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

February 1, 2011

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

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

AN ACT to authorize funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2011-2012 and to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund; and providing for the repeal of certain provisions upon expiration thereof (Part A); 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 making such provisions permanent (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 drivers' 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 569 of the laws of 1981, amending the vehicle and traffic law relating to motor vehicle liability insurance, financial security, criminal acts and

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

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penalties for non-compliance, in relation to making provisions permanent; and 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 making provisions permanent (Part E); Intentionally omitted (Part F); to amend chapter 393 of the laws of

other laws relating to reauthorizing the power authority of the state of New York to make contributions to the general fund, in relation to extending the expiration of the power for jobs program and the energy cost savings benefit program; to amend chapter 477 of the laws of 2009, amending the public authorities law relating to energy efficiency and clean energy initiatives of the power authority of the state of New York, in relation to making such provisions permanent and to repeal subdivision 16 of section 1005 of the public authorities law relating to energy audits (Part CC); 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 DD); and to amend the New York state urban development corporation act, in relation to the new markets tax credits; and providing for the repeal of such provision upon expiration thereof (Part EE)

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 2011-2012
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through EE. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

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

3 SCHEDULE

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

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

18	State Fiscal Year	Amount
19	2011-12	\$39,700,000

20 (b) Three hundred four million three hundred thousand dollars
 21 (\$304,300,000) to counties, cities, towns and villages for reimbursement
 22 of eligible costs of local highway and bridge projects pursuant to
 23 sections 16 and 16-a of chapter 329 of the laws of 1991, as added by
 24 section 9 of chapter 330 of the laws of 1991, as amended. For the
 25 purposes of computing allocations to municipalities, the amount distrib-
 26 uted pursuant to section 16 of chapter 329 of the laws of 1991 shall be
 27 deemed to be \$121,520,000. The amount distributed pursuant to section
 28 16-a of chapter 329 of the laws of 1991 shall be deemed to be
 29 \$182,780,000. Notwithstanding the provisions of any general or special
 30 law, the amounts deemed distributed in accordance with section 16 of
 31 chapter 329 of the laws of 1991 shall be adjusted so that such amounts
 32 will not be less than 83.807 percent of the "funding level" as defined
 33 in subdivision 5 of section 10-c of the highway law for each such muni-
 34 cipality. In order to achieve the objectives of section 16 of chapter
 35 329 of the laws of 1991, to the extent necessary, the amounts in excess
 36 of 83.807 percent of the funding level to be deemed distributed to each
 37 municipality under this subdivision shall be reduced in equal propor-
 38 tion.

39 (c) Fifty-eight million seven hundred ninety-seven thousand dollars
 40 (\$58,797,000) to municipalities for reimbursement of eligible costs of
 41 local highway and bridge projects pursuant to sections 16 and 16-a of
 42 chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of
 43 the laws of 1991, as amended. For the purposes of computing allocations
 44 to municipalities, the amount distributed pursuant to section 16 of
 45 chapter 329 of the laws of 1991 shall be deemed to be \$23,480,000. The
 46 amount distributed pursuant to section 16-a of chapter 329 of the laws
 47 of 1991 shall be deemed to be \$35,317,000. Notwithstanding the
 48 provisions of any general or special law, the amounts deemed distributed
 49 in accordance with section 16 of chapter 329 of the laws of 1991 shall
 50 be adjusted so that such amounts will not be less than 16.193 percent of
 51 the "funding level" as defined in subdivision 5 of section 10-c of the
 52 highway law for each such municipality. In order to achieve the objec-
 53 tives of section 16 of chapter 329 of the laws of 1991, to the extent
 54 necessary, the amounts in excess of 16.193 percent of the funding level
 55 to be deemed distributed to each municipality under this subdivision
 56 shall be reduced in equal proportion. To the extent that the total of
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1 remaining payment allocations calculated herein varies from \$58,797,000,
 2 the payment amounts to each locality shall be adjusted by a uniform
 3 percentage so that the total payments equal \$58,797,000.

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

8	State Fiscal Year	Amount
9	2011-12	\$363,097,000

10 S 2. Section 16 of chapter 329 of the laws of 1991, amending the state
 11 finance law and other laws relating to the establishment of the dedi-
 12 cated highway and bridge trust fund, is amended by adding a new subdivi-
 13 sion (f) to read as follows:

14 (F) FOR PURPOSES OF THIS SECTION AND SECTION 10-C OF THE HIGHWAY LAW,
 15 FOR PROJECTS COMPLETED ON OR BEFORE MARCH 31, 2012 LOCAL HIGHWAY AND
 16 BRIDGE PROJECTS MAY ALSO INCLUDE THE FOLLOWING WORK TYPES: (1) MICROSUR-
 17 FACING, (2) PAVER PLACED SURFACE TREATMENT, (3) SINGLE COURSE SURFACE
 18 TREATMENT INVOLVING CHIP SEALS AND OIL AND STONE, AND (4) DOUBLE COURSE
 19 SURFACE TREATMENT INVOLVING CHIP SEALS AND OIL AND STONE, HOWEVER, NO
 20 REIMBURSEMENT SHALL BE MADE FOR (1) MICROSURFACING, (2) PAVER PLACED
 21 SURFACE TREATMENT, (3) SINGLE COURSE SURFACE TREATMENT INVOLVING CHIP
 22 SEALS AND OIL AND STONE, AND (4) DOUBLE COURSE SURFACE TREATMENT INVOLV-

23 ING CHIP SEALS AND OIL AND STONE AFTER MARCH 31, 2012. REIMBURSEMENT FOR
24 PROJECTS USING THESE TREATMENTS MAY BE MADE FROM THE PROCEEDS OF BONDS,
25 NOTES OR OTHER OBLIGATIONS ISSUED BY THE NEW YORK STATE THRUWAY AUTHORI-
26 TY PURSUANT TO SECTION 380 OF THE PUBLIC AUTHORITIES LAW OR OTHERWISE AS
27 DETERMINED BY THE DIRECTOR OF THE BUDGET.

28 S 3. Section 16-a of chapter 329 of the laws of 1991, amending the
29 state finance law and other laws relating to the establishment of the
30 dedicated highway and bridge trust fund, is amended by adding a new
31 subdivision (f) to read as follows:

32 (F) FOR PURPOSES OF THIS SECTION AND SECTION 10-C OF THE HIGHWAY LAW,
33 FOR PROJECTS COMPLETED ON OR BEFORE MARCH 31, 2012 LOCAL HIGHWAY AND
34 BRIDGE PROJECTS MAY ALSO INCLUDE THE FOLLOWING WORK TYPES: (1) MICROSUR-
35 FACING, (2) PAVER PLACED SURFACE TREATMENT, (3) SINGLE COURSE SURFACE
36 TREATMENT INVOLVING CHIP SEALS AND OIL AND STONE, AND (4) DOUBLE COURSE
37 SURFACE TREATMENT INVOLVING CHIP SEALS AND OIL AND STONE, HOWEVER, NO
38 REIMBURSEMENT SHALL BE MADE FOR (1) MICROSURFACING, (2) PAVER PLACED
39 SURFACE TREATMENT, (3) SINGLE COURSE SURFACE TREATMENT INVOLVING CHIP
40 SEALS AND OIL AND STONE, AND (4) DOUBLE COURSE SURFACE TREATMENT INVOLV-
41 ING CHIP SEALS AND OIL AND STONE AFTER MARCH 31, 2012. REIMBURSEMENT FOR
42 PROJECTS USING THESE TREATMENTS MAY BE MADE FROM THE PROCEEDS OF BONDS,
43 NOTES OR OTHER OBLIGATIONS ISSUED BY THE NEW YORK STATE THRUWAY AUTHORI-
44 TY PURSUANT TO SECTION 380 OF THE PUBLIC AUTHORITIES LAW OR OTHERWISE AS
45 DETERMINED BY THE DIRECTOR OF THE BUDGET.

46 S 4. Subdivision (d) of section 11 of chapter 329 of the laws of 1991,
47 amending the state finance law and other laws relating to the establish-
48 ment of the dedicated highway and bridge trust fund, as amended by chap-
49 ter 432 of the laws of 1997, is amended to read as follows:

50 (d) Any such service contract (i) shall provide that the obligation of
51 the director of the budget or the state to fund or to pay the amounts
52 therein provided for shall not constitute a debt of the state within the
53 meaning of any constitutional or statutory provisions in the event the
54 thruway authority assigns or pledges service contract payments as secu-
55 rity for its bonds or notes, (ii) shall be deemed executory only to the
56 extent moneys are available and that no liability shall be incurred by
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1 the state beyond the moneys available for the purpose, and that such
2 obligation is subject to annual appropriation by the legislature, and
3 (iii) shall provide that no funds shall be made available from the
4 proceeds of bonds or notes issued pursuant to this chapter unless the
5 commissioner of transportation has certified to the chairman of the
6 thruway authority that such funds shall be used exclusively for the
7 purposes authorized by subdivision (a) of this section, and/or
8 construction, reconstruction or improvement of local highways, bridges
9 and/or highway-railroad crossings, including right of way acquisition,
10 preliminary engineering, and construction supervision and inspection,
11 where the service life of the project is at least ten years OR FOR
12 PROJECTS COMPLETED ON OR BEFORE MARCH 31, 2012 WHERE THE PROJECT IS:
13 (1) MICROSURFACING, (2) PAVER PLACED SURFACE TREATMENT, (3) SINGLE
14 COURSE SURFACE TREATMENT INVOLVING CHIP SEALS AND OIL AND STONE AND (4)
15 DOUBLE COURSE SURFACE TREATMENT INVOLVING CHIP SEALS AND OIL AND STONE,
16 and unless the director of the budget has certified to the chairman of
17 the thruway authority that a spending plan has been submitted by the
18 commissioner of transportation and has been approved by the director of
19 the budget. NO REIMBURSEMENT SHALL BE MADE FOR (1) MICROSURFACING, (2)
20 PAVER PLACED SURFACE TREATMENT, (3) SINGLE COURSE SURFACE TREATMENT
21 INVOLVING CHIP SEALS AND OIL AND STONE, AND (4) DOUBLE COURSE SURFACE
22 TREATMENT INVOLVING CHIP SEALS AND OIL AND STONE AFTER MARCH 31, 2012.

23 S 5. Subdivision (b) of section 16 of chapter 329 of the laws of 1991,
24 amending the state finance law and other laws relating to the establish-
25 ment of the dedicated highway and bridge trust fund, as added by chapter
26 330 of the laws of 1991, is amended to read as follows:

27 (b) Each county, city, town and village shall certify to the commis-

28 sioner of transportation that amounts to be reimbursed are for
29 construction, reconstruction or improvement of local highways, bridges
30 and/or highway-railroad crossings, including right of way acquisition,
31 preliminary engineering, and construction supervision and inspection
32 where the service life of the project is at least ten years OR FOR
33 PROJECTS COMPLETED ON OR BEFORE MARCH 31, 2012 WHERE THE PROJECT IS: (1)
34 MICROSURFACING, (2) PAVER PLACED SURFACE TREATMENT, (3) SINGLE COURSE
35 SURFACE TREATMENT INVOLVING CHIP SEALS AND OIL AND STONE AND (4) DOUBLE
36 COURSE SURFACE TREATMENT INVOLVING CHIP SEALS AND OIL AND STONE. NO
37 REIMBURSEMENT SHALL BE MADE FOR (1) MICROSURFACING, (2) PAVER PLACED
38 SURFACE TREATMENT, (3) SINGLE COURSE SURFACE TREATMENT INVOLVING CHIP
39 SEALS AND OIL AND STONE, AND (4) DOUBLE COURSE SURFACE TREATMENT INVOLV-
40 ING CHIP SEALS AND OIL AND STONE AFTER MARCH 31, 2012. Such certif-
41 ication shall include any such information as may be necessary to main-
42 tain the federal tax exempt status of bonds, notes or other obligations
43 issued by the New York state thruway authority pursuant to section 380
44 of the public authorities law. The commissioner of transportation shall
45 in writing request the municipalities to furnish such information as may
46 be necessary to comply with this section.

47 S 6. Subdivision (b) of section 16-a of chapter 329 of the laws of
48 1991, amending the state finance law and other laws relating to the
49 establishment of the dedicated highway and bridge trust fund, as added
50 by chapter 330 of the laws of 1991, is amended to read as follows:

51 (b) Each county, city, town and village shall certify to the commis-
52 sioner of transportation that amounts to be reimbursed are for
53 construction, reconstruction or improvement of local highways, bridges
54 and/or highway-railroad crossings, including right of way acquisition,
55 preliminary engineering, and construction supervision and inspection
56 where the service life of the project is at least ten years OR FOR
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1 PROJECTS COMPLETED ON OR BEFORE MARCH 31, 2012 WHERE THE PROJECT IS: (1)
2 MICROSURFACING, (2) PAVER PLACED SURFACE TREATMENT, (3) SINGLE COURSE
3 SURFACE TREATMENT INVOLVING CHIP SEALS AND OIL AND STONE AND (4) DOUBLE
4 COURSE SURFACE TREATMENT INVOLVING CHIP SEALS AND OIL AND STONE. NO
5 REIMBURSEMENT SHALL BE MADE FOR (1) MICROSURFACING, (2) PAVER PLACED
6 SURFACE TREATMENT, (3) SINGLE COURSE SURFACE TREATMENT INVOLVING CHIP
7 SEALS AND OIL AND STONE, AND (4) DOUBLE COURSE SURFACE TREATMENT INVOLV-
8 ING CHIP SEALS AND OIL AND STONE AFTER MARCH 31, 2012. Such certif-
9 ication shall include any such information as may be necessary to main-
10 tain the federal tax exempt status of bonds, notes or other obligations
11 issued by the New York state thruway authority pursuant to section 380
12 of the public authorities law. The commissioner shall in writing request
13 the municipalities to furnish such information as may be necessary to
14 comply with this section.

15 S 7. This act shall take effect immediately; provided, however, that
16 sections two, three, four, five and six of this act shall expire and be
17 deemed repealed on April 1, 2012.

18 PART B

19 Section 1. Section 2 of chapter 279 of the laws of 1998, amending the
20 transportation law relating to enabling the commissioner of transporta-
21 tion to establish a single audit pilot program, as amended by section 1
22 of part E of chapter 59 of the laws of 2010, is amended to read as
23 follows:

24 S 2. This act shall take effect on December 31, 1998, except that the
25 commissioner of transportation is immediately authorized to promulgate
26 rules and regulations necessary for the implementation of this act [and
27 shall expire December 31, 2011 when upon such date the provisions of
28 this act shall be deemed repealed].

29 S 2. This act shall take effect immediately.

31 Section 1. Section 7 of chapter 312 of the laws of 1994, amending the
32 vehicle and traffic law relating to suspensions of licenses pending
33 prosecution of certain alcohol-related charges, and authorizations for
34 probationary and conditional drivers' licenses, as amended by section 1
35 of part C of chapter 59 of the laws of 2009, is amended to read as
36 follows:

37 S 7. This act shall take effect immediately; provided however that
38 sections three, four, five and six of this act shall take effect on the
39 first day of November next succeeding the date on which it shall have
40 become a law and shall apply to offenses committed on or after such
41 date; provided further, however, that the amendment to paragraph (c) of
42 subdivision 2 of section 1193 of the vehicle and traffic law made by
43 section two of this act shall take effect on the same date as such para-
44 graph takes effect pursuant to section 9 of chapter 533 of the laws of
45 1993, as amended[, provided, further, that the provisions of section
46 four of this act shall remain in full force and effect until October 1,
47 2011 when upon such date the provisions of such section shall be deemed
48 repealed and the provisions of law amended by such section shall revert
49 to and be read as if the provisions of such section had not been
50 enacted].

51 S 2. This act shall take effect immediately, and shall be deemed to
52 have been in full force and effect on and after April 1, 2011.

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PART D

2 Section 1. Section 9 of chapter 533 of the laws of 1993, amending the
3 vehicle and traffic law and the correction law relating to suspension
4 and revocation of driver's licenses upon conviction of certain drug-re-
5 lated offenses, as amended by section 1 of part D of chapter 59 of the
6 laws of 2009, is amended to read as follows:

7 S 9. This act shall take effect September 30, 1993 and shall apply to
8 convictions based on offenses which occurred on or after such date [and
9 shall remain in full force and effect until October 1, 2011 when upon
10 such date the provisions of this act shall be deemed repealed and the
11 provisions of law amended by this act shall revert to and be read as if
12 the provisions of this act had not been enacted].

13 S 2. This act shall take effect immediately and shall be deemed to
14 have been in full force and effect on and after April 1, 2011.

15

PART E

16 Section 1. Section 12 of chapter 569 of the laws of 1981, amending the
17 vehicle and traffic law relating to motor vehicle liability insurance,
18 financial security, criminal acts and penalties for non-compliance, as
19 amended by section 1 of part J of chapter 59 of the laws of 2009, is
20 amended to read as follows:

21 S 12. This act shall take effect on the first day of September, 1982
22 [and the amendments made to the provisions of the vehicle and traffic
23 law by sections one through nine of this act shall expire on June 30,
24 2011 and shall apply to the use and operation of motor vehicles during
25 such period. Upon such expiration date the provisions of such sections
26 of such law shall revert to and be read as set out in law on the date
27 immediately preceding the effective date of this act. The commissioner
28 shall widely publicize the provisions of this act and take all actions
29 necessary to prepare for its implementation prior to the effective
30 date].

31 S 2. Section 15 of chapter 781 of the laws of 1983, amending the vehi-
32 cle and traffic law and other laws relating to motor vehicle liability
33 insurance, financial security, criminal acts and certain penalties for
34 non-compliance, as amended by section 2 of part J of chapter 59 of the

35 laws of 2009, is amended to read as follows:

36 S 15. This act shall take effect immediately except that sections ten
37 and eleven hereof shall NOT take effect [on June 30, 2011; the amend-
38 ments made to the provisions of the vehicle and traffic law and the
39 insurance law by sections one through seven of this act shall expire
40 June 30, 2011; upon such date the provisions of such sections of such
41 laws shall revert to and be read as set out in law on the date imme-
42 diately preceding the effective date of this act] AND ARE HEREBY
43 REPEALED.

44 S 3. This act shall take effect immediately.

45 PART F

46 Intentionally omitted.

47 PART G

48 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
49 New York state urban development corporation act relating to the powers
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1 of the New York state urban development corporation to make loans, as
2 amended by section 1 of part P of chapter 59 of the laws of 2010, is
3 amended to read as follows:

4 S 2. This act shall take effect immediately provided, however, that
5 section one of this act shall expire on July 1, [2011] 2012, at which
6 time the provisions of subdivision 26 of section 5 of the New York state
7 urban development corporation act shall be deemed repealed; provided,
8 however, that neither the expiration nor the repeal of such subdivision
9 as provided for herein shall be deemed to affect or impair in any manner
10 any loan made pursuant to the authority of such subdivision prior to
11 such expiration and repeal.

12 S 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, 2011.

14 PART H

15 Section 1. Section 217 of the state finance law, as amended by chapter
16 291 of the laws of 2004, is amended to read as follows:

17 S 217. Linked loans. Linked loans shall be made by lenders pursuant to
18 the program only to eligible businesses in connection with eligible
19 projects. A linked loan shall be limited to a maximum amount of [one]
20 TWO million dollars. An eligible business may receive more than one
21 linked loan. During the life of the linked loan program, the total
22 amount of money that a business can borrow from the linked program is
23 [one] TWO million dollars. The credit decision for making a linked loan
24 shall be made solely by the lender. Notwithstanding the length of the
25 term of a linked loan, the linked deposit relating to the linked loan
26 shall be for a period of not more than four years.

27 S 2. The state finance law is amended by adding a new section 220 to
28 read as follows:

29 S 220. RENEWAL OF LINKED DEPOSIT. A LENDER MAY, ON BEHALF OF A BORROW-
30 ER, APPLY TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT TO REQUEST A
31 RENEWAL OF THE LINKED DEPOSIT FOR AN ADDITIONAL FOUR YEAR PERIOD TO
32 CORRESPOND WITH A SECOND FOUR YEAR PERIOD OF A BORROWER'S LINKED LOAN.
33 THE COMMISSIONER MAY GRANT SUCH APPLICATION IF THE COMMISSIONER DETER-
34 MINES THAT THE BORROWER, DURING THE SECOND FOUR YEAR PERIOD OF THE
35 LINKED LOAN, WILL CREATE ADDITIONAL INDUSTRIAL MODERNIZATION BENEFITS OR
36 ADDITIONAL EXPORT TRADE BENEFITS OR ADDITIONAL JOBS. IF THE COMMISSIONER
37 OF ECONOMIC DEVELOPMENT GRANTS SUCH APPLICATION, THE COMMISSIONER SHALL
38 NOTIFY THE AUTHORIZED DEPOSITOR WHO MADE THE LINKED DEPOSIT THAT THE
39 COMMISSIONER HAS DETERMINED THAT THE APPLICATION SATISFIES THE REQUIRE-
40 MENTS OF THIS ARTICLE AND SHALL REQUEST THE AUTHORIZED DEPOSITOR TO

41 CONTINUE THE LINKED DEPOSIT WITH THE LENDER FOR AN ADDITIONAL FOUR YEAR
42 PERIOD IN ACCORDANCE WITH SECTION NINETY-EIGHT-A OF THIS CHAPTER AND
43 WITH THE AUTHORIZED DEPOSITOR'S ESTABLISHED PROCEDURES. SUCH LINKED
44 DEPOSIT SHALL CONTINUE TO BE SECURED IN ACCORDANCE WITH THE PROVISIONS
45 OF SECTION ONE HUNDRED FIVE OF THIS CHAPTER. THE FIXED INTEREST RATE ON
46 THE CONTINUED LINKED DEPOSIT SHALL BE THE LINKED DEPOSIT INTEREST RATE
47 IN EFFECT ON THE FIRST DAY OF THE CONTINUATION OF THE LINKED DEPOSIT.
48 THE AUTHORIZED DEPOSITOR AND THE LENDER SHALL ENTER INTO A WRITTEN
49 DEPOSIT AGREEMENT GOVERNING THE CONTINUATION OF THE LINKED DEPOSIT. THE
50 INTEREST RATE PAYABLE ON THE LINKED LOAN FOR THE SECOND FOUR YEAR PERIOD
51 SHALL BE, IN THE CASE OF A CERTIFIED BUSINESS IN AN ECONOMIC DEVELOPMENT
52 ZONE OR AN ELIGIBLE BUSINESS LOCATED IN AN ECONOMICALLY DISTRESSED AREA
53 OR FEDERAL EMPOWERMENT ZONE OR ENTERPRISE OR RENEWAL COMMUNITY OR A
54 MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISE, THREE PERCENTAGE POINTS
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1 BELOW THE INTEREST RATE THE LENDER WOULD HAVE CHARGED FOR THE LOAN IN
2 EFFECT ON THE FIRST DAY OF THE CONTINUATION OF THE LINKED DEPOSIT; OR IN
3 THE CASE OF A BUSINESS NOT LOCATED IN AN ECONOMIC DEVELOPMENT ZONE OR
4 ECONOMICALLY DISTRESSED AREA OR FEDERAL EMPOWERMENT ZONE OR ENTERPRISE
5 OR RENEWAL COMMUNITY OR WHICH IS NOT A MINORITY OR WOMEN-OWNED BUSINESS
6 ENTERPRISE, TWO PERCENTAGE POINTS BELOW THE INTEREST RATE THE LENDER
7 WOULD HAVE CHARGED FOR THE LOAN IN THE ABSENCE OF A LINKED DEPOSIT IN
8 EFFECT ON THE FIRST DAY OF THE CONTINUATION OF THE LINKED DEPOSIT.
9 S 3. This act shall take effect immediately.

10 PART I

11 Section 1. Paragraph (a) of subdivision 1 of section 1 of part U of
12 chapter 57 of the laws of 2005 amending the labor law and other laws
13 implementing the state fiscal plan for the 2005-2006 state fiscal year,
14 relating to the New York state higher education capital matching grant
15 program for independent colleges, as amended by part M of chapter 59 of
16 the laws of 2010, is amended to read as follows:

17 (a) The New York state higher education capital matching grant board
18 is hereby created to have and exercise the powers, duties and preroga-
19 tives provided by the provisions of this section and any other provision
20 of law. The board shall remain in existence during the period of the New
21 York state higher education capital matching grant program from the
22 effective date of this section through March 31, [2011] 2012, or the
23 date on which the last of the funds available for grants under this
24 section shall have been disbursed, whichever is earlier; provided,
25 however, that the termination of the existence of the board shall not
26 [effect] AFFECT the power and authority of the dormitory authority to
27 perform its obligations with respect to any bonds, notes, or other
28 indebtedness issued or incurred pursuant to authority granted in this
29 section.

30 S 2. Subclause (A) of clause (ii) of paragraph (j) of subdivision 4 of
31 section 1 of part U of chapter 57 of the laws of 2005 amending the labor
32 law and other laws implementing the state fiscal plan for the 2005-2006
33 state fiscal year, relating to New York state higher education matching
34 grant program for independent colleges, as amended by section 3 of part
35 M of chapter 59 of the laws of 2010, is amended to read as follows:

36 (A) Notwithstanding the provision of any general or special law to the
37 contrary, and subject to the provisions of chapter 59 of the laws of
38 2000 and to the making of annual appropriations therefor by the legisla-
39 ture, in order to assist the dormitory authority in providing such high-
40 er education capital matching grants, the director of the budget is
41 authorized in any state fiscal year commencing April 1, 2005 or any
42 state fiscal year thereafter for a period ending on March 31, [2011]
43 2012, to enter into one or more service contracts, none of which shall
44 exceed 30 years in duration, with the dormitory authority, upon such
45 terms as the director of the budget and the dormitory authority agree.

46 S 3. Paragraph (b) of subdivision 7 of section 1 of part U of chapter
47 57 of the laws of 2005 amending the labor law and other laws implement-
48 ing the state fiscal plan for the 2005-2006 state fiscal year, relating
49 to New York state higher education matching grant program for independ-
50 ent colleges, as amended by section 4 of part M of chapter 59 of the
51 laws of 2010, is amended to read as follows:

52 (b) Any eligible institution receiving a grant pursuant to this arti-
53 cle shall report to the dormitory authority no later than June 1, [2011]
54 2012, on the use of funding received and its programmatic and economic
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1 impact. The dormitory authority shall submit a report no later than
2 November 1, [2011] 2012 to the board, the governor, the director of the
3 budget, the temporary president of the senate, and the speaker of the
4 assembly on the aggregate impact of the higher education capital match-
5 ing grant program. Such report shall provide information on the progress
6 and economic impact of such project.

7 S 4. This act shall take effect immediately and shall be deemed to
8 have been in full force and effect on and after April 1, 2011.

9 PART J

10 Section 1. Paragraph (b) of subdivision 2 of section 2975 of the
11 public authorities law, as amended by section 1 of part O of chapter 59
12 of the laws of 2008, is amended to read as follows:

13 (b) On or before November first, two thousand three and on or before
14 November first of each year thereafter, the director of the budget shall
15 determine the amount owed under this section by each public benefit
16 corporation. The director of the budget may reduce, in whole or part,
17 the amount of such assessment if the payment thereof would necessitate a
18 state appropriation for the purpose, or would otherwise impose an
19 extraordinary hardship upon the affected public benefit corporation. The
20 aggregate amount assessed under this section in any given state fiscal
21 year may not exceed [fifty-five million dollars] SIXTY MILLION DOLLARS.

22 S 2. Section 2975-a of the public authorities law is REPEALED.

23 S 3. All monies paid by or on behalf of any industrial development
24 agency or authority as of the effective date of this act to reimburse to
25 New York state an allocable share of state governmental costs attribut-
26 able to the provision of services to industrial development agencies as
27 determined pursuant to section 2975-a of the public authorities law
28 shall be reimbursed to the paying entity within ninety days of the
29 effective date of this act.

30 S 4. This act shall take effect immediately provided however section
31 two of this act shall be deemed to have been in full force and effect on
32 and after April 1, 2009.

33 PART K

34 Section 1. Section 159-i of the executive law, as amended by section 1
35 of part Y of chapter 59 of the laws of 2010, is amended to read as
36 follows:

37 S 159-i. Distribution of funds. [For federal fiscal year two thousand
38 eleven at] AT least ninety percent of the community services block grant
39 funds received by the state shall be distributed pursuant to a contract
40 by the secretary to eligible entities as defined in subdivision one of
41 section one hundred fifty-nine-e of this article. Each such eligible
42 entity shall receive the same proportion of community services block
43 grant funds as was the proportion of funds received in the immediately
44 preceding federal fiscal year under the federal community services block
45 grant program as compared to the total amount received by all eligible
46 entities in the state, under the federal community services block grant
47 program.

48 [For federal fiscal year two thousand eleven the] THE secretary shall,

49 pursuant to section one hundred fifty-nine-h of this article, retain not
50 more than five percent of the community services block grant funds for
51 administration at the state level.

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1 [For federal fiscal year two thousand eleven the] THE remainder of the
2 community services block grant funds received by the state shall be
3 distributed pursuant to a contract by the secretary in the following
4 order of preference: a sum of up to one-half of one percent of the
5 community services block grant funds received by the state to Indian
6 tribes and tribal organizations as defined in this article, on the basis
7 of need; and to community based organizations. Such remainder funds
8 received by eligible entities will not be included in determining the
9 proportion of funds received by any such entity in the immediately
10 preceding federal fiscal year under the federal community services block
11 grant program.

12 S 2. Section 5 of chapter 728 of the laws of 1982, amending the execu-
13 tive law relating to community services block grant programs, as amended
14 by section 2 of part Y of chapter 59 of the laws of 2010, is amended to
15 read as follows:

16 S 5. This act shall take effect immediately provided, however, that
17 section four hereof shall take effect October 1, 1982 and provided
18 further, however, that the provisions of sections two, three and four of
19 this act shall be in full force and effect only until September 30, 1983
20 [and section one of this act shall be in full force and effect until
21 September 30, 2011, provided, however, that the distribution of funds
22 pursuant to section 159-i of the executive law shall be limited to the
23 federal fiscal year expressly set forth in such section].

24 S 3. Section 7 of chapter 710 of the laws of 1983, amending the execu-
25 tive law relating to community services block grant programs, as amended
26 by section 3 of part Y of chapter 59 of the laws of 2010, is amended to
27 read as follows:

28 S 7. This act shall take effect September 30, 1983 [and shall be in
29 full force and effect only until September 30, 2011 at which time the
30 amendments and additions made pursuant to the provisions of this act
31 shall be deemed to be repealed, provided, however, that the distribution
32 of funds pursuant to section 159-i of the executive law shall be limited
33 to the federal fiscal year expressly set forth in such section].

34 S 4. This act shall take effect immediately.

35

PART L

36 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
37 executive law relating to permitting the secretary of state to provide
38 special handling for all documents filed or issued by the division of
39 corporations and to permit additional levels of such expedited service,
40 as amended by section 1 of part B of chapter 19 of the laws of 2010, is
41 amended to read as follows:

42 S 2. This act shall take effect immediately, provided however, that
43 section one of this act shall be deemed to have been in full force and
44 effect on and after April 1, 2003 and shall expire March 31, [2011]
45 2013.

46 S 2. This act shall take effect immediately and shall be deemed to
47 have been in full force and effect on and after March 31, 2011.

48

PART M

49 Intentionally omitted.

50

PART N

S. 2810--C

13

A. 4010--C

1 Intentionally omitted.

3 Section 1. Subdivision 3 of section 164-d of the executive law, as
4 added by chapter 65 of the laws of 2005, is amended to read as follows:

5 3. The office for technology[, in consultation with the governor's
6 office of regulatory reform,] shall promulgate rules and regulations to
7 implement the provisions of this section. Such rules shall at least
8 provide for the prioritization and timing for making application forms
9 available on the internet.

10 S 2. Subdivision 46 of section 100 of the economic development law, as
11 added by chapter 427 of the laws of 2008, is amended to read as follows:

12 46. to prepare[, in cooperation with the governor's office of regula-
13 tory reform,] an annual summary for the small business community of the
14 key legislative, budgetary and regulatory changes impacting small busi-
15 nesses. Agencies shall cooperate with the department [and the governor's
16 office of regulatory reform] in developing the annual summary. The
17 annual summary shall be written in plain language and shall provide
18 specific contact information within the appropriate agency for inquiries
19 regarding implementation and compliance. The annual summary shall be
20 posted on the department website on or before September first of each
21 year.

22 S 3. Section 102-a of the state administrative procedure act, as added
23 by chapter 419 of the laws of 2007, is amended to read as follows:

24 S 102-a. Small business regulation guides. For each rule or group of
25 related rules which significantly impact a substantial number of small
26 businesses, the agency which adopted the rule shall post on its website
27 one or more guides explaining the actions a small business may take to
28 comply with such rule or group of rules if the agency determines[, in
29 conjunction with the governor's office of regulatory reform,] that such
30 guide or guides will assist small businesses in complying with the rule,
31 and shall designate each such posting as a "small business regulation
32 guide". The guide shall explain the actions a small business may take to
33 comply with a rule or group of rules. The agency shall, in its sole
34 discretion, taking into account the subject matter of the rule and the
35 language of relevant statutes, ensure that the guide is written using
36 sufficiently plain language that it is likely to be understood by
37 affected small businesses. Agencies shall cooperate with [the governor's
38 office of regulatory reform and] other state agencies in developing such
39 guides. [The governor's office of regulatory reform shall oversee and
40 coordinate the preparation of such small business regulation guides by
41 agencies.]

42 S 4. Subparagraph (iii) of paragraph (b) of subdivision 9 of section
43 202 of the state administrative procedure act, as added by chapter 230
44 of the laws of 2006, is amended to read as follows:

45 (iii) The secretary of state shall provide that the direct link
46 between the electronic copy of the state register and the electronic
47 mail address provided by an agency [shall also deliver to the governor's
48 office of regulatory reform a copy of all comments submitted].

49 S 5. Subdivision 8 of section 202-b of the state administrative proce-
50 dure act is REPEALED.

51 S 6. Paragraph (d) of subdivision 1 of section 202-d of the state
52 administrative procedure act, as added by chapter 193 of the laws of
53 2008, is amended to read as follows:

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1 (d) An agency shall identify each rule described in its regulatory
2 agenda for which a regulatory flexibility analysis or a rural area flex-
3 ibility analysis may be required, and shall provide outreach as appro-
4 priate to potentially affected small businesses, local governments and
5 public and private interests in rural areas. Such outreach may include
6 solicitation of input from potentially affected parties through elec-
7 tronic means or through any of the activities listed in subdivision six

8 of section two hundred two-b and subdivision seven of section two
9 hundred two-bb of this article. [In addition, the agency shall provide a
10 copy of the description of each rule subject to the provisions of this
11 paragraph to the governor's office of regulatory reform, which may in
12 its discretion include the description and additional information on the
13 rule in the quarterly report issued pursuant to subdivision eight of
14 section two hundred two-b of this article.]

15 S 7. This act shall take effect immediately; provided, that the amend-
16 ment to paragraph (d) of subdivision 1 of section 202-d of the state
17 administrative procedure act made by section six of this act shall not
18 affect the expiration of such paragraph and shall be deemed to expire
19 therewith.

20

PART P

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

25 S 2. This act shall take effect immediately and shall be deemed to
26 have been in full force and effect on and after April 1, 2011.

27

PART Q

28 Section 1. Expenditures of moneys appropriated in a chapter of the
29 laws of 2011 to the energy research and development authority, under the
30 research, development and demonstration program, from the special reven-
31 ue funds - other/state operations, miscellaneous special revenue fund -
32 339, energy research and planning account, and special revenue funds -
33 other/aid to localities, miscellaneous special revenue fund - 339, ener-
34 gy research and planning account shall be subject to the provisions of
35 this section. Notwithstanding the provisions of subdivision 4-a of
36 section 18-a of the public service law, all moneys committed or expended
37 shall be reimbursed by assessment against gas corporations and electric
38 corporations as defined in section 2 of the public service law, and the
39 total amount which may be charged to any gas corporation and any elec-
40 tric corporation shall not exceed one cent per one thousand cubic feet
41 of gas sold and .010 cent per kilowatt-hour of electricity sold by such
42 corporations in their intrastate utility operations in calendar year
43 2009. Such amounts shall be excluded from the general assessment
44 provisions of subdivision 2 of section 18-a of the public service law,
45 but shall be billed and paid in the manner set forth in such subdivision
46 and upon receipt shall be paid to the state comptroller for deposit in
47 the state treasury for credit to the miscellaneous special revenue fund.
48 The director of the budget shall not issue a certificate of approval
49 with respect to the commitment and expenditure of moneys hereby appro-
50 priated until the chair of such authority shall have submitted, and the
51 director of the budget shall have approved, a comprehensive financial
52 plan encompassing all moneys available to and all anticipated commit-
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1 ments and expenditures by such authority from any source for the oper-
2 ations of such authority. Copies of the approved comprehensive financial
3 plan shall be immediately submitted by the director of the budget to the
4 chairs and secretaries of the legislative fiscal committees.

5 S 2. This act shall take effect immediately and shall be deemed to
6 have been in full force and effect on and after April 1, 2011.

7

PART R

8 Section 1. Notwithstanding any other law, rule or regulation to the
9 contrary, expenses of the department of health public service education
10 program incurred pursuant to appropriations from the cable television

11 account of the state miscellaneous special revenue funds shall be deemed
12 expenses of the department of public service.

13 S 2. This act shall take effect immediately and shall be deemed to
14 have been in full force and effect on and after April 1, 2011.

15

PART S

16 Section 1. Section 9 of chapter 67 of the laws of 1992, amending the
17 environmental conservation law relating to pesticide product registra-
18 tion timetables and fees, as amended by section 1 of part FF of chapter
19 59 of the laws of 2008, is amended to read as follows:

20 S 9. This act shall take effect April 1, 1992 provided, however, that
21 section [3] THREE of this act shall take effect July 1, 1993 and shall
22 expire and be deemed repealed on July 1, [2011]2014.

23 S 2. Section 33-0705 of the environmental conservation law, as
24 amended by section 2 of part FF of chapter 59 of the laws of 2008,
25 subdivisions a and b as amended by section 5 of part YY of chapter 59 of
26 the laws of 2009, is amended to read as follows:

27 S 33-0705. Fee for registration.

28 The applicant for registration shall pay a fee as follows:

29 a. On or before July 1, [2011] 2014, six hundred dollars for each
30 pesticide proposed to be registered, provided that the applicant has
31 submitted to the department proof in the form of a federal income tax
32 return for the previous year showing gross annual sales, for federal
33 income tax purposes, of three million five hundred thousand dollars or
34 less;

35 b. On or before July 1, [2011] 2014, for all others, six hundred twen-
36 ty dollars for each pesticide proposed to be registered;

37 c. After July 1, [2011] 2014, fifty dollars for each pesticide
38 proposed to be registered.

39 S 3. This act shall take effect immediately and shall be deemed to
40 have been in full force and effect on and after April 1, 2011.

41

PART T

42 Intentionally omitted.

43

PART U

44 Section 1. Subparagraph (i) of paragraph c of subdivision 3 of section
45 16-s of section 1 of chapter 174 of the laws of 1968, constituting the
46 urban development corporation act, as amended by section 1 of part XX of
47 chapter 59 of the laws of 2009, is amended to read as follows:

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1 (i) An eligible food market applicant may be a for-profit business
2 enterprise (including a corporation, limited liability company, sole
3 proprietor, cooperative or partnership), [a nonprofit organization]
4 NOT-FOR-PROFIT CORPORATION, AGRICULTURAL COOPERATIVE CORPORATION, PUBLIC
5 BENEFIT CORPORATION, MUNICIPAL CORPORATION, REGIONAL MARKET FACILITY, or
6 a food cooperative.

7 S 2. Section 16 of the agriculture and markets law is amended by
8 adding new subdivision 46 to read as follows:

9 46. WITHIN THE AMOUNT OF MONIES APPROPRIATED OR OTHERWISE MADE AVAIL-
10 ABLE THEREFOR, ESTABLISH, ADMINISTER AND OPERATE, OR PROVIDE FOR THE
11 ADMINISTRATION AND OPERATION OF, A PROGRAM, WHICH MAY INCLUDE ESTABLISH-
12 MENT OF A REVOLVING LOAN FUND, TO ASSIST IN THE DEVELOPMENT, IMPLEMENTA-
13 TION AND OPERATION OF AGRICULTURAL PROGRAMS.

14 S 3. Section 260 of the agriculture and markets law is amended by
15 adding a new subdivision 9 to read as follows:

16 9. "FOOD DESERT" SHALL MEAN AN AREA WITH LIMITED ACCESS TO AFFORDABLE
17 AND NUTRITIOUS FOOD, PARTICULARLY SUCH AN AREA THAT IS COMPOSED OF
18 PREDOMINATELY LOWER-INCOME NEIGHBORHOODS AND COMMUNITIES.

19 S 4. Subdivision 1 of section 262 of the agriculture and markets law,
20 as amended by chapter 612 of the laws of 2006, and paragraph (b) as
21 amended by chapter 126 of the laws of 2007, is amended to read as
22 follows:

23 1. There is hereby created within the department a program of grants
24 for the purpose of providing state assistance for farmer's markets. In
25 administering such program, the commissioner, to the extent feasible,
26 shall ensure an equitable distribution of awards to rural areas and
27 other areas of the state. State assistance provided pursuant to this
28 section may be awarded for:

29 (a) the construction, reconstruction, improvement, expansion or reha-
30 bilitation of farmers' markets. Grants provided pursuant to this para-
31 graph shall not exceed the lesser of fifty percent of project cost or
32 fifty thousand dollars per project in any fiscal year.

33 (b) the purpose of providing promotional support for farmer's markets.
34 Grants provided pursuant to this paragraph shall not exceed the lesser
35 of fifty percent of project cost or [five] SEVEN thousand FIVE HUNDRED
36 dollars per applicant in any fiscal year.

37 (C) EQUIPMENT COSTS ASSOCIATED WITH IMPROVING FARMERS' MARKET FUNC-
38 TIONS, INCLUDING BUT NOT LIMITED TO EXPANDING ACCESS TO ELECTRONIC BENE-
39 FIT TRANSFER TECHNOLOGY FOR FARMERS' MARKETS AND OTHER NON-TRADITIONAL
40 FOOD ACCESS POINTS IN FOOD DESERTS IN THE STATE.

41 S 5. This act shall take effect immediately.

42 PART V

43 Intentionally omitted.

44 PART W

45 Section 1. Subdivision 3 of section 99-h of the state finance law, as
46 amended by section 1 of part QQ of chapter 59 of the laws of 2009, is
47 amended to read as follows:

48 3. Moneys of the account, following [appropriation] THE SEGREGATION OF
49 APPROPRIATIONS ENACTED by the legislature, shall be available for
50 purposes including but not limited to: (a) reimbursements or payments to
51 municipal governments that host tribal casinos pursuant to a tribal-
52 state compact for costs incurred in connection with services provided to
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1 such casinos or arising as a result thereof, for economic development
2 opportunities and job expansion programs authorized by the executive
3 law; provided, however, that for any gaming facility located in the city
4 of Buffalo, the city of Buffalo shall receive a minimum of twenty-five
5 percent of the negotiated percentage of the net drop from electronic
6 gaming devices the state receives pursuant to the compact, and provided
7 further that for any gaming facility located in the city of Niagara
8 Falls, county of Niagara a minimum of twenty-five percent of the negoti-
9 ated percentage of the net drop from electronic gaming devices the state
10 receives pursuant to the compact shall be distributed in accordance with
11 subdivision four of this section, and provided further that for any
12 gaming facility located in the county or counties of Cattaraugus, Chau-
13 tauqua or Allegany, the municipal governments of the state hosting the
14 facility shall collectively receive a minimum of twenty-five percent of
15 the negotiated percentage of the net drop from electronic gaming devices
16 the state receives pursuant to the compact; and provided further that
17 pursuant to chapter five hundred ninety of the laws of two thousand
18 four, a minimum of twenty-five percent of the revenues received by the
19 state pursuant to the state's compact with the St. Regis Mohawk tribe
20 shall be made available to the counties of Franklin and St. Lawrence,
21 and affected towns in such counties. Each such county and its affected
22 towns shall receive fifty percent of the moneys made available by the
23 state; and (b) support and services of treatment programs for persons

24 suffering from gambling addictions. Moneys not [appropriated] SEGREGATED
25 for such purposes shall be transferred to the general fund for the
26 support of government during the fiscal year in which they are received.

27 S 2. Paragraph (a) of subdivision 4 of section 99-h of the state
28 finance law, as amended by section 2 of part QQ of chapter 59 of the
29 laws of 2009, is amended to read as follows:

30 (a) Monies which are appropriated and received each year by the state
31 as a portion of the negotiated percentage of the net drop from electron-
32 ic gaming devices the state receives in relation to the operation of a
33 gaming facility in the city of Niagara Falls, county of Niagara which
34 subdivision three of this section requires to be a minimum of twenty-
35 five percent, shall be budgeted and disbursed by the city of Niagara
36 Falls in the following manner:

37 (i) [seventy-five] SEVENTY-THREE AND ONE-HALF percent of the total
38 annual amount received shall be available for expenditure by the city of
39 Niagara Falls for such public purposes as are determined, by the city,
40 to be necessary and desirable to accommodate and enhance economic devel-
41 opment, neighborhood revitalization, public health and safety, and
42 infrastructure improvement in the city, shall be deposited into the
43 tribal revenue account of the city and any and all interest and income
44 derived from the deposit and investment of such monies shall be deposit-
45 ed into the general operating fund of the city; PROVIDED HOWEVER, THAT
46 ANY AMOUNT ALLOCATED TO THE NIAGARA FALLS UNDERGROUND RAILROAD HERITAGE
47 COMMISSION, TO THE EXTENT THAT ITS SHARE PURSUANT TO THE FORMULA ESTAB-
48 LISHED IN CLAUSE FIVE OF SUBPARAGRAPH (II) OF THIS PARAGRAPH EXCEEDS ONE
49 PERCENT, SUCH AMOUNTS SHALL BE DISTRIBUTED FROM THE FUNDS AVAILABLE TO
50 THE CITY FOR ITS PUBLIC PURPOSES PURSUANT TO THIS PARAGRAPH; and

51 (ii) the remaining [twenty-five] TWENTY-SIX AND ONE-HALF percent of
52 the total annual amount received shall be allocated for the city of
53 Niagara Falls to be available for expenditure in the following manner:

54 (1) within thirty-five days upon receipt of such funds by such city,
55 five and one-half percent of the total annual amount received in each
56 year, not to exceed seven hundred fifty thousand dollars annually, shall
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1 be transferred to Niagara Falls memorial medical center to be used for
2 capital construction projects; and

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

8 (3) within thirty-five days upon receipt of such funds by such city,
9 [six] SEVEN percent in each year shall be transferred to the Niagara
10 tourism and convention center corporation for marketing and tourism
11 promotion in the county of Niagara including the city of Niagara Falls;
12 and

13 (4) an amount equal to the lesser of one million dollars or seven
14 percent of the total amount in each year shall be transferred to the
15 city of Niagara Falls and held in an escrow account maintained by the
16 city of Niagara Falls and, if additional funding has been secured by the
17 Niagara frontier transportation authority to finance construction of a
18 new terminal at Niagara Falls, such amount held in escrow shall be
19 transferred to the Niagara frontier transportation authority for such
20 purpose provided however that if such additional funding has not been
21 secured or construction of a new terminal has not commenced within two
22 years of the date which such monies were received by the city of Niagara
23 Falls such amounts held in escrow by the city of Niagara Falls shall be
24 distributed pursuant to subparagraph (iii) of this paragraph; and

25 (5) within thirty-five days upon receipt of such funds by such city,
26 one percent or three hundred fifty thousand dollars, whichever is great-
27 er, of the total annual amount received in each year shall be trans-
28 ferred to the Niagara Falls Underground Railroad Heritage Commission,

29 established pursuant to article forty-three of the parks, recreation and
30 historic preservation law to be used for, but not limited to, develop-
31 ment, capital improvements, acquisition of real property, and acquisi-
32 tion of personal property within the heritage area in the city of
33 Niagara Falls as established pursuant to the commission; PROVIDED IN THE
34 EVENT THE DISTRIBUTION AVAILABLE PURSUANT TO THIS CLAUSE EXCEEDS ONE
35 PERCENT, IT SHALL BE DISTRIBUTED FROM THE MONEYS AVAILABLE PURSUANT TO
36 SUBPARAGRAPH (I) OF THIS PARAGRAPH; and

37 (iii) all other monies appropriated or received for distribution
38 pursuant to this subdivision after the transfer of money pursuant to
39 this subparagraph and subparagraphs (i) and (ii) of this paragraph in
40 each year shall be allocated to the city of Niagara Falls for infras-
41 tructure and road improvement projects.

42 S 3. This act shall take effect immediately; provided that:

43 (a) the amendments to subdivision 3 of section 99-h of the state
44 finance law made by section one of this act shall expire and be deemed
45 repealed March 31, 2013; and

46 (b) the amendments to paragraph (a) of subdivision 4 of section 99-h
47 of the state finance law made by section two of this act shall not
48 affect the expiration of such section and shall be deemed to expire
49 therewith.

50 PART X

51 Intentionally omitted.

52 PART Y

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19

A. 4010--C

1 Section 1. Subdivisions 1 and 6 of section 408 of the general business
2 law, as added by chapter 509 of the laws of 1992, are amended to read as
3 follows:

4 1. All licenses shall expire [two] FOUR years from the date of issu-
5 ance.

6 6. Any license, which has not been suspended or revoked, may, upon the
7 payment of the renewal fee, be renewed for additional periods of [two]
8 FOUR years from its application, without further examination, upon the
9 filing of an application for such renewal, on a form to be prescribed by
10 the secretary.

11 S 2. Subdivisions 1, 2 and 7 of section 409 of the general business
12 law, subdivision 1 as amended by chapter 341 of the laws of 1998 and
13 subdivisions 2 and 7 as added by chapter 509 of the laws of 1992, are
14 amended to read as follows:

15 1. The non-refundable fee for an application for a license to engage
16 in the practice of nail specialty, waxing, natural hair styling, esthet-
17 ics or cosmetology, shall be [twenty] FORTY dollars initially and for
18 each renewal thereof the fee shall be [twenty] FORTY dollars; the fee
19 for a temporary license and each renewal shall be ten dollars.

20 2. The fee for an appearance enhancement business license shall be
21 [thirty] SIXTY dollars initially and [thirty] SIXTY dollars for each
22 renewal thereof.

23 7. The fees herein set forth shall be those for licenses issued for
24 the license period of [two] FOUR years.

25 S 3. Subdivisions 2 and 4 of section 437 of the general business law,
26 subdivision 2 as amended by chapter 497 of the laws of 1985 and subdivi-
27 sion 4 as added by chapter 801 of the laws of 1946 and as renumbered by
28 chapter 263 of the laws of 1949, are amended to read as follows:

29 2. A certificate of registration as an apprentice shall be for a peri-
30 od of [two] FOUR years.

31 4. A certificate of registration expiring in any year, which has not
32 been revoked, may, upon payment of the fee prescribed by this article,
33 be renewed for additional periods of [two] FOUR years upon filing an
34 application therefor and the certificate mentioned in subdivision two on

35 condition, however, that no certificate of registration may be issued
36 after one renewal, unless the applicant for such certificate of regis-
37 tration has complied with all the provisions of this article relating to
38 apprentices.

39 S 4. Subdivisions 1 and 4 of section 439 of the general business law,
40 subdivision 1 as amended by chapter 497 of the laws of 1985 and subdivi-
41 sion 4 as amended by chapter 243 of the laws of 1999, are amended to
42 read as follows:

43 1. All licenses, except temporary licenses, shall be for a period of
44 [two] FOUR years.

45 4. Any license or certificate, except a temporary license, which has
46 not been suspended or revoked, may, upon the payment of the renewal fee
47 prescribed by this article, be renewed for additional periods of [two]
48 FOUR years from its expiration, without further examination, upon the
49 filing of any application for such renewal, on a form to be prescribed
50 by the secretary of state, accompanied by the certificate required by
51 paragraph (c) and the certificate of completion required by paragraph
52 (e-1) of subdivision one of section four hundred thirty-four of this
53 article.

54 S 5. Subdivisions 1, 2, 4 and 8 of section 440 of the general business
55 law, as amended by chapter 61 of the laws of 1989, are amended to read
56 as follows:

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20

A. 4010--C

1 1. The fee for a license to engage in the practice of barbering shall
2 be [twenty] FORTY dollars and for each renewal thereof the fee shall be
3 [twenty] FORTY dollars.

4 2. The fee for a license to conduct a barber shop shall be [thirty]
5 SIXTY dollars and for each renewal thereof the fee shall be [thirty]
6 SIXTY dollars.

7 4. The fee for the registration or the renewal of the registration of
8 an apprentice shall be [ten] TWENTY dollars.

9 8. The fees hereinabove set forth shall be those for licenses issued
10 for the license period of [two] FOUR years. Notwithstanding the
11 provisions of subdivision one of section four hundred thirty-nine of
12 this article, after [January first, nineteen hundred eighty-six] APRIL
13 FIRST, TWO THOUSAND ELEVEN, the secretary of state shall assign stag-
14 gered expiration dates for outstanding licenses that have been previous-
15 ly renewed [on June thirtieth of each year] and such licenses shall
16 thereafter expire [two] FOUR years from the assigned date unless
17 renewed. [If the assigned date results in a term that exceeds twenty-
18 four months, the applicant shall pay an additional prorated adjustment
19 together with the regular renewal fee.] The secretary of state shall
20 assign dates to existing licenses in a manner which shall result in a
21 term of not less than [two] FOUR years.

22 S 6. This act shall take effect immediately.

23 PART Z

24 Intentionally omitted.

25 PART AA

26 Section 1. Section 13-0355 of the environmental conservation law, as
27 added by section 6 of part LL of chapter 59 of the laws of 2009, is
28 amended to read as follows:

29 S 13-0355. Recreational marine fishing [license] REGISTRATION.

30 1. Definitions of [licenses] REGISTRATIONS; privileges. [a.] A recre-
31 ational marine fishing [license] REGISTRATION entitles the holder who is
32 sixteen years of age or older to take fish from the waters of the marine
33 and coastal district and to take migratory fish of the sea from all
34 waters of the state, except as provided in sections 13-0333 and 13-0335
35 of this title. A recreational marine fishing [license] REGISTRATION is

36 effective for a [license] REGISTRATION year beginning January first and
37 ending December thirty-first.

38 [b. A seven-day recreational marine fishing license
39 entitles the holder to exercise the privileges of a recreational marine
40 fishing license for the seven consecutive days specified in such
41 license.]

42 c. A one-day recreational marine fishing license entitles the holder
43 to exercise the privileges of a recreational marine fishing license on
44 the day specified on such license.]

45 2. General provisions. a. The privileges of a recreational marine
46 fishing [license] REGISTRATION may be exercised only at the times and
47 places, and in the manner and to the extent, permitted by the fish and
48 wildlife law and applicable regulations of the department.

49 b. Recreational marine fishing [licenses] REGISTRATIONS are not trans-
50 ferable. No person shall alter, change, lend to another person or
51 attempt to transfer to another person any recreational marine fishing
52 [license] REGISTRATION.

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1 c. A [license] REGISTRATION issued in lieu of a lost or destroyed
2 [license] REGISTRATION is void if it is obtained: (i) by fraud; or (ii)
3 by a person who is not authorized to hold it or who makes a false state-
4 ment in applying for it.

5 d. No [license] REGISTRATION authorizes the holder (a) to trespass
6 upon private lands or waters or to interfere with property belonging to
7 another person; (b) to take fish or wildlife on an Indian reservation;
8 (c) to enter upon, or to take or disturb fish or wildlife upon, state
9 lands or waters posted by the department except in accordance with a
10 written permit from the department or an order adopted by the depart-
11 ment; (d) to take any fish or wildlife in any area closed to the taking
12 of fish or wildlife, or to take any species of fish, wildlife or
13 protected insect in an area closed to the taking of such species.

14 3. Failure to carry [license] REGISTRATION. a. The holder of a recre-
15 ational marine fishing [license] REGISTRATION shall:

16 (i) at all times have such [license] REGISTRATION on the holder's
17 person while exercising any privilege of that [license] REGISTRATION;
18 and

19 (ii) shall exhibit such [license] REGISTRATION on demand to any police
20 officer, peace officer, or owner, lessee or other person in control of
21 the lands or waters or the designees of the owner, lessee or person in
22 control of the lands or waters on which the [license] REGISTRATION hold-
23 er is present and is exercising the privileges thereof.

24 b. Failure to have a recreational marine fishing [license] REGISTRA-
25 TION on one's person while exercising any privilege of that [license]
26 REGISTRATION is presumptive evidence that such person is fishing without
27 holding the [license] REGISTRATION required by this section.

28 4. Fees. [Each] NO applicant for a recreational marine fishing
29 [license] REGISTRATION shall [pay to the issuing officer a fee according
30 to the license issued and the residence or other qualification of the
31 applicant, as follows:

32 a. In the case of persons who have been residents of the state for
33 thirty days or more immediately preceding the date of application or who
34 are enrolled in a full-time course at a college or university within the
35 state and who are in residence in the state for the school year, Indians
36 residing off reservations in the state and members of the United States
37 armed forces in active service stationed in this state regardless of
38 place of residence at the time of entry into service:

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

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

51 License	Fee
52 (1) Recreational marine fishing	\$15.00
53 (2) Seven-day recreational marine	
54 fishing	\$10.00
55 (3) One-day recreational marine	
56 fishing	\$ 5.00

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

4 d. License issuing officers may retain 5.5 percent of the gross
5 proceeds from the sale of all recreational marine fishing licenses] BE
6 REQUIRED TO PAY A FEE FOR SUCH REGISTRATION.

7 5. Exemption from requirement of recreational marine fishing [license]
8 REGISTRATION. a. Minors under the age of sixteen may take fish as if
9 they held a recreational marine fishing [license] REGISTRATION.

10 b. Recreational fishing passengers on a marine and coastal district
11 party or charter boat licensed AND REGISTERED pursuant to section
12 13-0336 of this title may take fish as if they held a recreational
13 marine fishing [license] REGISTRATION.

14 6. Recreational marine fishing [licenses] REGISTRATION data. a. The
15 department is authorized to collect data on holders of recreational
16 marine fishing [licenses] REGISTRATIONS, which shall include but not be
17 limited to, a [licensee's] REGISTRANT'S name, address and date of birth.

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

27 7. Reciprocity in boundary waters. If persons holding recreational
28 marine fishing [licenses] REGISTRATIONS issued under the New York fish
29 and wildlife law are not required to have licenses OR REGISTRATIONS
30 issued by a state named in paragraph a, b or c of this subdivision when
31 fishing in that part of the waters, specified in such paragraph, which
32 lies within that state then, in such case, a person holding a similar
33 license OR REGISTRATION issued by such state may, without a recreational
34 marine fishing [license] REGISTRATION issued under the New York fish and
35 wildlife law, take fish as provided in this title, from that part of
36 such waters specified in paragraph a, b or c of this subdivision which
37 lies within this state:

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

40 b. License OR REGISTRATION issued by New Jersey: those parts of New
41 York Harbor, Hudson River, Kill Van Kull, Arthur Kill, Raritan Bay and
42 Atlantic Ocean lying between New York and New Jersey.

43 c. License OR REGISTRATION issued by Rhode Island: those parts of Long
44 Island Sound, Block Island Sound and Atlantic Ocean lying between New
45 York and Rhode Island.

46 S 2. Subdivision 1 of section 11-0702 of the environmental conserva-
47 tion law, as amended by chapter 507 of the laws of 2010, is amended to
48 read as follows:

49 1. There are hereby created the following lifetime hunting, fishing,

50 trapping, archery and muzzle-loading licenses and fees therefor subject
 51 to the same privileges and obligations of a comparable short term
 52 license:

53 Licenses	23	Fees	A. 4010--C
54 a. Lifetime sportsman			
55 license and turkey			
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1 permit. If purchased,			
2 for a child four years			
3 of age or younger		\$380.00	
4 for a child age five through			
5 eleven years of age		\$535.00	
6 for a person age twelve through			
7 sixty-nine years of age		\$765.00	
8 for a person age seventy			
9 and over.		\$65.00	
10 b. Lifetime small and			
11 big game license.		\$535.00	
12 c. Lifetime fishing			
13 license for a person age			
14 sixty-nine or younger.		\$460.00	
15 d. Lifetime fishing license			
16 for a person age seventy			
17 and over.		\$ 65.00	
18 e. Lifetime trapping			
19 license.		\$395.00	
20 f. Lifetime archery			
21 stamp.		\$235.00	
22 g. Lifetime muzzle-			
23 loading stamp.		\$235.00	
24 [h. Lifetime recreational			
25 marine fishing license.		\$150.00	
26 i. Lifetime combination fishing			
27 and recreational marine fishing			
28 license.		\$450.00]	
29 j. For transfer to a person pursuant			
30 to section 11-0704 of this title		\$50.00	

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

35 S 3. Subdivision 1 of section 11-0713 of the environmental conserva-
 36 tion law, as amended by section 4 of part LL of chapter 59 of the laws
 37 of 2009, is amended to read as follows:

38 1. a. All licenses, stamps, tags, buttons, permits, REGISTRATIONS, and
 39 permit applications authorized by this title or section 13-0355 of this
 40 chapter, and any additional privileges authorized by the department
 41 shall be issued by:

42 (1) clerks of a county, town or city, except a city having a popu-
43 lation of one million or more, although such clerks may request authori-
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1 zation from the department to cease issuing such licenses OR REGISTRA-
2 TIONS,

3 (2) clerks of a village having more than one thousand inhabitants
4 according to the last preceding federal census, or of a village in a
5 county of less than five hundred thousand inhabitants, adjoining a city
6 of over one million inhabitants, both according to such census, although
7 such clerks may request authorization from the department to cease issu-
8 ing such licenses OR REGISTRATIONS, and

9 (3) license issuing officers as may be appointed by the commissioner.
10 Applicants for designation as license issuing officers shall be over the
11 age of eighteen years and shall meet such other requirements of eligi-
12 bility, including posting bond, as the department may by regulation
13 specify. Such issuing officers shall be entitled to receive and keep the
14 same fees for issuing licenses and stamps that are specified in section
15 11-0715 of this title for issuing clerks [and section 13-0355 of this
16 chapter], and shall file reports and remit license fees to the appropri-
17 ate regional environmental conservation officer or the department as
18 required by regulation.

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

21 c. One-day fishing licenses [and one-day recreational marine fishing
22 licenses] may be issued by any person who has never been convicted of or
23 pleaded guilty to a misdemeanor under this chapter within the past three
24 years, and has not been convicted of a crime under any other law. Such
25 licenses shall be issued to any such person following payment of the
26 applicable license fee for each license. One-day fishing licenses [and
27 one-day recreational marine fishing licenses] may be sold by the initial
28 purchaser for no more than the applicable license fee, plus one dollar
29 for the person selling such license. In the case of misuse or fraud in
30 handling the fishing licenses, the department shall have the authority
31 to revoke the privilege to buy and sell the licenses.

32 S 4. Subdivision 1 of section 13-0336 of the environmental conserva-
33 tion law, as amended by section 5 of part LL of chapter 59 of the laws
34 of 2009, is amended to read as follows:

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

49 S 5. Paragraphs (c), (d), and (e) of subdivision 2 of section 13-0503
50 of the environmental conservation law, paragraphs (c) and (d) as added
51 and paragraph (e) as amended by section 7 of part LL of chapter 59 of
52 the laws of 2009, are amended to read as follows:

53 (c) review the allocations and expenditures of the department related
54 to the marine resources account. To assist the board in its review, the
55 department shall by September first of each year make available to the
56 board, the governor and the legislature current and anticipated income
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1 and expenditures for the account, including planned expenditures by time

2 and activity code for the next fiscal year; AND
3 (d) consult with marine fish and wildlife interests and render annual
4 reports to the commissioner on fiscal needs and make recommendations on
5 expenditures and how such needs shall be met[; and
6 (e) make recommendations regarding the maximum fees for the recre-
7 ational marine fishing licenses identified in section 13-0355 of this
8 article. In recommending such fees, the board shall consider economic
9 indicators, the general financial condition of the saltwater recreation-
10 al fishing industry and the status of the marine resources account,
11 including the viability of the marine resources program, as it may deem
12 appropriate].
13 S 6. Any person who holds a recreational marine fishing license for
14 the 2011 calendar year shall be deemed to have satisfied the registra-
15 tion requirements of sections 13-0355 and 13-0336 of the environmental
16 conservation law for the calendar year 2011.
17 S 7. Any person who holds a lifetime combination fishing and recre-
18 ational marine fishing license shall be issued a lifetime fishing
19 license without paying the additional ten dollars that would otherwise
20 be charged for the lifetime fishing license.
21 S 8. Any person who purchased a lifetime recreational marine fishing
22 license shall be entitled to a refund from the state fish and game trust
23 account. All refunds must be provided by December 31, 2011.
24 S 9. This act shall take effect immediately and shall expire and be
25 deemed repealed December 31, 2013.

26 PART BB

27 Section 1. Subdivision 3 of section 19-0323 of the environmental
28 conservation law, as added by chapter 629 of the laws of 2006, is
29 amended to read as follows:
30 3. Any diesel powered heavy duty vehicle that is owned by, operated by
31 or on behalf of, or leased by a state agency and state and regional
32 public authority with more than half of its governing body appointed by
33 the governor shall utilize the best available retrofit technology for
34 reducing the emission of pollutants. The commissioner shall promulgate
35 regulations for the implementation of this subdivision specifying
36 [procedures for compliance according to the following schedule:
37 a. Not less than 33% of the vehicles covered by this subdivision shall
38 have best available retrofit technology on or before December 31, 2008.
39 b. Not less than 66% of the vehicles covered by this subdivision shall
40 have best available retrofit technology on or before December 31, 2009.
41 c. All] THAT ALL vehicles covered by this subdivision shall have best
42 available retrofit technology on or before December 31, [2010] 2012.
43 S 2. This act shall take effect immediately.

44 PART CC

45 Section 1. Short title. This act shall be known and may be cited as
46 the "recharge New York power program act."
47 S 2. The economic development law is amended by adding a new section
48 188-a to read as follows:
49 S 188-A. RECHARGE NEW YORK POWER PROGRAM. (A) DEFINITIONS. FOR THE
50 PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING
51 MEANINGS:
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- 1 (1) "APPLICABLE CRITERIA" SHALL MEAN THE CRITERIA SPECIFIED IN SUBDI-
2 VISION (C) OF THIS SECTION.
- 3 (2) "AUTHORITY" SHALL MEAN THE POWER AUTHORITY OF THE STATE OF NEW
4 YORK.
- 5 (3) "RECHARGE NEW YORK POWER ALLOCATION" OR "ALLOCATION" SHALL MEAN AN
6 ALLOCATION OF RECHARGE NEW YORK POWER BY THE POWER AUTHORITY OF THE
7 STATE OF NEW YORK PURSUANT TO SECTION ONE THOUSAND FIVE OF THE PUBLIC

8 AUTHORITIES LAW TO AN ELIGIBLE APPLICANT RECOMMENDED BY THE NEW YORK
9 STATE ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD IN ACCORDANCE WITH
10 THIS SECTION.

11 (4) "ELIGIBLE APPLICANT" SHALL MEAN AN ELIGIBLE BUSINESS, ELIGIBLE
12 SMALL BUSINESS, OR ELIGIBLE NOT-FOR-PROFIT CORPORATION AS DEFINED IN
13 THIS SECTION, PROVIDED HOWEVER, THAT AN ELIGIBLE APPLICANT SHALL NOT
14 INCLUDE RETAIL BUSINESSES AS DEFINED BY THE BOARD, INCLUDING, WITHOUT
15 LIMITATION, SPORTS VENUES, GAMING OR ENTERTAINMENT-RELATED ESTABLISH-
16 MENTS OR PLACES OF OVERNIGHT ACCOMMODATION.

17 (5) "ELIGIBLE BUSINESS" SHALL MEAN A BUSINESS OTHER THAN A
18 NOT-FOR-PROFIT CORPORATION WHICH NORMALLY UTILIZES A MINIMUM PEAK ELEC-
19 TRIC DEMAND IN EXCESS OF FOUR HUNDRED KILOWATTS.

20 (6) "ELIGIBLE NOT-FOR-PROFIT CORPORATION" SHALL MEAN A CORPORATION
21 DEFINED IN SUBDIVISION FIVE OF PARAGRAPH (A) OF SECTION ONE HUNDRED TWO
22 OF THE NOT-FOR-PROFIT CORPORATION LAW.

23 (7) "ELIGIBLE SMALL BUSINESS" SHALL MEAN A BUSINESS OTHER THAN A NOT-
24 FOR-PROFIT CORPORATION WHICH NORMALLY UTILIZES A MINIMUM PEAK ELECTRIC
25 DEMAND EQUAL TO OR LESS THAN FOUR HUNDRED KILOWATTS.

26 (8) "RECHARGE NEW YORK POWER" SHALL MEAN AND CONSIST OF EQUAL AMOUNTS
27 OF (I) FOUR HUNDRED FIFTY-FIVE MEGAWATTS OF FIRM HYDROELECTRIC POWER
28 FROM THE NIAGARA AND SAINT LAWRENCE HYDROELECTRIC PROJECTS TO BE WITH-
29 DRAWN FROM UTILITY CORPORATIONS THAT, PRIOR TO THE EFFECTIVE DATE OF
30 THIS SECTION, PURCHASED SUCH POWER FOR THE BENEFIT OF THEIR DOMESTIC AND
31 RURAL CONSUMERS ("RECHARGE NEW YORK HYDROPOWER"), AND (II) POWER
32 PROCURED BY THE AUTHORITY THROUGH A COMPETITIVE PROCUREMENT PROCESS,
33 AUTHORITY SOURCES (OTHER THAN THE NIAGARA AND SAINT LAWRENCE PROJECTS)
34 OR THROUGH AN ALTERNATE METHOD ("RECHARGE NEW YORK MARKET POWER");
35 PROVIDED, HOWEVER, THAT IF SUCH RECHARGE NEW YORK MARKET POWER COMES
36 FROM AUTHORITY SOURCES, THE USE OF THAT POWER SHALL NOT REDUCE THE
37 AVAILABILITY OF, OR CAUSE AN INCREASE IN THE PRICE OF, POWER PROVIDED BY
38 THE AUTHORITY FOR ANY OTHER PROGRAM AUTHORIZED IN THIS ARTICLE OR PURSU-
39 ANT TO ANY OTHER STATUTE.

40 (B) APPLICATIONS FOR RECHARGE NEW YORK POWER ALLOCATIONS. (1) THE
41 BOARD MAY SOLICIT APPLICATIONS FOR RECHARGE NEW YORK POWER ALLOCATIONS
42 UNDER THE PROGRAM CREATED BY THIS SECTION BY PUBLIC NOTICE BEGINNING NO
43 LATER THAN FEBRUARY FIRST, TWO THOUSAND TWELVE. SUCH NOTICE MAY INCLUDE
44 NEWSPAPER ADVERTISEMENTS, PRESS RELEASES, WEBSITE POSTINGS, PAPER OR
45 ELECTRONIC MAILING, AND/OR SUCH OTHER FORM OF NOTICE AS THE BOARD FINDS
46 APPROPRIATE IN CONSULTATION WITH THE AUTHORITY.

47 (2) APPLICATIONS FOR RECHARGE NEW YORK POWER ALLOCATIONS SHALL BE IN
48 THE FORM AND CONTAIN SUCH INFORMATION, EXHIBITS AND SUPPORTING DATA AS
49 THE BOARD PRESCRIBES IN CONSULTATION WITH THE AUTHORITY. A COPY OF EACH
50 APPLICATION RECEIVED SHALL BE MADE AVAILABLE FOR REVIEW BY EACH BOARD
51 MEMBER, AND A COPY SHALL BE PROVIDED TO THE AUTHORITY.

52 (3) AN APPLICANT WHO IS A RECIPIENT OF A HYDROELECTRIC POWER ALLO-
53 CATION OR BENEFITS SUPPORTED BY THE SALE OF HYDROELECTRIC POWER UNDER
54 ANOTHER PROGRAM ADMINISTERED IN WHOLE OR PART BY THE AUTHORITY SHALL BE
55 ELIGIBLE TO APPLY FOR AN ALLOCATION UNDER THE RECHARGE NEW YORK POWER
56 PROGRAM ONLY IF IT IS IN SUBSTANTIAL COMPLIANCE WITH ITS CONTRACTUAL
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1 COMMITMENTS MADE IN CONNECTION WITH SUCH OTHER PROGRAM, PROVIDED HOWEVER
2 THAT AN APPLICANT SHALL NOT RECEIVE A RECHARGE NEW YORK POWER ALLOCATION
3 AND ANY OTHER AUTHORITY POWER PROGRAM BENEFITS WITH RESPECT TO THE SAME
4 QUANTITY OF ELECTRICITY CONSUMED AT A FACILITY.

5 (4) SUBJECT TO CONFIDENTIALITY REQUIREMENTS, UPON RECEIPT OF EACH
6 APPLICATION FROM THE BOARD, THE AUTHORITY SHALL PROMPTLY NOTIFY BY ELEC-
7 TRONIC MEANS, INCLUDING WEBSITE POSTINGS AND SUCH OTHER METHODS THE
8 BOARD DEEMS APPROPRIATE IN CONSULTATION WITH THE AUTHORITY, THE GOVER-
9 NOR, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE ASSEMBLY,
10 THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE
11 SENATE, AND EACH MEMBER OF THE STATE LEGISLATURE IN WHOSE DISTRICT ANY
12 PORTION OF THE FACILITY FOR WHICH AN ALLOCATION IS REQUESTED IS LOCATED.

13 SUCH NOTICE SHALL PROVIDE THE NAME AND A DESCRIPTION OF THE APPLICANT,
14 AND THE ADDRESS OF THE FACILITY FOR WHICH THE ALLOCATION IS REQUESTED.
15 THE AUTHORITY SHALL ALSO DEVELOP A LISTING WHICH CONTAINS THE NAME AND A
16 DESCRIPTION OF EACH APPLICANT, THE RECHARGE NEW YORK POWER PROGRAM ALLO-
17 CATION SOUGHT BY EACH APPLICANT, AND THE ADDRESS OF THE FACILITY FOR
18 WHICH THE APPLICANT REQUESTS THE ALLOCATION, AND SHALL MAKE THE LISTING
19 AVAILABLE FOR PUBLIC REVIEW ON THE AUTHORITY'S WEBSITE.

20 (C) REVIEW APPLICABLE CRITERIA AND RECOMMENDATIONS. (1) THE BOARD
21 SHALL REVIEW APPLICATIONS SUBMITTED UNDER THE RECHARGE NEW YORK POWER
22 PROGRAM. THE BOARD SHALL MAKE AN INITIAL DETERMINATION OF WHETHER THE
23 APPLICANT IS AN ELIGIBLE APPLICANT. IN THE CASE OF AN ELIGIBLE APPLI-
24 CANT, THE BOARD MAY RECOMMEND TO THE AUTHORITY THAT AN ALLOCATION OF
25 RECHARGE NEW YORK POWER BE AWARDED TO AN APPLICANT FOR A FACILITY
26 LOCATED IN THE STATE OF NEW YORK BASED ON CONSIDERATION OF THE FOLLOWING
27 CRITERIA WHICH SHALL BE CONSIDERED IN THE AGGREGATE AND NO ONE OF WHICH
28 SHALL BE PRESUMPTIVELY DETERMINATIVE:

29 (I) THE SIGNIFICANCE OF THE COST OF ELECTRICITY TO THE APPLICANT'S
30 OVERALL COST OF DOING BUSINESS, AND THE IMPACT THAT A RECHARGE NEW YORK
31 POWER ALLOCATION WILL HAVE ON THE APPLICANT'S OPERATING COSTS;

32 (II) THE EXTENT TO WHICH A RECHARGE NEW YORK POWER ALLOCATION WILL
33 RESULT IN NEW CAPITAL INVESTMENT IN THE STATE BY THE APPLICANT;

34 (III) THE EXTENT TO WHICH A RECHARGE NEW YORK POWER ALLOCATION IS
35 CONSISTENT WITH ANY REGIONAL ECONOMIC DEVELOPMENT COUNCIL STRATEGIES AND
36 PRIORITIES;

37 (IV) THE TYPE AND COST OF BUILDINGS, EQUIPMENT AND FACILITIES TO BE
38 CONSTRUCTED, ENLARGED OR INSTALLED IF THE APPLICANT WERE TO RECEIVE AN
39 ALLOCATION;

40 (V) THE APPLICANT'S PAYROLL, SALARIES, BENEFITS AND NUMBER OF JOBS AT
41 THE FACILITY FOR WHICH A RECHARGE NEW YORK POWER ALLOCATION IS
42 REQUESTED;

43 (VI) THE NUMBER OF JOBS THAT WILL BE CREATED OR RETAINED WITHIN THE
44 STATE IN RELATION TO THE REQUESTED RECHARGE NEW YORK POWER ALLOCATION,
45 AND THE EXTENT TO WHICH THE APPLICANT WILL AGREE TO COMMIT TO CREATING
46 OR RETAINING SUCH JOBS AS A CONDITION TO RECEIVING A RECHARGE NEW YORK
47 POWER ALLOCATION;

48 (VII) WHETHER THE APPLICANT, DUE TO THE COST OF ELECTRICITY, IS AT
49 RISK OF CLOSING OR CURTAILING FACILITIES OR OPERATIONS IN THE STATE,
50 RELOCATING FACILITIES OR OPERATIONS OUT OF THE STATE, OR LOSING A
51 SIGNIFICANT NUMBER OF JOBS IN THE STATE, IN THE ABSENCE OF A RECHARGE
52 NEW YORK POWER ALLOCATION;

53 (VIII) THE SIGNIFICANCE OF THE APPLICANT'S FACILITY THAT WOULD RECEIVE
54 THE RECHARGE NEW YORK POWER ALLOCATION TO THE ECONOMY OF THE AREA IN
55 WHICH SUCH FACILITY IS LOCATED;

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1 (IX) THE EXTENT TO WHICH THE APPLICANT HAS INVESTED IN ENERGY EFFI-
2 CIENCY MEASURES, WILL AGREE TO PARTICIPATE IN OR PERFORM ENERGY AUDITS
3 OF ITS FACILITIES, WILL AGREE TO PARTICIPATE IN ENERGY EFFICIENCY
4 PROGRAMS OF THE AUTHORITY, OR WILL COMMIT TO IMPLEMENT OR OTHERWISE MAKE
5 TANGIBLE INVESTMENTS IN ENERGY EFFICIENCY MEASURES AS A CONDITION TO
6 RECEIVING A RECHARGE NEW YORK POWER ALLOCATION;

7 (X) WHETHER THE APPLICANT RECEIVES A HYDROELECTRIC POWER ALLOCATION OR
8 BENEFITS SUPPORTED BY THE SALE OF HYDROELECTRIC POWER UNDER ANOTHER
9 PROGRAM ADMINISTERED IN WHOLE OR IN PART BY THE AUTHORITY;

10 (XI) THE EXTENT TO WHICH A RECHARGE NEW YORK POWER ALLOCATION WILL
11 RESULT IN AN ADVANTAGE FOR AN APPLICANT IN RELATION TO THE APPLICANT'S
12 COMPETITORS WITHIN THE STATE; AND

13 (XII) IN ADDITION TO THE FOREGOING CRITERIA, IN THE CASE OF A
14 NOT-FOR-PROFIT CORPORATION, WHETHER THE APPLICANT PROVIDES CRITICAL
15 SERVICES OR SUBSTANTIAL BENEFITS TO THE LOCAL COMMUNITY IN WHICH THE
16 FACILITY FOR WHICH THE ALLOCATION IS REQUESTED IS LOCATED.

17 (2) A RECOMMENDATION BY THE BOARD THAT THE AUTHORITY PROVIDE A
18 RECHARGE NEW YORK POWER ALLOCATION TO AN ELIGIBLE APPLICANT SHALL

19 INCLUDE, BUT NEED NOT BE LIMITED TO:

20 (I) THE AMOUNT OF THE RECHARGE NEW YORK POWER ALLOCATION THE BOARD HAS
21 DETERMINED SHOULD BE AWARDED TO SUCH ELIGIBLE APPLICANT, PROVIDED HOWEVE-
22 ER, THAT THE BOARD MAY RECOMMEND A RECHARGE NEW YORK POWER ALLOCATION IN
23 AN AMOUNT THAT IS LESS THAN THE AMOUNT REQUESTED BY SUCH APPLICANT;

24 (II) AN EFFECTIVE INITIAL TERM OF THE ALLOCATION AND CONTRACT BETWEEN
25 THE ELIGIBLE APPLICANT AND THE AUTHORITY WHICH SHALL NOT EXCEED SEVEN
26 YEARS, PROVIDED HOWEVER THAT THE TERM OF ANY SUCH ALLOCATION AND
27 CONTRACT SHALL NOT BECOME EFFECTIVE BEFORE JULY FIRST, TWO THOUSAND
28 TWELVE;

29 (III) PROVISIONS FOR EFFECTIVE PERIODIC AUDITS OF THE RECIPIENT OF AN
30 ALLOCATION FOR THE PURPOSE OF DETERMINING CONTRACT AND PROGRAM COMPLI-
31 ANCE, AND FOR THE PARTIAL OR COMPLETE WITHDRAWAL OF AN ALLOCATION IF THE
32 RECIPIENT FAILS TO MAINTAIN MUTUALLY AGREED UPON COMMITMENTS, RELATING
33 TO, AMONG OTHER THINGS, EMPLOYMENT LEVELS, POWER UTILIZATION, CAPITAL
34 INVESTMENTS, AND/OR ENERGY EFFICIENCY MEASURES;

35 (IV) A REQUIREMENT FOR AN AGREEMENT BY THE RECIPIENT OF AN ALLOCATION
36 TO (A) UNDERTAKE AT ITS OWN EXPENSE AN ENERGY AUDIT OF ITS FACILITIES AT
37 WHICH THE ALLOCATION IS CONSUMED AT LEAST ONCE DURING THE TERM OF THE
38 ALLOCATION BUT IN ANY EVENT NOT LESS THAN ONCE EVERY FIVE YEARS,
39 PROVIDED, HOWEVER, THAT SUCH REQUIREMENT MAY BE WAIVED OR MODIFIED BY
40 THE AUTHORITY ON A SHOWING OF GOOD CAUSE BY THE RECIPIENT, AND (B)
41 PROVIDE THE AUTHORITY WITH A COPY OF ANY SUCH AUDIT OR, AT THE AUTHORI-
42 TY'S OPTION, A REPORT DESCRIBING THE RESULTS OF SUCH AUDIT, AND PROVIDE
43 DOCUMENTATION REQUESTED BY THE AUTHORITY RELATING TO THE IMPLEMENTATION
44 OF ANY EFFICIENCY MEASURES AT THE FACILITIES; AND

45 (V) A REQUIREMENT FOR AN AGREEMENT BY THE RECIPIENT OF AN ALLOCATION
46 TO (A) MAKE ITS FACILITIES AVAILABLE AT REASONABLE TIMES AND INTERVALS
47 FOR ENERGY AUDITS AND RELATED ASSESSMENTS THAT THE AUTHORITY DESIRES TO
48 PERFORM, IF ANY, AT THE AUTHORITY'S OWN EXPENSE, AND (B) PROVIDE INFOR-
49 MATION REQUESTED BY THE AUTHORITY OR ITS DESIGNEE IN SURVEYS, QUESTION-
50 NAIRES AND OTHER INFORMATION REQUESTS RELATING TO ENERGY EFFICIENCY AND
51 ENERGY-RELATED PROJECTS, PROGRAMS AND SERVICES.

52 (3) THE BOARD'S RECOMMENDATION SHALL REQUIRE THAT IF THE ACTUAL
53 METERED LOAD AT THE FACILITY WHERE THE ALLOCATION IS UTILIZED IS LESS
54 THAN THE ALLOCATION, SUCH ALLOCATION WILL BE REDUCED ACCORDINGLY,
55 PROVIDED THAT, UNDER ITS CONTRACT WITH THE AUTHORITY, THE RECIPIENT
56 SHALL BE AFFORDED A REASONABLE PERIOD WITHIN WHICH TO FULLY UTILIZE THE
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1 ALLOCATION, TAKING INTO ACCOUNT CONSTRUCTION SCHEDULES AND ECONOMIC
2 CONDITIONS. THE AUTHORITY SHALL REALLOCATE ANY WITHDRAWN OR RELINQUISHED
3 POWER FOR THE RECHARGE NEW YORK POWER PROGRAM CONSISTENT WITH PARAGRAPH
4 FOUR OF THIS SUBDIVISION.

5 (4) THE BOARD MAY BASE ITS RECOMMENDATION ON WHICH ELIGIBLE APPLICANTS
6 IT DETERMINES BEST MEET THE APPLICABLE CRITERIA; PROVIDED, HOWEVER, THAT
7 THE BOARD SHALL DEDICATE RECHARGE NEW YORK POWER AS FOLLOWS: (I) AT
8 LEAST THREE HUNDRED FIFTY MEGAWATTS FOR USE AT FACILITIES LOCATED WITHIN
9 THE SERVICE TERRITORIES OF THE UTILITY CORPORATIONS THAT, PRIOR TO THE
10 EFFECTIVE DATE OF THIS SECTION, PURCHASED NIAGARA AND SAINT LAWRENCE
11 HYDROELECTRIC POWER FOR THE BENEFIT OF THEIR DOMESTIC AND RURAL CONSUM-
12 ERS; (II) AT LEAST TWO HUNDRED MEGAWATTS FOR THE PURPOSES OF ATTRACTING
13 NEW BUSINESS TO THE STATE, CREATING NEW BUSINESS WITHIN THE STATE, OR
14 ENCOURAGING THE EXPANSION OF EXISTING BUSINESSES WITHIN THE STATE, THAT
15 CREATE NEW JOBS OR LEVERAGE NEW CAPITAL INVESTMENT; AND (III) AN AMOUNT
16 NOT TO EXCEED ONE HUNDRED MEGAWATTS FOR ELIGIBLE SMALL BUSINESSES AND
17 ELIGIBLE NOT-FOR-PROFIT CORPORATIONS.

18 (5) THE BOARD SHALL ISSUE A WRITTEN STATEMENT OF ITS FINDINGS AND
19 CONCLUSIONS WITH RESPECT TO EVERY APPLICATION AND THE REASONS FOR ITS
20 RECOMMENDATION TO THE AUTHORITY.

21 (6) A RECOMMENDATION FOR A RECHARGE NEW YORK POWER ALLOCATION SHALL
22 QUALIFY AN APPLICANT TO ENTER INTO A CONTRACT WITH THE AUTHORITY PURSU-
23 ANT TO THE TERMS AND CONDITIONS OF THE RECOMMENDATION BY THE BOARD AND

24 ON SUCH OTHER TERMS AS THE AUTHORITY DETERMINES TO BE APPROPRIATE.
25 (7) THE BOARD SHALL NOT RECOMMEND A TOTAL OF RECHARGE NEW YORK POWER
26 ALLOCATIONS IN EXCESS OF NINE HUNDRED TEN MEGAWATTS.
27 (D) THE AUTHORITY SHALL WORK COOPERATIVELY WITH THE DEPARTMENT OF
28 PUBLIC SERVICE TO RECOMMEND TO THE PUBLIC SERVICE COMMISSION REDUCED
29 RATES OR AN EQUIVALENT MECHANISM FOR THE DELIVERY BY UTILITY CORPO-
30 RATIONS OF RECHARGE NEW YORK POWER PROGRAM ALLOCATIONS. ANY SUCH RECOM-
31 MENDATION FOR REDUCED DELIVERY RATES SHALL BE AT SUCH LEVEL AS TO ALLOW
32 THE UTILITY TO (I) RECOVER THE INCREMENTAL COST OF PROVIDING DELIVERY
33 SERVICE TO SUCH CUSTOMERS, AND (II) CONTRIBUTE TO THE COMMON DELIVERY
34 AND RELATED COSTS WHICH OTHERWISE WOULD BE BORNE BY OTHER CUSTOMERS.
35 (E) THE AUTHORITY SHALL, AT A MINIMUM, REPORT QUARTERLY TO THE BOARD
36 ON THE AVAILABILITY OF RECHARGE NEW YORK POWER FOR THE SUBSEQUENT
37 TWELVE-MONTH PERIOD, THE AMOUNT OF SUCH POWER ALLOCATED AND OTHER RELE-
38 VANT INFORMATION.
39 (F) AFTER AN AWARD OF A RECHARGE NEW YORK POWER ALLOCATION, THE BOARD
40 SHALL ACCEPT REQUESTS FROM RECIPIENTS WHO AT THE TIME OF SUCH REQUEST
41 ARE ELIGIBLE APPLICANTS WHO ARE IN SUBSTANTIAL COMPLIANCE WITH CONTRAC-
42 TUAL COMMITMENTS MADE IN CONNECTION WITH THE RECHARGE NEW YORK POWER
43 PROGRAM FOR AN EXTENSION OF AN EXISTING ALLOCATION (I) DURING THE TWEN-
44 TY-FOUR MONTH PERIOD IMMEDIATELY PRECEDING THE EXPIRATION OF THE TERM OF
45 THE ALLOCATION, OR (II) AT SUCH EARLIER TIME WITH THE CONSENT OF THE
46 AUTHORITY IN WRITING. REQUESTS FOR EXTENSIONS SHALL BE REVIEWED USING
47 THE CRITERIA SET FORTH IN PARAGRAPH ONE OF SUBDIVISION (C) OF THIS
48 SECTION.
49 (G) TRANSFERS OF RECHARGE NEW YORK POWER. NOTWITHSTANDING ANY OTHER
50 APPROVAL REQUIRED BY STATUTE, REGULATION OR CONTRACT, THE TRANSFER OF A
51 RECHARGE NEW YORK POWER ALLOCATION TO A DIFFERENT RECIPIENT, TO A
52 DIFFERENT OWNER OR OPERATOR OF A FACILITY, OR TO A DIFFERENT FACILITY IS
53 PROHIBITED UNLESS SPECIFICALLY APPROVED BY THE BOARD AS CONSISTENT WITH
54 THE CRITERIA AND REQUIREMENTS OF THIS SECTION. ANY TRANSFER THAT OCCURS
55 WITHOUT THE BOARD'S APPROVAL SHALL BE INVALID AND SUCH TRANSFER MAY
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1 SUBJECT THE TRANSFEROR TO REVOCATION OR MODIFICATION OF ITS ALLOCATION
2 AND CONTRACT.

3 (H) (1) THE BOARD, IN CONSULTATION WITH THE AUTHORITY, SHALL SUBMIT TO
4 THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEM-
5 BLY, MINORITY LEADER OF THE SENATE AND MINORITY LEADER OF THE ASSEMBLY
6 AN EVALUATION OF THE EFFECTIVENESS OF THE RECHARGE NEW YORK POWER
7 PROGRAM. SUCH EVALUATION SHALL FOCUS ON HOW THE PROGRAM HAS AIDED
8 RECIPIENTS OF POWER ALLOCATIONS, AND MAY INCLUDE RECOMMENDATIONS FOR HOW
9 THE PROGRAM CAN BE MADE MORE EFFECTIVE, AND SHALL BE BASED, IN PART, ON
10 THE RELATIVE COSTS OF POWER FOR RECIPIENTS IN COMPARISON TO THE COST OF
11 POWER FOR NON-RECIPIENTS. SUCH EVALUATION SHALL BE SUBMITTED BY DECEM-
12 BER THIRTY-FIRST, TWO THOUSAND FIFTEEN AND BY DECEMBER THIRTY-FIRST
13 EVERY FIVE YEARS THEREAFTER.

14 (2) THE BOARD, WITH ASSISTANCE FROM THE AUTHORITY, SHALL MAINTAIN THE
15 NECESSARY RECORDS AND DATA REQUIRED TO PERFORM SUCH EVALUATION AND
16 RESPOND TO REQUESTS FOR INFORMATION PURSUANT TO ARTICLE SIX OF THE
17 PUBLIC OFFICERS LAW.

18 S 3. Section 1005 of the public authorities law is amended by adding a
19 new subdivision 13-a to read as follows:

20 13-A. RECHARGE NEW YORK POWER PROGRAM. (A) NOTWITHSTANDING ANY OTHER
21 PROVISION OF LAW TO THE CONTRARY, BUT SUBJECT TO THE TERMS AND CONDI-
22 TIONS OF FEDERAL ENERGY REGULATORY COMMISSION LICENSES, TO ALLOCATE,
23 REALLOCATE OR EXTEND, DIRECTLY OR BY SALE FOR RESALE, UP TO NINE HUNDRED
24 TEN MEGAWATTS OF RECHARGE NEW YORK POWER TO ELIGIBLE APPLICANTS LOCATED
25 WITHIN THE STATE OF NEW YORK UPON THE RECOMMENDATION OF THE NEW YORK
26 STATE ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD PURSUANT TO SECTION
27 ONE HUNDRED EIGHTY-EIGHT-A OF THE ECONOMIC DEVELOPMENT LAW.

28 (B) RECHARGE NEW YORK POWER SHALL MEAN AND CONSIST OF EQUAL AMOUNTS OF
29 (1) FOUR HUNDRED FIFTY-FIVE MEGAWATTS OF FIRM HYDROELECTRIC POWER FROM

30 THE NIAGARA AND SAINT LAWRENCE HYDROELECTRIC PROJECTS TO BE WITHDRAWN,
31 AS OF THE EARLIEST DATE SUCH POWER MAY BE WITHDRAWN CONSISTENT WITH
32 CONTRACTUAL REQUIREMENTS, FROM UTILITY CORPORATIONS THAT, PRIOR TO THE
33 EFFECTIVE DATE OF THIS SUBDIVISION, PURCHASED SUCH POWER FOR THE BENEFIT
34 OF THEIR DOMESTIC AND RURAL CONSUMERS ("RECHARGE NEW YORK HYDROPOWER"),
35 AND (2) POWER PROCURED BY THE AUTHORITY THROUGH MARKET SOURCES, A
36 COMPETITIVE PROCUREMENT PROCESS, OR AUTHORITY SOURCES (OTHER THAN THE
37 NIAGARA AND SAINT LAWRENCE PROJECTS) (COLLECTIVELY OR INDIVIDUALLY,
38 "RECHARGE NEW YORK MARKET POWER"); PROVIDED, HOWEVER, THAT IF SUCH
39 RECHARGE NEW YORK MARKET POWER COMES FROM AUTHORITY SOURCES, THE USE OF
40 THAT POWER SHALL NOT REDUCE THE AVAILABILITY OF, OR CAUSE AN INCREASE IN
41 THE PRICE OF, POWER PROVIDED BY THE AUTHORITY FOR ANY OTHER PROGRAM
42 AUTHORIZED IN THIS ARTICLE OR PURSUANT TO ANY OTHER STATUTE.

43 (C) NOTWITHSTANDING SECTION ONE THOUSAND NINE OF THIS TITLE OR ANY
44 OTHER PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY IS AUTHORIZED,
45 BEGINNING JULY FIRST, TWO THOUSAND TWELVE, TO MAKE AVAILABLE, CONTRACT
46 WITH AND SELL TO SUCH ELIGIBLE APPLICANTS AS ARE RECOMMENDED BY THE
47 ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD UP TO NINE HUNDRED TEN MEGA-
48 WATTS OF RECHARGE NEW YORK POWER FOR RECHARGE NEW YORK POWER ALLO-
49 CATIONS. A RECHARGE NEW YORK POWER ALLOCATION SHALL CONSIST OF EQUAL
50 PARTS OF RECHARGE NEW YORK HYDROPOWER AND RECHARGE NEW YORK MARKET POWER
51 AS SUCH TERMS ARE DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION;
52 PROVIDED, HOWEVER, THAT PRIOR TO ENTERING INTO A CONTRACT WITH AN ELIGI-
53 BLE APPLICANT FOR THE SALE OF RECHARGE NEW YORK POWER, AND PRIOR TO THE
54 PROVISION OF ELECTRIC SERVICE RELATING TO THE RECHARGE NEW YORK POWER
55 ALLOCATION, THE AUTHORITY SHALL OFFER EACH ELIGIBLE APPLICANT THE OPTION
56 TO DECLINE TO PURCHASE THE RECHARGE NEW YORK MARKET POWER COMPONENT OF
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1 SUCH ALLOCATION. IF AN ELIGIBLE APPLICANT DECLINES TO PURCHASE SUCH
2 MARKET POWER FROM THE AUTHORITY, THE AUTHORITY SHALL HAVE NO RESPONSI-
3 BILITY FOR SUPPLYING SUCH MARKET POWER TO THE ELIGIBLE APPLICANT.

4 S 4. Section 1005 of the public authorities law is amended by adding a
5 new subdivision 13-b to read as follows:

6 13-B. RESIDENTIAL CONSUMER DISCOUNT PROGRAMS. (A) RESIDENTIAL CONSUM-
7 ER ELECTRICITY COST DISCOUNT. NOTWITHSTANDING ANY PROVISION OF THIS
8 TITLE OR ARTICLE SIX OF THE ECONOMIC DEVELOPMENT LAW TO THE CONTRARY,
9 THE AUTHORITY IS AUTHORIZED, AS DEEMED FEASIBLE AND ADVISABLE BY THE
10 TRUSTEES, TO USE REVENUES FROM THE SALE OF HYDROELECTRIC POWER, AND SUCH
11 OTHER FUNDS OF THE AUTHORITY AS DEEMED FEASIBLE AND ADVISABLE BY THE
12 TRUSTEES, TO FUND MONTHLY PAYMENTS TO BE MADE FOR THE BENEFIT OF SUCH
13 CLASSES OF ELECTRICITY CONSUMERS AS ENJOYED THE BENEFITS OF AUTHORITY
14 HYDROELECTRIC POWER WITHDRAWN PURSUANT TO SUBDIVISION THIRTEEN-A OF THIS
15 SECTION, FOR THE PURPOSE OF MITIGATING PRICE IMPACTS ASSOCIATED WITH THE
16 REALLOCATION OF SUCH POWER IN THE MANNER DESCRIBED IN THIS SUBDIVISION.
17 SUCH MONTHLY PAYMENTS SHALL COMMENCE AFTER SUCH HYDROELECTRIC POWER IS
18 WITHDRAWN. THE TOTAL ANNUAL AMOUNT OF MONTHLY PAYMENTS FOR EACH OF THE
19 THREE TWELVE MONTH PERIODS FOLLOWING WITHDRAWAL OF SUCH HYRDOELECTRIC
20 POWER SHALL BE ONE HUNDRED MILLION DOLLARS. THE TOTAL ANNUAL AMOUNT OF
21 MONTHLY PAYMENTS FOR EACH OF THE TWO SUBSEQUENT TWELVE MONTH PERIODS
22 SHALL BE SEVENTY MILLION DOLLARS AND FIFTY MILLION DOLLARS, RESPECTIVE-
23 LY. THEREAFTER, THE TOTAL ANNUAL AMOUNT OF MONTHLY PAYMENTS FOR EACH
24 TWELVE MONTH PERIOD SHALL BE THIRTY MILLION DOLLARS. THE TOTAL AMOUNT
25 OF MONTHLY PAYMENTS SHALL BE APPORTIONED BY THE AUTHORITY AMONG THE
26 UTILITY CORPORATIONS THAT, PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVI-
27 SION, PURCHASED SUCH HYDROELECTRIC POWER FOR THE BENEFIT OF THEIR DOMES-
28 TIC AND RURAL CONSUMERS ACCORDING TO THE RELATIVE AMOUNTS OF SUCH POWER
29 PURCHASED BY SUCH CORPORATIONS. THE MONTHLY PAYMENTS SHALL BE CREDITED
30 TO THE ELECTRICITY BILLS OF SUCH CORPORATIONS' DOMESTIC AND RURAL
31 CONSUMERS IN A MANNER TO BE DETERMINED BY THE PUBLIC SERVICE COMMISSION
32 OF THE STATE OF NEW YORK. THE MONTHLY CREDIT PROVIDED BY ANY SUCH
33 CORPORATION TO ANY ONE CONSUMER SHALL NOT EXCEED THE TOTAL MONTHLY ELEC-
34 TRIC UTILITY COST INCURRED BY SUCH CONSUMER.

35 (B) AGRICULTURAL CONSUMER ELECTRICITY COST DISCOUNT. (1) BEGINNING
36 WITH THE SECOND TWELVE MONTH PERIOD AFTER SUCH HYDROELECTRIC POWER IS
37 WITHDRAWN, UP TO EIGHT MILLION DOLLARS OF THE RESIDENTIAL CONSUMER ELEC-
38 TRICITY COST DISCOUNT ESTABLISHED BY PARAGRAPH (A) OF THIS SUBDIVISION
39 SHALL BE DEDICATED FOR MONTHLY PAYMENTS TO AGRICULTURAL PRODUCERS WHO
40 RECEIVE ELECTRIC SERVICE AT THE RESIDENTIAL RATE. THE TOTAL AMOUNT OF
41 MONTHLY PAYMENTS SHALL BE APPORTIONED BY THE AUTHORITY AMONG THE UTILITY
42 CORPORATIONS IN THE SAME MANNER AS THEY ARE APPORTIONED IN PARAGRAPH (A)
43 OF THIS SUBDIVISION. MONTHLY PAYMENTS SHALL BE CREDITED TO THE ELECTRIC-
44 ITY BILLS OF SUCH CORPORATIONS' AGRICULTURAL CONSUMERS IN A MANNER TO BE
45 DETERMINED BY THE PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK.
46 THE COMBINED MONTHLY CREDIT, UNDER THIS PARAGRAPH AND PARAGRAPH (A) OF
47 THIS SUBDIVISION, PROVIDED BY ANY SUCH CORPORATION TO ANY ONE CONSUMER
48 SHALL NOT EXCEED THE TOTAL MONTHLY ELECTRIC UTILITY COST INCURRED BY
49 SUCH CONSUMER.

50 (2) THE AUTHORITY SHALL WORK COOPERATIVELY WITH THE DEPARTMENT OF
51 PUBLIC SERVICE TO EVALUATE THE AGRICULTURAL CONSUMER ELECTRICITY COST
52 DISCOUNT, WHICH SHALL INCLUDE AN ASSESSMENT OF THE BENEFITS TO RECIPI-
53 ENTS COMPARED TO THE BENEFITS THE RECIPIENTS RECEIVED FROM THE AUTHORI-
54 TY'S HYDROELECTRIC POWER, WITHDRAWN PURSUANT TO SUBDIVISION THIRTEEN-A
55 OF THIS SECTION, DURING THE TWELVE MONTH PERIOD ENDING DECEMBER THIRTY-
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1 FIRST, TWO THOUSAND TEN, AND COMPARED TO OTHER AGRICULTURAL CONSUMERS
2 THAT DID NOT CHOOSE TO RECEIVE THE DISCOUNT.

3 (C) ENERGY EFFICIENCY PROGRAM. (1) BEGINNING WITH THE WITHDRAWAL OF
4 SUCH HYDROELECTRIC POWER, THE AUTHORITY OR THE NEW YORK STATE ENERGY
5 RESEARCH AND DEVELOPMENT AUTHORITY, SHALL CONDUCT AN ENERGY EFFICIENCY
6 PROGRAM FOR FIVE YEARS TO PROVIDE ENERGY EFFICIENCY IMPROVEMENTS FOR THE
7 PURPOSE OF REDUCING ENERGY CONSUMPTION FOR DOMESTIC AND RURAL CONSUMERS.
8 SUCH ENERGY EFFICIENCY PROGRAM MAY BE UNDERTAKEN IN COOPERATION WITH
9 OTHER ENERGY EFFICIENCY PROGRAMS OFFERED BY UTILITY CORPORATIONS, STATE
10 AGENCIES AND AUTHORITIES INCLUDING BUT NOT LIMITED TO THE NEW YORK STATE
11 ENERGY RESEARCH AND DEVELOPMENT AUTHORITY; PROVIDED HOWEVER THAT ENERGY
12 SAVINGS ATTRIBUTABLE TO SUCH OTHER ENERGY EFFICIENCY PROGRAMS SHALL NOT
13 BE INCLUDED IN DETERMINING THE AMOUNT OF ENERGY SAVED PURSUANT TO THE
14 PROGRAM ESTABLISHED BY THIS PARAGRAPH;

15 (2) THE AUTHORITY OR THE NEW YORK STATE ENERGY RESEARCH AND DEVELOP-
16 MENT AUTHORITY SHALL ANNUALLY POST ON THEIR WEBSITE A REPORT EVALUATING
17 THE ENERGY EFFICIENCY PROGRAM, INCLUDING BUT NOT LIMITED TO, THE NUMBER
18 OF DOMESTIC AND RURAL CONSUMERS WHO OPTED TO PARTICIPATE IN THE PROGRAM
19 AND, IF PRACTICABLE, THE ESTIMATED SAVINGS THE DOMESTIC AND RURAL
20 CONSUMERS RECEIVED BY PARTICIPATING IN THE ENERGY EFFICIENCY PROGRAM.

21 S 5. Section 1005 of the public authorities law is amended by adding a
22 new subdivision 18 to read as follows:

23 18. FOR THE PURPOSE OF FURNISHING THE STATE WITH SYSTEMATIC INFORMA-
24 TION REGARDING THE STATUS AND THE ACTIVITIES OF THE AUTHORITY, THE
25 AUTHORITY SHALL SUBMIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE
26 SENATE, SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND
27 THE MINORITY LEADER OF THE ASSEMBLY, WITHIN NINETY DAYS AFTER THE END OF
28 ITS FISCAL YEAR, A COMPLETE AND DETAILED ANNUAL REPORT ON EACH ECONOMIC
29 DEVELOPMENT POWER PROGRAM IT ADMINISTERS. SUCH ANNUAL REPORT SHALL
30 INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION:

31 A. THE NUMBER OF RECIPIENTS OF ECONOMIC POWER PROGRAM BENEFITS, THE
32 ECONOMIC REGION IN WHICH EACH RECIPIENT IS LOCATED, THE TYPE AND AMOUNT
33 OF ASSISTANCE PROVIDED, MEGAWATTS OF POWER AWARDED, LENGTH OF CURRENT
34 CONTRACT, CURRENT CONTRACT COMPLIANCE STATUS, LAST AUDIT, NUMBER OF JOBS
35 RETAINED AND/OR ADDED IN THE FISCAL YEAR, APPROXIMATE ENERGY EFFICIENCY
36 SAVINGS AND AMOUNT OF POWER REALLOCATED FROM PREVIOUS YEARS DUE TO
37 FORFEITED BENEFITS; AND

38 B. COST TO THE AUTHORITY TO PROVIDE ECONOMIC DEVELOPMENT POWER
39 PROGRAMS DURING THE PREVIOUS FISCAL YEAR.

40 S 6. Transitional electricity discount. Notwithstanding any provision

41 of title 1 of article 5 of the public authorities law or article 6 of
42 the economic development law to the contrary, with respect to applicants
43 who are in substantial compliance with all contractual commitments and
44 receiving benefits under the power for jobs, energy cost savings bene-
45 fit, economic development, high load factor or municipal distribution
46 agency programs, but do not receive a recommendation from the New York
47 state economic development power allocation board for a recharge New
48 York power allocation pursuant to section 188-a of the economic develop-
49 ment law, such board shall recommend that the power authority of the
50 state of New York provide for a transitional electricity discount to
51 such applicants. The power authority of the state of New York is author-
52 ized, as deemed feasible and advisable by the trustees, to provide such
53 transitional electricity discounts as recommended by the New York state
54 economic development power allocation board. The power authority of the
55 state of New York shall identify and advise such board whether suffi-
56 cient funds are available for the funding of such transitional electric-
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1 ity discounts through June 30, 2016. The amount of the transitional
2 electricity discount for the period July 1, 2012 through June 30, 2014
3 shall be equivalent to 66 percent of the unit (per kilowatt-hour) value
4 of the savings received by the applicant under the power for jobs or
5 energy cost savings benefit programs during the 12 months ending on
6 December 31, 2010. The amount of the transitional electricity discount
7 for the period July 1, 2014 through June 30, 2016 shall be equivalent to
8 33 percent of the unit (per kilowatt-hour) value of the savings received
9 by the applicant under the power for jobs or energy cost savings benefit
10 programs during the 12 months ending on December 31, 2010.

11 S 7. Section 9 of chapter 316 of the laws of 1997 amending the public
12 authorities law and other laws relating to the provision of low cost
13 power to foster statewide economic development, as amended by chapter
14 311 of the laws of 2010, is amended to read as follows:

15 S 9. This act shall take effect immediately and shall expire and be
16 deemed repealed [May 15, 2011] JUNE 30, 2012.

17 S 8. Section 11 of chapter 645 of the laws of 2006 amending the
18 economic development law and other laws relating to reauthorizing the
19 New York power authority to make contributions to the general fund, as
20 amended by chapter 311 of the laws of 2010, is amended to read as
21 follows:

22 S 11. This act shall take effect immediately and shall be deemed to
23 have been in full force and effect on and after April 1, 2006; provided,
24 however, that the amendments to section 183 of the economic development
25 law and subparagraph 2 of paragraph g of the ninth undesignated para-
26 graph of section 1005 of the public authorities law made by sections two
27 and six of this act shall not affect the expiration of such section and
28 subparagraph, respectively, and shall be deemed to expire therewith;
29 provided further, however, that the amendments to section 189 of the
30 economic development law and subdivision 9 of section 186-a of the tax
31 law made by sections three, four, five and ten of this act shall not
32 affect the repeal of such section and subdivision, respectively, and
33 shall be deemed to be repealed therewith; provided further, however,
34 that section seven of this act shall expire and be deemed repealed [May
35 15, 2011] JUNE 30, 2012.

36 S 9. Paragraphs 2 and 4 of subdivision (h) of section 183 of the
37 economic development law, as amended by chapter 311 of the laws of 2010,
38 are amended to read as follows:

39 2. During the period commencing on November first, two thousand five
40 and ending on [May fifteenth, two thousand eleven] JUNE THIRTIETH, TWO
41 THOUSAND TWELVE eligible businesses shall only include customers served
42 under the power authority of the state of New York's high load factor,
43 economic development power and other business customers served by poli-
44 tical subdivisions of the state authorized by law to engage in the
45 distribution of electric power that were authorized to be served by the

46 authority from the authority's former James A. Fitzpatrick nuclear power
47 plant as of the effective date of this subdivision whose power prices
48 may be subject to increase before [May fifteenth, two thousand eleven]
49 JUNE THIRTIETH, TWO THOUSAND TWELVE. Provided, however, that the total
50 amount of megawatts of replacement and preservation power which, due to
51 the extension of the energy cost savings benefits, are not relinquished
52 by or withdrawn from a recipient shall be deemed to be relinquished or
53 withdrawn for purposes of offering such megawatts by the authority for
54 reallocation pursuant to subdivision thirteen of section one thousand
55 five of the public authorities law. Provided, further, that for any such
56 reallocation, the authority shall maintain the same energy cost savings
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1 benefit level for all eligible businesses using any available authority
2 resources as deemed feasible and advisable by the trustees pursuant to
3 section seven of part U of chapter fifty-nine of the laws of two thou-
4 sand six.

5 4. Applications for an energy cost savings benefit shall be in the
6 form and contain such information, exhibits and supporting data as the
7 board may prescribe. The board shall review the applications received
8 and shall determine the applications which best meet the criteria estab-
9 lished for the benefits pursuant to this subdivision and it shall recom-
10 mend such applications to the power authority of the state of New York
11 with such terms and conditions as it deems appropriate; provided, howev-
12 er, that for energy cost savings benefits granted on or after [June
13 thirtieth, two thousand nine] MAY FIFTEENTH, TWO THOUSAND ELEVEN through
14 [May fifteenth, two thousand eleven] JUNE THIRTIETH, TWO THOUSAND
15 TWELVE, the board shall expedite the awarding of such benefits and shall
16 defer the review of compliance with such criteria until after the appli-
17 cant has been awarded an energy cost savings benefit. Such terms and
18 conditions shall include reasonable provisions providing for the partial
19 or complete withdrawal of the energy cost savings benefit in the event
20 the recipient fails to maintain mutually agreed upon commitments that
21 may include, but are not limited to, levels of employment, capital
22 investment and power utilization. Recommendation for approval of an
23 energy cost savings benefit shall qualify an applicant to receive an
24 energy cost savings benefit from the power authority of the state of New
25 York pursuant to the terms and conditions of the recommendation.

26 S 10. The opening paragraph of paragraph 5 of subdivision (a) of
27 section 189 of the economic development law, as amended by chapter 311
28 of the laws of 2010, is amended to read as follows:

29 "Power for jobs electricity savings reimbursements" shall mean
30 payments made by the power authority of the state of New York as recom-
31 mended by the board to recipients of allocations of power under phases
32 four and five of the power for jobs program for a period of time until
33 November thirtieth, two thousand four, subsequent to the expiration of
34 their phase four or five power for jobs contract provided however that
35 any power for jobs recipient may choose to receive an electricity
36 savings reimbursement as a substitute for a contract extension for the
37 period from the date the recipient's contract expires through [May
38 fifteenth] JUNE THIRTIETH, two thousand [eleven] TWELVE. The "basic
39 reimbursement" is an amount that when credited against the recipient's
40 actual "unit cost of electricity" during a quarter (meaning the cost for
41 commodity and delivery per kilowatt-hour for the quantity of electricity
42 purchased and delivered under the power for jobs program during a simi-
43 lar period in the final year of the recipient's contract), results in an
44 effective unit cost of electricity during the quarter equal to the aver-
45 age unit cost of electricity such recipient paid during the final year
46 of the contract for power allocated under phase four or five of the
47 power for jobs program, PROVIDED HOWEVER THAT NOTWITHSTANDING THE FORE-
48 GOING, FOR THE PERIOD JULY FIRST, TWO THOUSAND ELEVEN THROUGH JUNE THIR-
49 TIETH, TWO THOUSAND TWELVE, THE BASIC REIMBURSEMENT SHALL BE AN AMOUNT
50 SUCH THAT THE RECIPIENT RECEIVES UNIT (PER KILOWATT-HOUR) ELECTRICITY

51 SAVINGS EQUIVALENT TO THE AVERAGE UNIT ELECTRICITY SAVINGS RECEIVED
52 DURING THE TWELVE MONTHS ENDING ON DECEMBER THIRTY-FIRST, TWO THOUSAND
53 TEN.

54 S 11. Subdivisions (f) and (l) of section 189 of the economic develop-
55 ment law, as amended by chapter 311 of the laws of 2010, are amended to
56 read as follows:

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1 (f) Eligibility. The board shall recommend applications for allo-
2 cations of power under the power for jobs program to or for the use of
3 businesses which normally utilize a minimum peak electric demand in
4 excess of four hundred kilowatts; provided, however, that up to one
5 hundred megawatts of power available for allocation during the initial
6 three phases of the power for jobs program may be recommended for allo-
7 cations to not-for-profit corporations and to small businesses; and,
8 provided, further that up to seventy-five megawatts of power available
9 for allocation during the fourth phase of the program may be recommended
10 for allocations to not-for-profit corporations and to small businesses.
11 The board may require small businesses that normally utilize a minimum
12 peak electric demand of less than one hundred kilowatts to aggregate
13 their electric demand in amounts of no less than one hundred kilowatts,
14 for the purposes of applying to the board for an allocation of power.
15 The board shall recommend allocations of the additional three hundred
16 megawatts available during the fourth phase of the program to any such
17 eligible applicant, including any recipient of power allocated during
18 the first phase of the program. The board shall recommend allocations of
19 the additional one hundred eighty-three megawatts available during the
20 fifth phase of the program to any eligible applicant, including any
21 recipient of power allocated during the second and third phases of the
22 program; provided, however, that the term of contracts for allocations
23 under the fifth phase of the program shall in no case extend beyond [May
24 fifteenth, two thousand eleven] JUNE THIRTIETH, TWO THOUSAND TWELVE.
25 Notwithstanding any provision of law to the contrary, and, in partic-
26 ular, the provisions of this chapter concerning the terms of contracts
27 for allocations under the power for jobs program, the terms of any
28 contract with a recipient of power allocated under phase two of the
29 power for jobs program that has expired or will expire on or before the
30 thirty-first day of August, two thousand two, may be extended by the
31 power authority of the state of New York for an additional period of
32 three months effective on the date of such expiration, pending the
33 filing and approval of an application by such recipient for an allo-
34 cation under the fifth phase of the program. The term of any new
35 contract with such recipient under the fifth phase of the program shall
36 be deemed to include any three month contract extension made pursuant to
37 this subdivision and the termination date of any such new contract under
38 phase five shall be no later than if such new contract had commenced
39 upon the expiration of the recipient's original phase two contract. The
40 terms of any contract with a recipient of power allocated under phase
41 four and/or phase five of the power for jobs program that has expired or
42 will expire on or before the thirty-first day of December, two thousand
43 five, may be extended by the power authority of the state of New York
44 from a date beginning no earlier than the first day of December, two
45 thousand four and extending through [May fifteenth, two thousand eleven]
46 JUNE THIRTIETH, TWO THOUSAND TWELVE.

47 (l) The board shall solicit and review applications for the power for
48 jobs electricity savings reimbursements and contract extensions from
49 recipients of power for jobs allocations under phases four and five of
50 the program for the award of such reimbursements and/or contract exten-
51 sions. The board may prescribe a simplified form and content for an
52 application for such reimbursements or extensions. An applicant shall be
53 eligible for such reimbursements and/or extensions only if it is in
54 compliance with and agrees to continue to meet the job retention and
55 creation commitments set forth in its prior power for jobs contract, or

1 that for the power for jobs electricity savings reimbursements and
2 contract extensions granted on or after [June thirtieth, two thousand
3 nine] MAY FIFTEENTH, TWO THOUSAND ELEVEN through [May fifteenth, two
4 thousand eleven] JUNE THIRTIETH, TWO THOUSAND TWELVE, the board shall
5 expedite the awarding of such reimbursements and/or extensions and shall
6 defer the review of compliance with such commitments until after the
7 applicant has been awarded a power for jobs electricity savings
8 reimbursement and/or contract extension. The board shall review such
9 applications and make recommendations for the award: 1. of such
10 reimbursements through the power authority of the state of New York for
11 a period of time up to November thirtieth, two thousand four, and 2. of
12 such contract extensions or reimbursements as applied for by the recipi-
13 ent for a period of time beginning December first, two thousand four and
14 ending [May fifteenth, two thousand eleven] JUNE THIRTIETH, TWO THOUSAND
15 TWELVE. At no time shall a recipient receive both a reimbursement and
16 extension after December first, two thousand four. The power authority
17 of the state of New York shall receive notification from the board
18 regarding the award of power for jobs electricity savings reimbursements
19 and/or contract extensions.

20 S 12. Subdivision 9 of section 186-a of the tax law, as amended by
21 chapter 217 of the laws of 2009, is amended to read as follows:

22 9. Notwithstanding any other provision of this chapter or any other
23 law to the contrary, for taxable periods nineteen hundred ninety-seven
24 through and including two thousand [ten] TWELVE, any utility which
25 delivers power under the power for jobs program, as established by
26 section one hundred eighty-nine of the economic development law, shall
27 be allowed a credit, subject to the limitations thereon contained in
28 this subdivision, against the tax imposed under this section equal to
29 net lost revenues from the delivery of power under such power for jobs
30 program. Net lost revenues means the "net receipts" less "net utility
31 revenue" from such delivery of power. For purposes of this subdivision,
32 "net receipts" shall mean the amount that the utility would have other-
33 wise received from customers receiving power pursuant to allocations by
34 the New York state economic development power allocation board in
35 accordance with section one hundred eighty-nine of the economic develop-
36 ment law, or from customers whose allocation has been transferred to an
37 energy service company, or from energy service companies to which such
38 allocation has been transferred, pursuant to its tariff supervised by
39 the public service commission for substantially comparable service
40 otherwise applicable to such customers or energy service companies in
41 the absence of such designation, less the utility's annual average
42 incremental short-term variable and capacity costs of providing such
43 power in the absence of such purchase. For the purposes of this subdivi-
44 sion, "net utility revenue" shall mean the revenues the utility actually
45 receives in accordance with such section one hundred eighty-nine from
46 such customers so designated by the New York state economic development
47 power allocation board or from customers whose allocation has been
48 transferred to an energy service company, or from the energy service
49 companies to which a power for jobs allocation has been transferred,
50 less the utility's cost of such power under such program. Provided,
51 however, that any credit under this section shall be used only with
52 respect to the same taxable year during which such credit arose and
53 shall not be capable of being carried forward or backward to any other
54 taxable period. Nor shall any credit be allowed to any utility for the
55 total amount of power, expressed in kilowatt hours, purchased by the
56 customers of such utility under such program during the taxable period

1 that exceeds the prorated "baseline energy use" by all customers of that
2 utility purchasing power under such program during the taxable period.

3 "Baseline energy use" with respect to each customer shall mean the larg-
4 est amount of kilowatt hours of energy used by such customer during any
5 twelve consecutive month period occurring during the preceding thirty
6 months immediately preceding the New York state economic development
7 power allocation board's recommendation of such customer's application,
8 prorated to reflect the length of time of the customer's participation
9 in such program during the taxable period. Provided further, however,
10 that in accordance with subdivision (k) of section one hundred eighty-
11 nine of the economic development law no tax credit shall be available
12 for any revenue losses when a utility has declined to purchase power
13 allocated for sale under such program. No electric corporation shall be
14 allowed the tax credit authorized by this subdivision until it shall
15 file a certificate from the department of public service for the period
16 covered by the return verifying that the calculation of such tax credit
17 complies with this subdivision and the department of public service has
18 approved such certificate and forwarded a copy of such approved certif-
19 icate to the commissioner or any amended certificate resulting from the
20 need for correction. The credit allowed by this subdivision shall not be
21 applicable in calculating any other tax imposed or authorized to be
22 imposed by this chapter or any other law, and the amount of the tax
23 surcharge imposed under section one hundred eighty-six-c of this article
24 shall be calculated and payable as if the credit provided for by this
25 subdivision were not allowed.

26 S 13. Subparagraph 2 of paragraph g of the ninth undesignated para-
27 graph of section 1005 of the public authorities law, as amended by chap-
28 ter 217 of the laws of 2009, is amended to read as follows:

29 2. The authority, as deemed feasible and advisable by the trustees, is
30 authorized to make payments to recipients of the power for jobs elec-
31 tricity savings reimbursements and additional annual voluntary contrib-
32 utions into the state treasury to the credit of the general fund. The
33 authority shall make such contributions to the state treasury no later
34 than ninety days after the end of the calendar year in which a credit
35 under subdivision nine of section one hundred eighty-six-a of the tax
36 law is available: (a) for the additional three hundred megawatts of
37 power under the fourth phase of the program provided under chapter
38 sixty-three of the laws of two thousand and under the fifth phase for
39 the additional one hundred eighty-three megawatts provided under chapter
40 two hundred twenty-six of the laws of two thousand two; and (b) for any
41 extension of any contract for allocations under the fourth phase of the
42 program and under the fifth phase of the program. Payments for any elec-
43 tricity savings reimbursement under section one hundred eighty-nine of
44 the economic development law shall be made pursuant to such section.
45 Such annual contributions shall be equal to fifty percent of the total
46 amount of such credits available each year to all local distributors of
47 electricity. In addition, such authorization for contribution in state
48 fiscal year two thousand two--two thousand three shall be equal to the
49 total amount of credit available in two thousand one and two thousand
50 two; and such authorization for contribution in state fiscal year two
51 thousand three--two thousand four shall be equal to the total amount of
52 credit available in two thousand three; under subdivision nine of
53 section one hundred eighty-six-a of the tax law under the fourth phase
54 of the program for the additional three hundred megawatts provided under
55 chapter sixty-three of the laws of two thousand and under the fifth
56 phase for the additional one hundred eighty-three megawatts provided
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1 under chapter two hundred twenty-six of the laws of two thousand two. In
2 state fiscal year two thousand four--two thousand five, such authorized
3 annual contribution shall be equal to one hundred percent of the total
4 amount of such credits available each year to all local distributors of
5 electricity. Such authorization for contribution in state fiscal years
6 two thousand four and two thousand five shall be equal to the total
7 amount of credit available in two thousand four and two thousand five;

8 under subdivision nine of section one hundred eighty-six-a of the tax
9 law under the fourth phase of the program for the additional three
10 hundred megawatts provided under chapter sixty-three of the laws of two
11 thousand and under the fifth phase for the additional one hundred eight-
12 y-three megawatts provided under chapter two hundred twenty-six of the
13 laws of two thousand two. In addition, such authorization for contrib-
14 ution for any extension of any contract for allocations under the fourth
15 phase of the program and under the fifth phase of the program in each
16 state fiscal year shall be equal to the total amount of credit or
17 reimbursement available in state fiscal year two thousand four--two
18 thousand five, state fiscal year two thousand five--two thousand six and
19 two thousand six--two thousand seven. Additionally, notwithstanding any
20 other section of law, the authority is authorized to make a contribution
21 in an amount related to total amounts of credit received under phases
22 one, two, three, four and five of the program. In no case shall the
23 contribution for state fiscal year two thousand five--two thousand six
24 be less than seventy-five million dollars. The contribution for state
25 fiscal year two thousand six--two thousand seven shall be one hundred
26 million dollars. The contribution for state fiscal year two thousand
27 seven--two thousand eight shall be thirty million dollars. The contrib-
28 ution for state fiscal year two thousand eight--two thousand nine shall
29 be twenty-five million dollars. The contribution for state fiscal year
30 two thousand nine--two thousand ten shall be twelve million five hundred
31 thousand dollars. THE CONTRIBUTION FOR STATE FISCAL YEAR TWO THOUSAND
32 TEN--TWO THOUSAND ELEVEN SHALL BE SEVEN AND ONE-HALF MILLION DOLLARS.
33 THE CONTRIBUTION FOR STATE FISCAL YEAR TWO THOUSAND ELEVEN--TWO THOUSAND
34 TWELVE SHALL BE SIX MILLION DOLLARS. The department of public service
35 shall estimate the payment due by the end of the calendar year in which
36 the credit is available. In no case shall the amount of the total annual
37 contributions for the years during which delivery and sale of power
38 associated with all power for jobs phases and any extensions thereof
39 takes place exceed the aggregate total of four hundred [sixty-one]
40 SEVENTY-FIVE million [five hundred thousand] dollars.

41 S 14. The opening paragraph of subdivision 5 of section 1005 of the
42 public authorities law, as amended by chapter 294 of the laws of 1968,
43 is amended to read as follows:

44 To develop, maintain, manage and operate those parts of the Niagara
45 and Saint Lawrence hydroelectric projects owned or controlled by it in
46 such manner as to give effect to the policy hereby declared (and all
47 plans and acts, and all contracts for the use, sale, transmission and
48 distribution of the power generated by such projects, shall be made in
49 the light of, consistent with and subject to this policy), namely, that
50 such projects shall be in all respects for the aid, improvement, and
51 benefit of commerce and navigation in, through, along and past the
52 Niagara river, the Saint Lawrence river and the international rapids
53 section thereof, and that in the development of hydro-electric power
54 therefrom such projects shall be considered primarily as for the benefit
55 of the people of the state as a whole [and particularly the domestic and
56 rural consumers to whom the power can economically be made available,
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1 and accordingly that sale to and use by industry shall be a secondary
2 purpose, to be utilized principally to secure a sufficiently high load
3 factor and revenue returns to permit domestic and rural use at the
4 lowest possible rates and in such manner as to encourage increased
5 domestic and rural use of electricity]. In furtherance of this policy
6 and to secure a wider distribution of such power and use of the greatest
7 value to the general public of the state, the authority shall in addi-
8 tion to other methods which it may find advantageous make provision so
9 that municipalities and other political sub-divisions of the state now
10 or hereafter authorized by law to engage in the distribution of electric
11 power may secure a reasonable share of the power generated by such
12 projects, and shall sell the same or cause the same to be sold to such

13 municipalities and political subdivisions at prices representing cost of
14 generation, plus capital and operating charges, plus a fair cost of
15 transmission, all as determined by the trustees, and subject to condi-
16 tions which shall assure the resale of such power [to domestic and rural
17 consumers] at the lowest possible price, provided, however, that in
18 disposing of hydro-electric power pursuant to and in furtherance of the
19 aforementioned policy and purposes, appropriate provision may also be
20 made to allocate a reasonable share of project power to agencies created
21 or designated by other states and authorized to resell the power to
22 users under the same terms and conditions as power is disposed of in New
23 York state. To that end, the authority may provide in any contract or
24 contracts which it may make for the sale, transmission and distribution
25 of the power that the purchaser, transmitter or distributor shall
26 construct, maintain and operate, on such terms as the authority may deem
27 proper, such connecting lines as may be necessary for transmission of
28 the power from main transmission lines to such municipalities or poli-
29 tical subdivisions.

30 S 15. Subdivision 16 of section 1005 of the public authorities law, as
31 added by chapter 217 of the laws of 2009, is REPEALED.

32 S 16. Subdivision 16 of section 1005 of the public authorities law, as
33 added by chapter 477 of the laws of 2009, is renumbered subdivision 17,
34 and paragraph (a) of such subdivision is amended to read as follows:

35 (a) As deemed feasible and advisable by the trustees, to finance and
36 design, develop, construct, implement, provide and administer energy-re-
37 lated projects, programs and services for any public entity and any
38 recipient of the economic development power, expansion power, replace-
39 ment power, preservation power, high load factor power, municipal
40 distribution agency power, [and the] power for jobs, AND RECHARGE NEW
41 YORK POWER programs administered by the authority. In establishing and
42 providing high performance and sustainable building programs and
43 services authorized by this subdivision, the authority is authorized to
44 consult standards, guidelines, rating systems, and/or criteria estab-
45 lished or adopted by other organizations, including but not limited to
46 the United States green building council under its leadership in energy
47 and environmental design (LEED) programs, the green building initi-
48 ative's green globes rating system, and the American National Standards
49 Institute. The source of any financing and/or loans provided by the
50 authority for the purposes of this subdivision may be the proceeds of
51 notes issued pursuant to section one thousand nine-a of this title, the
52 proceeds of bonds issued pursuant to section one thousand ten of this
53 title, or any other available authority funds.

54 S 17. Section 2 of chapter 477 of the laws of 2009, amending the
55 public authorities law relating to energy efficiency and clean energy
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1 initiatives of the power authority of the state of New York, is amended
2 to read as follows:

3 S 2. This act shall take effect immediately [and shall expire three
4 years after it shall have become a law; provided that such expiration
5 shall not affect the validity of any energy services contract authorized
6 by this act and entered into prior to its expiration].

7 S 18. The opening paragraph of subdivision 6 of section 1005 of the
8 public authorities law, as amended by chapter 294 of the laws of 1968,
9 is amended to read as follows:

10 To develop, maintain, manage and operate its projects other than the
11 Niagara and Saint Lawrence hydroelectric projects so as (i) to provide
12 an adequate supply of energy for optimum utilization of its hydroelec-
13 tric projects, (ii) to attract and expand high load factor industry,
14 (iii) to provide for the additional needs of its municipal electric and
15 rural electric cooperative customers, (IV) TO PROVIDE A SUPPLY OF POWER
16 AND ENERGY FOR USE IN THE RECHARGE NEW YORK POWER PROGRAM AS RECHARGE
17 NEW YORK MARKET POWER, and [(iv)] (V) to assist in maintaining an
18 adequate, dependable electric power supply for the state.

19 S 19. Severability clause. If any clause, sentence, paragraph, subdivi-
20 sion, section or part of this act shall be adjudged by any court of
21 competent jurisdiction to be invalid, such judgment shall not affect,
22 impair, or invalidate the remainder thereof, but shall be confined in
23 its operation to the clause, sentence, paragraph, subdivision, section
24 or part thereof directly involved in the controversy in which such judg-
25 ment shall have been rendered. It is hereby declared to be the intent of
26 the legislature that this act would have been enacted even if such
27 invalid provisions had not been included therewith.

28 S 20. This act shall take effect immediately; provided that:

29 a. the amendments to section 183 of the economic development law made
30 by section nine of this act shall not affect the expiration of such
31 section and shall be deemed to expire therewith;

32 b. the amendments to section 189 of the economic development law made
33 by sections ten and eleven of this act shall not affect the repeal of
34 such section and shall be deemed repealed therewith;

35 c. the amendments to subdivision 9 of section 186-a of the tax law
36 made by section twelve of this act shall not affect the repeal of such
37 subdivision and shall be deemed repealed therewith; and

38 d. the amendments to subparagraph 2 of paragraph g of the 9th undesign-
39 ated paragraph of section 1005 of the public authorities law made by
40 section thirteen of this act shall not affect the expiration of such
41 subparagraph and shall be deemed to expire therewith.

42

PART DD

43 Section 1. The New York state urban development corporation shall
44 submit for approval to the director of the budget a comprehensive finan-
45 cial plan for the corporation and its subsidiaries for expenditures,
46 regardless of source, including but not limited to those from the debt
47 service account, the excess debt service account, the housing repair and
48 modernization fund account, the interest income account, and the econom-
49 ic development income account, in such detail as the director of the
50 budget may require. The director of the budget shall file copies of such
51 financial plan with the senate finance committee, the assembly ways and
52 means committee and the department of audit and control in both paper
53 and electronic format.

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1 S 2. 1. Notwithstanding any provision of law to the contrary, the New
2 York state urban development corporation shall establish accounts and
3 subaccounts within the treasury of such corporation which shall reflect
4 and consist of all funds made available to such corporation, at any
5 time, from any sources for its corporate purposes. Such account shall
6 consist of, but not be limited to, the following:

7 (i) general and administrative accounts, which shall consist of all
8 funds made available for the operational expenses of such corporation;

9 (ii) general and administrative accounts of certain subsidiary corpo-
10 rations, which shall consist of all funds made available for the opera-
11 tional expenses of the mortgage loan enforcement and administration
12 corporation and the 42nd street development project, incorporated,
13 provided, however, that such subsidiary shall be established as a sepa-
14 rate account;

15 (iii) debt service account, which shall consist of all funds made
16 available for debt service payments on the outstanding general obli-
17 gations of the corporation where the original issue of such bonds or
18 notes was prior to April 1, 1976, and including any refinancing or
19 renewal of such bonds and notes, provided such account shall not, in any
20 manner, reduce any debt service reserve fund below a level agreed to
21 pursuant to a statute, covenant or other contract between the corpo-
22 ration and such bondholders or noteholders;

23 (iv) excess debt service account, which shall consist of all funds
24 made available from the net savings achieved as a result of the refund-

25 ing of the corporation's general purpose bonds authorized pursuant to
26 resolution number 96-ud-526 of the public authorities control board. Net
27 savings shall be determined by the difference between annual debt
28 service payments which would have been required pursuant to the refunded
29 bonds and the annual debt service payments for the corporation's corpo-
30 rate purpose bonds issued to accomplish such refunding;

31 (v) housing repair and modernization fund account, which shall consist
32 of funds made available from the excess debt service account to assist
33 in maintaining the residential and commercial portfolios of the corpo-
34 ration as determined by the chairman of the corporation or his designee;

35 (vi) buildout account, which shall consist of all funds made available
36 for the payment of expenses associated with final settlements on remain-
37 ing issues of construction costs and mortgage amounts on residential and
38 nonresidential projects financed by the corporation;

39 (vii) project repair account, which shall consist of all funds made
40 available for the maintenance, servicing or repairing of real property
41 in the residential, industrial and commercial portfolios of such corpo-
42 rations;

43 (viii) economic development income account, which shall consist of all
44 payments, including payments to compensate for any funds, time or other
45 costs provided by the corporation in relation to nonresidential projects
46 and all other reimbursable corporate service income from economic devel-
47 opment projects and payments which are provided to such corporation for
48 purposes of repayment of funds in respect to any contract or other
49 agreements entered into by the corporation which are attributable to any
50 economic development project of the corporation, provided, however, that
51 such account shall not include funds representing repayments which are
52 to be returned to the development of such project pursuant to any
53 contract or other agreement entered into by the corporation;

54 (ix) economic development program and project accounts, which shall
55 consist of all funds made available for specific economic development
56 programs and projects excluding any program or project authorized by a
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1 resolution or other action of the corporation prior to April 1, 1976,
2 and excluding any residential project, provided, however, that each
3 specified program and project shall be established as a separate account
4 unless otherwise authorized pursuant to an appropriation;

5 (x) new communities and community support account, which shall consist
6 of all funds made available for, and all income received from the Audu-
7 bon and Radisson communities;

8 (xi) Roosevelt Island operating corporation account, which shall
9 consist of all funds made available for, and all income received from
10 the Roosevelt Island community;

11 (xii) interest income account, which shall consist of all moneys
12 earned by the corporation from investment of any funds available in the
13 accounts and subaccounts within the treasury of the corporation; and

14 (xiii) mortgage servicing fee account, which shall consist of all
15 funds made available to the mortgage loan enforcement and administration
16 corporation for the payment of fees to the housing special revenue
17 account of the miscellaneous special revenue fund associated with the
18 provision of mortgage servicing activities by the division of housing
19 and community renewal.

20 2. The amounts deposited in any such account may be interchanged with
21 any other account for purposes of investment and may be commingled,
22 provided, however, that such interchange may not increase or decrease
23 any account, other than the debt service account, and the interest
24 income account, by more than five percent in the aggregate in the entire
25 period of any fiscal year of the corporation. Provided further, that in
26 addition to any other specific exception provided for in this section,
27 the following exemptions to the above interchange provision shall apply
28 for the purposes of the debt service account, the interest income
29 account, the project repair account, the mortgage servicing fee account,

30 the general and administrative account of the mortgage loan enforcement
31 and administration corporation, excess debt service account, housing
32 repair and modernization fund account, Roosevelt Island operating corpo-
33 ration account and the economic development income account:

34 (i) Interchange from the debt service account to any other account
35 shall be unlimited, but all such transfers from the debt service account
36 shall be repaid quarterly to such account on or before June 30, 2011,
37 September 30, 2011, December 31, 2011 and March 31, 2012, except for:
38 (A) \$30,762,000 which shall be transferred to the general and adminis-
39 trative account from the debt service account during the state fiscal
40 year commencing April 1, 2011, and such amount of \$30,762,000 shall not
41 be repaid to the debt service account; (B) \$2,000,000 which shall be
42 transferred to the general and administrative account of the 42nd street
43 development project, incorporated and which shall be repaid pursuant to
44 a repayment agreement as set out in paragraph (vi) of this subdivision.

45 (ii) Interchange from the excess debt service account shall be unlim-
46 ited, but all such transfers from the excess debt service account shall
47 be repaid quarterly to such account on or before June 30, 2011, Septem-
48 ber 30, 2011, December 31, 2011, and March 31, 2012, except for: (A) an
49 amount sufficient to fund the housing repair and modernization fund
50 account to assist in maintaining the residential and commercial portfo-
51 lios of the corporation as determined by the chairman of the corporation
52 or his designee; (B) an amount necessary to invest in the job develop-
53 ment authority, as certified by the chairman of the authority or his
54 designee, to provide funds in order to pay lawful debts of the authority
55 provided that the corporation shall not make any payment or investment
56 for the benefit of the authority unless and until it has independently
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1 verified that the authority does not have sufficient funds available to
2 pay its lawfully incurred debts and obligations, and with any net
3 savings which remain and are available; (C) all remaining balances of
4 funds contained in the excess debt service account shall be remitted to
5 the credit of the state of New York general fund not later than March
6 31, 2011.

7 (iii) Interchange from the interest income account, other than to the
8 general and administrative account of the mortgage loan enforcement and
9 administration corporation, may be unlimited.

10 (iv) Interchange to the project repair account from any account may be
11 unlimited, and the corporation shall transfer up to \$10,000,000 to such
12 account from any account during the fiscal year commencing April 1,
13 2011, and such amount up to \$10,000,000 shall not be repaid.

14 (v) Interchange between the general and administrative account of the
15 mortgage loan enforcement and administration corporation and any other
16 account shall comply with the provisions specified herein, except that
17 up to \$1,700,000 shall be transferred to such subsidiary corporation
18 during the fiscal year commencing April 1, 2011 and any such amount
19 shall not be repaid.

20 (vi) An advance up to \$2,000,000 may be made from the debt service
21 account to the general and administrative account of the 42nd street
22 development project, incorporated, provided, however, that before such
23 advance is made the New York state urban development corporation shall
24 enter into an agreement with the director of the budget providing for
25 repayment of such advance. Subject to the approval of the director of
26 the budget, and notification of the chairs of the assembly ways and
27 means and the senate finance committees in both paper and electronic
28 format, the corporation is hereby authorized to expend revenues of the
29 project for services and expenses of the corporation. The total amount
30 expended by the 42nd street development project, incorporated shall not
31 exceed \$2,000,000 and any unexpended project revenues shall be used to
32 reduce the total advance provided to the project from the debt service
33 account.

34 (vii) Interchange from the debt service account to the mortgage

35 servicing fee account of the mortgage loan enforcement and adminis-
36 tration corporation shall comply with the provisions specified herein,
37 except that up to \$2,838,000 shall be transferred to such mortgage
38 servicing fee account during the fiscal year commencing April 1, 2011
39 and such amount shall not be repaid. Prior to the allocation of any
40 moneys from the debt service account to the 42nd street development
41 project, incorporated, and the mortgage loan enforcement and adminis-
42 tration corporation for the fiscal year commencing April 1, 2011, each
43 corporation shall submit for approval to the director of the budget, a
44 comprehensive financial plan for each corporation for such fiscal year,
45 in such detail as the director of the budget shall require in both paper
46 and electronic format. The financial plan shall be submitted to the
47 budget director on or before May 15, 2011. A report for each plan and
48 any plan update, if necessary, shall be submitted to the director of the
49 budget on or before August 15, 2011, November 15, 2011 and February 15,
50 2012. Each such report shall provide the actual revenue and expenditures
51 for the preceding quarters ending June 30, 2011, September 30, 2011 and
52 December 31, 2011, in such detail as the director of the budget shall
53 require. Further, any plan update shall revise, where necessary, the
54 revenue and expenditure plan for each corporation for the remainder of
55 the fiscal year beginning April 1, 2011. No transfer to the general
56 administrative account of the corporation shall occur prior to the
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1 approval of the financial plan and unless in compliance with the
2 approved financial plan.

3 The director of the budget shall file copies of such financial plans,
4 quarterly reports and any plan updates with the department of audit and
5 control and the senate finance committee and the assembly ways and means
6 committee in both paper and electronic format. Interchange made to the
7 debt service account shall not be repaid if such payment would reduce
8 any debt service or debt service reserve requirements below any amount
9 required pursuant to a covenant, contract or other agreements with the
10 bondholders and noteholders. No payments or deposits shall be made from
11 any debt service reserve fund established pursuant to the provisions of
12 section 20 of the New York state urban development corporation act to
13 any account of the corporation other than the debt service account; and
14 such payment or deposit shall only occur if deemed necessary to meet the
15 payments specified in the debt service account described herein.

16 Provided further, (a) that such investment shall be made pursuant to
17 the provisions of subdivision 22 of section 5 of the New York state
18 urban development corporation act; (b) that such investment shall be
19 made in a fashion which shall enable the corporation to timely meet its
20 obligations; (c) that such investment shall be specified in each account
21 in respect to the amount contributed, and that upon termination of such
22 investment each account shall be reimbursed. Such account and subaccount
23 shall be included in detailed quarterly reports of the corporation
24 commencing with the quarterly report for the period immediately preced-
25 ing April 1, 2011 which set forth the status of all such accounts,
26 including for each account and subaccount the amount in such accounts at
27 the beginning of such quarter (from and including the entire period of
28 the first day of the operative calendar year), the payments of such
29 accounts, the payments from such accounts and the amount in such
30 accounts at the close of such quarter (to and including the entire peri-
31 od of the last day of the operative calendar year). Such detailed quar-
32 terly report shall be prepared and submitted within 30 days of the close
33 of each fiscal quarter of the corporation to the director of the budget,
34 and the chair of the senate finance committee and the chair of the
35 assembly ways and means committee in both paper and electronic format.
36 Such accounts and subaccounts shall be detailed in the annual report of
37 the corporation.

38 No disbursements or payments shall be made from the economic develop-
39 ment income account or the interest income account except upon a request

40 for the transfer of such funds to the director of the budget who shall
41 file such request and approval thereof with the department of audit and
42 control and copies thereof with the senate finance committee and the
43 assembly ways and means committee in both paper and electronic format,
44 except that such prior approval shall not be required in respect to
45 repayments to the state. Any amounts in any debt service reserve funds,
46 any inconsistent provisions of law notwithstanding, established by the
47 corporation pursuant to the provisions of section 20 of the New York
48 state urban development corporation act, which would not reduce the
49 amount of such fund or funds to less than (1) the maximum amount of
50 principal and interest maturing and becoming due in 2011 or (2) any
51 amount required pursuant to a covenant, contract or other agreement with
52 bondholders and noteholders shall be paid by the corporation to the
53 state comptroller for deposit to the credit of the general fund of the
54 state on or before March 1, 2012. In the event that the corporation
55 shall fail to make such payment, the comptroller shall withhold from any
56 appropriations otherwise available to the corporation, the amount suffi-
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1 cient to pay to the general fund the amounts required to be paid by the
2 corporation pursuant to the foregoing provisions. The state comptroller
3 shall create accounts for each item of appropriation.

4 S 3. This act shall take effect immediately and shall be deemed to
5 have been in full force and effect on and after April 1, 2011; and
6 provided further that sections one and two of this act shall expire and
7 be deemed repealed March 31, 2012.

8 PART EE

9 Section 1. Subdivision 1 of section 12 of section 1 of chapter 174 of
10 the laws of 1968 constituting the New York state urban development
11 corporation act is amended by adding a new undesignated paragraph to
12 read as follows:

13 THE EMPIRE STATE NEW MARKET CORPORATION, A COMMUNITY DEVELOPMENT ENTI-
14 TY CERTIFIED BY THE UNITED STATES DEPARTMENT OF THE TREASURY COMMUNITY
15 DEVELOPMENT FINANCIAL INSTITUTIONS FUND AND A CORPORATE SUBSIDIARY OF
16 THE CORPORATION, BY RESOLUTION, MAY DIRECT ANY OF ITS DIRECTORS, OFFI-
17 CERS, OR EMPLOYEES TO FORM LIMITED LIABILITY COMPANIES PURSUANT TO
18 SECTION 203 OF THE LIMITED LIABILITY COMPANY LAW FOR THE SOLE PURPOSE OF
19 CERTIFYING AND PERFORMING AS COMMUNITY DEVELOPMENT ENTITIES THAT WOULD
20 BE ELIGIBLE TO RECEIVE AN ALLOCATION OF TAX CREDITS UNDER THE NEW
21 MARKETS TAX CREDIT PROGRAM. NO LIMITED LIABILITY COMPANY FORMED PURSU-
22 ANT TO THIS SECTION SHALL MERGE OR CONSOLIDATE. EACH LIMITED LIABILITY
23 COMPANY SHALL ACT SOLELY IN RELATION TO PROJECTS SELECTED BY THE CORPO-
24 RATION, OR A CORPORATE SUBSIDIARY OF THE CORPORATION. EACH LIMITED
25 LIABILITY COMPANY SHALL BE EMPOWERED TO RECEIVE AN ALLOCATION OF TAX
26 CREDITS FROM A FEDERAL ALLOCATION TO THE CORPORATION, OR A CORPORATE
27 SUBSIDIARY OF THE CORPORATION, UNDER THE NEW MARKETS TAX CREDIT PROGRAM
28 AND TO DO ANY OTHER ACT OR THINGS INCIDENTAL TO OR CONNECTED WITH THE
29 FOREGOING PURPOSES OR IN ADVANCEMENT THEREOF. THE CORPORATION, OR A
30 CORPORATE SUBSIDIARY OF THE CORPORATION, SHALL BE THE MANAGING MEMBER OF
31 EACH LIMITED LIABILITY COMPANY CREATED BY THE CORPORATION. IN DETERMIN-
32 ING WHICH PROJECTS TO ALLOCATE TAX CREDITS TO UNDER THE NEW MARKETS TAX
33 CREDIT PROGRAM, THE CORPORATION SHALL PRIORITIZE PROJECTS DEMONSTRATING
34 ONE OR MORE OF THE FOLLOWING GOALS OR BENEFITS: (A) CREATING OR RETAIN-
35 ING JOBS IN LOW INCOME COMMUNITIES; (B) INCREASING THE PROVISION OF
36 GOODS AND SERVICES FOR LOW INCOME COMMUNITY RESIDENTS WHICH WOULD OTHER-
37 WISE NOT BE AVAILABLE AT THE SAME PRICE OR QUALITY; (C) SUPPORTING
38 MINORITY AND WOMEN-OWNED OR CONTROLLED BUSINESSES; (D) EXPANDING HOUSING
39 OPPORTUNITIES FOR LOW INCOME COMMUNITY PERSONS; (E) SUPPORTING ENVIRON-
40 MENTALLY SUSTAINABLE OUTCOMES; AND (F) SUPPORTING EFFORTS THAT OTHERWISE
41 BENEFIT LOW INCOME COMMUNITY RESIDENTS BY LEVERAGING FURTHER INVESTMENT
42 IN THEIR COMMUNITIES. PROVIDED FURTHER, SUCH PROJECTS SHALL BE LIMITED

43 TO PROJECTS THAT WOULD BE AUTHORIZED UNDER THIS ACT AND SHALL BE SUBJECT
44 TO APPROVAL BY THE BOARD OF THE URBAN DEVELOPMENT CORPORATION. THE
45 CORPORATION SHALL PUBLISH INFORMATION REGARDING THE PROCESS USED TO
46 SELECT PROJECTS TO RECEIVE THE NEW MARKETS TAX CREDITS AND PROVIDE A
47 COPY TO THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEM-
48 BLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE
49 ASSEMBLY. THE CORPORATION SHALL STRIVE FOR REGIONAL DIVERSITY IN THE
50 ALLOCATION OF TAX CREDITS UNDER THE NEW MARKETS TAX CREDIT PROGRAM. THE
51 CORPORATION SHALL INCLUDE IN THE INFORMATION REQUIRED TO BE SUBMITTED
52 ANNUALLY IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION 1 OF SECTION
53 2800 OF THE PUBLIC AUTHORITIES LAW INFORMATION REGARDING ASSISTANCE
54 PROVIDED BY IT OR ITS SUBSIDIARY UNDER THE NEW MARKETS TAX CREDIT
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1 PROGRAM, AND SHALL PROVIDE FINANCIAL INFORMATION WITH RESPECT TO ANY
2 SUBSIDIARY ADMINISTERING THE PROGRAM IN THE CORPORATION'S FINANCIAL
3 REPORTS, INCLUDING ITS CERTIFIED AUDITED FINANCIAL STATEMENTS.

4 S 2. This act shall take effect immediately and shall expire and be
5 deemed repealed 5 years after such effective date.

6 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
7 sion, section or part of this act shall be adjudged by any court of
8 competent jurisdiction to be invalid, such judgment shall not affect,
9 impair, or invalidate the remainder thereof, but shall be confined in
10 its operation to the clause, sentence, paragraph, subdivision, section
11 or part thereof directly involved in the controversy in which such judg-
12 ment shall have been rendered. It is hereby declared to be the intent of
13 the legislature that this act would have been enacted even if such
14 invalid provisions had not been included herein.

15 S 3. This act shall take effect immediately provided, however, that
16 the applicable effective date of Parts A through EE of this act shall be
17 as specifically set forth in the last section of such Parts.

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