programs relating to, among other things, energy efficiency
8 and renewable energy.

9 The legislature further finds that while the commission applies a
10 traditional regulatory approach to electric, gas, steam and water utili-
11 ties, recent changes in the telecommunications industry have impacted
12 the commission's regulatory oversight. New York's landline telephone
13 companies are subject to significant levels of competition from provid-
14 ers exempt from New York's regulatory structure. To address the chal-
15 lenges posed by such competition, the commission has, within statutory
16 parameters, streamlined its regulatory oversight to provide flexibility
17 while maintaining consumer protections. As a result of these changes,
18 the regulatory focus has narrowed, allowing a shift of department
19 resources to oversight of other jurisdictional industries.

20 The legislature also finds that the challenges facing the state's
21 energy and water utilities have increased. The commission's traditional
22 focus on utilities' rates and the quality of utility service has
23 expanded to include issues related to the role of energy service compa-
24 nies in retail markets and utility efficiencies, the development of the
25 state's renewable resources and new utility-related issues posed at the
26 federal level. These events have expanded the level of resources
27 required to regulate and oversee entities regulated by the commission.

28 § 2. The section heading and subdivisions 1 and 2 of section 18-a of
29 the public service law, the section heading as amended by chapter 446 of
30 the laws of 1972, subdivision 1 as amended by chapter 83 of the laws of
31 1995, subdivision 2 as amended by chapter 15 of the laws of 1983, and
32 paragraph (d) of subdivision 2 as amended by section 1 of part H1 of
33 chapter 62 of the laws of 2003, are amended to read as follows:

34 ~~[Cost]~~ Costs and expenses of the commission and department and the
35 assessment ~~[thereof]~~ of such costs and expenses. 1. All costs and
36 expenses of the department and commission shall be paid pursuant to
37 appropriation ~~[in the first instance from the state treasury,~~ on the
38 certification of the chairman of the department and upon the audit and
39 warrant of the comptroller. The state treasury shall be reimbursed
40 therefore by payments to be made thereto from all moneys collected
41 pursuant to this chapter. The total of such costs and expenses shall be
42 borne by the public utility companies (including for the purposes of
43 this section municipalities other than municipalities as defined in
44 section eighty-nine-1 of this chapter), corporations (including the
45 power authority of the state of New York), and persons subject to the
46 commission's regulation, to be assessed in the manner provided in subdi-
47 visions two, three and four of this section and section two hundred
48 seventeen of this chapter.

49 2. (a) The chairman of the department shall estimate prior to the
50 start of each state fiscal year the total costs and expenses, including
51 the compensation and expenses of the commission and the department,
52 their officers, agents and employees, and including the cost of retire-
53 ment contributions, social security, health and dental insurance, survi-
54 vor's benefits, workers' compensation, unemployment insurance and other
55 fringe benefits required to be paid by the state for the personnel of
56 the commission and the department, and including all other items of

1 maintenance and operation expenses, and all other direct and indirect
2 costs. Based on such [~~estimate~~] estimates, the chairman shall determine
3 the amount to be paid by each assessed public utility company and a bill
4 shall be rendered [~~therefor~~] to each such public utility company.

5 (b) The bill for each public utility company shall be rendered on or
6 before February first preceding each fiscal year, and shall be for the
7 amount equal to the product of the aforesaid estimated costs and
8 expenses of conducting the department's and commission's total oper-
9 ations during the fiscal year for which billing is being made multiplied
10 by the proportion which compares:

11 (1) the gross operating revenues, over and above [~~twenty-five~~] five
12 hundred thousand dollars, for that utility company derived from intra-
13 state utility operations in the last preceding calendar year, or other
14 twelve month period as determined by the chairman, to:

15 (2) the total of the gross operating revenues, derived from intrastate
16 utility operations for all utility companies in the state which revenues
17 are included under subparagraph [~~(1)~~] one of [~~paragraph (b) of~~] this
18 [~~subdivision~~] paragraph.

19 For the purposes of calculating the commodity cost component of its
20 gross operating revenue, where the utility delivers to end-use customers
21 electricity and/or natural gas commodities that are sold to such custom-
22 ers by a third party, such utility shall include in its revenues an
23 estimate of the sales revenue for the electric and/or natural gas
24 commodities that it delivers, including all such commodities sold to
25 end-use customers by third parties, in such manner as to assure that all
26 end-use delivery customers, regardless of the entity from which they
27 purchase their electric and/or natural gas commodities, bear a fair and
28 proportionate share of the assessment imposed herein, as the commission
29 may determine.

30 (c) The minimum assessment for any utility company whose gross reven-
31 ues from intrastate utility operations are in excess of [~~twenty-five~~]
32 five hundred thousand dollars in the preceding calendar year shall be
33 [~~ten~~] two hundred dollars.

34 (d) The amount of such bill for fiscal years beginning on or after
35 April first, nineteen hundred eighty-three so rendered shall be paid by
36 such public utility company to the department on or before April first;
37 provided, however, that a utility company may elect to make partial
38 payments for such costs and expenses on March tenth of the preceding
39 fiscal year and on September tenth of such fiscal year. [~~Provided~~
40 ~~further, however, that for the fiscal year beginning April two thousand~~
41 ~~three payment will be due March tenth, two thousand three at twenty five~~
42 ~~percentum; June tenth, two thousand three at twenty five percentum; and~~
43 ~~September tenth, two thousand three at fifty percentum. Thereafter,~~
44 ~~each~~] Each such partial payment shall be a sum equal to fifty percentum
45 of the estimate of costs and expenses to be assessed against such utili-
46 ty company under the provisions of this subdivision and shall not be
47 less than [~~ten~~] two hundred dollars.

48 (e) During the course of any state fiscal year, the chairman may
49 increase or decrease the estimate of costs and expenses [~~of the depart-~~
50 ~~ment and the commission~~]. In such case, revised bills shall be sent to
51 each public utility company [~~which has elected to make partial~~
52 ~~payments~~], and such increase or decrease shall be equally apportioned
53 against the remaining payments for such fiscal year.

54 (f) On or before October tenth of each year, the chairman shall
55 compute the actual costs and expenses of the department and the commis-
56 sion and adjustments or other corrections as needed for the preceding

1 state fiscal year and, after deducting the amounts recovered pursuant to
2 subdivisions three and four of this section, shall, on or before October
3 twentieth, send to each public utility company affected thereby a state-
4 ment setting forth the amount due and payable by, or the amount standing
5 to the credit of, such public utility company. Any amount owing by any
6 public utility company shall be paid not later than thirty days follow-
7 ing the date such statement is received. Any such amount standing to the
8 credit of any public utility company shall be refunded by the commission
9 or, at the option of such utility company, shall be applied as a credit
10 against any succeeding payment due.

11 (g) The total amount which may be charged to any public utility compa-
12 ny under authority of this subdivision for any state fiscal year shall
13 not exceed [~~one-third of~~] one per centum of such public utility compa-
14 ny's gross operating revenues derived from intrastate utility operations
15 in the last preceding calendar year, or other twelve month period as
16 determined by the chairman; provided, however, that no corporation or
17 person that is subject to the jurisdiction of the commission only with
18 respect to safety, or the power authority of the state of New York,
19 shall be subject to the general assessment provided for under this
20 subdivision.

21 Notwithstanding the provisions of subdivision one of this section, for
22 telephone corporations as defined in subdivision seventeen of section
23 two of this article, the total amount which may be charged such corpo-
24 rations for department expenses under the authority of subdivision one
25 of this section for any state fiscal year shall not exceed one-third of
26 one percentum of such corporation's gross operating revenue, over and
27 above five hundred thousand dollars, derived from intrastate utility
28 operations in the last preceding calendar year, or other twelve month
29 period as determined by the chairman.

30 § 3. Subdivision 4-a of section 18-a of the public service law, as
31 amended by chapter 46 of the laws of 1983, is renumbered subdivision
32 4-b.

33 § 4. Section 18-a of the public service law is amended by adding a new
34 subdivision 6 to read as follows:

35 6.(a) Notwithstanding any provision of law to the contrary, and
36 subject to the exceptions provided for in paragraph (b) of this subdivi-
37 sion, for the state fiscal year beginning on April first, two thousand
38 nine and four state fiscal years thereafter, a temporary annual assess-
39 ment (hereinafter "temporary state energy and utility service conserva-
40 tion assessment") is hereby imposed on public utility companies (includ-
41 ing for the purposes of this subdivision municipalities other than
42 municipalities as defined in section eighty-nine-1 of this chapter),
43 corporations (including for purposes of this subdivision the Long Island
44 power authority), and persons subject to the commission's regulation
45 (hereinafter such public utility companies, corporations, and persons
46 are referred to collectively as the "utility entities") to encourage the
47 conservation of energy and other resources provided through utility
48 entities, to be assessed in the manner provided in this subdivision;
49 provided, however, that such assessment shall not be imposed upon tele-
50 phone corporations as defined in subdivision seventeen of section two of
51 this article.

52 (b) The temporary state energy and utility service conservation
53 assessment shall be equal to two percentum of the utility entity's gross
54 operating revenues derived from intrastate utility operations in the
55 last preceding calendar year, minus the amount, if any, that such utili-
56 ty entity is assessed pursuant to subdivisions one and two of this

1 section for the corresponding state fiscal year period. With respect to
2 the Long Island power authority, the temporary state energy and utility
3 service conservation assessment shall be equal to one percentum of such
4 authority's gross operating revenues derived from intrastate utility
5 operations in the last preceding calendar year. No corporation or
6 person subject to the jurisdiction of the commission only with respect
7 to safety, or the power authority of the state of New York, shall be
8 subject to the temporary state energy and utility service conservation
9 assessment provided for under this subdivision. Utility entities whose
10 gross operating revenues from intrastate utility operations are five
11 hundred thousand dollars or less in the preceding calendar year shall
12 not be subject to the temporary state energy and utility service conser-
13 vation assessment. The minimum temporary state energy and utility
14 service conservation assessment to be billed to any utility entity whose
15 gross revenues from intrastate utility operations are in excess of five
16 hundred thousand dollars in the preceding calendar year shall be two
17 hundred dollars.

18 (c) The chairman of the department shall determine, prior to the start
19 of each state fiscal year, the amount of the temporary state energy and
20 utility service conservation assessment for utility entities for the
21 fiscal year. Based on that determination, a bill shall be rendered for
22 each utility entity on or before February first preceding each state
23 fiscal year for the amount as set forth in paragraph (b) of this subdi-
24 vision.

25 (d) Each utility entity must pay the bill rendered to it pursuant to
26 paragraph (c) of this subdivision as follows:

27 (i) The amount of such bill shall be paid by such public utility
28 company to the department on or before April first; provided, however,
29 that a utility company may elect to make partial payments for such costs
30 and expenses on March tenth of the preceding fiscal year and on Septem-
31 ber tenth of such fiscal year. Each such partial payment shall be a sum
32 equal to fifty percentum of the estimate of costs and expenses to be
33 assessed against such utility company under the provisions of this
34 subdivision and shall not be less than two hundred dollars.

35 (ii) During the course of any state fiscal year, the chairman may
36 adjust the amount of the bills as appropriate to reflect, among other
37 things, the actual reported revenues. In such case, revised bills shall
38 be sent to each utility entity subject to the provisions of this subdi-
39 vision, and such increase or decrease shall be equally apportioned
40 against the remaining payments for such fiscal year;

41 (e) For the purposes of calculating the commodity cost component of
42 its gross operating revenue, where the utility delivers to end-use
43 customers electricity and/or natural gas commodities that are sold to
44 such customers by a third party, such utility shall include in its
45 revenues an estimate of the sales revenue for the electric and/or
46 natural gas commodities that it delivers, including all such commodities
47 sold to end-use customers by third parties, in such manner as to assure
48 that all end-use delivery customers, regardless of the entity from which
49 they purchase their electric and/or natural gas commodities, bear a fair
50 and proportionate share of the assessment imposed herein, as the commis-
51 sion may determine.

52 (f) Notwithstanding any provision of law to the contrary, all tempo-
53 rary state energy and utility service conservation assessment monies
54 collected and received by the department shall be deposited to the cred-
55 it of the comptroller with such responsible banks, banking houses or
56 trust companies as may be designated by the comptroller. Such deposits

1 shall be kept separate and apart from all other monies in the possession
2 of the comptroller. The comptroller shall require adequate security from
3 all such depositories. Of the total amount collected, the comptroller
4 shall retain the amount determined by the chairman to be necessary for
5 refund of overpayments out of which the comptroller must pay any refunds
6 to which a utility entity may be entitled pursuant to paragraph (g) of
7 this subdivision. After reserving the amount to pay refunds, the comp-
8 troller shall, on or before the tenth day of each month, or more
9 frequently as he or she may deem appropriate, pay all temporary state
10 energy and utility service conservation assessment monies collected and
11 received under this subdivision and remaining to the comptroller's cred-
12 it into the state general fund.

13 (g) On or before October tenth of each year, the chairman may compute
14 adjustments or other corrections as needed for the preceding state
15 fiscal year and, shall, on or before October twentieth, send to each
16 utility entity affected thereby, a statement setting forth the amount
17 due and payable by, or the amount standing to the credit of, such utili-
18 ty entity. Any amount owing by any utility entity shall be paid not
19 later than thirty days following the date such statement is received.
20 Any such amount standing to the credit of any utility entity shall be
21 refunded by the chairman.

22 (h) The chairman is authorized to coordinate the implementation of
23 this subdivision with the other subdivisions of this section, including
24 for purposes of, but not limited to, billing and collection of the
25 assessments provided for under this section.

26 § 5. The department of taxation and finance, in consultation with the
27 department of public service, is hereby authorized and directed to
28 conduct a study of assessments, fees, and tax rates, and associated
29 policies of the state of New York, relating to the telecommunications
30 industry including, but not limited to the cable, satellite and wireless
31 industries of the state. The results of the study shall be set forth in
32 a written report made to the governor, the temporary president of the
33 senate, the speaker of the assembly, the minority leader of the senate
34 and the minority leader of the assembly on or before October 1, 2009.

35 § 6. This act shall take effect immediately; provided, however, that
36 subdivision 6 of section 18-a of the public service law, as added by
37 section four of this act shall take effect April 1, 2009 and shall
38 expire and be deemed repealed March 31, 2014; and provided, further,
39 that if section four of this act shall become law after April 1, 2009,
40 it shall take effect immediately and shall be deemed to have been in
41 full force and effect on and after April 1, 2009.

42

PART OO

43 Section 1. Subdivision (h) of section 303 of the vehicle and traffic
44 law, as amended by chapter 608 of the laws of 1993, is amended to read
45 as follows:

46 (h) The commissioner, or any person duly deputized, in addition to or
47 in lieu of revoking or suspending a license to operate an official
48 inspection station or a certificate to inspect vehicles, may by order
49 require the licensee or certified inspector to pay to the people of this
50 state a penalty [in] for a first violation a sum not exceeding [three]
51 seven hundred and fifty dollars for each violation found to have been
52 committed; and for a second or subsequent violation not arising out of
53 the same incident both of which were committed within a period of thirty
54 months, a sum of not more than one thousand dollars for each violation

1 found to have been committed; provided, however, the penalty for each
2 and any violation of paragraph three of subdivision (e) of this section
3 found to have been committed shall be no less than three hundred and
4 fifty dollars and no more than one thousand dollars, and upon the fail-
5 ure of such licensee to pay such penalty within twenty days after the
6 mailing of such order, postage prepaid, registered or certified, and
7 addressed to the last known place of business of such licensee or certi-
8 fied inspector, unless such order is stayed by a court of competent
9 jurisdiction or in accordance with the provisions of Article three-A of
10 this chapter, the commissioner may revoke the license of such licensee
11 or the certificate of such certified inspector or may suspend the same
12 for such period as may be determined. Civil penalties assessed under
13 this subdivision shall be paid to the commissioner for deposit into the
14 state treasury, and unpaid civil penalties may be recovered by the
15 commissioner in a civil action in the name of the commissioner. In addi-
16 tion, as an alternative to such civil action and provided that no
17 proceeding for judicial review shall then be pending and the time for
18 initiation of such proceeding shall have expired, the commissioner may
19 file with the county clerk of the county in which the registrant is
20 located or the certified inspector resides a final order of the commis-
21 sioner containing the amount of the penalty assessed. The filing of such
22 final order shall have the full force and effect of a judgment duly
23 docketed in the office of such clerk and may be enforced in the same
24 manner and with the same effect as that provided by law in respect to
25 executions issued against property upon judgments of a court of record.

26 § 2. Paragraph (b) of subdivision 2 of section 398-e of the vehicle
27 and traffic law, as amended by chapter 634 of the laws of 1980, is
28 amended to read as follows:

29 (b) Such penalty for a first violation shall be in a sum not exceeding
30 [~~three~~ seven hundred fifty dollars for each violation found to have
31 been committed, and for a second or subsequent violation not arising out
32 of the same incident both of which were committed within a period of
33 thirty months, be in a sum of not more than one thousand dollars for
34 each violation found to have been committed; provided, however, the
35 penalty for each and any violation of paragraph (g) of subdivision one
36 of this section found to have been committed shall be no less than three
37 hundred and fifty dollars and no more than one thousand dollars, except
38 that if a finding of financial loss has been made pursuant to subdivi-
39 sion three of this section, the amount of such penalty may be increased
40 by the amount of financial loss so found.

41 § 3. Subdivision 12 of section 415 of the vehicle and traffic law, as
42 amended by chapter 7 of the laws of 2000, is amended to read as follows:

43 12. The commissioner, or any person deputized by him, in addition to
44 or in lieu of revoking or suspending the certificate of registration of
45 a registrant in accordance with the provisions of this article, may in
46 any one proceeding by order require the registrant to pay to the people
47 of this state a penalty [~~in~~ for a first violation a sum not exceeding
48 one thousand dollars for each violation found to have been committed;
49 and for a second or subsequent violation not arising out of the same
50 incident both of which were committed within a period of thirty months,
51 a sum of not more than one thousand five hundred dollars for each
52 violation found to have been committed; provided, however, the penalty
53 for each and any violation of paragraph c of subdivision nine of this
54 section found to have been committed shall be no less than three hundred
55 and fifty dollars and no more than one thousand five hundred dollars,
56 except that if a finding of financial loss has been made pursuant to

1 subdivision fourteen of this section, the amount of such penalty may be
2 increased by the amount of financial loss so found, and upon the failure
3 of such registrant to pay such penalty within twenty days after the
4 mailing of such order, postage prepaid, registered or certified, and
5 addressed to the last known place of business of such registrant, unless
6 such order is stayed by an order of a court of competent jurisdiction,
7 the commissioner may revoke the certificate of registration of such
8 registrant or may suspend the same for such period as he may determine.
9 Civil penalties assessed under this subdivision shall be paid to the
10 commissioner for deposit into the state treasury, and unpaid civil
11 penalties may be recovered by the commissioner in a civil action in the
12 name of the commissioner.

13 § 4. This act shall take effect on the ninetieth day after it shall
14 have become a law and shall apply only to violations occurring on and
15 after such date.

16

PART PP

17 Section 1. Paragraph (h) of subdivision 2 of section 503 of the vehi-
18 cle and traffic law, as amended by chapter 196 of the laws of 1996, is
19 amended to read as follows:

20 (h) An applicant whose driver's license has been revoked pursuant to
21 (i) section five hundred ten of this title, (ii) section eleven hundred
22 ninety-three of this chapter, and (iii) section eleven hundred ninety-
23 four of this chapter, shall, upon application for issuance of a driver's
24 license, pay to the commissioner a fee of [~~fifty~~] one hundred dollars[~~+~~
25 ~~provided, however, when~~]. When the basis for the revocation is a finding
26 of driving after having consumed alcohol pursuant to the provisions of
27 section eleven hundred ninety-two-a of this chapter, the fee to be paid
28 to the commissioner shall be one hundred dollars. Such fee is not
29 refundable and shall not be returned to the applicant regardless of the
30 action the commissioner may take on such person's application for rein-
31 statement of such driving license. Such fee shall be in addition to any
32 other fees presently levied but shall not apply to an applicant whose
33 driver's license was revoked for failure to pass a reexamination or to
34 an applicant who has been issued a conditional or restricted use license
35 under the provisions of article twenty-one-A or thirty-one of this chap-
36 ter.

37 § 2. Paragraph (j) of subdivision 2 of section 503 of the vehicle and
38 traffic law, as amended by chapter 196 of the laws of 1996, is amended
39 to read as follows:

40 (j) Whenever a license issued pursuant to this article, or a privilege
41 of operating a motor vehicle or of obtaining such a license, has been
42 suspended, such suspension shall remain in effect until a termination of
43 a suspension fee of [~~twenty-five~~] fifty dollars is paid to the commis-
44 sioner; provided, however, when the basis for the suspension is a find-
45 ing of driving after having consumed alcohol pursuant to the provisions
46 of section eleven hundred ninety-two-a of this chapter, the fee to be
47 paid to the commissioner shall be one hundred dollars. The provisions of
48 this paragraph shall not apply to a temporary suspension pending a hear-
49 ing, prosecution or investigation, nor to an indefinite suspension which
50 is issued because of the failure of the person suspended to perform an
51 act, which suspension will be terminated by the performance of the act.

52 § 3. Subparagraph (i) of paragraph (j-1) of subdivision 2 of section
53 503 of the vehicle and traffic law, as added by section 8 of part J of
54 chapter 62 of the laws of 2003, is amended to read as follows:

1 (i) When a license issued pursuant to this article, or a privilege of
2 operating a motor vehicle or of obtaining such a license, has been
3 suspended based upon a failure to answer an appearance ticket or a
4 summons or failure to pay a fine, penalty or mandatory surcharge, pursu-
5 ant to subdivision three of section two hundred twenty-six, subdivision
6 four of section two hundred twenty-seven, subdivision four-a of section
7 five hundred ten or subdivision five-a of section eighteen hundred nine
8 of this chapter, such suspension shall remain in effect until a termi-
9 nation of a suspension fee of [~~thirty-five~~] seventy dollars is paid to
10 the court or tribunal that initiated the suspension of such license or
11 privilege. In no event may the aggregate of the fees imposed by an indi-
12 vidual court pursuant to this paragraph for the termination of all
13 suspensions that may be terminated as a result of a person's answers,
14 appearances or payments made in such cases pending before such individ-
15 ual court exceed [~~two~~] four hundred dollars. For the purposes of this
16 paragraph, the various locations of the administrative tribunal estab-
17 lished under article two-A of this chapter shall be considered an indi-
18 vidual court.

19 § 4. Paragraph (j-1) of subdivision 2 of section 503 of the vehicle
20 and traffic law is amended by adding a new subparagraph (iv) to read as
21 follows:

22 (iv) Notwithstanding any other provision of this paragraph, fifty
23 percent of all fees collected pursuant to this paragraph shall be depos-
24 ited to the credit of the general fund.

25 § 5. This act shall take effect on the ninetieth day after it shall
26 have become a law, provided that section one of this act shall only
27 apply to revocations issued on or after such effective date, and
28 provided that sections two and three of this act shall apply only to
29 suspensions issued on or after such effective date.

30

PART QQ

31 Section 1. Subdivision 3 of section 99-h of the state finance law, as
32 amended by chapter 747 of the laws of 2006, is amended to read as
33 follows:

34 3. Moneys of the account, following appropriation by the legislature,
35 shall be available for purposes including but not limited to: (a)
36 reimbursements or payments to municipal governments that host tribal
37 casinos pursuant to a tribal-state compact for costs incurred in
38 connection with services provided to such casinos or arising as a result
39 thereof, for economic development opportunities and job expansion
40 programs authorized by the executive law; provided, however, that for
41 any gaming facility located in the [~~county of Erie~~] city of Buffalo, the
42 [~~municipal governments hosting the facility~~] city of Buffalo shall
43 [~~collectively~~] receive a minimum of twenty-five percent of the negoti-
44 ated percentage of the net drop from electronic gaming devices the state
45 receives pursuant to the compact, and provided further that for any
46 gaming facility located in the city of Niagara Falls, county of Niagara
47 a minimum of twenty-five percent of the negotiated percentage of the net
48 drop from electronic gaming devices the state receives pursuant to the
49 compact shall be distributed in accordance with subdivision four of this
50 section, and provided further that for any gaming facility located in
51 the county or counties of Cattaraugus, Chautauqua or Allegany, the
52 municipal governments of the state hosting the facility shall collec-
53 tively receive a minimum of twenty-five percent of the negotiated
54 percentage of the net drop from electronic gaming devices the state

1 receives pursuant to the compact; and provided further that pursuant to
2 chapter five hundred ninety of the laws of two thousand four, a minimum
3 of twenty-five percent of the revenues received by the state pursuant to
4 the state's compact with the St. Regis Mohawk tribe shall be made avail-
5 able to the counties of Franklin and St. Lawrence, and affected towns in
6 such counties. Each such county and its affected towns shall receive
7 fifty percent of the moneys made available by the state; and (b) support
8 and services of treatment programs for persons suffering from gambling
9 addictions. Moneys not appropriated for such purposes shall be trans-
10 ferred to the general fund for the support of government during the
11 fiscal year in which they are received.

12 § 2. Subdivision 4 of section 99-h of the state finance law, as
13 amended by chapter 747 of the laws of 2006, is amended to read as
14 follows:

15 4. (a) Monies which are appropriated and received each year by the
16 state as a portion of the negotiated percentage of the net drop from
17 electronic gaming devices the state receives in relation to the opera-
18 tion of a gaming facility in the city of Niagara Falls, county of
19 Niagara which subdivision three of this section requires to be a minimum
20 of twenty-five percent, shall be budgeted and disbursed by the city of
21 Niagara Falls [~~and the county of Niagara~~] in the following manner:

22 (i) seventy-five percent of the total annual amount received shall be
23 available for expenditure by the city of Niagara Falls for such public
24 purposes as are determined, by the city, to be necessary and desirable
25 to accommodate and enhance economic development, neighborhood revitali-
26 zation, public health and safety, and infrastructure improvement in the
27 city, shall be deposited into the tribal revenue account of the city and
28 any and all interest and income derived from the deposit and investment
29 of such monies shall be deposited into the general operating fund of the
30 city; and

31 (ii) the remaining twenty-five percent of the total annual amount
32 received shall be allocated for the [~~county~~] city of Niagara Falls to be
33 available for expenditure in the following manner:

34 (1) within thirty-five days upon receipt of such funds by such city,
35 five and one-half percent of the total annual amount received in each
36 year, not to exceed seven hundred fifty thousand dollars annually, shall
37 be transferred [~~to the county treasurer for disbursement, within five~~
38 ~~business days of receipt by the county treasurer,~~] to Niagara Falls
39 memorial medical center to be used for capital construction projects;
40 and

41 (2) within thirty-five days upon receipt of such funds by such city,
42 five and one-half percent of the total annual amount received in each
43 year, not to exceed seven hundred fifty thousand dollars annually, shall
44 be transferred to the Niagara Falls city school district for capital
45 construction projects; and

46 (3) within thirty-five days upon receipt of such funds by such city,
47 [~~seven~~] six percent in each year shall be transferred to the Niagara
48 tourism and convention center corporation for marketing and tourism
49 promotion in the county of Niagara including the city of Niagara Falls;
50 and

51 (4) an amount equal to the lesser of one million dollars or seven
52 percent of the total amount in each year shall be transferred to the
53 city of Niagara [~~county industrial development agency~~] Falls and held in
54 an escrow account maintained by the city of Niagara [~~county industrial~~
55 ~~development agency~~] Falls and, if additional funding has been secured by
56 the Niagara frontier transportation authority to finance construction of

1 a new terminal at Niagara Falls, such amount held in escrow shall be
2 transferred to the Niagara frontier transportation authority for such
3 purpose provided however that if such additional funding has not been
4 secured or construction of a new terminal has not commenced within two
5 years of the date which such monies were received by the city of Niagara
6 [~~county industrial development agency~~] Falls such amounts held in escrow
7 by the city of Niagara [~~county industrial development agency~~] Falls
8 shall be distributed pursuant to subparagraph (iii) of this paragraph;
9 and

10 (5) within thirty-five days upon receipt of such funds by such city,
11 one percent or three hundred fifty thousand dollars, whichever is great-
12 er, of the total annual amount received in each year shall be trans-
13 ferred to the Niagara Falls Underground Railroad Heritage Commission,
14 established pursuant to article forty-three of the parks, recreation and
15 historic preservation law to be used for, but not limited to, develop-
16 ment, capital improvements, acquisition of real property, and acquisi-
17 tion of personal property within the heritage area in the city of
18 Niagara Falls as established pursuant to the commission; and

19 (iii) all other monies appropriated or received for distribution
20 pursuant to this subdivision after the transfer of money pursuant to
21 this subparagraph and subparagraphs (i) and (ii) of this paragraph in
22 each year shall be allocated to the [~~county of Niagara for economic~~
23 ~~development including but not limited to: marketing, tourism and devel-~~
24 ~~opment to facilitate private investment and private sector job creation~~
25 ~~in the county of Niagara including the~~] city of Niagara Falls for
26 infrastructure and road improvement projects.

27 (b) On or before the first of April, each entity receiving moneys
28 pursuant to subparagraphs (i), (ii) and (iii) of paragraph (a) of this
29 subdivision, shall annually submit a report to the governor, temporary
30 president of the senate, speaker of the assembly, [~~the Niagara county~~
31 ~~manager,~~] mayor of the city of Niagara Falls and leader of the city
32 council of the city of Niagara Falls. Each such report shall include an
33 accounting of all moneys received by such entity pursuant to paragraph
34 (a) of this subdivision and the expenditure of any such moneys.

35 (c) Notwithstanding any other provision of law to the contrary, fail-
36 ure by the city of Niagara Falls to disburse funds as such city is
37 required pursuant to clauses one, two, three and four of subparagraph
38 (ii) of paragraph (a) of this subdivision within thirty-five days of the
39 actual receipt of the funds or the submission of the subentity expendi-
40 ture report due by April first of each year, which ever is later, shall
41 result in an additional payment by the city of Niagara Falls of one-half
42 percent per week not to exceed eighteen percent of the amount which was
43 to have been disbursed pursuant to such [~~subparagraphs~~] clauses. Any
44 such additional payment required to be made by the city shall be
45 disbursed from the city's seventy-five percent share described in
46 subparagraph (i) of paragraph (a) of this subdivision.

47 (d) [~~Notwithstanding any other provision of law to the contrary, fail-~~
48 ~~ure by the county of Niagara to disburse funds as such county is~~
49 ~~required pursuant to clause one of subparagraph (ii) of paragraph (a) of~~
50 ~~this subdivision within five business days of the actual receipt of the~~
51 ~~funds or the submission of the subentity expenditure report due by April~~
52 ~~first of each year, which ever is later, shall result in an additional~~
53 ~~payment by the county of Niagara of one half percent per week not to~~
54 ~~exceed eighteen percent of the amount which was to have been disbursed~~
55 ~~pursuant to such subparagraphs. Any such additional payment required to~~

1 ~~be made by the county shall be disbursed from the county's share~~
 2 ~~described in subparagraph (iii) of paragraph (a) of this subdivision.~~

3 (e) In the event that any monies to be distributed pursuant to claus-
 4 es one, three and four of subparagraph (ii) of paragraph (a) of this
 5 subdivision cannot, for any reason, be received or utilized, such monies
 6 shall be distributed to the city of Niagara Falls for economic
 7 development projects within such ~~county~~ city.

8 ~~[(f) In the event that any monies to be distributed pursuant to clause~~
 9 ~~two of subparagraph (ii) of paragraph (a) of this subdivision cannot for~~
 10 ~~any reason, be received or utilized, such monies shall be distributed to~~
 11 ~~the city of Niagara Falls for economic development projects within such~~
 12 ~~city.]~~

13 § 3. This act shall take effect immediately and shall be deemed to
 14 have been in full force and effect on and after April 1, 2009; provided
 15 further, that the amendments to subdivisions 3 and 4 of section 99-h of
 16 the state finance law made by sections one and two of this act shall not
 17 affect the expiration of such section and shall be deemed to expire
 18 therewith.

19 PART RR

20 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
 21 executive law relating to permitting the secretary of state to provide
 22 special handling for all documents filed or issued by the division of
 23 corporations and to permit additional levels of such expedited service,
 24 as amended by section 1 of part Q of chapter 59 of the laws of 2008, is
 25 amended to read as follows:

26 § 2. This act shall take effect immediately, provided however, that
 27 section one of this act shall be deemed to have been in full force and
 28 effect on and after April 1, 2003 and shall expire March 31, ~~2009~~
 29 2010.

30 § 2. This act shall take effect immediately and shall be deemed to
 31 have been in full force and effect on and after March 31, 2009.

32 PART SS

33 Section 1. Section 27-1001 of the environmental conservation law, as
 34 added by chapter 200 of the laws of 1982, is amended to read as follows:
 35 § 27-1001. Legislative findings.

36 The legislature hereby finds that litter composed of discarded ~~[soft-~~
 37 ~~drink, beer and ale bottles and cans]~~ beverage containers is a growing
 38 problem of state concern and a direct threat to the health and safety of
 39 the citizens of this state. Discarded beverage ~~[bottles and cans]~~
 40 containers create a hazard to vehicular traffic, a source of physical
 41 injury to pedestrians~~[r]~~ and farm animals ~~[and], a hazard to farm and~~
 42 other machinery and an unsightly accumulation of litter which must be
 43 disposed of at increasing public expense. Beverage ~~[bottles and cans]~~
 44 containers also create an unnecessary addition to the state's and muni-
 45 cipalities' already overburdened solid waste and refuse disposal
 46 systems. Unsegregated disposal of such ~~[bottles and cans]~~ containers
 47 creates an impediment to the efficient operation of resource recovery
 48 plants. Further, the legislature finds that the uninhibited discard of
 49 beverage containers constitutes a waste of both mineral and energy
 50 resources. The legislature hereby finds that requiring a deposit on all
 51 beverage containers, along with certain other facilitating measures,

1 will provide a necessary incentive for the economically efficient and
2 environmentally benign collection and recycling of such containers.

3 § 2. Subdivisions 1 and 2 of section 27-1003 of the environmental
4 conservation law, subdivision 1 as amended by chapter 778 of the laws of
5 1988 and subdivision 2 as amended by chapter 546 of the laws of 1986,
6 are amended to read as follows:

7 1. "Beverage" means carbonated soft drinks, ~~[mineral]~~ water, ~~[soda~~
8 ~~water,]~~ beer, other malt beverages and a wine product as defined in
9 subdivision thirty-six-a of section three of the alcoholic beverage
10 control law. "Malt beverages" means any beverage obtained by the alco-
11 holic fermentation or infusion or decoction of barley, malt, hops, or
12 other wholesome grain or cereal and water including, but not limited to
13 ale, stout or malt liquor. "Water" means any beverage identified through
14 the use of letters, words or symbols on its product label as a type of
15 water, including any flavored water or nutritionally enhanced water,
16 provided, however, that "water" does not include any beverage identified
17 as a type of water to which a sugar has been added.

18 2. "Beverage container" means the individual, separate, sealed glass,
19 metal, aluminum, steel or plastic bottle, can or jar used for containing
20 less than one gallon or ~~[3.8]~~ 3.78 liters ~~[or less]~~ at the time of sale
21 or offer for sale of a beverage intended for use or consumption in this
22 state. Beverage containers sold or offered for sale or distributed
23 aboard aircraft or ships shall be considered as intended for use or
24 consumption outside this state.

25 § 3. Subdivisions 6 and 9 of section 27-1003 of the environmental
26 conservation law, as added by chapter 200 of the laws of 1982, are
27 amended and four new subdivisions 2-a, 5-a, 12 and 13 are added to read
28 as follows:

29 2-a. "Bottler" means a person, firm or corporation who:

30 a. bottles, cans or otherwise packages beverages in beverage contain-
31 ers except that if such packaging is for a distributor having the right
32 to bottle, can or otherwise package the same brand of beverage, then
33 such distributor shall be the bottler; or

34 b. imports filled beverage containers into the United States.

35 5-a. A "deposit initiator" for each beverage container for which a
36 refund value is established under section 27-1005 of this title means:

37 a. the bottler of the beverage in such container;

38 b. the distributor of such container if such distributor's purchase of
39 such container was not, directly or indirectly, from a registered depos-
40 it initiator;

41 c. a dealer of such container who sells or offers for sale such
42 container in this state, whose purchase of such container was not,
43 directly or indirectly, from a registered deposit initiator; or

44 d. an agent acting on behalf of a registered deposit initiator.

45 6. "Distributor" means any person, firm or corporation which
46 ~~[bottles, cans or otherwise fills or packages beverage containers, or~~
47 ~~which]~~ engages in the sale or offer for sale of ~~[such]~~ beverages in
48 beverage containers to a dealer.

49 9. "Redemption center" means any ~~[establishment offering to pay the~~
50 ~~refund value of a beverage container]~~ person offering to pay the refund
51 value of an empty beverage container to a redeemer, or any person who
52 contracts with one or more dealers or distributors to collect, sort and
53 obtain the refund value and handling fee of empty beverage containers
54 for, or on behalf of, such dealer or distributor under the provisions of
55 section 27-1013 of this title.

1 12. "Reverse vending machine" means an automated device that uses a
2 laser scanner, microprocessor, or other technology to accurately recog-
3 nize the universal product code (UPC) on containers to determine if the
4 container is redeemable and accumulates information regarding containers
5 redeemed, including the number of such containers redeemed, thereby
6 enabling the reverse vending machine to accept containers from redeemers
7 and to issue a scrip or receipt for their refund value.

8 13. "Universal product code" or "UPC code" means a standard for encod-
9 ing a set of lines and spaces that can be scanned and interpreted into
10 numbers to identify a product. Universal product code may also mean any
11 accepted industry barcode which replaces the UPC code including EAN and
12 other codes that may be used to identify a product.

13 § 4. Sections 27-1005 and 27-1007 of the environmental conservation
14 law are REPEALED and two new sections 27-1005 and 27-1007 are added to
15 read as follows:

16 § 27-1005. Refund value.

17 No person shall sell or offer for sale a beverage container in this
18 state unless the deposit on such beverage container is or has been
19 collected by a registered deposit initiator and unless such container
20 has a refund value of not less than five cents which is clearly indi-
21 cated thereon as provided in section 27-1011 of this title.

22 § 27-1007. Mandatory acceptance.

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

24 1. (a) A dealer shall accept at his or her place of business from a
25 redeemer any empty beverage containers of the design, shape, size,
26 color, composition and brand sold or offered for sale by the dealer, and
27 shall pay to the redeemer the refund value of each such beverage
28 container as established in section 27-1005 of this title. Redemptions
29 of refund value must be in legal tender, or a scrip or receipt from a
30 reverse vending machine, provided that the scrip or receipt can be
31 exchanged for legal tender for a period of not less than sixty days
32 without requiring the purchase of other goods. The use or presence of a
33 reverse vending machine shall not relieve a dealer of any obligations
34 imposed pursuant to this section. If a dealer utilizes a reverse vend-
35 ing machine to redeem containers, the dealer shall provide redemption of
36 beverage containers when the reverse vending machine is full, broken,
37 under repair or does not accept a type of beverage container sold or
38 offered for sale by such dealer and may not limit the hours or days of
39 redemption except as provided by subdivision three of this section.

40 (b) Beginning March first, two thousand ten, a dealer whose place of
41 business is part of a chain engaged in the same general field of busi-
42 ness which operates ten or more units in this state under common owner-
43 ship and whose business exceeds: (i) forty thousand square feet but is
44 less than sixty thousand square feet shall install and maintain at least
45 three reverse vending machines at the dealer's place of business; (ii)
46 sixty thousand square feet but is less than eighty-five thousand square
47 feet shall install and maintain at least four reverse vending machines
48 at the dealer's place of business; or (iii) eighty-five thousand square
49 feet shall install and maintain at least eight reverse vending machines
50 at the dealer's place of business; provided, however, that the require-
51 ments of this paragraph to install and maintain reverse vending machines
52 shall not apply to a dealer that sells only refrigerated beverage
53 containers of twenty ounces or less where each beverage container is
54 sold as an individual container that is not connected to or packaged
55 with any other beverage container.

1 (c) A dealer to which paragraph (b) of this subdivision does not apply
 2 and whose place of business is at least forty thousand square feet which
 3 does not utilize reverse vending machines to process empty beverage
 4 containers for redemption shall: (i) establish and maintain a dedicated
 5 area within such business to accept beverage containers for redemption;
 6 (ii) adequately staff such area to facilitate efficient acceptance and
 7 processing of such containers during business hours; and (iii) post one
 8 or more conspicuous signs conforming to the size and color requirements
 9 described in subdivision two of this section at each public entrance to
 10 the business which describes where in the business the redemption area
 11 is located. The commissioner may establish in rules and regulations
 12 additional standards for the efficient processing of beverage containers
 13 by such dealers.

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

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

20 "NEW YORK BOTTLE BILL OF RIGHTS

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

23 YOU HAVE CERTAIN RIGHTS UNDER THE NEW YORK STATE RETURNABLE CONTAINER
 24 ACT:

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

29 THE RIGHT to get your deposit refund in cash, without proof of
 30 purchase.

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

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

37 The New York state returnable container act can be enforced by the New
 38 York state department of environmental conservation, the New York state
 39 department of agriculture and markets, the New York state department of
 40 taxation and finance, the New York state attorney general and/or by your
 41 local government."

42 Such sign must be no less than eight inches by ten inches in size and
 43 have lettering a minimum of one quarter inch high, and of a color which
 44 contrasts with the background. The department shall maintain a toll
 45 free telephone number for a "bottle bill complaint line" that shall be
 46 available from 9:00 a.m. to 5:00 p.m. each business day to receive
 47 reports of violations of this title. The telephone number shall be list-
 48 ed on any sign required by this section.

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

53 (a) The dealer has a written agreement with a redemption center, be it
 54 either at a fixed physical location within the same county and within

1 one-half mile of the dealer's place of business, or a mobile redemption
2 center, operated by a redemption center, that is located within one-
3 quarter mile of the dealer's place of business. The redemption center
4 must have a written agreement with the dealer to accept containers on
5 behalf of the dealer; and the redemption center's hours of operation
6 must cover at least 9:00 a.m. through 7:00 p.m. daily or in the case of
7 a mobile redemption center, the hours of operation must cover at least
8 four consecutive hours between 8:00 a.m. and 8:00 p.m. daily. The dealer
9 must post a conspicuous, permanent sign, meeting the size and color
10 specifications set forth in subdivision two of this section, open to
11 public view, identifying the location and hours of operation of the
12 affiliated redemption center or mobile redemption center; and

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

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

23 4. A deposit initiator shall accept from a dealer or operator of a
24 redemption center any empty beverage container of the design, shape,
25 size, color, composition and brand sold or offered for sale by the
26 deposit initiator, and shall pay the dealer or operator of a redemption
27 center the refund value of each such beverage container as established
28 by section 27-1005 of this title. A deposit initiator shall accept and
29 redeem all such empty beverage containers from a dealer or redemption
30 center without limitation on quantity.

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

35 6. In addition to the refund value of a beverage container as estab-
36 lished by section 27-1005 of this title, a deposit initiator shall pay
37 to any dealer or operator of a redemption center a handling fee of three
38 and one-half cents for each beverage container accepted by the deposit
39 initiator from such dealer or operator of a redemption center. Payment
40 of the handling fee shall be as compensation for collecting, sorting and
41 packaging of empty beverage containers for transport back to the deposit
42 initiator or its designee. Payment of the handling fee may not be condi-
43 tioned on the purchase of any goods or services, nor may such payment be
44 made out of the refund value account established pursuant to section
45 27-1012 of this title. A distributor who does not initiate deposits on a
46 type of beverage container is considered a dealer only for the purpose
47 of receiving a handling fee from a deposit initiator.

48 7. A deposit initiator on a brand shall accept from a distributor who
49 does not initiate deposits on that brand any empty beverage containers
50 of that brand accepted by the distributor from a dealer or operator of a
51 redemption center and shall reimburse the distributor the refund value
52 of each such beverage container, as established by section 27-1005 of
53 this title. In addition, the deposit initiator shall reimburse such
54 distributor for each such beverage container the handling fee estab-
55 lished under subdivision six of this section. Without limiting the
56 rights of the department or any person, firm or corporation under this

1 subdivision or any other provision of this section, a distributor shall
2 have a civil right of action to enforce this subdivision, including,
3 upon three days notice, the right to apply for temporary and preliminary
4 injunctive relief against continuing violations, and until arrangements
5 for collection and return of empty containers or reimbursement of such
6 distributor for such deposits and handling fees are made.

7 8. It shall be the responsibility of the deposit initiator or
8 distributor to provide to a dealer or redemption center a sufficient
9 number of bags, cartons, or other suitable containers, at no cost, for
10 the packaging, handling and pickup of empty beverage containers that are
11 not redeemed through a reverse vending machine. The bags, cartons, or
12 containers must be provided by the deposit initiator or distributor on a
13 schedule that allows the dealer or redemption center sufficient time to
14 sort the empty beverage containers prior to pick up by the deposit
15 initiator or distributor. In addition:

16 (a) When picking up empty beverage containers, a deposit initiator or
17 distributor shall not require a dealer or redemption center to load
18 their own bags, cartons or containers onto or into the deposit initi-
19 ator's or distributor's vehicle or vehicles or provide the staff or
20 equipment needed to do so.

21 (b) A deposit initiator or distributor shall not require empty
22 containers to be counted at a location other than the redemption center
23 or dealer's place of business. The dealer or redemption center shall
24 have the right to be present at the count.

25 (c) A deposit initiator or distributor shall pick up empty beverage
26 containers from the dealer or redemption center at reasonable times and
27 intervals as determined in rules or regulations promulgated by the
28 department.

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

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

37 11. Notwithstanding the provisions of subdivision two of section
38 27-1009 of this title, a deposit initiator or distributor shall accept
39 and redeem beverage containers as provided in this title, if the dealer
40 or operator of a redemption center shall have accepted and paid the
41 refund value of such beverage containers.

42 § 5. Section 27-1009 of the environmental conservation law, as added
43 by chapter 200 of the laws of 1982, is amended to read as follows:

44 § 27-1009. Refusal of acceptance.

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

51 2. A dealer or operator of a redemption center may also refuse to
52 accept any broken bottle, corroded or dismembered can, or any beverage
53 container which contains a significant amount of foreign material, as
54 determined in rules and regulations to be promulgated by the commission-
55 er. [~~Notwithstanding the provisions of this subdivision, a distributor~~
56 shall accept beverage containers as provided in subdivision two of

1 ~~section 27-1007 of this title, if the dealer shall have accepted and~~
2 ~~paid the refund value of such beverage containers.]~~

3 § 6. Subdivision 2 of section 27-1011 of the environmental conserva-
4 tion law is REPEALED.

5 § 7. Subdivisions 3 and 4 of section 27-1011 of the environmental
6 conservation law, subdivision 3 as amended by chapter 834 of the laws of
7 1984 and subdivision 4 as amended by chapter 149 of the laws of 1983,
8 are amended to read as follows:

9 ~~[3.]~~ 2. No deposit initiator, distributor or dealer shall sell or
10 offer for sale, at wholesale or retail in this state, any metal beverage
11 container designed and constructed with a part of the container which is
12 detachable in opening the container unless such detachable part will
13 decompose by photodegradation or biodegradation.

14 ~~[4.]~~ 3. No deposit initiator, distributor or dealer shall sell or
15 offer for sale in this state beverage containers connected to each other
16 by a separate holding device constructed of plastic which does not
17 decompose by photodegradation or biodegradation.

18 § 8. The environmental conservation law is amended by adding a new
19 section 27-1012 to read as follows:

20 § 27-1012. Deposit and disposition of refund values; registration;
21 reports.

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

37 2. Payments of refund values pursuant to section 27-1007 of this title
38 shall be paid from each deposit initiator's refund value account. No
39 other payment or withdrawal from such account may be made except as
40 prescribed by this section.

41 3. Each deposit initiator shall file quarterly reports with the
42 commissioner of taxation and finance on a form and in the manner
43 prescribed by such commissioner. The commissioner of taxation and
44 finance may require such reports to be filed electronically. The quar-
45 terly reports required by this subdivision shall be filed for the quar-
46 terly periods ending on the last day of May, August, November and Febru-
47 ary of each year, and each such report shall be filed within twenty days
48 after the end of the quarterly period covered thereby. Each such report
49 shall include all information such commissioner shall determine appro-
50 priate including but not limited to the following information:

51 a. the balance in the refund value account at the beginning of the
52 quarter for which the report is prepared;

53 b. all such deposits credited to the refund value account and all
54 interest, dividends or returns received on such account, during such
55 quarter;

1 c. all withdrawals from the refund value account during such quarter,
2 including all reimbursements paid pursuant to subdivision two of this
3 section, all service charges on the account, and all payments made
4 pursuant to subdivision four of this section; and

5 d. the balance in the refund value account at the close of such quar-
6 ter.

7 4. a. Quarterly payments. An amount equal to eighty percent of the
8 balance outstanding in the refund value account at the close of each
9 quarter shall be paid to the commissioner of taxation and finance at the
10 time the report provided for in subdivision three of this section is
11 required to be filed. The commissioner of taxation and finance may
12 require that the payments be made electronically. The remaining twenty
13 percent of the balance outstanding at the close of each quarter shall be
14 the monies of the deposit initiator and may be withdrawn from such
15 account by the deposit initiator. If the provisions of this section
16 with respect to such account have not been fully complied with, each
17 deposit initiator shall pay to such commissioner at such time, in lieu
18 of the amount described in the preceding sentence, an amount equal to
19 the balance which would have been outstanding on such date had such
20 provisions been fully complied with. The commissioner of taxation and
21 finance may require that the payments be made electronically.

22 b. Refund value account shortfall. In the event a deposit initiator
23 pays out more in refund values than it collects in deposits of refund
24 values during the course of a quarterly period as described in subdivi-
25 sion three of this section, the deposit initiator may apply to the
26 commissioner of taxation and finance for a refund of the amount of such
27 excess payment of refund values from sources other than the refund value
28 account, in the manner as provided by the commissioner of taxation and
29 finance. A deposit initiator must apply for a refund no later than
30 twelve months after the due date for filing the quarterly report for the
31 quarterly period for which the refund claim is made. No interest shall
32 be payable for any refund paid pursuant to this paragraph.

33 c. Final report. A deposit initiator who ceases to do business in this
34 state as a deposit initiator shall file a final report and remit payment
35 of eighty percent of all amounts remaining in the refund value account
36 as of the close of the deposit initiator's last day of business. The
37 commissioner of taxation and finance may require that the payments be
38 made electronically. The deposit initiator shall indicate on the report
39 that it is a "final report". The final report is due to be filed with
40 payment twenty days after the close of the quarterly period in which the
41 deposit initiator ceases to do business. In the event the deposit initi-
42 ator pays out more in refund values than it collects in such final quar-
43 terly period, the deposit initiator may apply to the commissioner of
44 taxation and finance for a refund of the amount of such excess payment
45 of refund values from sources other than the refund value account, in
46 the manner as provided by the commissioner of taxation and finance.

47 5. All monies collected or received by the department of taxation and
48 finance pursuant to this title shall be deposited to the credit of the
49 comptroller with such responsible banks, banking houses or trust compa-
50 nies as may be designated by the comptroller. Such deposits shall be
51 kept separate and apart from all other moneys in the possession of the
52 comptroller. The comptroller shall require adequate security from all
53 such depositories. Of the total revenue collected, the comptroller shall
54 retain the amount determined by the commissioner of taxation and finance
55 to be necessary for refunds out of which the comptroller must pay any
56 refunds to which a deposit initiator may be entitled. After reserving

1 the amount to pay refunds, the comptroller must, by the tenth day of
2 each month, pay into the state treasury to the credit of the general
3 fund the revenue deposited under this subdivision during the preceding
4 calendar month and remaining to the comptroller's credit on the last day
5 of that preceding month.

6 6. The commissioner and the commissioner of taxation and finance shall
7 promulgate, and shall consult each other in promulgating, such rules and
8 regulations as may be necessary to effectuate the purposes of this
9 title. The commissioner and the commissioner of taxation and finance
10 shall provide all necessary aid and assistance to each other, including
11 the sharing of any information that is necessary to their respective
12 administration and enforcement responsibilities pursuant to the
13 provisions of this title.

14 7. a. Any person who is a deposit initiator under this title before
15 April first, two thousand nine, must apply by June first, two thousand
16 nine to the commissioner of taxation and finance for registration as a
17 deposit initiator. Any person who becomes a deposit initiator on or
18 after April first, two thousand nine shall apply for registration prior
19 to collecting any deposits as such a deposit initiator. Such application
20 shall be in a form prescribed by the commissioner of taxation and
21 finance and shall require such information deemed to be necessary for
22 proper administration of this title. The commissioner of taxation and
23 finance may require that applications for registration must be submitted
24 electronically. The commissioner of taxation and finance shall elec-
25 tronically issue a deposit initiator registration certificate in a form
26 prescribed by the commissioner of taxation and finance within fifteen
27 days of receipt of such application or may take an additional ten days
28 if the commissioner of taxation and finance deems it necessary to
29 consult with the commissioner before issuing such registration certifi-
30 cate. A registration certificate issued pursuant to this subdivision
31 may be issued for a specified term of not less than three years and
32 shall be subject to renewal in accordance with procedures specified by
33 the commissioner of taxation and finance. The commissioner of taxation
34 and finance shall furnish to the commissioner a complete list of regis-
35 tered deposit initiators and shall continually update such list as
36 warranted. The commissioner shall share any information with the commis-
37 sioner of taxation and finance that is necessary for the administration
38 of this subdivision.

39 b. The commissioner of taxation and finance shall have the authority
40 to revoke or refuse to renew any registration issued pursuant to this
41 subdivision when he or she has determined or has been informed by the
42 commissioner that any of the provisions of this title or rules and regu-
43 lations promulgated thereunder have been violated. Such violations shall
44 include, but not be limited to, the failure to file quarterly reports,
45 the failure to make payments pursuant to this subdivision, the providing
46 of false or fraudulent information to either the department of taxation
47 and finance or the department, or knowingly aiding or abetting another
48 person in violating any of the provisions of this title. A notice of
49 proposed revocation or non-renewal shall be given to the deposit initi-
50 ator in the manner prescribed for a notice of deficiency of tax and all
51 the provisions applicable to a notice of deficiency under article twen-
52 ty-seven of the tax law shall apply to a notice issued pursuant to this
53 paragraph, insofar as such provisions can be made applicable to a notice
54 authorized by this paragraph, with such modifications as may be neces-
55 sary in order to adapt the language of such provisions to the notice
56 authorized by this paragraph. All such notices issued by the commission-

1 er of taxation and finance pursuant to this paragraph shall contain a
2 statement advising the deposit initiator that the revocation or non-re-
3 newal of registration may be challenged through a hearing process and
4 the petition for such a challenge must be filed with the commissioner of
5 taxation and finance within ninety days after such notice is issued. A
6 deposit initiator whose registration has been so revoked or not renewed
7 shall cease to do business as a deposit initiator in this state, until
8 this title has been complied with and a new registration has been
9 issued. Any deposit initiator whose registration has been so revoked may
10 not apply for registration for two years from the date such revocation
11 takes effect.

12 8. The commissioner of taxation and finance may require the mainte-
13 nance of such accounts, records or documents relating to the sale of
14 beverage containers, by any deposit initiator, bottler, distributor,
15 dealer or redemption center as such commissioner may deem appropriate
16 for the administration of this section. Such commissioner may make exam-
17 inations, including the conduct of facility inspections during regular
18 business hours, with respect to the accounts, records or documents
19 required to be maintained under this subdivision. Such accounts,
20 records and documents shall be preserved for a period of three years,
21 except that such commissioner may consent to their destruction within
22 that period or may require that they be kept longer. Such accounts,
23 records and documents may be kept within the meaning of this subdivision
24 when reproduced by any photographic, photostatic, microfilm, micro-card,
25 miniature photographic or other process which actually reproduces the
26 original accounts, records or documents.

27 9. a. Any person required to be registered under this section who,
28 without being so registered, sells or offers for sale beverage contain-
29 ers in this state, in addition to any other penalty imposed by this
30 title, shall be subject to a penalty to be assessed by the commissioner
31 of taxation and finance in an amount not to exceed five hundred dollars
32 for the first day on which such sales or offers for sale are made, plus
33 an amount not to exceed five hundred dollars for each subsequent day on
34 which such sales or offers for sale are made, not to exceed twenty-five
35 thousand dollars in the aggregate.

36 b. Any deposit initiator who fails to maintain accounts or records
37 pursuant to this section, unless it is shown that such failure was due
38 to reasonable cause and not due to negligence or willful neglect, in
39 addition to any other penalty imposed by this title, shall be subject to
40 a penalty to be assessed by the commissioner of taxation and finance of
41 not more than one thousand dollars for each quarter during which such
42 failure occurred, and an additional penalty of not more than one thou-
43 sand dollars for each quarter such failure continues.

44 10. The provisions of article twenty-seven of the tax law shall apply
45 to the provisions of this title for which the commissioner of taxation
46 and finance is responsible, including collection of refund value
47 amounts, in the same manner and with the same force and effect as if the
48 language of such article had been incorporated in full into this section
49 except to the extent that any provision of such article is either incon-
50 sistent with a provision of this section or is not relevant to this
51 section as determined by the commissioner of taxation and finance.
52 Furthermore, for purposes of applying the provisions of article twenty-
53 seven of the tax law, where the terms "tax" and "taxes" appear in such
54 article, such terms shall be construed to mean "refund value" or
55 "balance in the refund value account".

1 11. If any deposit initiator fails or refuses to file a report or
2 furnish any information requested in writing by the department of taxat-
3 ion and finance or the department, the department of taxation and
4 finance with the assistance of the department may, from any information
5 in its possession, make an estimate of the deficiency and collect such
6 deficiency from such deposit initiator.

7 12. Beginning on June first, two thousand nine each deposit initiator
8 shall register the container label of any beverage offered for sale in
9 the state on which it initiates a deposit. Any such registered container
10 label shall bear a universal product code. Such universal product code
11 shall be New York state specific, in order to identify the beverage
12 container as offered for sale exclusively in New York state, and as a
13 means of preventing illegal redemption of beverage containers purchased
14 out-of-state. Registration must be on forms as prescribed by the
15 department and must include the universal product code for each combina-
16 tion of beverage and container manufactured. The commissioner may
17 require that such forms be filed electronically. The deposit initiator
18 shall renew a label registration whenever that label is revised by
19 altering the universal product code or whenever the container on which
20 it appears is changed in size, composition or glass color.

21 § 9. Section 27-1013 of the environmental conservation law, as amended
22 by chapter 149 of the laws of 1983, is amended to read as follows:

23 § 27-1013. Redemption centers.

24 The commissioner is hereby empowered to promulgate rules and regu-
25 lations governing (1) the circumstances in which dealers and distribu-
26 tors, individually or collectively, are required to accept the return of
27 empty beverage containers, and make payment therefor; (2) the sorting of
28 the containers which a deposit initiator or distributor may require of
29 dealers and redemption centers; (3) the ~~[pick-up]~~ collection of returned
30 beverage containers by deposit initiators or distributors, including the
31 party to whom such expense is to be charged, the frequency of such pick
32 ups and the payment for refunds and handling fees thereon; (4) the right
33 of dealers to restrict or limit the number of containers redeemed, the
34 rules for redemption at the dealers' place of business, and the redemp-
35 tion of containers from a beverage for which sales have been discontin-
36 ued, and to issue permits to persons, firms or corporations which estab-
37 lish redemption centers, subject to applicable provisions of local and
38 state laws, at which redeemers and dealers may return empty beverage
39 containers and receive payment of the refund value of such beverage
40 containers. No dealer or distributor, as defined in section 27-1003 of
41 this title, shall be required to obtain a permit to operate a redemption
42 center at the same location as the dealer's or distributor's place of
43 business. Operators of such redemption centers shall receive payment of
44 the refund value of each beverage container from the appropriate
45 ~~[manufacturer]~~ deposit initiator or distributor as provided under
46 ~~[sections]~~ section 27-1007 ~~[and 27-1009]~~ of this title.

47 § 10. Section 27-1014 of the environmental conservation law, as added
48 by chapter 149 of the laws of 1983, is amended to read as follows:

49 § 27-1014. ~~[Limitation on]~~ Authority to promulgate rules and regu-
50 lations.

51 In addition to the authority of the commissioner, under sections
52 27-1009 and 27-1013 of this title, the commissioner shall ~~[only have the~~
53 ~~power to promulgate rules and regulations governing the initiation of~~
54 ~~deposits, sale of beverages in containers through vending machines and~~
55 ~~for on premises consumption, record keeping, refunding for refillable~~
56 ~~beverage containers, embossing, imprinting or labeling of refund values~~

1 ~~and enforcement of the provisions of this section and sections 27-1009~~
2 ~~and 27-1013 of this title] have the power to promulgate rules and regu-~~
3 ~~lations necessary and appropriate [to] for the [implementation] adminis-~~
4 ~~tration of this title.~~

5 § 11. Section 27-1015 of the environmental conservation law, as added
6 by chapter 200 of the laws of 1982, subdivision 1 as designated and
7 subdivision 2 as added by chapter 149 of the laws of 1983, is amended to
8 read as follows:

9 § 27-1015. Violations.

10 1. A violation of this title, except as otherwise provided in this
11 section and section 27-1012 of this title, shall be a public nuisance.
12 In addition, except as otherwise provided in this section and section
13 27-1012 of this title, any person who shall violate any provision of
14 this title shall be liable to the state of New York for a civil penalty
15 of not more than five hundred dollars, and an additional civil penalty
16 of not more than five hundred dollars for each day during which each
17 such violation continues. Any civil penalty may be assessed following a
18 hearing or opportunity to be heard.

19 2. Any distributor or deposit initiator who violates any provision of
20 this title, except as provided in section 27-1012 of this title, shall
21 be liable to the state of New York for a civil penalty of not more than
22 one thousand dollars, and an additional civil penalty of not more than
23 one thousand dollars for each day during which each such violation
24 continues. Any civil penalty may be assessed following a hearing or
25 opportunity to be heard.

26 3. It shall be unlawful for a distributor or deposit initiator, acting
27 alone or aided by another, to return any empty beverage [~~containers~~]
28 container to a dealer or redemption center for [~~their~~] its refund value
29 if the distributor or deposit initiator had previously accepted such
30 beverage [~~containers~~] container from any dealer or operator of a redemp-
31 tion center. A violation of this subdivision shall be a misdemeanor
32 punishable by a fine of not less than five hundred dollars nor more than
33 one thousand dollars and an amount equal to two times the amount of
34 money received as a result of such violation.

35 4. Any person who willfully tenders to a dealer, distributor, redemp-
36 tion center or deposit initiator more than forty-eight empty beverage
37 containers for which such person knows or should reasonably know that no
38 deposit was paid in New York state may be assessed by the department a
39 civil penalty of up to one hundred dollars for each container or up to
40 twenty-five thousand dollars for each such tender of containers. At each
41 location where a person tenders containers for redemption, dealers and
42 redemption centers must conspicuously display a sign in letters that are
43 at least one inch in height with the following information: "WARNING:
44 Persons tendering for redemption containers on which a deposit was never
45 paid in this state may be subject to a civil penalty of up to one
46 hundred dollars per container or up to twenty-five thousand dollars for
47 each such tender of containers." Any civil penalty may be assessed
48 following a hearing or opportunity to be heard.

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

1 § 12. The environmental conservation law is amended by adding a new
2 section 27-1016 to read as follows:

3 § 27-1016. Public education.

4 The commissioner shall establish a public education program to dissem-
5 inate information regarding implementation of this title. Such informa-
6 tion shall include, but not be limited to, publication of the New York
7 Bottle Bill of Rights as specified in subdivision two of section 27-1007
8 of this title; publication of information specifying the procedures
9 necessary to establish a redemption center as provided in section
10 27-1013 of this title, including information regarding financial assist-
11 ance available for the establishment of redemption centers as provided
12 in section 27-1018 of this title; publication of information delineating
13 the relevant rights and responsibilities of deposit initiators, distrib-
14 utors, dealers, redemption centers and redeemers under the provisions of
15 this title; publication of information regarding the requirement that
16 deposit initiators register with the department of taxation and finance;
17 and publication of information on the general benefits of recycling.

18 § 13. The environmental conservation law is amended by adding a new
19 section 27-1018 to read as follows:

20 § 27-1018. Beverage container assistance program.

21 Notwithstanding any other provision of law to the contrary, within the
22 limits of appropriations therefor, the commissioner shall make state
23 assistance payments to municipalities, businesses and not-for-profit
24 organizations located in the state for the cost of reverse vending
25 machines located or to be located in the state. Such state assistance
26 payments shall not exceed fifty percent of the costs of equipment,
27 and/or the acquisition and/or rehabilitation of real property or struc-
28 tures located or to be located in the state related to the collecting,
29 sorting, and packaging of empty beverage containers subject to the
30 provisions of this title. Such payments may include costs related to the
31 establishment of redemption centers, including mobile redemption
32 centers. For the purposes of this section, municipalities and not-for-
33 profit organizations shall have the meaning as defined in section
34 54-0101 of this chapter and businesses shall mean a dealer, distributor
35 or redemption center as defined in this title that employs less than
36 fifty employees.

37 § 14. Paragraph h of subdivision 1 of section 261 of the economic
38 development law, as amended by chapter 471 of the laws of 1998, is
39 amended to read as follows:

40 h. "Eligible project" shall mean actions taken by or on behalf of a
41 New York business involving the acquisition, construction, alteration,
42 repair or improvement of a building, fixtures, machinery or equipment,
43 provided that such project results in:

44 (i) source reduction or material substitution, provided that the
45 substitution of one hazardous substance, product or nonproduct output
46 for another does not result in the creation of a new risk,

47 (ii) in-process recycling,

48 (iii) recycling or reuse of non-hazardous solid wastes,

49 (iv) increased energy efficiency,

50 (v) conservation of the use of water or other natural resources
51 improvements in process economics,

52 (vi) elimination of the purchase of materials, the production of which
53 for the use of said firm would result in more waste or resource consump-
54 tion, or

55 (vii) other practices or technologies that reduce the use of hazardous
56 materials or otherwise improve air or water quality.

1 The term "eligible project" shall also include actions taken by or on
2 behalf of a business to support costs of equipment, and/or the acquisi-
3 tion and/or rehabilitation of real property or structures located or to
4 be located in the state related to the collecting, sorting, and packag-
5 ing of empty beverage containers as such terms are defined in title ten
6 of article twenty-seven of the environmental conservation law. Such
7 actions shall be eligible for state assistance payments under the bever-
8 age container assistance program pursuant to section 27-1018 of the
9 environmental conservation law.

10 The term "eligible project" shall not include end of pipe pollution
11 control technologies or practices where such controls or practices are
12 designed primarily to achieve compliance with the environmental conser-
13 vation law or regulations promulgated pursuant thereto, or energy recov-
14 ery or incineration, or out-of-process recycling or reuse of hazardous
15 waste or hazardous substances.

16 § 15. Subdivisions 1 and 4 of section 54-0701 of the environmental
17 conservation law, subdivision 1 as amended by chapter 146 of the laws of
18 2000, subdivision 4 as added by chapter 610 of the laws of 1993, are
19 amended to read as follows:

20 1. "Cost" means the capital cost of a municipal recycling project
21 including engineering and architectural services, surveys, plans and
22 specifications; consultant and legal services; lands acquired pursuant
23 to the conditions set forth in section 54-0709 of this title, and other
24 direct capital expenses incident to such a project, less any federal
25 assistance or other assistance received or to be received. "Cost" shall
26 also include the capital, planning and promotional costs associated with
27 waste reduction projects, the costs related to household hazardous waste
28 collection and disposal programs, and the costs related to planning,
29 educational and promotional activities associated with a recyclables
30 recovery program. "Cost" shall also include beverage container assist-
31 ance program grants to municipalities and not-for-profit organizations
32 pursuant to section 27-1018 of this chapter. Provided, however, "cost"
33 shall exclude any cost incurred prior to April first, nineteen hundred
34 ninety-three, and shall further exclude costs related to planning,
35 educational and promotional activities associated with a recyclables
36 recovery program incurred prior to April first, two thousand.

37 4. "Recycling project" means recyclables recovery equipment, source
38 separation equipment, a recyclables recovery program or any combination
39 thereof required by a recyclables recovery program and the reimbursement
40 to municipalities and not-for-profit corporations, as such terms are
41 defined in section 54-0101 of this article, for the cost of a redemption
42 center as defined in section 27-1003 of this chapter.

43 § 16. This act shall take effect immediately, provided however, that:

44 1. sections two and three of this act shall take effect April 1, 2009;

45 2. sections four, five, six, seven, nine, and eleven of this act shall
46 take effect June 1, 2009; and

47 3. section eight of this act shall take effect on April 1, 2009 except
48 that the requirements to make deposits, file reports and make with-
49 draws and payments under section 27-1012 of the environmental conser-
50 vation law, as added by section eight of this act, with respect to
51 containers defined as beverage containers prior to April 1, 2009, shall
52 first apply to the period beginning on April 15, 2009 and ending May 31,
53 2009, and with respect to all other beverage containers shall first
54 apply to the period beginning on June 1, 2009 and ending August 31,
55 2009, provided that such other beverage containers will not be required
56 to have a refund value as required under section 27-1005 of the environ-

1 mental conservation law, as added by section four of this act until June
2 1, 2009. However, no refunds shall be paid to a deposit initiator
3 pursuant to paragraph b of subdivision 4 of section 27-1012 of the envi-
4 ronmental conservation law, as added by section eight of this act prior
5 to March 1, 2010.

6 PART TT

7 Section 1. Section 3.09 of the parks, recreation and historic preser-
8 vation law is amended by adding a new subdivision 19-a to read as
9 follows:

10 19-a. Prior to offering for sale to the public any merchandise, goods,
11 commodities or food service at parks, recreation facilities, historic
12 sites or other facilities under the jurisdiction of the office, make a
13 written finding that the private sector is unable or unwilling to
14 provide such merchandise, goods, commodities or food service under
15 agreement with the office and under such terms and conditions as the
16 commissioner determines are fair and reasonable to the state and neces-
17 sary to serve the public interest. Any proceeds realized from the sale
18 of such merchandise, goods, commodities or food service shall be depos-
19 ited in the patron services account of the miscellaneous special revenue
20 fund and shall be used by the office to defray the cost of operating and
21 maintaining such parks, recreation facilities and historic sites.

22 § 2. This act shall take effect on the one hundred twentieth day after
23 it shall have become a law.

24 PART UU

25 Section 1. The public authorities law is amended by adding a new
26 section 2975-a to read as follows:

27 § 2975-a. Recovery of state governmental costs from industrial devel-
28 opment agencies. 1. Notwithstanding any other provision of law to the
29 contrary, industrial development agencies or authorities created pursu-
30 ant to title one of article eighteen-A of the general municipal law or
31 any other provision of law shall reimburse to New York state an alloca-
32 ble share of state governmental costs attributable to the provision of
33 services to industrial development agencies, as determined herein. The
34 payment of such costs by industrial development agencies or authorities
35 is a valid and proper purpose for which available agency or authority
36 funds may be applied.

37 2. On November first of each year, the director of the budget shall
38 determine the amount owed under this section by each industrial develop-
39 ment agency or authority. The aggregate amount assessed under this
40 section in any given state fiscal year may not exceed five million
41 dollars.

42 3. The state treasurer shall impose and collect such assessments,
43 which shall be paid no later than March thirty-first following the impo-
44 sition of the assessments, and pay the same into the state treasury to
45 the credit of the general fund.

46 4. On or before June first, two thousand nine, and annually on or
47 before June first, the director of the budget shall report to the
48 respective chairpersons of the assembly ways and means committee and
49 senate finance committee the amount of cost recovery obtained pursuant
50 to this title for the state fiscal year ending on the preceding March
51 thirty-first.

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

3 PART VV

4 Section 1. The tax law is amended by adding a new section 30 to read
5 as follows:

6 § 30. Bad check or failed electronic funds withdrawal fee. If, in
7 payment of any amount due under a tax, fee, special assessment or other
8 imposition administered by the commissioner, a person tenders a check or
9 money order to the department, or the department, with the consent of a
10 person, originates an electronic funds withdrawal against the designated
11 bank account, and the check, money order or electronic funds withdrawal,
12 as applicable, is returned without payment, the person must pay a fee to
13 the commissioner of fifty dollars; provided, however, that in the case
14 of an electronic funds withdrawal, the fee will not be paid if the
15 reason for return of the payment is attributable to error of the depart-
16 ment or its originating depository financial institution. The fee must
17 be paid upon notice and demand, and will be assessed, collected and paid
18 in the same manner as the tax, fee, special assessment or other imposi-
19 tion to which the payment relates. All fees collected by the commission-
20 er pursuant to this subdivision must be deposited monthly, to the credit
21 of the general fund of the state. The commissioner will maintain a
22 system of accounts showing the amount of money collected from the fee
23 imposed by this section.

24 § 2. The tax law is amended by adding a new section 32 to read as
25 follows:

26 § 32. Registration of tax return preparers. (a) For purposes of this
27 section, the following terms have the specified meanings:

28 (1) "Attorney" means an attorney admitted to practice law in New York
29 state or one or more of the other states or jurisdictions of the United
30 States.

31 (2) "Certified public accountant" means an accountant licensed pursu-
32 ant to section seventy-four hundred four of the education law or a simi-
33 lar law of one or more of the other states or jurisdictions of the
34 United States.

35 (3) "Commercial tax return preparer" means a tax return preparer who:
36 (A) prepared ten or more returns for compensation in the preceding
37 calendar year and will prepare at least one return for compensation
38 during the current calendar year; or (B) prepared fewer than ten returns
39 in the preceding calendar year but will prepare ten or more returns for
40 the current calendar year.

41 (4) "Commercial tax return preparation business" means an entity that
42 employs individuals who prepare tax returns and that meets the thresh-
43 olds described in paragraph three of this subdivision.

44 (5) "Creditor" means any person who makes a refund anticipation loan
45 or who takes an assignment of a refund anticipation loan.

46 (6) "Facilitator" means a person who individually or in conjunction or
47 cooperation with another person: (a) solicits the execution of, proc-
48 esses, receives, or accepts an application or agreement for a refund
49 anticipation loan or refund anticipation check, (b) serves or collects
50 upon a refund anticipation loan or refund anticipation check; or (c) in
51 any other manner facilitates the making of a refund anticipation loan or
52 refund anticipation check. This term excludes any employees of a facili-
53 tator who provide only clerical or other comparable support services to
54 such facilitator.

1 (7) "Electronic" means computer technology.

2 (8) "Enrolled agent" means an agent enrolled to practice before the
3 internal revenue service pursuant to section 10.4 of subpart A of part
4 ten of title thirty-one of the code of federal regulations.

5 (9) "Public accountant" means an accountant licensed pursuant to
6 section seventy-four hundred five of the education law or a similar law
7 of one or more of the other states or jurisdictions of the United
8 States.

9 (10) "Refund anticipation check" means a check, stored value card, or
10 other payment mechanism which: (a) represents the proceeds of a tax
11 refund; (b) was issued by a depository institution or other person that
12 received a direct deposit of the tax refund or tax credits; and (c) a
13 fee or other consideration is paid for such payment mechanism.

14 (11) "Refund anticipation loan" means a loan that is secured by or
15 that the creditor arranges to be repaid directly or indirectly from the
16 proceeds of an income tax refund or tax credits. A refund anticipation
17 loan also includes any sale, assignment, or purchase of tax refund at a
18 discount or for a fee, whether or not the amount is required to be
19 repaid to the buyer or assignee if the internal revenue service or the
20 department denies or reduces the amount of the tax refund.

21 (12) "Return" means a return or report relating to a tax administered
22 by the commissioner.

23 (13) "Tax" means any tax, fee, special assessment or other imposition
24 administered by the commissioner.

25 (14) "Tax return preparer" means an individual who prepares a substan-
26 tial portion of any return for compensation. Enrolled agents or employ-
27 ees of a tax return preparer or a commercial tax return preparation
28 business who prepare returns for clients of that preparer or preparation
29 business, as applicable, and partners who prepare returns for clients of
30 a partnership engaged in a commercial tax return preparation business,
31 are all "tax return preparers" for purposes of this section. Excluded
32 from the definition of "tax return preparer" are attorneys, public
33 accountants, and certified public accountants, who are registered with
34 or licensed by the state, and employees preparing returns under the
35 supervision of such attorneys, public accountants, and certified public
36 accountants. Also excluded are volunteer tax preparers, employees of a
37 business or partners in a partnership whose job responsibilities include
38 preparation of only the business' or partnership's returns, and employ-
39 ees of a tax return preparer or a commercial tax return preparation
40 business who provides only clerical or other comparable services.

41 (b)(1) Each tax return preparer, who will prepare at least one return
42 in a calendar year, and each facilitator, who will facilitate the making
43 of a refund anticipation loan or refund anticipation check, must regis-
44 ter electronically with the department for that calendar year, in
45 accordance with instructions prescribed by the commissioner.

46 (2)(A) Upon completion of the registration process, each tax return
47 preparer and facilitator will be issued a tax preparer or facilitator
48 registration certificate. If an individual acts as both a tax return
49 preparer and a facilitator, one registration certificate shall indicate
50 both activities.

51 (B) In accordance with instructions prescribed by the commissioner,
52 each tax return preparer and facilitator will also be assigned a unique
53 identification number by the department, which must be used by the tax
54 return preparer and facilitator on each return which the tax return
55 preparer is required to sign and each refund anticipation loan and
56 refund anticipation check the facilitator is required to sign.

1 (C) If a tax return preparer or facilitator is an employee or prospec-
2 tive employee of a tax return preparer, a commercial tax return prepara-
3 tion business, or a facilitator, the tax return preparer, commercial tax
4 return preparation business or facilitator must ensure that the employee
5 or prospective employee is properly registered with the department and
6 possesses a valid tax preparer or facilitator registration certificate.
7 If an individual acts as both a tax return preparer and a facilitator
8 one registration certificate shall indicate both activities.

9 (3) Each registered tax return preparer and facilitator must electron-
10 ically re-register with the department annually, in accordance with
11 instructions prescribed by the commissioner. If, at any time during the
12 year following registration or re-registration, as applicable, any
13 information provided by the tax return preparer or facilitator upon
14 registration or re-registration is no longer correct, the tax return
15 preparer or facilitator must update his or her information in accordance
16 with instructions prescribed by the commissioner.

17 (4) Each tax return preparer preparing any return must sign the docu-
18 ment and include the unique identification number specified in paragraph
19 two of this subdivision, in accordance with instructions prescribed by
20 the commissioner.

21 (c)(1) Each commercial tax return preparer must electronically pay an
22 annual fee of one hundred dollars to the department, in accordance with
23 instructions prescribed by the commissioner. Registration of a commer-
24 cial tax return preparer is not complete until payment of the fee is
25 made.

26 (2) All fees received by the commissioner pursuant to this subdivi-
27 sion, reduced by those amounts the commissioner determines are necessary
28 to cover administrative costs to administer the registration program
29 prescribed by this section and the costs of any reimbursements to
30 commercial tax return preparers that may be required due to duplicative
31 fee payments under this subdivision, must be deposited monthly to the
32 credit of the general fund of the state. The commissioner will maintain
33 a system of accounts showing the amount of money collected and disbursed
34 from the fee imposed by this subdivision.

35 (d) The issuance of a tax preparer or facilitator registration certif-
36 icate to provide tax preparation services or refund anticipation loan
37 services is not, and must not be advertised as, an endorsement by the
38 department of the tax return preparer or the facilitator, or his or her
39 qualifications or the services rendered by him or her.

40 (e) A tax return preparer who has not registered with the department,
41 or a commercial tax return preparer who has not paid the required regis-
42 tration fee, will not be allowed to represent his or her clients before
43 the division of taxation or the division of tax appeals. This sanction
44 is in addition to any penalties which may be imposed pursuant to subdivi-
45 sion (f) of this section.

46 (f) (1) A tax return preparer or facilitator shall not: (A) charge or
47 impose any fee, charge or other consideration in the making or facili-
48 tating of a refund anticipation loan or refund anticipation check apart
49 from the fee charged by the creditor or bank that provided the loan or
50 check;

51 (B) Engage in unfair or deceptive acts or practices in the facilitat-
52 ing of a refund anticipation check or a refund anticipation loan,
53 including making any oral statements contradicting any of the informa-
54 tion required to be disclosed under the Taxpayer Bill of Rights as set
55 forth in sections three hundred seventy-one through three hundred seven-
56 ty-three of the general business law;

1 (C) Directly or indirectly arrange for a third party to charge any
2 interest, fee or charge related to a refund anticipation loan or refund
3 anticipation check;

4 (D) Include any of the following provisions in any documents provided
5 or signed to obtain a refund anticipation loan or refund anticipation
6 check, including the loan application or agreement: (i) a hold harmless
7 clause; (ii) a confession of judgment clause; (iii) a waiver of the
8 right to a jury trial; (iv) any assignment of or order for payment of
9 wages or other compensation for services; (v) a waiver of any provision
10 of the Taxpayer Bill of Rights, as set forth in sections three hundred
11 seventy-one through three hundred seventy-three of the general business
12 law; or (vi) a waiver of the right to injunctive, declaratory, other
13 equitable relief, or relief on a classwide basis. Any aforementioned
14 waivers shall be deemed null, void and of no effect;

15 (E) Take or arrange for a creditor to take a security interest in any
16 property interest of the taxpayer other than the proceeds of the tax
17 refund to secure payment of a refund anticipation loan;

18 (F) Directly or indirectly, individually or in conjunction or cooper-
19 ation with another person, engage in the collection of an outstanding or
20 delinquent refund anticipation loan for any creditor or assignee;

21 (G) Refer, facilitate, solicit consumers or conduct business on behalf
22 of, in conjunction with or on the same premises as a third party engaged
23 in check cashing for a fee;

24 (H) Make a misrepresentation of fact in obtaining or attempting to
25 obtain a registration; or

26 (I) Engage in any other action prohibited by rules promulgated by the
27 commissioner.

28 (2) If a tax return preparer violates any one of the provisions
29 provided for in this subdivision, then the tax return preparer must pay
30 a penalty of five hundred dollars for each such violation, in addition
31 to any other penalties provided for in this section.

32 (g) (1) If a tax return preparer or facilitator is required to regis-
33 ter or re-register with the department pursuant to paragraph one or
34 three of subdivision (b) of this section, as applicable, and fails to do
35 so in accordance with the terms of this section, then the tax return
36 preparer or facilitator must pay a penalty of two hundred fifty dollars.
37 Provided, however, that if the tax return preparer or facilitator
38 complies with the registration requirements of this section within nine-
39 ty calendar days after notification of assessment of this penalty is
40 sent by the department, then this penalty must be abated. If the tax
41 return preparer or facilitator continues to fail to register or re-re-
42 gister after the ninety calendar day period, the tax return preparer or
43 facilitator must pay an additional penalty of five hundred dollars if
44 the failure is for not more than one month, with an additional five
45 hundred dollars for each additional month or fraction thereof during
46 which the failure continues. Once the ninety calendar days specified in
47 this paragraph have expired, the penalty can be waived only for good
48 cause shown by the tax return preparer or facilitator.

49 (2) If a commercial tax return preparer fails to pay the fee as
50 required in paragraph one of subdivision (c) of this section, for a
51 calendar year, then the commercial tax return preparer must pay a penal-
52 ty of fifty dollars for each return the commercial tax return preparer
53 has filed with the department in that calendar year. Provided however,
54 that if the commercial tax return preparer complies with the payment
55 requirements of paragraph one of subdivision (c) of this section, within
56 ninety calendar days after notification of the assessment of this penal-

1 ty is sent by the department, then this penalty must be abated. The
2 maximum penalty that may be imposed under this paragraph on any commer-
3 cial tax return preparer during any calendar year must not exceed five
4 thousand dollars. Once the ninety calendar days specified in this para-
5 graph have expired, the penalty can be waived only for good cause shown
6 by the commercial tax return preparer.

7 (3) If a tax return preparer fails to sign his or her name to any
8 return that requires the tax return preparer's signature, or a facilita-
9 tor fails to sign his or her name to any refund anticipation loan or
10 refund anticipation check facilitation documentation, then the tax
11 return preparer or facilitator must pay a penalty in the amount of two
12 hundred fifty dollars for each failure to so sign. Provided, however,
13 that this penalty can be waived only for good cause shown by the tax
14 return preparer or facilitator.

15 The maximum penalty imposed under this paragraph on any tax return
16 preparer with respect to returns filed during any calendar year by the
17 tax return preparer, or on any facilitator with respect to any refund
18 anticipation loan or refund anticipation check facilitation documenta-
19 tion completed during any calendar year by the facilitator must not
20 exceed ten thousand dollars. Provided, however, that if a tax return
21 preparer or facilitator has been penalized under this paragraph for a
22 preceding calendar year and again fails to sign his or her name on any
23 return that requires the tax return preparer's signature or again fails
24 to sign his or her name on any refund anticipation loan or refund antic-
25 ipation check facilitation documentation during a subsequent calendar
26 year, then the penalty under this paragraph for each failure will be
27 five hundred dollars, and no annual cap will apply.

28 (4) If a tax return preparer or a facilitator fails to include the
29 unique identification number assigned by the department pursuant to
30 subparagraph (B) of paragraph two of subdivision (b) of this section on
31 any return, or any return anticipation loan or return anticipation check
32 facilitation documentation that requires his or her signature, then the
33 tax return preparer or facilitator must pay a penalty of one hundred
34 dollars for each failure to include his or her unique identification
35 number. Provided, however, that this penalty can be waived only for good
36 cause shown by the tax return preparer or facilitator. The maximum
37 penalty imposed under this paragraph on any tax return preparer or faci-
38 literator with respect to returns filed during any calendar year must not
39 exceed two thousand five hundred dollars; provided, however, that if a
40 tax return preparer or facilitator has been penalized under this para-
41 graph for a preceding calendar year and again fails to include the
42 unique identification number on one or more returns during a subsequent
43 calendar year, then the penalty under this paragraph for each failure
44 will be two hundred fifty dollars, and no annual cap will apply.

45 (5) If a tax return preparer, facilitator or a commercial tax return
46 preparation business employs an individual to prepare tax returns who is
47 not registered with the department and does not possess a valid tax
48 preparer or facilitator registration certificate, then the tax return
49 preparer, facilitator or commercial tax return preparation business, as
50 applicable, will be subject to a penalty of five hundred dollars per
51 occurrence. This penalty can be waived only for good cause shown.

52 (6) The penalties provided for by this subdivision must be paid upon
53 notice and demand and will be assessed, collected and paid in the same
54 manner as taxes under article twenty-seven of this chapter.

55 (g) The provisions of this section will apply exclusively to the
56 registration of tax return preparers and facilitators with the depart-

1 ment, payment of the registration fee if required by commercial tax
2 return preparers, the signing of returns and use of the unique identifi-
3 cation numbers assigned by the department upon registration. Other
4 provisions of this chapter or any other provision of law prescribing
5 additional requirements applicable to tax return preparers or facilita-
6 tors will not be affected by the provisions of this section except as
7 set forth expressly herein, and will remain in full force and effect.

8 § 3. Paragraphs 1 and 2 of subsection (u) of section 685 of the tax
9 law are REPEALED.

10 § 4. The commissioner of taxation and finance shall convene a task
11 force consisting of representatives from the department of taxation and
12 finance, the state education department, the department of state, the
13 consumer protection board, the banking department, the office of tempo-
14 rary and disability assistance, the New York state bar, the New York
15 state association of certified public accountants, enrolled agents with
16 the internal revenue service, and other representatives of the tax
17 return preparation industry in order to prepare a report addressing the
18 following issues: determining the appropriate scope of the program for
19 regulating tax return preparers and commercial tax return preparers;
20 setting appropriate qualifications, including, but not limited to, mini-
21 mum educational qualifications and continuing educational requirements
22 for tax return preparers; examining issues and abuses involving refund
23 anticipation loans and checks and considering any other matters the task
24 force determines to be necessary or appropriate. The report required by
25 this section will be submitted to the commissioner of taxation and
26 finance, the governor, the speaker of the assembly and the temporary
27 president of the senate no later than March 31, 2012. The commissioner
28 of taxation and finance may promulgate regulations to implement any of
29 the recommendations made by the task force.

30 § 5. Section 371 of the general business law, as added by chapter 432
31 of the laws of 2008, is amended to read as follows:

32 § 371. Definitions. For the purposes of this article:

33 (a) "Facilitator" means a person who individually or in conjunction or
34 cooperation with another person: (i) solicits the execution of, proc-
35 esses, receives, or accepts an application or agreement for a refund
36 anticipation loan or refund anticipation check; (ii) serves or collects
37 upon a refund anticipation loan or refund anticipation check; or (iii)
38 in any other manner that facilitates the making of a refund anticipation
39 loan or refund anticipation check. This term excludes any employees of a
40 facilitator who provide only clerical or other comparable support
41 services to such facilitator.

42 (b) "Tax preparer" or "preparer" means a person, partnership, corpo-
43 ration or other business entity, that in exchange for consideration
44 advises or assists or offers to advise or assist in the preparation of
45 income tax returns for another.

46 ~~[(b)]~~ (c) "Refund anticipation check" means a check, stored value
47 card, or other payment mechanism: (i) representing the proceeds of a tax
48 refund; (ii) which was issued by a depository institution or other
49 person that received a direct deposit of the tax refund or tax credits;
50 and (iii) for which a fee or other consideration has been paid for such
51 payment mechanism.

52 (d) "Refund anticipation loan" means ~~[any loan a taxpayer may receive~~
53 ~~against his or her anticipated income tax refund.~~

54 ~~(e)]~~ a loan that is secured by or that the creditor arranges to be
55 repaid directly or indirectly from the proceeds of an income tax refund
56 or tax credits. A refund anticipation loan also includes any sale,

1 assignment, or purchase of tax refund at a discount or for a fee, wheth-
2 er or not the amount is required to be repaid to the buyer or assignee
3 if the internal revenue service or the department denies or reduces the
4 amount of the tax refund.

5 (e) "Department" means the department of taxation and finance.

6 § 6. Section 372 of the general business law, as added by chapter 432
7 of the laws of 2008, is amended to read as follows:

8 § 372. Consumer bill of rights regarding tax preparers. (a) A tax
9 preparer shall provide his or her customers with a receipt containing an
10 address and phone number at which the preparer can be contacted through-
11 out the year.

12 (b) The department shall, in accordance with regulations promulgated
13 by the commissioner of taxation and finance, produce and make available
14 to taxpayers and tax preparers an informational flier regarding consum-
15 ers' rights and laws concerning tax preparers to be called a "consumer
16 bill of rights regarding tax preparers". The department shall consult
17 with the state consumer protection board to enhance distribution of
18 fliers to consumers. The flier shall also be made available on the
19 [~~department's~~] department and the state consumer protection board's
20 internet site, and shall contain information including, but not limited
21 to, the following:

22 (1) postings required by state and federal laws, such as price posting
23 and posting of qualifications;

24 (2) explanations of some of the commonly offered services and industry
25 jargon, such as preparation of short and long federal forms, refund,
26 electronic filing, express mail, direct deposit, refund anticipation
27 check, refund anticipation loan, quick, instant, rapid, fast, fee, and
28 interest;

29 (3) basic information on what a tax preparer is and is not required to
30 do for a consumer, such as the preparer's responsibility to sign a
31 return, that a tax preparer may not be required to accompany a consumer
32 to an audit but the company may have a voluntary policy to accompany
33 consumers to audits; and

34 (4) the telephone numbers of the department for information and
35 complaints.

36 The flier shall be in a form which is easily reproducible by photocopy
37 machine.

38 (c) The department shall coordinate its response to consumer tax
39 preparer complaints with the state consumer protection board, pursuant
40 to subdivision (b) of section five hundred fifty-three of the executive
41 law, as the department deems appropriate.

42 (d) A copy of the consumer bill of rights regarding tax preparers
43 shall be provided to individuals or businesses on request to the depart-
44 ment, and shall be sent by the department no later than October
45 fifteenth of each year to each tax preparer who has been found to be in
46 violation of this subdivision or any other provision of this section
47 within the previous calendar year. Each tax preparer subject to this
48 section shall obtain a current consumer's bill of rights regarding tax
49 preparers from the department and shall reproduce it so that it is clear
50 and legible. As of January first of each year, each tax preparer shall
51 give to each customer, free of charge, a current, legible copy of the
52 consumer's bill of rights regarding tax preparers prior to any
53 discussion with the customer. Each such tax preparer shall also verbally
54 direct the consumer to review the consumer bill of rights regarding tax
55 preparers and shall answer any questions the consumer may have about its
56 contents.

1 ~~(d)~~ (e) (1) Any tax preparer who advertises the availability of a
2 refund anticipation loan or refund anticipation check may not directly
3 or indirectly represent such a loan as a refund. Any advertisement which
4 mentions a refund anticipation loan must state conspicuously that it is
5 a loan and that a fee or interest will be charged by the lending insti-
6 tution. The advertisement must also disclose the name of the lending
7 institution.

8 (2) (i) Before any taxpayer enters into a refund anticipation loan,
9 the tax preparer facilitating such loan shall provide the following
10 disclosure to the taxpayer in writing in at least fourteen-point type:

11 "YOU ARE NOT REQUIRED TO ENTER INTO THIS REFUND ANTICIPATION LOAN
12 AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS INFORMATION.

13 IF YOU DO SIGN A CONTRACT FOR A REFUND ANTICIPATION LOAN, YOU WILL BE
14 TAKING OUT A LOAN. YOU WILL BE RESPONSIBLE FOR REPAYMENT OF THE ENTIRE
15 LOAN AMOUNT AND ALL RELATED COSTS AND FEES, REGARDLESS OF HOW MUCH MONEY
16 YOU ACTUALLY RECEIVE IN YOUR TAX REFUND. IF YOUR REFUND IS DELAYED, YOU
17 MAY HAVE TO PAY ADDITIONAL COSTS.

18 IF YOU DO NOT TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU ARE ELIGIBLE
19 TO RECEIVE A GROSS TAX REFUND OF APPROXIMATELY \$(insert amount).

20 IF YOU DO TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU WILL BE RESPON-
21 SIBLE TO PAY \$(insert amount) IN FEES FOR THE LOAN. AFTER THESE FEES ARE
22 PAID, YOU WILL RECEIVE APPROXIMATELY \$(insert amount) AS YOUR LOAN.

23 THE ESTIMATED ANNUAL PERCENTAGE RATE OF YOUR REFUND ANTICIPATION LOAN
24 IS (insert amount)%. THIS IS BASED ON THE ACTUAL AMOUNT OF TIME YOU WILL
25 BE LENT MONEY THROUGH THIS REFUND ANTICIPATION LOAN.

26 IF YOU DO TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU CAN EXPECT TO
27 RECEIVE YOUR LOAN WITHIN APPROXIMATELY TWO BUSINESS DAYS OF (insert
28 date).

29 IF YOU DO NOT TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU CAN STILL
30 RECEIVE YOUR TAX REFUND QUICKLY. IF YOU FILE YOUR TAX RETURN ELECTRON-
31 ICALLY AND RECEIVE YOUR TAX REFUND THROUGH THE MAIL, YOU CAN EXPECT TO
32 RECEIVE YOUR REFUND WITHIN APPROXIMATELY TWO BUSINESS DAYS OF (insert
33 date). IF YOU FILE YOUR TAX RETURN ELECTRONICALLY AND HAVE YOUR TAX
34 REFUND DIRECTLY DEPOSITED INTO A BANK ACCOUNT, YOU CAN EXPECT TO RECEIVE
35 YOUR REFUND WITHIN APPROXIMATELY TWO BUSINESS DAYS OF (insert date)."

36 (ii) Before any taxpayer enters into an agreement to receive a refund
37 anticipation check, the tax preparer facilitating the agreement shall
38 provide the following disclosure to the taxpayer in writing in at least
39 fourteen-point type:

40 "YOU ARE NOT REQUIRED TO ENTER INTO THIS REFUND ANTICIPATION CHECK
41 AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS INFORMATION. IF YOU DO
42 TAKE OUT THIS REFUND ANTICIPATION CHECK, YOU WILL BE RESPONSIBLE TO PAY
43 \$(insert amount) IN FEES FOR THE CHECK TO BE ISSUED BY (insert name of
44 issuer of refund anticipation check). YOU CAN AVOID THIS FEE AND STILL
45 RECEIVE YOUR REFUND IN THE SAME AMOUNT OF TIME BY HAVING YOUR REFUND
46 DIRECTLY DEPOSITED INTO YOUR OWN BANK ACCOUNT. YOU CAN ALSO WAIT FOR THE
47 FEDERAL OR STATE REFUND TO BE MAILED TO YOU.

48 IF YOU DO ENTER INTO THIS REFUND ANTICIPATION CHECK AGREEMENT, YOU CAN
49 EXPECT TO RECEIVE YOUR CHECK BY APPROXIMATELY TWO BUSINESS DAYS OF
50 (insert date).

51 IF YOU DO NOT ENTER INTO THIS REFUND ANTICIPATION CHECK AGREEMENT, YOU
52 CAN STILL RECEIVE YOUR TAX REFUND QUICKLY. IF YOU FILE YOUR TAX RETURN
53 ELECTRONICALLY AND RECEIVE YOUR TAX REFUND THROUGH THE MAIL, YOU CAN
54 EXPECT TO RECEIVE YOUR REFUND WITHIN APPROXIMATELY TWO BUSINESS DAYS OF
55 (insert date). IF YOU FILE YOUR TAX RETURN ELECTRONICALLY AND HAVE YOUR
56 TAX REFUND DIRECTLY DEPOSITED INTO A BANK ACCOUNT, YOU CAN EXPECT TO

1 RECEIVE YOUR REFUND WITHIN APPROXIMATELY TWO BUSINESS DAYS OF (insert
2 date)."

3 (iii) It shall be the obligation of the tax preparer to complete the
4 required [disclosure] disclosures accurately with all relevant informa-
5 tion for each taxpayer and to ensure that the completed disclosure form
6 is signed by the taxpayer before he or she enters into a refund antic-
7 ipation loan or a refund anticipation check, with a copy of the same
8 provided to the taxpayer. The name and the unique identification number
9 of the tax return preparer (and facilitator, if different) assigned
10 pursuant to section thirty-two of the tax law must be included on the
11 disclosure form provided to the taxpayer.

12 [~~(e)~~] (f) (1) If a taxpayer applies for a refund anticipation loan, the
13 facilitator must also orally inform the taxpayer in the language prima-
14 riarily used for oral communications between the facilitator and taxpayer:

15 (i) that the product is a loan that only lasts one to two weeks;

16 (ii) if the tax refund is less than expected, the taxpayer is liable
17 for the full amount of the loan and must repay any difference;

18 (iii) if the refund is delayed for any reason, there may be additional
19 costs, such as additional interest, that the taxpayer will have to pay;

20 (iv) the amount of the refund anticipation loan fee; and

21 (v) the refund anticipation loan interest rate.

22 (2) If a taxpayer applies for a refund anticipation check, the facili-
23 tator must also orally inform the taxpayer in the language primarily
24 used for oral communications between the facilitator and taxpayer:

25 (i) the amount of the refund anticipation check fee; and

26 (ii) that the taxpayer can receive a refund in the same amount of time
27 without a fee if the tax return is filed electronically, and the consum-
28 er chooses direct deposit to their own personal bank account.

29 (g) Any person, partnership, corporation or other business entity who
30 violates any provision of this section or any of the regulations promul-
31 gated pursuant to this section shall be liable for a civil penalty of
32 not less than two hundred fifty dollars nor more than five hundred
33 dollars for the first violation and for each succeeding violation a
34 civil penalty of not less than five hundred dollars nor more than seven
35 hundred fifty dollars. The penalties provided for by this subdivision
36 must be paid upon notice and demand and will be assessed, collected and
37 paid in the same manner as taxes under article twenty-seven of the tax
38 law.

39 [~~(f)~~] (h) Apart from subdivision [~~(d)~~] (e) of this section and the
40 accompanying penalties as listed in subdivision [~~(e)~~] (f) of this
41 section, the provisions of this section shall not apply to:

42 (1) an officer or employee of a corporation or business enterprise
43 who, in his or her capacity as such, advises or assists in the prepara-
44 tion of income tax returns relating to such corporation or business
45 enterprise;

46 (2) an attorney at law who advises or assists in the preparation of
47 income tax returns in the practice of law and the employees thereof;

48 (3) a fiduciary and the employees thereof who advise or assist in the
49 preparation of income tax returns on behalf of the fiduciary estate, the
50 testator, trustee, grantor or beneficiaries thereof;

51 (4) a certified public accountant licensed pursuant to the education
52 law or licensed by one or more of the states or jurisdictions of the
53 United States, and the employees thereof;

54 (5) a public accountant licensed pursuant to the education law and the
55 employees thereof;

1 (6) an employee of a governmental unit, agency or instrumentality who
2 advises or assists in the preparation of income tax returns in the
3 performance of his or her official duties; or

4 (7) an agent enrolled to practice before the internal revenue service
5 pursuant to section 10.4 of subpart A of part ten of title thirty-one of
6 the code of federal regulations.

7 § 7. This act shall take effect immediately, provided, however, that
8 section one of this act shall apply to authorized tax documents required
9 to be filed for tax years beginning on or after January 1, 2009, and
10 section two of this act shall apply to tax return preparers filing
11 personal income tax returns on or after December 31, 2009 and to tax
12 return preparers who do not prepare income tax returns on or after
13 December 31, 2010; and sections five and six of this act shall take
14 effect on the same date as chapter 432 of the laws of 2008, takes
15 effect.

16

PART WW

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

22 § 2. This act shall take effect immediately and shall be deemed to
23 have been in full force and effect on and after April 1, 2009.

24

PART XX

25 Section 1. Section 16-s of section 1 of chapter 174 of the laws of
26 1968 constituting the New York state urban development corporation act,
27 as added by section 2 of part QQ of chapter 57 of the laws of 2008, is
28 amended to read as follows:

29 § 16-s. The upstate agricultural economic development fund and healthy
30 food / healthy communities initiative. 1. The upstate agricultural
31 economic development fund and healthy food / healthy communities initi-
32 ative is hereby created. The corporation is authorized, within available
33 appropriations, to provide financial assistance in the form of loans,
34 grants or contracts for services, to eligible entities as set forth in
35 this subdivision to support the upstate revitalization fund to reduce
36 the cost of financing the construction, expansion or renovation of agri-
37 cultural economic development projects, to reduce the cost of agricul-
38 tural inputs or to support activities related to the retention of exist-
39 ing farmers or the recruitment of new farmers and to increase the number
40 of food markets providing affordable and nutritious foods in underserved
41 areas.

42 2. Not-for-profit corporations, agricultural cooperative corporations,
43 public benefit corporations, municipalities and educational institutions
44 serving rural areas shall be eligible to apply for support under this
45 subdivision for the following activities:

46 (a) Support for local efforts to identify new agricultural economic
47 development opportunities, and to organize industry-wide collaborative
48 efforts designed to develop growth strategies for the agricultural
49 industry.

50 (b) Support for local or regional activities designed to provide busi-
51 ness development and financial packaging assistance to new and expanding
52 agricultural economic development projects.

1 (c) Development and delivery of programs to promote the retention of
2 existing farmers and to attract new farmers.

3 (d) Feasibility studies to determine the projected local, national
4 and/or international demand for the proposed crop or product to be
5 financed pursuant to this section and the suitability of the land and
6 climate for such production.

7 (e) Support for land acquisition and/or the construction, acquisition
8 or expansion of buildings, machinery and equipment associated with a
9 project.

10 (f) Loans can be provided by the corporation to agricultural cooper-
11 ative corporations, not-for-profit corporations and public benefit
12 corporations for the purpose of providing low cost financing from such
13 entities to projects for purposes described in this subdivision.

14 (g) Such projects shall be consistent with the environmental
15 protection goals of the state.

16 [2.] 3. Community development financial institutions, as defined by
17 paragraph (a) of subdivision 2 of section sixteen-o of this act, shall
18 be eligible to apply for designation under this subdivision to perform
19 the duties of a program administrator for the healthy food / healthy
20 communities initiative.

21 (a) Program administrators will be required to enter into a contract
22 with the corporation for the following responsibilities:

23 (i) raise matching capital to leverage state funds within three years
24 of signing a contract with the corporation;

25 (ii) report, at least annually, on the sources and amounts of funds
26 raised;

27 (iii) develop underwriting criteria; and

28 (iv) process loans and grants for food markets.

29 (b) Administrative costs of program administrators will be reimbursable
30 as set forth in either rules and regulations issued in accordance
31 with paragraph (d) of subdivision 5 of this section or in a request for
32 proposal.

33 (c) Eligible food markets are any entities in subparagraph (i) of this
34 paragraph. Eligible food markets must demonstrate that their proposed
35 project will benefit an underserved area, as defined in subparagraph
36 (ii) of this paragraph.

37 (i) An eligible food market applicant may be a for-profit business
38 enterprise (including a corporation, limited liability company, sole
39 proprietor, cooperative or partnership), a nonprofit organization or a
40 food cooperative.

41 (ii) An underserved area is defined as a low- or moderate-income
42 census tract, an area of below average supermarket density or an area
43 having a supermarket customer base with more than 50 percent living in a
44 low-income census tract.

45 (iii) Eligible uses for funds from state grants and loans to food
46 markets include:

47 (A) pre-development costs for project feasibility, including profes-
48 sional fees, market studies and appraisals;

49 (B) land assembly, including demolition and environmental remediation;

50 (C) site development;

51 (D) infrastructure improvements, including renovation, new
52 construction or adaptive reuse; and

53 (E) equipment purchases.

54 (d) The program administrator shall review, and if appropriate
55 approve, applications by food markets. The program administrator shall
56 review applications every other month for as long as funds remain avail-

1 able in the loan pool. The program administrator shall review each
2 application to determine whether the proposed project is financially
3 viable and demonstrates all of the following:

4 (i) makes a positive impact on the local economy;

5 (ii) increases revenues to the state, the host municipality, or the
6 market region or creates a new agricultural economic development oppor-
7 tunity;

8 (iii) adherence to sound land use principles;

9 (iv) promotes community development by working in conjunction with
10 other programs;

11 (v) incorporates energy efficiency and green building principles; and

12 (vi) to the maximum extent practicable, provides healthy, nutritious
13 food grown by sustainable agricultural practices.

14 4. Applications for assistance pursuant to this section, except for
15 the healthy foods / healthy communities initiative, shall be reviewed
16 and evaluated pursuant to eligibility requirements and criteria set
17 forth in rules and regulations promulgated by the upstate chairman, in
18 consultation with the commissioner of the department of agriculture and
19 markets, and subject to approval by the board of directors of the
20 upstate empire state development corporation. Approval of project appli-
21 cations shall be made by the upstate chairman, in consultation with the
22 commissioner of the department of agriculture and markets, subject to
23 approval by the board of directors of the upstate empire state develop-
24 ment corporation.

25 [3.] 5. Applications to be the program administrator for the healthy
26 food / healthy communities initiative shall be reviewed and evaluated
27 pursuant to eligibility requirements and criteria which may be set forth
28 in either rules and regulations, a request for proposal or an applica-
29 tion.

30 (a) Applications shall identify at least one food access, health or
31 community development organization who will work with the program admin-
32 istrator applicant to:

33 (i) analyze market opportunities in underserved areas;

34 (ii) recruit food market operators and developers;

35 (iii) pre-qualify food market applications on non-financial criteria;
36 and

37 (iv) provide technical assistance with regard to operating grocery
38 stores in low-income communities.

39 (b) Administrative costs of the food access, health or community
40 development organization will be reimbursable as set forth in rules and
41 regulations issued in accordance with paragraph (d) of this subdivision
42 or in a request for proposal.

43 (c) Approval of at least one program administrator shall be made by
44 the upstate chairman, in consultation with the commissioner of the
45 department of agriculture and markets, subject to approval by the board
46 of directors of the upstate empire state development corporation.

47 (d) At his or her discretion, the upstate chairman of the corporation
48 may promulgate rules and regulations, in consultation with the commis-
49 sioner of the department of agriculture and markets, and subject to
50 approval by the board of directors of the upstate empire state develop-
51 ment corporation for the implementation of this section.

52 6. The corporation, in consultation with the commissioner of the
53 department of agriculture and markets, shall submit a report to the
54 director of the budget, the temporary president of the senate, the
55 speaker of the assembly, the minority leader of the senate and the
56 minority leader of the assembly on the investments and accomplishments

1 of the upstate agricultural economic development fund. Such report shall
2 include, but not be limited to, information on the number of jobs
3 created and retained, levels of private sector investment, economic
4 benefit to the state and local economies and types of industries
5 invested in. Such report shall be submitted by July 1, 2009 and July
6 first every year thereafter.

7 ~~[4.]~~ 7. The corporation, in consultation with the commissioner of the
8 department of agriculture and markets, shall submit a report to the
9 director of the budget, the temporary president of the senate, the
10 speaker of the assembly, the minority leader of the senate and the
11 minority leader of the assembly evaluating the economic and social bene-
12 fits of the upstate agricultural economic development fund. Such evalu-
13 ation shall be prepared by an entity or entities independent of the
14 corporation which shall be selected through a request for proposal proc-
15 ess. Such evaluation shall be submitted by October 1, 2009 and October
16 first every year thereafter.

17 ~~[5.]~~ 8. The corporation is hereby authorized to promulgate rules and
18 regulations in accordance with the state administrative procedure act as
19 are necessary to fulfill the purposes of this section.

20 ~~[6.]~~ 9. The provisions of section ~~[10]~~ ten and subdivision 2 of
21 section ~~[16]~~ sixteen of ~~[the urban development corporation]~~ this act
22 shall not apply to assistance provided under this section.

23 § 2. This act shall take effect immediately.

24

PART YY

25 Section 1. Paragraph b of subdivision 4 of section 15-0313 of the
26 environmental conservation law, as amended by chapter 261 of the laws of
27 1990, is amended to read as follows:

28 b. Such rules and regulations may specify the pesticides and chemicals
29 and quantities and concentrations thereof which may be directly applied
30 or used, which specified chemicals and pesticides shall be selected with
31 maximum protection of life, health and property as criteria for their
32 selection, and shall also provide for giving reasonable notice to
33 persons likely to be adversely affected by such use of chemicals and may
34 require consent of persons who may reasonably be expected to suffer
35 substantial damage or injury thereby prior to the issuance of any permit
36 for such use. A fee of ~~[fifty]~~ one hundred dollars shall accompany each
37 permit.

38 § 2. Subdivision 2 of section 33-0901 of the environmental conserva-
39 tion law, as amended by section 3 of part B of chapter 82 of the laws of
40 2002, is amended to read as follows:

41 2. Any person desiring such a permit shall file an application
42 containing such information required by the commissioner and in a form
43 prescribed by the commissioner. The commissioner shall examine the
44 application and shall issue or refuse to issue the permit requested
45 therein. The commissioner shall impose whatever restrictions or condi-
46 tions on the permit he deems appropriate in order to fully protect the
47 public interest. Such a permit shall not be valid for more than two
48 years as determined by the commissioner. A separate permit is required
49 for each location in the state, and a fee for each location in the state
50 of ~~[three]~~ six hundred dollars is required.

51 § 3. Section 33-0911 of the environmental conservation law, as amended
52 by section 6 of part B of chapter 82 of the laws of 2002, subdivision 2
53 as amended by section 2 of part U of chapter 59 of the laws of 2004, is
54 amended to read as follows:

1 § 33-0911. Certification and registration fees.

2 1. Every applicant for pesticide applicator certification shall pay an
3 examination fee of [~~fifty~~] one hundred dollars for each examination.

4 2. a. Except as provided in paragraph b of this subdivision, fees for
5 pesticide applicator certification shall be [~~two~~] four hundred [~~twenty-~~
6 ~~five~~] fifty dollars for commercial pesticide applicator certification in
7 one individual category, [~~seventy-five~~] one hundred fifty dollars for
8 each additional category and [~~seventy-five~~] one hundred fifty dollars
9 for each additional sub-category chosen. For private applicators a fee
10 of twenty-five dollars for the initial certified private applicator and
11 five dollars for subsequent applicators on the same farm or business
12 shall be charged at the time of initial certification, renewal of
13 certification or recertification.

14 b. Fees for pesticide applicator certification for a commercial pesti-
15 cide applicator with only subcategory 3A-ornamentals, shade trees and
16 turf or only subcategory 3B-turf shall be [~~one~~] two hundred dollars.

17 3. Pesticide businesses shall pay a registration fee of [~~four~~] nine
18 hundred [~~fifty~~] dollars. When the applicant regularly maintains or oper-
19 ates more than one business address a fee may be required for each of
20 the applicant's business addresses in the state. Any agency which is a
21 state agency, municipal corporation, public authority, or college shall
22 be exempt from any fee for registration.

23 § 4. Section 33-0304 of the environmental conservation law, as amended
24 by chapter 60 of the laws of 1993, is amended to read as follows:
25 § 33-0304. Fees.

26 All fees collected pursuant to this article shall be deposited into
27 the environmental conservation special revenue fund to the credit of the
28 environmental regulatory account; provided, however, that the first five
29 million dollars collected pursuant to this article shall be deposited
30 into the environmental protection fund established pursuant to section
31 ninety-two-s of the state finance law.

32 § 5. Subdivisions a and b of section 33-0705 of the environmental
33 conservation law, as amended by section 2 of part FF of chapter 59 of
34 the laws of 2008, are amended to read as follows:

35 a. On or before July 1, 2011, [~~three~~] six hundred dollars for each
36 pesticide proposed to be registered, provided that the applicant has
37 submitted to the department proof in the form of a federal income tax
38 return for the previous year showing gross annual sales, for federal
39 income tax purposes, of three million five hundred thousand dollars or
40 less;

41 b. On or before July 1, 2011, for all others, [~~three~~] six hundred
42 [~~ten~~] twenty dollars for each pesticide proposed to be registered;

43 § 6. Subdivision 5 of section 33-0922 of the environmental conserva-
44 tion law, as amended by chapter 345 of the laws of 2008, is amended to
45 read as follows:

46 5. When engaged in the commercial application of aquatic antifouling
47 paints, an aquatic antifouling paint application business shall ensure
48 that such aquatic antifouling paints are only applied by an employee who
49 is a certified commercial pesticide applicator or technician certified
50 in the application of aquatic antifouling paint or an aquatic antifoul-
51 ing paint applicator, or a person who is a certified commercial pesti-
52 cide applicator or technician certified in the application of aquatic
53 antifouling paint or an aquatic antifouling paint applicator employed by
54 another registered business with which such business has contracted to
55 apply aquatic antifouling paints; provided, however, that until [~~Decem-~~
56 ~~ber thirty first, two thousand eight,~~] such time as authorization for

1 pesticide application by pesticide apprentices is repealed, aquatic
2 antifouling paint registered as a general use pesticide may be applied
3 by a commercial pesticide apprentice who is at least seventeen years of
4 age and employed by such business (a) working under the direct super-
5 vision of a certified commercial pesticide applicator, or (b) working
6 under the supervision of a certified pesticide technician qualified in
7 aquatic antifouling paints, if such application is otherwise done in
8 compliance with the rules and regulations of the department, and who,
9 during the handling and application of such paint, utilizes appropriate
10 safety equipment including but not limited to a respirator, eye
11 protection and skin protection.

12 § 7. This act shall take effect immediately and shall be deemed to
13 have been in full force and effect on and after April 1, 2009.

PART ZZ

14
15 Section 1. Subdivisions 5 and 6 of section 72-1003 of the environ-
16 mental conservation law, as amended by section 1 of part 01 of chapter
17 62 of the laws of 2003, are amended to read as follows:

18 5. [~~two~~] four thousand dollars for affected land of an acreage greater
19 than twenty acres and equal to or less than thirty acres; or

20 6. [~~four thousand dollars~~] eight thousand dollars for affected land of
21 an acreage greater than thirty acres.

22 § 2. This act shall take effect immediately, and shall be deemed to
23 have been in full force and effect on and after April 1, 2009.

PART AAA

24
25 Section 1. Section 70-0117 of the environmental conservation law is
26 amended by adding a new subdivision 8 to read as follows:

27 8. (a) All persons required to obtain a permit from the department
28 pursuant to section 24-0701 of this chapter shall submit to the depart-
29 ment an application fee in an amount not to exceed the following:

30 (i) fifty dollars per application for a permit for a minor project as
31 defined in this article or modification to any existing permit issued
32 pursuant to section 24-0701 of this chapter;

33 (ii) fifty dollars per application for a permit for a residential
34 project defined as associated with one single family dwelling and
35 customary appurtenances thereto;

36 (iii) one hundred dollars per application for multiple family dwelling
37 and customary appurtenances thereto;

38 (iv) two hundred dollars per application for a permit for any other
39 project as defined in this article.

40 (b) All persons required to obtain a permit from the department pursu-
41 ant to section 25-0402 of this chapter shall submit to the department an
42 application fee in an amount not to exceed the following:

43 (i) two hundred dollars per application for a permit for a minor
44 project as defined in this article or modification to any existing
45 permit issued pursuant to section 25-0402 of this chapter;

46 (ii) nine hundred dollars per application for a permit for a project
47 as defined in this article.

48 (c) All fees collected pursuant to this subdivision shall be deposited
49 into the environmental protection fund pursuant to section ninety-two-s
50 of the state finance law.

51 § 2. This act shall take effect April 1, 2009.

1

PART BBB

2 Section 1. The opening paragraph of subdivision 1 of section 72-0303
3 of the environmental conservation law, as amended by section 1 of part D
4 of chapter 413 of the laws of 1999, is amended to read as follows:

5 Commencing January first, nineteen hundred ninety-four and every year
6 thereafter all sources of regulated air contaminants identified pursuant
7 to subdivision one of section 19-0311 of this chapter shall submit to
8 the department ~~[a] an annual~~ fee ~~[not to exceed] of~~ forty-five dollars
9 per ton up to ~~[six] seven~~ thousand tons annually of each regulated air
10 contaminant as follows: forty-five dollars per ton for facilities with
11 total emissions less than one thousand tons annually; fifty dollars per
12 ton for facilities with total emissions of one thousand or more but less
13 than two thousand tons annually; fifty-five dollars per ton for facili-
14 ties with total emissions of two thousand or more but less than five
15 thousand tons annually; and sixty-five dollars per ton for facilities
16 with total emissions of five thousand or more tons annually. Such fee
17 shall be sufficient to support an appropriation approved by the legisla-
18 ture for the direct and indirect costs associated with the operating
19 permit program established in section 19-0311 of this chapter. Such fee
20 shall be established by the department and shall be calculated by divid-
21 ing the amount of the current year appropriation from the operating
22 permit program account of the clean air fund by the total tons of emis-
23 sions of regulated air contaminants that are subject to the operating
24 permit program fees from sources subject to the operating permit program
25 pursuant to section 19-0311 of this chapter up to ~~[six] seven~~ thousand
26 tons annually of each regulated air contaminant from each source;
27 provided that, in making such calculation, the department shall adjust
28 their calculation to account for any deficit or surplus in the operating
29 permit program account of the clean air fund established pursuant to
30 section ninety-seven-00 of the state finance law; any loan repayment
31 from the mobile source account of the clean air fund established pursu-
32 ant to section ninety-seven-00 of the state finance law; and the rate of
33 collection by the department of the bills issued for the fee for the
34 prior year.

35 § 2. This act shall take effect June 1, 2009.

36

PART CCC

37 Section 1. Article 15 of the environmental conservation law is amended
38 by adding a new title 33 to read as follows:

TITLE 33WATER WITHDRAWAL REPORTING

41 Section 15-3301. Water withdrawal reporting.

42 § 15-3301. Water withdrawal reporting.

43 1. Any person who withdraws or is operating any system or method of
44 withdrawal that has the capacity to withdraw more than 100,000 gallons
45 of groundwater or surface water per day at a single tract of land, water
46 source or place of business shall file a report with the department.
47 Such report shall be filed on or before February first, two thousand ten
48 and every February first thereafter. Any report filed in two thousand
49 ten shall be based on those calendar months commencing after the effec-
50 tive date of this section. The report shall be made on a form and
51 contain such information as may be prescribed by the department and
52 shall be based on the water withdrawals for the previous calendar year,
53 and shall include but not be limited to:

1 (a) the water source, the location of the water source and the source
2 capacity if known;

3 (b) the amount of water withdrawn for the reporting period, including
4 the average or peak withdrawals for intervals specified by the depart-
5 ment;

6 (c) a description of the use of the water withdrawn; and

7 (d) estimated amounts of water to be returned, if any, the locations
8 of such returns and the method of such returns.

9 2. The following water withdrawals are exempt from the reporting
10 requirements of subdivision one of this section:

11 (a) a withdrawal for emergency fire suppression or other public emer-
12 gency purposes;

13 (b) a withdrawal reported to the department under any program that
14 requires the reporting of substantially similar data, including with-
15 drawals regulated pursuant to the Susquehanna River Basin Compact, the
16 Delaware River Basin Compact, the Great Lakes-St. Lawrence River Basin
17 Water Resources Compact, public water supply permits, permits for Long
18 Island water wells and permits issued pursuant to section 15-1505 of
19 this article. The department shall record such withdrawals with the
20 information from water withdrawals reported under this paragraph;

21 (c) closed loop, standing column, or similar non-extractive geothermal
22 heat pumps; and

23 (d) reclaimed wastewater withdrawn for reuse.

24 3. All persons required to make a report under this title, except for
25 withdrawals for an agricultural purpose and for a public water supply
26 purpose, shall submit to the department a fee with such report in an
27 amount of fifty dollars. For the purpose of this subdivision, "agricul-
28 tural purpose" means the practice of farming for crops, plants, vines
29 and trees, and the keeping, grazing, or feeding of livestock for sale of
30 livestock or livestock products; and "public water supply purpose" shall
31 mean water use by a public water supply system.

32 4. Revenue received from the reporting fees shall be deposited to the
33 credit of the environmental protection fund established pursuant to
34 section ninety-two-s of the state finance law.

35 § 2. This act shall take effect April 1, 2009.

36 PART DDD

37 Section 1. The environmental conservation law is amended by adding a
38 new section 71-0213 to read as follows:

39 § 71-0213. Mandatory surcharge.

40 1. Whenever proceedings result in a conviction for an offense under
41 this chapter there shall be levied, in addition to any sentence required
42 or permitted by law, the following mandatory surcharges: (a) in the
43 amount of twenty-five dollars for violations of sportfishing regulations
44 set forth in 6 NYCRR 10; (b) in the amount of seventy-five dollars for
45 all other offenses under this chapter provided, however, that
46 convictions for offenses under articles seventeen, nineteen or twenty-
47 seven of this chapter shall be subject to a mandatory surcharge equal to
48 the greater of seventy-five dollars or six percent of any penalty or
49 fine imposed. The mandatory surcharge shall be paid to the clerk of the
50 court who shall remit such mandatory surcharge to the state comptroller
51 provided, however, that in cases where the conviction was rendered by a
52 town or a village justice court, the clerk of such court shall pay twen-
53 ty-five dollars of such surcharge to the chief fiscal officer of the
54 town or village in the case of surcharges resulting from paragraph (b)

1 of this subdivision and ten dollars in the case of surcharges resulting
2 from paragraph (a) of this subdivision and shall pay the remaining
3 amounts of such mandatory surcharges to the state comptroller in the
4 same manner as provided in section 71-0211 of this article. The comp-
5 troller shall pay such monies into the state treasury to the credit of
6 the general fund.

7 2. Any person who has paid a mandatory surcharge under the authority
8 of this section which is ultimately determined not to be required by
9 this section shall be entitled to a refund of such mandatory surcharge
10 upon application to the state comptroller. The state comptroller shall
11 require such proof as is necessary to determine whether a refund is
12 required by law.

13 § 2. This act shall take effect immediately, provided, however the
14 provisions of this act shall only apply to offenses committed on or
15 after April 1, 2009.

16 PART EEE

17 Section 1. The New York state urban development corporation shall
18 submit for approval to the director of the budget a comprehensive finan-
19 cial plan for the corporation and its subsidiaries for expenditures,
20 regardless of source, including but not limited to those from the debt
21 service account, the excess debt service account, the housing repair and
22 modernization fund account, the interest income account, and the econom-
23 ic development income account, in such detail as the director of the
24 budget may require. The director of the budget shall file copies of such
25 financial plan with the senate finance committee, the assembly ways and
26 means committee and the department of audit and control in both paper
27 and electronic format.

28 § 2. 1. Notwithstanding any provision of law to the contrary, the New
29 York state urban development corporation shall establish accounts and
30 subaccounts within the treasury of such corporation which shall reflect
31 and consist of all funds made available to such corporation, at any
32 time, from any sources for its corporate purposes. Such account shall
33 consist of, but not be limited to, the following:

34 (i) general and administrative accounts, which shall consist of all
35 funds made available for the operational expenses of such corporation;

36 (ii) general and administrative accounts of certain subsidiary corpo-
37 rations, which shall consist of all funds made available for the opera-
38 tional expenses of the mortgage loan enforcement and administration
39 corporation and the 42nd street development project, incorporated,
40 provided, however, that such subsidiary shall be established as a sepa-
41 rate account;

42 (iii) debt service account, which shall consist of all funds made
43 available for debt service payments on the outstanding general obli-
44 gations of the corporation where the original issue of such bonds or
45 notes was prior to April 1, 1976, and including any refinancing or
46 renewal of such bonds and notes, provided such account shall not, in any
47 manner, reduce any debt service reserve fund below a level agreed to
48 pursuant to a statute, covenant or other contract between the corpo-
49 ration and such bondholders or noteholders;

50 (iv) excess debt service account, which shall consist of all funds
51 made available from the net savings achieved as a result of the refund-
52 ing of the corporation's general purpose bonds authorized pursuant to
53 resolution number 96-ud-526 of the public authorities control board. Net
54 savings shall be determined by the difference between annual debt

1 service payments which would have been required pursuant to the refunded
2 bonds and the annual debt service payments for the corporation's corpo-
3 rate purpose bonds issued to accomplish such refunding;

4 (v) housing repair and modernization fund account, which shall consist
5 of funds made available from the excess debt service account to assist
6 in maintaining the residential and commercial portfolios of the corpo-
7 ration as determined by the chairman of the corporation or his designee;

8 (vi) buildout account, which shall consist of all funds made available
9 for the payment of expenses associated with final settlements on remain-
10 ing issues of construction costs and mortgage amounts on residential and
11 nonresidential projects financed by the corporation;

12 (vii) project repair account, which shall consist of all funds made
13 available for the maintenance, servicing or repairing of real property
14 in the residential, industrial and commercial portfolios of such corpo-
15 rations;

16 (viii) economic development income account, which shall consist of all
17 payments, including payments to compensate for any funds, time or other
18 costs provided by the corporation in relation to nonresidential projects
19 and all other reimbursable corporate service income from economic devel-
20 opment projects and payments which are provided to such corporation for
21 purposes of repayment of funds in respect to any contract or other
22 agreements entered into by the corporation which are attributable to any
23 economic development project of the corporation, provided, however, that
24 such account shall not include funds representing repayments which are
25 to be returned to the development of such project pursuant to any
26 contract or other agreement entered into by the corporation;

27 (ix) economic development program and project accounts, which shall
28 consist of all funds made available for specific economic development
29 programs and projects excluding any program or project authorized by a
30 resolution or other action of the corporation prior to April 1, 1976,
31 and excluding any residential project, provided, however, that each
32 specified program and project shall be established as a separate account
33 unless otherwise authorized pursuant to an appropriation;

34 (x) new communities and community support account, which shall consist
35 of all funds made available for, and all income received from the Audu-
36 bon and Radisson communities;

37 (xi) Roosevelt Island operating corporation account, which shall
38 consist of all funds made available for, and all income received from
39 the Roosevelt Island community;

40 (xii) interest income account, which shall consist of all moneys
41 earned by the corporation from investment of any funds available in the
42 accounts and subaccounts within the treasury of the corporation; and

43 (xiii) mortgage servicing fee account, which shall consist of all
44 funds made available to the mortgage loan enforcement and administration
45 corporation for the payment of fees to the housing special revenue
46 account of the miscellaneous special revenue fund associated with the
47 provision of mortgage servicing activities by the division of housing
48 and community renewal.

49 2. The amounts deposited in any such account may be interchanged with
50 any other account for purposes of investment and may be commingled,
51 provided, however, that such interchange may not increase or decrease
52 any account, other than the debt service account, and the interest
53 income account, by more than five percent in the aggregate in the entire
54 period of any fiscal year of the corporation. Provided further, that in
55 addition to any other specific exception provided for in this section,
56 the following exemptions to the above interchange provision shall apply

1 for the purposes of the debt service account, the interest income
2 account, the project repair account, the mortgage servicing fee account,
3 the general and administrative account of the mortgage loan enforcement
4 and administration corporation, excess debt service account, housing
5 repair and modernization fund account, Roosevelt Island operating corpo-
6 ration account and the economic development income account:

7 (i) Interchange from the debt service account to any other account
8 shall be unlimited, but all such transfers from the debt service account
9 shall be repaid quarterly to such account on or before June 30, 2009,
10 September 30, 2009, December 31, 2009 and March 31, 2010, except for:

11 (A) \$30,762,000 which shall be transferred to the general and adminis-
12 trative account from the debt service account during the state fiscal
13 year commencing April 1, 2009, and such amount of \$30,762,000 shall not
14 be repaid to the debt service account; (B) \$2,000,000 which shall be
15 transferred to the general and administrative account of the 42nd street
16 development project, incorporated and which shall be repaid pursuant to
17 a repayment agreement as set out in paragraph (vi) of this subdivision.

18 (ii) Interchange from the excess debt service account shall be unlim-
19 ited, but all such transfers from the excess debt service account shall
20 be repaid quarterly to such account on or before June 30, 2009, Septem-
21 ber 30, 2009, December 31, 2009, and March 31, 2010, except for: (A) an
22 amount sufficient to fund the housing repair and modernization fund
23 account to assist in maintaining the residential and commercial portfo-
24 lios of the corporation as determined by the chairman of the corporation
25 or his designee; (B) an amount necessary to invest in the job develop-
26 ment authority, as certified by the chairman of the authority or his
27 designee, to provide funds in order to pay lawful debts of the authority
28 provided that the corporation shall not make any payment or investment
29 for the benefit of the authority unless and until it has independently
30 verified that the authority does not have sufficient funds available to
31 pay its lawfully incurred debts and obligations, and with any net
32 savings which remain and are available; (C) all remaining balances of
33 funds contained in the excess debt service account shall be remitted to
34 the credit of the state of New York general fund not later than March
35 31, 2009.

36 (iii) Interchange from the interest income account, other than to the
37 general and administrative account of the mortgage loan enforcement and
38 administration corporation, may be unlimited.

39 (iv) Interchange to the project repair account from any account may be
40 unlimited, and the corporation shall transfer up to \$10,000,000 to such
41 account from any account during the fiscal year commencing April 1,
42 2009, and such amount up to \$10,000,000 shall not be repaid.

43 (v) Interchange between the general and administrative account of the
44 mortgage loan enforcement and administration corporation and any other
45 account shall comply with the provisions specified herein, except that
46 up to \$1,700,000 shall be transferred to such subsidiary corporation
47 during the fiscal year commencing April 1, 2009 and any such amount
48 shall not be repaid.

49 (vi) An advance up to \$2,000,000 may be made from the debt service
50 account to the general and administrative account of the 42nd street
51 development project, incorporated, provided, however, that before such
52 advance is made the New York state urban development corporation shall
53 enter into an agreement with the director of the budget providing for
54 repayment of such advance. Subject to the approval of the director of
55 the budget, and notification of the chairs of the assembly ways and
56 means and the senate finance committees in both paper and electronic

1 format, the corporation is hereby authorized to expend revenues of the
2 project for services and expenses of the corporation. The total amount
3 expended by the 42nd street development project, incorporated shall not
4 exceed \$2,000,000 and any unexpended project revenues shall be used to
5 reduce the total advance provided to the project from the debt service
6 account.

7 (vii) Interchange from the debt service account to the mortgage
8 servicing fee account of the mortgage loan enforcement and adminis-
9 tration corporation shall comply with the provisions specified herein,
10 except that up to \$2,838,000 shall be transferred to such mortgage
11 servicing fee account during the fiscal year commencing April 1, 2009
12 and such amount shall not be repaid. Prior to the allocation of any
13 moneys from the debt service account to the 42nd street development
14 project, incorporated, and the mortgage loan enforcement and adminis-
15 tration corporation for the fiscal year commencing April 1, 2009, each
16 corporation shall submit for approval to the director of the budget, a
17 comprehensive financial plan for each corporation for such fiscal year,
18 in such detail as the director of the budget shall require in both paper
19 and electronic format. The financial plan shall be submitted to the
20 budget director on or before May 15, 2009. A report for each plan and
21 any plan update, if necessary, shall be submitted to the director of the
22 budget on or before August 15, 2009, November 15, 2009 and February 15,
23 2010. Each such report shall provide the actual revenue and expenditures
24 for the preceding quarters ending June 30, 2009, September 30, 2009 and
25 December 31, 2009, in such detail as the director of the budget shall
26 require. Further, any plan update shall revise, where necessary, the
27 revenue and expenditure plan for each corporation for the remainder of
28 the fiscal year beginning April 1, 2009. No transfer to the general
29 administrative account of the corporation shall occur prior to the
30 approval of the financial plan and unless in compliance with the
31 approved financial plan.

32 The director of the budget shall file copies of such financial plans,
33 quarterly reports and any plan updates with the department of audit and
34 control and the senate finance committee and the assembly ways and means
35 committee in both paper and electronic format. Interchange made to the
36 debt service account shall not be repaid if such payment would reduce
37 any debt service or debt service reserve requirements below any amount
38 required pursuant to a covenant, contract or other agreements with the
39 bondholders and noteholders. No payments or deposits shall be made from
40 any debt service reserve fund established pursuant to the provisions of
41 section 20 of the New York state urban development corporation act to
42 any account of the corporation other than the debt service account; and
43 such payment or deposit shall only occur if deemed necessary to meet the
44 payments specified in the debt service account described herein.

45 Provided further, (a) that such investment shall be made pursuant to
46 the provisions of subdivision 22 of section 5 of the New York state
47 urban development corporation act; (b) that such investment shall be
48 made in a fashion which shall enable the corporation to timely meet its
49 obligations; (c) that such investment shall be specified in each account
50 in respect to the amount contributed, and that upon termination of such
51 investment each account shall be reimbursed. Such account and subaccount
52 shall be included in detailed quarterly reports of the corporation
53 commencing with the quarterly report for the period immediately preced-
54 ing April 1, 2009 which set forth the status of all such accounts,
55 including for each account and subaccount the amount in such accounts at
56 the beginning of such quarter (from and including the entire period of

1 the first day of the operative calendar year), the payments of such
2 accounts, the payments from such accounts and the amount in such
3 accounts at the close of such quarter (to and including the entire peri-
4 od of the last day of the operative calendar year). Such detailed quar-
5 terly report shall be prepared and submitted within 30 days of the close
6 of each fiscal quarter of the corporation to the director of the budget,
7 and the chair of the senate finance committee and the chair of the
8 assembly ways and means committee in both paper and electronic format.
9 Such accounts and subaccounts shall be detailed in the annual report of
10 the corporation.

11 No disbursements or payments shall be made from the economic develop-
12 ment income account or the interest income account except upon a request
13 for the transfer of such funds to the director of the budget who shall
14 file such request and approval thereof with the department of audit and
15 control and copies thereof with the senate finance committee and the
16 assembly ways and means committee in both paper and electronic format,
17 except that such prior approval shall not be required in respect to
18 repayments to the state. Any amounts in any debt service reserve funds,
19 any inconsistent provisions of law notwithstanding, established by the
20 corporation pursuant to the provisions of section 20 of the New York
21 state urban development corporation act, which would not reduce the
22 amount of such fund or funds to less than (1) the maximum amount of
23 principal and interest maturing and becoming due in 2009 or (2) any
24 amount required pursuant to a covenant, contract or other agreement with
25 bondholders and noteholders shall be paid by the corporation to the
26 state comptroller for deposit to the credit of the general fund of the
27 state on or before March 1, 2010. In the event that the corporation
28 shall fail to make such payment, the comptroller shall withhold from any
29 appropriations otherwise available to the corporation, the amount suffi-
30 cient to pay to the general fund the amounts required to be paid by the
31 corporation pursuant to the foregoing provisions. The state comptroller
32 shall create accounts for each item of appropriation.

33 § 3. This act shall take effect April 1, 2009; provided, however, if
34 this act shall become a law after such date it shall take effect imme-
35 diately and shall be deemed to have been in full force and effect on and
36 after April 1, 2009; and provided further that sections one and two of
37 this act shall expire and be deemed repealed March 31, 2010.

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

47 § 3. This act shall take effect immediately provided, however, that
48 the applicable effective date of Parts A through EEE of this act shall
49 be as specifically set forth in the last section of such Parts.
