

**2013-14 NEW YORK STATE EXECUTIVE BUDGET
TRANSPORTATION
ECONOMIC DEVELOPMENT AND
ENVIRONMENTAL CONSERVATION
ARTICLE VII LEGISLATION**

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Legislative Bill Drafting Commission
12573-01-3

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

BUDGBI

(Enacts into law major components of
legislation necessary to implement
the transportation, economic devel-
opment and environmental conservation
budget for the 2013-2014)

BUDGBI. TED

AN ACT

to authorize funding for the Consol-
idated Local Street and Highway
Improvement Program (CHIPS) and
Marchiselli program for state fiscal
year 2013-2014 (Part A); to amend
the tax law, in relation to the
statewide transmission tax (Part B);
to amend the vehicle and traffic
law, in relation to imposing drivers
license sanctions (Part C); to amend
the vehicle and traffic law, in

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s20 Adams	s17 Felder	s63 Kennedy	s25 Montgomery	s23 Savino
s15 Addabbo	s02 Flanagan	s34 Klein	s54 Nozzolio	s29 Serrano
s11 Avella	s08 Fuschillo	s28 Krueger	s55 O'Brien	s51 Seward
s40 Ball	s59 Gallivan	s24 Lanza	s58 O'Mara	s09 Skelos
s42 Bonacic	s12 Gianaris	s39 Larkin	s21 Parker	s14 Smith
s04 Boyle	s41 Gipson	s37 Latimer	s13 Peralta	s26 Squadron
s44 Breslin	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s38 Carlucci	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart- Cousins
s50 DeFrancisco	s60 Grisanti	s45 Little	s48 Ritchie	s53 Valesky
s32 Diaz	s06 Hannon	s05 Marcellino	s33 Rivera	s57 Young
s18 Dilan	s36 Hassell-	s43 Marchione	s56 Robach	s03 Zeldin
s31 Espaillat	Thompson	s07 Martins	s19 Sampson	s46
s49 Farley	s27 Hoylman	s62 Maziarz	s10 Sanders	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a034 DenDekker	a097 Jaffee	a136 Morelle	a111 Santabarbara
a092 Abinanti	a081 Dinowitz	a135 Johns	a057 Mosley	a029 Scarborough
a084 Arroyo	a147 DiPietro	a113 Jordan	a039 Moya	a016 Schimel
a035 Aubry	a115 Duprey	a094 Katz	a133 Nojay	a140 Schimminger
a120 Barclay	a004 Englebright	a074 Kavanagh	a037 Nolan	a087 Sepulveda
a106 Barrett	a054 Espinal	a142 Kearns	a130 Oaks	a065 Silver
a060 Barron	a109 Fahy	a076 Kellner	a069 O'Donnell	a027 Simanowitz
a082 Benedetto	a071 Farrell	a040 Kim	a051 Ortiz	a036 Simotas
a117 Blankenbush	a126 Finch	a131 Kolb	a091 Otis	a104 Skartados
a062 Borelli	a008 Fitzpatrick	a105 Lalor	a132 Palmesano	a099 Skoufif
a055 Boyland	a124 Friend	a013 Lavine	a088 Paulin	a022 Solages
a026 Braunstein	a143 Gabryszak	a050 Lentol	a141 Peoples-	a114 Stec
a044 Brennan	a095 Galef	a125 Lifton	Stokes	a110 Steck
a119 Brindisi	a137 Gantt	a102 Lopez, P.	a058 Perry	a079 Stevenson
a138 Bronson	a007 Garbarino	a053 Lopez, V.	a089 Pretlow	a127 Stirpe
a046 Brook-Krasny	a077 Gibson	a002 Losquadro	a073 Quart	a011 Sweeney
a093 Buchwald	a148 Giglio	a123 Lupardo	a019 Ra	a112 Tedisco
a118 Butler	a080 Gjonaj	a010 Lupinacci	a098 Rabbitt	a101 Tenney
a103 Cahill	a066 Glick	a121 Magee	a012 Raia	a001 Thiele
a043 Camara	a023 Goldfeder	a129 Magnarelli	a006 Ramos	a061 Titone
a086 Castro	a150 Goodell	a059 Maisel	a134 Reilich	a031 Titus
a145 Ceretto	a075 Gottfried	a064 Malliotakis	a078 Rivera	a146 Walter
a033 Clark	a005 Graf	a030 Markey	a128 Roberts	a041 Weinstein
a047 Colton	a100 Gunther	a090 Mayer	a056 Robinson	a020 Weisenberg
a032 Cook	a139 Hawley	a108 McDonald	a068 Rodriguez	a024 Weprin
a144 Corwin	a083 Heastie	a014 McDonough	a072 Rosa	a070 Wright
a085 Crespo	a003 Hennessey	a017 McKevitt	a067 Rosenthal	a096 Zebrowski
a122 Crouch	a028 Hevesi	a107 McLaughlin	a025 Rozic	
a021 Curran	a048 Hikind	a038 Miller	a116 Russell	
a063 Cusick	a018 Hooper	a052 Millman	a149 Ryan	
a045 Cymbrowitz	a042 Jacobs	a015 Montesano	a009 Saladino	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and 4 copies of memorandum in support (single house);
or 4 signed copies of bill and 8 copies of memorandum
in support (uni-bill).

relation to the hours of operation of the department of motor vehicles (Part D); to amend the public authorities law, in relation to enforcement assistance; and to repeal section 357-a of such law relating to payment by the New York state thruway authority for services provided by the division of state police (Part E); to amend the environmental conservation law and the state finance law, in relation to establishing the "Cleaner, Greener NY Act of 2013"; and repealing section 27-1017 of the environmental conservation law relating thereto (Part F); to amend the environmental conservation law, in relation to waste tire management and recycling fees (Part G); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part H); to amend chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements, in relation to extending certain authority of the dormitory authority of the state of New York (Part I); to amend the New York state urban development corporation act, in relation to the powers of the New York state urban development corporation to make grants (Part J); to authorize and direct the New York state energy research and development authority to make a payment to the general fund of up to \$913,000 (Part K); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration and policy and planning programs from assessments on gas and electric corporations (Part L); to authorize the department of health to finance certain activities with revenues generated from an assessment on cable television companies (Part M); to amend the

public service law, in relation to extending the temporary state energy and utility conservation assessment; and to amend section 6 of part NN of chapter 59 of the laws of 2009 amending the public service law relating to financing the operations of the department of public service, the public service commission, department support and energy management services provided by other state agencies, increasing the utility assessment cap and the minimum threshold for collection thereunder, and establishing a temporary state energy and utility service conservation assessment and providing for the collection thereof, in relation to extending the effectiveness thereof (Part N); to amend the public service law, in relation to strengthening the oversight and enforcement mechanisms of the Public Service Commission; to amend the general business law, in relation to expanding the definition of underground facilities and increasing fines for violations relating to the protection of underground facilities; and to repeal certain provisions of the public service law relating thereto (Part O); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending the expiration date thereof (Part P); and to amend the banking law, the cooperative corporations law, the general business law, and the not-for-profit corporation law, in relation to facilitating an online corporate filing system by removing the type classification system for not-for-profit corporations; to repeal certain provisions of the not-for-profit corporation law and the religious corporations law, relating thereto (Subpart A); to amend the business corporation law, the education law, the general business law, the limit-

ed liability company law, the not-for-profit corporation law, the partnership law, the private housing finance law, the public health law and the transportation corporations law, in relation to facilitating online filing by authorizing self-certification by filers with regard to required consents; to repeal certain provisions of the business corporation law and the not-for-profit corporation law, relating thereto (Subpart B); to amend the business corporation law, the limited liability company law, the not-for-profit corporation law and the partnership law, in relation to authorizing electronic attendance at meetings (Subpart C); to amend the business corporation law, the limited liability company law and the not-for-profit corporation law, in relation to who may act as an incorporator (Subpart D); to amend the general associations law, in relation to serving process upon the secretary of state as agent (Subpart E); to amend the tax law, in relation to reducing the taxes on shares (Subpart F) (Part Q)

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 2013-2014
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through Q. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

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

25 SCHEDULE

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

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

15	State Fiscal Year	Amount
16	2013-14	\$39,700,000

17 (b) Three hundred four million three hundred thousand dollars
18 (\$304,300,000) to counties, cities, towns and villages for reimbursement
19 of eligible costs of local highway and bridge projects pursuant to
20 sections 16 and 16-a of chapter 329 of the laws of 1991, as added by
21 section 9 of chapter 330 of the laws of 1991, as amended. For the
22 purposes of computing allocations to municipalities, the amount distrib-
23 uted pursuant to section 16 of chapter 329 of the laws of 1991 shall be
24 deemed to be \$121,520,000. The amount distributed pursuant to section
25 16-a of chapter 329 of the laws of 1991 shall be deemed to be
26 \$182,780,000. Notwithstanding the provisions of any general or special
27 law, the amounts deemed distributed in accordance with section 16 of
28 chapter 329 of the laws of 1991 shall be adjusted so that such amounts

1 will not be less than 83.807 percent of the "funding level" as defined
2 in subdivision 5 of section 10-c of the highway law for each such muni-
3 cipality. In order to achieve the objectives of section 16 of chapter
4 329 of the laws of 1991, to the extent necessary, the amounts in excess
5 of 83.807 percent of the funding level to be deemed distributed to each
6 municipality under this subdivision shall be reduced in equal propor-
7 tion.

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

1 The program authorized pursuant to sections 16 and 16-a of chapter 329
2 of the laws of 1991, as added by section 9 of chapter 330 of the laws of
3 1991, as amended, shall additionally make payments for reimbursement
4 according to the following schedule:

5	State Fiscal Year	Amount
6	2013-14	\$363,097,000

7 § 2. This act shall take effect immediately.

8 PART B

9 Section 1. Subdivision 3 of section 205 of the tax law, as added by
10 section 8 of part U1 of chapter 62 of the laws of 2003, is amended to
11 read as follows:

12 3. [From the] The moneys collected from the taxes imposed by sections
13 one hundred eighty-three and one hundred eighty-four of this article on
14 and after April first, two thousand [four] thirteen, after reserving
15 amounts for refunds or reimbursements, shall be distributed as follows:
16 twenty percent of such moneys shall be deposited to the credit of the
17 dedicated highway and bridge trust fund established by section eighty-
18 nine-b of the state finance law[. The remainder], fifty-four percent of
19 such moneys shall be deposited in the mass transportation operating
20 assistance fund to the credit of the metropolitan mass transportation
21 operating assistance account created pursuant to section eighty-eight-a
22 of the state finance law and twenty-six percent of such moneys shall be
23 deposited in the mass transportation operating assistance fund to the
24 credit of the public transportation systems operating assistance account
25 created pursuant to section eighty-eight-a of the state finance law.

1 § 2. This act shall take effect on the same date and in the same
2 manner as the expiration and repeal of subdivision 3 of section 205 of
3 the tax law per section 2 of part P of chapter 59 of the laws of 2012,
4 as amended; provided, however, that the amendments to subdivision 3 of
5 section 205 of the tax law made by section one of this act shall not
6 affect the repeal of such subdivision and shall be deemed repealed ther-
7 ewith.

8

PART C

9 Section 1. Paragraph (a) of subdivision 4 of section 510-a of the
10 vehicle and traffic law, as amended by section 14 of part E of chapter
11 60 of the laws of 2005, is amended to read as follows:

12 (a) A serious traffic violation shall mean operating a commercial
13 motor vehicle in violation of a state or local law or ordinance
14 restricting or prohibiting the use of a hand-held mobile telephone or a
15 portable electronic device while driving or in violation of any
16 provision of this chapter or the laws of any other state, the District
17 of Columbia or any Canadian province which (i) limits the speed of motor
18 vehicles, provided the violation involved fifteen or more miles per hour
19 over the established speed limit; (ii) is defined as reckless driving by
20 state or local law or regulation; (iii) prohibits improper or erratic
21 lane change; (iv) prohibits following too closely; (v) relates to motor
22 vehicle traffic (other than parking, standing or stopping) and which
23 arises in connection with a fatal accident; (vi) operating a commercial
24 motor vehicle without first obtaining a commercial driver's license as
25 required by section five hundred one of this title; (vii) operating a
26 commercial motor vehicle without a commercial driver's license in the

1 driver's possession; or (viii) operating a commercial motor vehicle
2 without the proper class of commercial driver's license and/or endorse-
3 ment for the specific vehicle being operated or for the passengers or
4 type of cargo being transported.

5 § 2. Paragraphs (c) and (e) of subdivision 1 of section 1225-c of the
6 vehicle and traffic law, as added by chapter 69 of the laws of 2001, are
7 amended to read as follows:

8 (c) "Using" shall mean holding a mobile telephone to, or in the imme-
9 diate proximity of, the user's ear, dialing or answering a mobile tele-
10 phone by pressing more than a single button, or reaching for a mobile
11 telephone in a manner that requires a driver to maneuver so that such
12 driver is no longer in a seated position, restrained by a seat belt that
13 is installed in accordance with 49 CFR 393.93 and adjusted in accordance
14 with the vehicle manufacturer's instructions.

15 (e) "Hands-free mobile telephone" shall mean a mobile telephone that
16 has an internal feature or function, or that is equipped with an attach-
17 ment or addition, whether or not permanently part of such mobile tele-
18 phone, by which a user engages in a call without the use of either hand,
19 whether or not the use of either hand is necessary to activate, deacti-
20 vate or initiate a function of such telephone, provided, however, that a
21 telephone that requires dialing or answering such telephone by pressing
22 more than a single button shall not constitute a hands-free mobile tele-
23 phone.

24 § 3. Paragraphs (a) and (b) of subdivision 2 of section 1225-c of the
25 vehicle and traffic law, as added by chapter 69 of the laws of 2001, are
26 amended and a new paragraph (d) is added to read as follows:

27 (a) Except as otherwise provided in this section, no person shall
28 operate a motor vehicle upon a public highway while using a mobile tele-

1 phone to engage in a call while such vehicle is in motion, provided,
2 however, no person shall operate a commercial motor vehicle, as defined
3 in subdivision four-a of section two of the transportation law, while
4 using a mobile telephone on a public highway, including while temporar-
5 ily stationary because of traffic, a traffic control device, or other
6 momentary delays. The operator of a commercial motor vehicle may use a
7 mobile telephone when such operator has moved the vehicle to the side
8 of, or off, a highway and has halted in a location where the vehicle can
9 remain stationary unless stopping is prohibited by law, rules and regu-
10 lations or by a directive of law enforcement.

11 (b) An operator of [a] any motor vehicle who holds a mobile telephone
12 to, or in the immediate proximity of his or her ear while such vehicle
13 is in motion is presumed to be engaging in a call within the meaning of
14 this section, provided, however, that an operator of a commercial motor
15 vehicle who holds a mobile telephone to, or in the immediate proximity
16 of his or her ear while such vehicle is temporarily stationary because
17 of traffic, a traffic control device, or other momentary delays is also
18 presumed to be engaging in a call within the meaning of this section.
19 The presumption established by this subdivision is rebuttable by
20 evidence tending to show that the operator was not engaged in a call.

21 (d) No motor carrier, as defined in subdivision seventeen of section
22 two of the transportation law, shall allow or require its drivers to use
23 a hand-held mobile telephone while driving a commercial motor vehicle.

24 § 4. Subdivision 1 of section 1225-d of the vehicle and traffic law,
25 as added by chapter 403 of the laws of 2009, is amended to read as
26 follows:

27 1. Except as otherwise provided in this section, no person shall oper-
28 ate a motor vehicle while using any portable electronic device while

1 such vehicle is in motion, provided, however, no person shall operate a
2 commercial motor vehicle, as defined in subdivision four-a of section
3 two of the transportation law, while using a portable electronic device
4 on a public highway, including while temporarily stationary because of
5 traffic, a traffic control device, or other momentary delays. The opera-
6 tor of a commercial motor vehicle may use a portable electronic device
7 when such operator has moved the vehicle to the side of, or off, a high-
8 way and has halted in a location where the vehicle can remain stationary
9 unless stopping is prohibited by law, rules, and regulations or by a
10 directive of law enforcement.

11 § 5. Section 1225-d of the vehicle and traffic law is amended by
12 adding a new subdivision 1-a to read as follows:

13 1-a. No motor carrier, as defined in subdivision seventeen of section
14 two of the transportation law, shall allow or require its drivers to use
15 a portable electronic device while driving a commercial motor vehicle.

16 § 6. Paragraphs (a) and (b) of subdivision 2 of section 1225-d of the
17 vehicle and traffic law, as added by chapter 403 of the laws of 2009,
18 are amended to read as follows:

19 (a) "Portable electronic device" shall mean any hand-held mobile tele-
20 phone, as defined by subdivision one of section twelve hundred twenty-
21 five-c of this article, personal digital assistant (PDA), handheld
22 device with mobile data access, laptop computer, pager, broadband
23 personal communication device, two-way messaging device, electronic
24 game, or portable computing device or any other device used to input,
25 write, send, receive or read text.

26 (b) "Using" shall mean holding a portable electronic device while
27 viewing, taking or transmitting images, instant messaging, performing a
28 command or request to access a world wide web page, playing games, or

1 composing, sending, reading, viewing, accessing, browsing, transmitting,
2 saving or retrieving e-mail, text messages, or other electronic data.

3 § 7. This act shall take effect October 28, 2013 and shall apply to
4 violations committed on or after such date.

5 PART D

6 Section 1. Subdivision 1 of section 200 of the vehicle and traffic
7 law, as amended by chapter 60 of the laws of 1993, is amended to read as
8 follows:

9 1. There shall be in the state government a department of motor vehi-
10 cles. The head of the department shall be the commissioner of motor
11 vehicles who shall be appointed by the governor, by and with the advice
12 and consent of the senate, and hold office until the end of the term of
13 the appointing governor and until a successor is appointed and has qual-
14 ified, and who shall receive an annual salary within the amount appro-
15 priated therefor. The commissioner of motor vehicles shall have the
16 immediate charge of the department. The commissioner of motor vehicles
17 may appoint, and at pleasure remove, such deputy commissioners of motor
18 vehicles, inspectors, examiners and other assistants and employees of
19 the department as are deemed necessary, within the amounts available
20 therefor by appropriation. The commissioner of motor vehicles and all
21 other officers and employees of the department shall be paid and allowed
22 their necessary, actual and reasonable expenses incurred in the exercise
23 of their duties. All salaries and expenses of the department shall be
24 paid out of the state treasury on the audit and warrant of the comp-
25 troller on the certificate of the commissioner of motor vehicles. The
26 principal office of the department shall be in the city of Albany.

1 Notwithstanding the provisions of section sixty-two of the public offi-
2 cers law, the commissioner of motor vehicles may designate certain
3 branch offices of the department to be open to serve the public and
4 transact business on Saturdays.

5 § 2. This act shall take effect immediately.

6 PART E

7 Section 1. Section 357-a of public authorities law is REPEALED and a
8 new section 357-a is added to read as follows:

9 § 357-a. State police and state payment for services. 1. Enforcement
10 assistance shall be provided by the division of state police at a level
11 consistent with historical precedents, as a matter of state interest, on
12 all sections of the thruway. The authority shall provide goods and
13 services to the division of state police in connection with its enforce-
14 ment activity on the thruway. The division of state police and the
15 authority shall enter into an agreement identifying those goods and
16 services that the authority will provide to the division of state police
17 and determine reporting and other requirements related thereto. Any
18 costs borne by the state police outside of such agreement shall not be
19 reimbursed by the authority nor shall they be deemed costs of the
20 authority.

21 2. The state shall be responsible for additional goods and services
22 provided by the authority equal to twenty-four million dollars in each
23 calendar year. Such goods and services shall be deemed to be costs to
24 the state and not operating costs of the authority. The authority and
25 the director of the division of the budget shall enter into an agreement

1 identifying any such state costs and determine reporting and other
2 requirements related thereto.

3 3. Notwithstanding any law to the contrary, the authority shall not
4 constitute a public benefit corporation within the meaning of section
5 twenty-nine hundred seventy-five of this chapter and shall not be
6 assessed an annual cost recovery charge under said section.

7 § 2. This act shall take effect immediately and shall be deemed to
8 have been in full force and effect on and after January 1, 2013.

9 PART F

10 Section 1. This act shall be known and may be cited as the "Cleaner,
11 Greener NY act of 2013."

12 § 2. Subdivision 2-a of section 27-1003 of the environmental conserva-
13 tion law, as added by section 3 of part SS of chapter 59 of the laws of
14 2009, is amended to read as follows:

15 2-a. "Bottler" means a person, firm or corporation who:

16 a. bottles, cans or otherwise packages beverages in beverage contain-
17 ers except that if such packaging is for [a distributor] any other
18 person, firm or corporation having the right to bottle, can or otherwise
19 package the same brand of beverage, then such [distributor] other
20 person, firm or corporation shall be the bottler; or

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

22 § 3. Subdivisions 2, 3, 4, 5, 7, 8 and 11 of section 27-1007 of the
23 environmental conservation law, as added by section 4 of part SS of
24 chapter 59 of the laws of 2009, are amended to read as follows:

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

1 "NEW YORK BOTTLE BILL OF RIGHTS

2 STATE LAW REQUIRES US TO REDEEM EMPTY RETURNABLE BEVERAGE

3 CONTAINERS OF THE SAME TYPE AND BRAND THAT WE SELL OR OFFER FOR SALE

4 YOU HAVE CERTAIN RIGHTS UNDER THE NEW YORK STATE RETURNABLE CONTAINER
5 ACT:

6 THE RIGHT to return your empties for refund to any dealer who sells
7 the same brand, type and size, whether you bought the beverage from the
8 dealer or not. It is illegal to return containers for refund [that you
9 did not pay] on which a deposit was never paid in New York state.

10 THE RIGHT to get your deposit refund in cash, without proof of
11 purchase.

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

15 THE RIGHT to return your containers if they are reasonably clean,
16 empty and intact. [Washing containers is not required by law, but is
17 strongly recommended to maintain sanitary conditions.]

18 The New York state returnable container act can be enforced by the New
19 York state department of environmental conservation, the New York state
20 department of agriculture and markets, the New York state department of
21 taxation and finance, the New York state attorney general and/or by your
22 local government."

23 Such sign must be no less than eight inches by ten inches in size and
24 have lettering a minimum of one quarter inch high, and of a color which
25 contrasts with the background. The department shall maintain a toll free
26 telephone number for a "bottle bill complaint line" that shall be avail-

1 able from 9:00 a.m. to 5:00 p.m. each business day to receive reports of
2 violations of this title. The telephone number shall be listed on any
3 sign required by this section.

4 3. [On or after June first, two thousand nine, a] A dealer whose place
5 of business is less than ten thousand square feet in size may limit the
6 number of empty beverage containers to be accepted for redemption at the
7 dealer's place of business to no less than seventy-two containers per
8 visit, per redeemer, per day, provided that:

9 (a) The dealer has a written agreement with a redemption center, be it
10 either at a fixed physical location within the same county and within
11 one and one-half mile of the dealer's place of business, or a mobile
12 redemption center, operated by a redemption center, that is located
13 within [one-quarter] one mile of the dealer's place of business. The
14 redemption center must have a written agreement with the dealer to
15 accept containers on behalf of the dealer; and the redemption center's
16 hours of operation must cover at least 9:00 a.m. through 7:00 p.m. daily
17 or in the case of a mobile redemption center, the hours of operation
18 must cover at least four consecutive hours between 8:00 a.m. and 8:00
19 p.m. daily. The dealer must post a conspicuous, permanent sign, meeting
20 the size and color specifications set forth in subdivision two of this
21 section, open to public view, identifying the location and hours of
22 operation of the affiliated redemption center or mobile redemption
23 center; [and] or

24 (b) The dealer provides, at a minimum, a consecutive two hour period
25 between 7:00 a.m. and 7:00 p.m. daily whereby the dealer will accept up
26 to two hundred forty containers, per redeemer, per day, and posts a
27 conspicuous, permanent sign, meeting the size and color specifications
28 set forth in subdivision two of this section, open to public view, iden-

1 tifying those hours. The dealer may not change the hours of redemption
2 without first posting a thirty day notice[; and

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

6 4. A deposit initiator shall accept from a dealer or operator of a
7 redemption center any empty beverage container of the design, shape,
8 size, color, composition and brand sold or offered for sale by the
9 deposit initiator, provided such containers are properly sorted as
10 determined in rules and regulations promulgated by the commissioner and
11 shall pay the dealer or operator of a redemption center the refund value
12 of each such beverage container as established by section 27-1005 of
13 this title. A deposit initiator shall accept and redeem all such empty
14 beverage containers from a dealer or redemption center without limita-
15 tion on quantity.

16 5. A deposit initiator's or distributor's failure to pick up empty
17 beverage containers[, including containers processed in a reverse vend-
18 ing machine,] from a redemption center, dealer or the operator of a
19 reverse vending machine, shall be a violation of this title.

20 7. A deposit initiator [on a brand] who initiates a deposit on a
21 beverage container shall accept such empty beverage container from [a]
22 and reimburse any distributor who [does not initiate deposits on that
23 brand any] accepted and redeemed such empty beverage [containers of that
24 brand accepted by the distributor] container from a dealer or operator
25 of a redemption center [and shall reimburse the distributor] for the
26 [refund value of each such beverage container, as established by section
27 27-1005 of this title] deposit and handling fee paid by the distributor.
28 [In addition, the deposit initiator shall reimburse such distributor for

1 each such beverage container the handling fee established under subdivi-
2 sion six of this section.] Without limiting the rights of the department
3 or any person, firm or corporation under this subdivision or any other
4 provision of this [section] title, a distributor shall have a civil
5 right of action to enforce this subdivision, including, upon three days
6 notice, the right to apply for temporary and preliminary injunctive
7 relief against continuing violations, and until arrangements for
8 collection and return of empty containers or reimbursement of [such] the
9 redeeming distributor for such deposits and handling fees are made.

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

19 (a) When picking up empty beverage containers, a deposit initiator or
20 distributor shall not require a dealer or redemption center to load
21 their own bags, cartons or containers onto or into the deposit initi-
22 ator's or distributor's vehicle or vehicles or provide the staff or
23 equipment needed to do so. However, where pallets or skids, bags,
24 cartons or containers are readily movable only by means of a forklift or
25 similar equipment, a deposit initiator or distributor may require a
26 dealer or redemption center to move or load such items at no cost using
27 a forklift or similar equipment belonging to the dealer or redemption
28 center.

1 (b) A deposit initiator or distributor [shall not] may require empty
2 containers to be counted at a location other than the redemption center
3 or dealer's place of business. The dealer or redemption center shall
4 have the right to be present at the count.

5 (c) A deposit initiator or distributor shall pick up empty beverage
6 containers from the dealer or redemption center at reasonable times and
7 intervals that shall also take into account a minimum volume of contain-
8 ers necessary for such a pick up as determined in rules or regulations
9 promulgated by the department or on a schedule meeting the minimum
10 requirements of such regulations and agreed to in writing by the deposit
11 initiator or distributor and the redemption center.

12 11. [Notwithstanding the provisions of subdivision two of section
13 27-1009 of this title, a deposit initiator or distributor shall accept
14 and redeem beverage containers as provided in this title, if the dealer
15 or operator of a redemption center shall have accepted and paid the
16 refund value of such beverage containers.] No person shall program,
17 tamper with, misuse, render inaccurate, or circumvent the proper opera-
18 tion of a reverse vending machine to elicit deposit monies when no
19 valid, redeemable beverage container has been placed in the reverse
20 vending machine.

21 § 4. Section 27-1009 of the environmental conservation law, as amended
22 by section 5 of part SS of chapter 59 of the laws of 2009, is amended to
23 read as follows:

24 § 27-1009. Refusal of acceptance.

25 1. A dealer or operator of a redemption center [may] shall refuse to
26 accept from a redeemer, and a deposit initiator or distributor [may]
27 shall refuse to accept from a dealer or operator of a redemption center
28 any empty beverage container which does not state thereon a refund value

1 as established by section 27-1005 and provided by section 27-1011 of
2 this title.

3 2. A dealer [or], operator of a redemption center, distributor, or
4 deposit initiator may also refuse to accept any beverage container which
5 is not reasonably clean or contains a significant amount of foreign
6 material, any broken bottle, any corroded, crushed or dismembered [can]
7 container, or any beverage container which [contains a significant
8 amount of foreign material,] is otherwise altered so that it is rendered
9 unredeemable as determined in rules and regulations to be promulgated by
10 the commissioner. Such refusal must occur at the time the beverage
11 container is tendered for redemption. Notwithstanding the foregoing,
12 containers processed through reverse vending machines authorized by a
13 distributor or deposit initiator, as documented through reverse vending
14 machine reconciliation statements or other reasonable documentation,
15 shall be accepted by a distributor or deposit initiator.

16 § 5. Subdivision 1 of section 27-1011 of the environmental conserva-
17 tion law, as amended by chapter 149 of the laws of 1983, is amended to
18 read as follows:

19 1. a. Every beverage container sold or offered for sale in this state
20 [by a distributor or dealer] shall clearly indicate by permanently mark-
21 ing or embossing the container or by printing as part of the product
22 label the refund value of the container and the words "New York" or the
23 letters "NY" [; provided, however, in the case of private label beverages
24 such information may be embossed or printed on a label which is securely
25 or permanently affixed to the beverage container. Private label beverag-
26 es shall be defined as beverages purchased from a beverage manufacturer
27 in beverage containers bearing a brand name or trademark for sale at
28 retail directly by the owner or licensee of such brand name or trade-

1 mark; or through retail dealers affiliated with such owner or licensee
2 by a cooperative or franchise agreement].

3 b. Such embossing or permanent imprinting on the beverage container
4 shall be the responsibility of the person, firm or corporation which
5 bottles, cans or otherwise fills or packages a beverage container or a
6 brand owner for whose exclusive account private label beverages are
7 bottled, canned or otherwise packaged; provided, however, that the duly
8 authorized agent of any such person, firm or corporation may indicate
9 such refund value by a label securely affixed on any beverage container
10 containing beverages imported into the United States. Private label
11 beverages shall be defined as beverages purchased from a bottler in
12 beverage containers bearing a brand name or trademark for sale at retail
13 directly by the owner or licensee of such brand name or trademark; or
14 through retail dealers affiliated with such owner or licensee by a coop-
15 erative or franchise agreement.

16 § 6. Subdivision 5, paragraph b of subdivision 9 and subdivision 12 of
17 section 27-1012 of the environmental conservation law, as added by
18 section 8 of part SS of chapter 59 of the laws of 2009, are amended to
19 read as follows:

20 5. All monies collected or received by the department of taxation and
21 finance pursuant to this title shall be deposited to the credit of the
22 comptroller with such responsible banks, banking houses or trust compa-
23 nies as may be designated by the comptroller. Such deposits shall be
24 kept separate and apart from all other moneys in the possession of the
25 comptroller. The comptroller shall require adequate security from all
26 such depositories. Of the total revenue collected, the comptroller shall
27 retain the amount determined by the commissioner of taxation and finance
28 to be necessary for refunds out of which the comptroller must pay any

1 refunds to which a deposit initiator may be entitled. After reserving
2 the amount to pay refunds, the comptroller must, by the tenth day of
3 each month, pay into the state treasury to the credit of the general
4 fund the revenue deposited under this subdivision during the preceding
5 calendar month and remaining to the comptroller's credit on the last day
6 of that preceding month[.]; provided, however, that, beginning April
7 first, two thousand thirteen, and all fiscal years thereafter, fifteen
8 million dollars plus all funds received from the payments due each
9 fiscal year pursuant to subdivision four of this section in excess of
10 the amount received from April first, two thousand twelve through March
11 thirty-first, two thousand thirteen, shall be deposited to the credit of
12 the environmental protection fund established pursuant to section nine-
13 ty-two-s of the state finance law.

14 b. Any deposit initiator who fails to file reports, make quarterly
15 payments or maintain accounts or records pursuant to this section,
16 unless it is shown that such failure was due to reasonable cause and not
17 due to negligence or willful neglect, in addition to any other penalty
18 imposed by this title, shall be subject to a penalty to be assessed by
19 the commissioner of taxation and finance of not more than one thousand
20 dollars for each quarter during which such failure occurred, and an
21 additional penalty of not more than one thousand dollars for each quar-
22 ter such failure continues.

23 12. [Beginning on June first, two thousand nine each deposit initiator
24 shall register the container label of any beverage offered for sale in
25 the state on which it initiates a deposit. Any such registered container
26 label shall bear a universal product code. Such universal product code
27 shall be New York state specific, in order to identify the beverage
28 container as offered for sale exclusively in New York state, and as a

1 means of preventing illegal redemption of beverage containers purchased
2 out-of-state. Registration must be on forms as prescribed by the depart-
3 ment and must include the universal product code for each combination of
4 beverage and container manufactured. The commissioner may require that
5 such forms be filed electronically. The deposit initiator shall renew a
6 label registration whenever that label is revised by altering the
7 universal product code or whenever the container on which it appears is
8 changed in size, composition or glass color.] a. Each deposit initiator
9 shall provide a report to the department describing all the types of
10 beverage containers on which it initiates deposits. The report shall
11 include the product name, type of beverage, size and composition of the
12 beverage container, universal product code, and any other information
13 the department may require. Upon request, a deposit initiator shall also
14 provide to the department a copy of the container label or a picture of
15 any beverage container sold or offered for sale in this state on which
16 it initiates a deposit. Such information shall be provided in a form as
17 prescribed by the department. The department may require that such
18 forms be filed electronically.

19 b. A bottler may place on a beverage container a universal product
20 code or other distinctive marking that is specific to the state or used
21 only in the state and any other states with laws substantially similar
22 to this title as a means of preventing redemption of beverage containers
23 on which a deposit was not paid.

24 c. A bottler or deposit initiator shall notify the department, in a
25 form prescribed by the department, whenever a beverage container or
26 beverage container label is revised by altering the universal product
27 code, or whenever the container on which a universal product code
28 appears is changed in size, composition or glass color, or whenever the

1 container or container label on which a universal product code appears
2 is changed to include a universal product code that is unique to the
3 state or used only in the state and any other states with laws substan-
4 tially similar to this title.

5 § 7. Section 27-1013 of the environmental conservation law, as amended
6 by section 9 of part SS of chapter 59 of the laws of 2009, is amended to
7 read as follows:

8 § 27-1013. Redemption centers and dealers.

9 The commissioner is hereby empowered to promulgate rules and regu-
10 lations governing (1) the registration or permitting of redemption
11 centers including but not limited to conditions for granting a registra-
12 tion or permit, grounds for revocation of a registration or permit and
13 the process for the revocation of a registration or permit; (2) the
14 circumstances in which deposit initiators, dealers and distributors,
15 individually or collectively, are required to accept the return of empty
16 beverage containers, and make payment therefor; [(2)] (3) the sorting of
17 the containers which a deposit initiator or distributor may require of
18 dealers and redemption centers; [(3)] (4) the collection of returned
19 beverage containers by deposit initiators or distributors, including the
20 party to whom such expense is to be charged, the frequency of such pick
21 ups that shall also allow a schedule meeting the minimum requirements of
22 such regulations and agreed to in writing by the deposit initiator or
23 distributor and the redemption center and that shall also take into
24 account a minimum volume of containers necessary for such a pick up and
25 the payment for refunds and handling fees thereon; [(4)] (5) the right
26 of dealers to restrict or limit the number of containers redeemed, the
27 rules for redemption at the dealers' place of business, and the redemp-
28 tion of containers from a beverage for which sales have been discontin-

1 ued, and to issue registrations or permits to persons, firms or corpo-
2 rations which establish redemption centers, subject to applicable
3 provisions of local and state laws, at which redeemers and dealers may
4 return empty beverage containers and receive payment of the refund value
5 of such beverage containers; (6) the assignment of a specific registra-
6 tion or permit identification number to each redemption center; such
7 registration or permit number, along with the number of containers
8 contained therein, shall be affixed to any box or bag proffered by a
9 redemption center to a deposit initiator or distributor for redemption
10 in a manner mandated by the commissioner; and (7) the operation of
11 mobile redemption centers in order to ensure that to the best extent
12 practicable containers are not proffered for redemption to a deposit
13 initiator or distributor outside of the geographic area where such
14 deposit initiator sells containers and initiates deposits. No dealer or
15 distributor, as defined in section 27-1003 of this title, shall be
16 required to obtain a permit to operate a redemption center at the same
17 location as the dealer's or distributor's place of business. Operators
18 of such redemption centers shall receive payment of the refund value of
19 each beverage container from the appropriate deposit initiator or
20 distributor as provided under section 27-1007 of this title.

21 § 8. Section 27-1014 of the environmental conservation law, as amended
22 by section 10 of part SS of chapter 59 of the laws of 2009, is amended
23 to read as follows:

24 § 27-1014. Authority to promulgate rules and regulations.

25 In addition to the authority of the commissioner, under sections
26 27-1007, 27-1009 and 27-1013 of this title, the commissioner shall have
27 the power to promulgate rules and regulations necessary and appropriate
28 for the administration of this title and to prevent fraud.

1 § 9. Section 27-1015 of the environmental conservation law, as amended
2 by section 11 of part SS of chapter 59 of the laws of 2009, is amended
3 to read as follows:

4 § 27-1015. Violations.

5 1. [A violation of this title, except as otherwise provided in this
6 section and section 27-1012 of this title, shall be a public nuisance.
7 In addition, except] Civil and administrative sanctions. a. Except as
8 otherwise provided in this section and section 27-1012 of this title,
9 any person who [shall violate] violates any [provision] of the
10 provisions of, or fails to perform a duty imposed by, this title or any
11 rule or regulation promulgated pursuant thereto, or any term or condi-
12 tion of any registration or permit issued pursuant thereto, or any final
13 determination or order of the commissioner made pursuant to this title
14 shall be liable [to the state of New York] for a civil penalty of not
15 more than five hundred dollars for each violation, and an additional
16 civil penalty of not more than five hundred dollars for each day during
17 which each such violation continues. Any civil penalty may be assessed
18 by the commissioner following a hearing or opportunity to be heard
19 pursuant to the provisions of section 71-1709 of this chapter or by the
20 court in any action or proceeding pursuant to section 71-2727 of this
21 chapter. In addition, such person may by similar process be enjoined
22 from continuing such violation and any permit or registration issued to
23 such person may be revoked or suspended or a pending renewal application
24 denied.

25 [2. Any] b. In addition to any penalties imposed by the department of
26 taxation and finance as provided in section 27-1012 of this title, any
27 distributor or deposit initiator who violates any provision of this
28 title, [except as provided in section 27-1012 of this title,] or fails

1 to perform a duty imposed by this title, or any rule or regulation
2 promulgated pursuant thereto, or any term or condition of any registra-
3 tion or permit issued pursuant thereto, or any final determination or
4 order of the commissioner made pursuant to this title shall be liable
5 [to the state of New York] for a civil penalty of not more than one
6 thousand dollars for each violation, and an additional civil penalty of
7 not more than one thousand dollars for each day during which each such
8 violation continues. Any civil penalty may be assessed by the commis-
9 sioner following a hearing or opportunity to be heard pursuant to the
10 provisions of section 71-1709 of this chapter, or by the court in any
11 action or proceeding pursuant to section 71-2727 of this chapter. In
12 addition, such deposit initiator or distributor may by similar process
13 be enjoined from continuing such violation and any permit or registra-
14 tion issued to such person may be revoked or suspended or a pending
15 renewal application denied.

16 2. Criminal sanctions. a. Any person who, having any of the culpable
17 mental states defined in section 15.05 of the penal law, violates any
18 provision of or who fails to perform any duty imposed by this title, or
19 any rule or regulation promulgated pursuant thereto, or any final deter-
20 mination or order of the commissioner made pursuant to this title shall
21 be guilty of a violation and, upon conviction, shall be punished by a
22 fine of not more than five hundred dollars for each violation; each day
23 on which such violation occurs shall constitute a separate violation;
24 and for each such violation the person shall be subject, upon
25 conviction, to imprisonment for not more than fifteen days or to a fine
26 of not more than five hundred dollars, or to both imprisonment and fine.

27 b. In addition to any penalties imposed by the department of taxation
28 and finance as provided in section 27-1012 of this title, any distribu-

1 tor or deposit initiator who, having any of the culpable mental states
2 defined in section 15.05 of the penal law, violates any provision of or
3 who fails to perform any duty imposed by this title, or any rule or
4 regulation promulgated pursuant thereto, or any final determination or
5 order of the commissioner made pursuant to this title shall be guilty of
6 a violation and, upon conviction, shall be punished by a fine of not
7 more than one thousand dollars for each violation; each day on which
8 such violation occurs shall constitute a separate violation; and for
9 each such violation the person shall be subject, upon conviction, to
10 imprisonment for not more than fifteen days or to a fine of not more
11 than one thousand dollars, or to both such imprisonment and such fine.

12 [3.] c. It shall be unlawful for [a distributor or deposit initiator]
13 any person, acting alone or aided by another, to return any empty bever-
14 age container to a dealer or redemption center for its refund value if
15 [the] a distributor or deposit initiator had previously accepted such
16 beverage container from any dealer or operator of a redemption center,
17 or if such container was previously accepted by a reverse vending
18 machine. A violation of this [subdivision] paragraph shall be a misde-
19 meanor punishable by a fine of not less than five hundred dollars nor
20 more than one thousand dollars and an amount equal to two times the
21 amount of money received as a result of such violation, or imprisonment
22 for not more than one year, or to both such imprisonment and such fines.

23 d. In addition to any other penalty provided by this title, any person
24 who violates subdivision eleven of section 27-1007 of this title, or any
25 rule or regulation promulgated pursuant thereto, or any final determi-
26 nation or order of the commissioner made pursuant to this title shall be
27 guilty of a misdemeanor and, upon conviction, shall be punished by a
28 fine of not more than one thousand dollars per day of violation, or by

1 imprisonment for not more than one year, or by both such fine and impri-
2 sonment.

3 e. In addition to any other penalty provided by this title, any deal-
4 er, distributor or deposit initiator, who knowingly or intentionally
5 violates any provision of or fails to perform any duty imposed by
6 section 27-1005 or 27-1012 of this title, or any rule or regulation
7 promulgated pursuant thereto, or any final determination or order of the
8 commissioner made pursuant to this title shall be guilty of a misdemea-
9 nor and, upon conviction, shall be punished by a fine of not more than
10 one thousand dollars per day of violation, or by imprisonment for not
11 more than one year, or by both such fine and imprisonment.

12 [4.] 3. Any person who [willfully] tenders to a dealer, distributor,
13 redemption center or deposit initiator more than forty-eight empty
14 beverage containers for which such person knows or should reasonably
15 know that no deposit was paid in New York state may be assessed [by the
16 department] a civil penalty of up to one hundred dollars for each
17 container or up to twenty-five thousand dollars for each such tender of
18 containers. At each location where a person tenders containers for
19 redemption, dealers and redemption centers must conspicuously display a
20 sign in letters that are at least one inch in height with the following
21 information: "WARNING: Persons tendering for redemption containers on
22 which a deposit was never paid in this state may be subject to a civil
23 penalty of up to one hundred dollars per container or up to twenty-five
24 thousand dollars for each such tender of containers." Any civil penalty
25 may be assessed by the commissioner following a hearing or opportunity
26 to be heard pursuant to the provisions of section 71-1709 of this chap-
27 ter, or by the court in any action or proceeding pursuant to section
28 71-2727 of this chapter. In addition, such person may by similar process

1 be enjoined from continuing such violation and any permit or registra-
2 tion issued to such person may be revoked or suspended or a pending
3 renewal application denied.

4 [5.] 4. a. The department, the department of agriculture and markets,
5 the department of taxation and finance and the attorney general are
6 hereby authorized to enforce the provisions of this title and all monies
7 collected shall be deposited to the credit of the environmental
8 protection fund established pursuant to section ninety-two-s of the
9 state finance law. In addition, the provisions of section 27-1005 of
10 this title and subdivisions one, two, three, four, five, ten and eleven
11 of section 27-1007 of this title may be enforced by a county, city, town
12 or village, and the local legislative body thereof may adopt local laws,
13 ordinances or regulations consistent with this title providing for the
14 enforcement of such provisions and all monies collected by the enforcing
15 county, city, town or village as fines or penalties pursuant to this
16 section shall be payable to and be the property of the county, city,
17 town or village.

18 b. In addition, a violation of this title, except as otherwise
19 provided in this section, shall be a public nuisance, and without limit-
20 ing the rights of the department, or any person, firm or corporation
21 under this subdivision or any other provision of this section, a dealer,
22 owner or operator of a redemption center, distributor, or deposit initi-
23 ator shall have a civil right of action to enforce the provisions of
24 section 27-1009 of this title and subdivisions four, five, six, and
25 eight of section 27-1007 of this title.

26 § 10. Section 27-1017 of the environmental conservation law is
27 REPEALED.

1 § 11. Subdivision 3 of section 92-s of the state finance law, as
2 amended by section 2 of part T of chapter 59 of the laws of 2009, is
3 amended to read as follows:

4 3. Such fund shall consist of the amount of revenue collected within
5 the state from the amount of revenue, interest and penalties deposited
6 pursuant to section fourteen hundred twenty-one of the tax law, the
7 amount of fees and penalties received from easements or leases pursuant
8 to subdivision fourteen of section seventy-five of the public lands law
9 and the money received as annual service charges pursuant to section
10 four hundred four-1 of the vehicle and traffic law, all moneys required
11 to be deposited therein from the contingency reserve fund pursuant to
12 section two hundred ninety-four of chapter fifty-seven of the laws of
13 nineteen hundred ninety-three, all moneys required to be deposited
14 pursuant to section thirteen of chapter six hundred ten of the laws of
15 nineteen hundred ninety-three, repayments of loans made pursuant to
16 section 54-0511 of the environmental conservation law, all moneys to be
17 deposited from the Northville settlement pursuant to section one hundred
18 twenty-four of chapter three hundred nine of the laws of nineteen
19 hundred ninety-six, provided however, that such moneys shall only be
20 used for the cost of the purchase of private lands in the core area of
21 the central Suffolk pine barrens pursuant to a consent order with the
22 Northville industries signed on October thirteenth, nineteen hundred
23 ninety-four and the related resource restoration and replacement plan,
24 the amount of penalties required to be deposited therein by section
25 71-2724 of the environmental conservation law, all moneys required to be
26 deposited pursuant to article thirty-three of the environmental conser-
27 vation law, all fees collected pursuant to subdivision eight of section
28 70-0117 of the environmental conservation law, [as added by a chapter of

1 the laws of two thousand nine,] all moneys collected pursuant to title
2 thirty-three of article fifteen of the environmental conservation law,
3 [as added by a chapter of the laws of two thousand nine] beginning with
4 the fiscal year commencing on April first, two thousand thirteen, and
5 all fiscal years thereafter, fifteen million dollars plus all funds
6 received by the state each fiscal year in excess of the amount received
7 from April first, two thousand twelve through March thirty-first, two
8 thousand thirteen, from the payments collected pursuant to subdivision
9 four of section 27-1012 of the environmental conservation law, and all
10 other moneys credited or transferred thereto from any other fund or
11 source pursuant to law. All such revenue shall be initially deposited
12 into the environmental protection fund, for application as provided in
13 subdivision five of this section.

14 § 12. This act shall take effect immediately and shall be deemed to
15 have been in full force and effect on and after April 1, 2013.

16 PART G

17 Section 1. Subdivisions 1 and 2 of section 27-1905 of the environ-
18 mental conservation law, as amended by section 1 of part DD of chapter
19 59 of the laws of 2010, are amended to read as follows:

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

24 2. [Until December thirty-first, two thousand thirteen, post] Post
25 written notice in a prominent location, which must be at least eight and

1 one-half inches by fourteen inches in size and contain the following
2 language:

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

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

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

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

19 "We charge a separate per-tire charge of \$____ on each new tire sold
20 that will be listed on your invoice to cover our waste tire management
21 and recycling costs."

22 § 2. Subdivisions 1, 2 and 3 and paragraph (a) of subdivision 6 of
23 section 27-1913 of the environmental conservation law, subdivisions 1,
24 2, the opening paragraph of subdivision 3 and paragraph (a) of subdivi-
25 sion 6 as amended by section 4 of part DD of chapter 59 of the laws of
26 2010 and subdivision 3 as amended by section 2 of part E1 of chapter 63
27 of the laws of 2003, are amended to read as follows:

1 1. [Until December thirty-first, two thousand thirteen, a] A waste
2 tire management and recycling fee of two dollars and fifty cents shall
3 be charged on each new tire sold. The fee shall be paid by the purchaser
4 to the tire service at the time the new tire or new motor vehicle is
5 purchased.

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

7 (a) recapped or resold tires;

8 (b) mail-order sales; or

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

12 2. [Until December thirty-first, two thousand thirteen, the] The tire
13 service shall collect the waste tire management and recycling fee from
14 the purchaser at the time of the sale and shall [remit] pay such fee to
15 the department of taxation and finance with the quarterly [report]
16 return filed pursuant to subdivision three of this section. The commis-
17 sioner of taxation and finance may require that the tire service pay the
18 fee electronically.

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

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

23 3. [Until March thirty-first, two thousand fourteen, each] Each tire
24 service maintaining a place of business in this state shall make a
25 return to the department of taxation and finance on a quarterly basis[,
26 with the return for December, January, and February being due on or
27 before the immediately following March thirty-first; the return for
28 March, April, and May being due on or before the immediately following

1 June thirtieth; the return for June, July, and August being due on or
2 before the immediately following September thirtieth; and the return for
3 September, October, and November being due on or before the immediately
4 following December thirty-first] in the form and manner prescribed by
5 the commissioner of taxation and finance. The commissioner of taxation
6 and finance may require such returns to be filed electronically. The
7 quarterly returns required by this subdivision shall be filed for the
8 quarterly periods ending on the last day of February, May, August and
9 November of each year, and each such return shall be filed within twenty
10 days after the end of the quarterly period covered thereby.

11 (a) Each return shall include:

12 (i) the name of the tire service;

13 (ii) the address of the tire service's principal place of business and
14 the address of the principal place of business (if that is a different
15 address) from which the tire service engages in the business of making
16 retail sales of tires;

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

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

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

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

24 (b) Copies of each [report] return shall be retained by the tire
25 service for three years.

26 If a tire service ceases business, it shall file a final return and
27 [remit] pay all fees due under this title [with] to the department of

1 taxation and finance not more than one month after discontinuing that
2 business.

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

17 § 3. This act shall take effect immediately, and shall apply to the
18 quarterly periods provided for in the opening paragraph of subdivision
19 three of section 27-1913 of the environmental conservation law, as
20 amended by section two of this act, beginning on or after the date this
21 act shall have become a law.

22

PART H

23 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
24 New York state urban development corporation act, relating to the powers
25 of the New York state urban development corporation to make loans, as

1 amended by section 1 of part R of chapter 58 of the laws of 2012, is
2 amended to read as follows:

3 § 2. This act shall take effect immediately [provided, however, that
4 section one of this act shall expire on July 1, 2013, at which time the
5 provisions of subdivision 26 of section 5 of the New York state urban
6 development corporation act shall be deemed repealed; provided, however,
7 that neither the expiration nor the repeal of such subdivision as
8 provided for herein shall be deemed to affect or impair in any manner
9 any loan made pursuant to the authority of such subdivision prior to
10 such expiration and repeal].

11 § 2. This act shall take effect immediately and shall be deemed to
12 have been in full force and effect on and after April 1, 2013.

13 PART I

14 Section 1. Section 2 of part BB of chapter 58 of the laws of 2012
15 amending the public authorities law relating to authorizing the dormito-
16 ry authority to enter into certain design and construction management
17 agreements is amended to read as follows:

18 § 2. This act shall take effect immediately and shall expire and be
19 deemed repealed April 1, [2013] 2015.

20 § 2. This act shall take effect immediately and shall be deemed to
21 have been in effect on and after April 1, 2013.

22 PART J

23 Section 1. Subdivisions 27, 28, 29 and 30 of section 5 of section 1 of
24 chapter 174 of the laws of 1968, constituting the New York state urban

1 development corporation act, subdivisions 28 and 29 as renumbered by
2 chapter 686 of the laws of 1986, are renumbered subdivisions 28, 29, 30
3 and 31 and a new subdivision 27 is added to read as follows:

4 (27) To make grants using funds from any source on such terms and
5 conditions as the corporation may deem advisable, in furtherance of the
6 legislative findings and purposes of this act, to any person or entity,
7 whether public or private, provided that such grants are made or issued
8 in compliance with guidelines established by the corporation.

9 § 2. This act shall take effect immediately.

10 PART K

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

15 § 2. This act shall take effect immediately and shall be deemed to
16 have been in full force and effect on and after April 1, 2013.

17 PART L

18 Section 1. Expenditures of moneys appropriated in a chapter of the
19 laws of 2013 to the energy research and development authority, under the
20 research, development and demonstration program, from the special reven-
21 ue funds - other/state operations, miscellaneous special revenue fund -
22 339, energy research and planning account, and special revenue funds -
23 other/aid to localities, miscellaneous special revenue fund - 339, ener-
24 gy research and planning account shall be subject to the provisions of

1 this section. Notwithstanding the provisions of subdivision 4-a of
2 section 18-a of the public service law, all moneys committed or expended
3 shall be reimbursed by assessment against gas corporations and electric
4 corporations as defined in section 2 of the public service law, and the
5 total amount which may be charged to any gas corporation and any elec-
6 tric corporation shall not exceed one cent per one thousand cubic feet
7 of gas sold and .010 cent per kilowatt-hour of electricity sold by such
8 corporations in their intrastate utility operations in calendar year
9 2011. Such amounts shall be excluded from the general assessment
10 provisions of subdivision 2 of section 18-a of the public service law,
11 but shall be billed and paid in the manner set forth in such subdivision
12 and upon receipt shall be paid to the state comptroller for deposit in
13 the state treasury for credit to the miscellaneous special revenue fund.
14 The director of the budget shall not issue a certificate of approval
15 with respect to the commitment and expenditure of moneys hereby appro-
16 priated until the chair of such authority shall have submitted, and the
17 director of the budget shall have approved, a comprehensive financial
18 plan encompassing all moneys available to and all anticipated commit-
19 ments and expenditures by such authority from any source for the oper-
20 ations of such authority. Copies of the approved comprehensive financial
21 plan shall be immediately submitted by the director of the budget to the
22 chairs and secretaries of the legislative fiscal committees.

23 § 2. This act shall take effect immediately and shall be deemed to
24 have been in full force and effect on and after April 1, 2013.

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

6 § 2. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after April 1, 2013.

8 PART N

9 Section 1. Paragraph (a) of subdivision 6 of section 18-a of the
10 public service law, as added by section 4 of part NN of chapter 59 of
11 the laws of 2009, is amended to read as follows:

12 (a) Notwithstanding any provision of law to the contrary, and subject
13 to the exceptions provided for in paragraph (b) of this subdivision, for
14 the state fiscal year beginning on April first, two thousand nine and
15 [four] nine state fiscal years thereafter, a temporary annual assessment
16 (hereinafter "temporary state energy and utility service conservation
17 assessment") is hereby imposed on public utility companies (including
18 for the purposes of this subdivision municipalities other than munici-
19 palities as defined in section eighty-nine-1 of this chapter), corpo-
20 rations (including for purposes of this subdivision the Long Island
21 power authority), and persons subject to the commission's regulation
22 (hereinafter such public utility companies, corporations, and persons
23 are referred to collectively as the "utility entities") to encourage the
24 conservation of energy and other resources provided through utility
25 entities, to be assessed in the manner provided in this subdivision;
26 provided, however, that such assessment shall not be imposed upon tele-

1 phone corporations as defined in subdivision seventeen of section two of
2 this article.

3 § 2. Section 6 of part NN of chapter 59 of the laws of 2009, amending
4 the public service law relating to financing the operations of the
5 department of public service, the public service commission, department
6 support and energy management services provided by other state agencies,
7 increasing the utility assessment cap and the minimum threshold for
8 collection thereunder, and establishing a temporary state energy and
9 utility service conservation assessment and providing for the collection
10 thereof, is amended to read as follows:

11 § 6. This act shall take effect immediately; provided, however, that
12 subdivision 6 of section 18-a of the public service law, as added by
13 section four of this act shall take effect April 1, 2009 and shall
14 expire and be deemed repealed March 31, [2014] 2019; and provided,
15 further, that if section four of this act shall become law after April
16 1, 2009, it shall take effect immediately and shall be deemed to have
17 been in full force and effect on and after April 1, 2009.

18 § 3. This act shall take effect immediately and shall be deemed to
19 have been in full force and effect on and after April 1, 2013; provided,
20 however, that the amendments to subdivision 6 of section 18-a of the
21 public service law made by section one of this act shall not affect the
22 repeal of such subdivision and shall be deemed to be repealed therewith.

23 PART O

24 Section 1. Sections 24 and 25 of the public service law are REPEALED
25 and a new section 24 is added to read as follows:

1 § 24. Administrative sanctions; recovery of penalties. 1. Every public
2 utility company, corporation or person and the officers, agents and
3 employees thereof shall adhere to every provision of this chapter and
4 every order or regulation adopted under authority of this chapter so
5 long as the same shall be in force.

6 2. (a) The commission shall have the authority to assess a civil
7 penalty against a public utility company, corporation, or person and the
8 officers, agents and employees thereof subject to the jurisdiction,
9 supervision, or regulation pursuant to this chapter in an amount as set
10 forth in this section. In determining the amount of any penalty to be
11 assessed pursuant to this section, the commission shall consider: (i)
12 the seriousness of the violation for which a penalty is sought; (ii) the
13 nature and extent of any previous violations for which penalties have
14 been assessed against the public utility company, corporation or person;
15 (iii) the gross revenues and financial status of the public utility
16 company, corporation or person; and (iv) such other factors as the
17 commission may deem appropriate and relevant. The remedies provided by
18 this subdivision are in addition to any other remedies provided in law.

19 (b) Whenever the commission has reason to believe that a public utili-
20 ty company, corporation or person and such officers, agents and employ-
21 ees thereof may be subject to imposition of a civil penalty as set forth
22 in this subdivision, it shall notify such public utility company, corpo-
23 ration or person. Such notice shall include, but shall not be limited to
24 (i) the date and a brief description of the facts and nature of each act
25 or failure to act for which such penalty is proposed; (ii) a list of
26 each statute, regulation or order that the commission alleges has been
27 violated; (iii) the amount of each penalty that the commission proposes
28 to assess; and (iv) the option to request a hearing to demonstrate why

1 the proposed penalty or penalties should not be assessed against such
2 public utility company, corporation, or such person.

3 3. Any public utility company or corporation that violates a provision
4 of this chapter, regulation or an order adopted under authority of this
5 chapter so long as the same shall be in force, or who fails to provide
6 safe and adequate service shall forfeit a sum not exceeding the greater
7 of one hundred thousand dollars or two one-hundredths of one percent of
8 the annual intrastate gross operating revenue of the utility, constitut-
9 ing a civil penalty for each and every offense and, in the case of a
10 continuing violation, each day shall be deemed a separate and distinct
11 offense.

12 4. Notwithstanding the provisions of subdivision three of this
13 section, any such public utility company or corporation that violates a
14 provision of this chapter, or an order or regulation adopted under the
15 authority of this chapter specifically for the protection of human safe-
16 ty or prevention of significant damage to real property, including, but
17 not limited to, the commission's code of gas safety regulations shall,
18 if it is determined by the commission that such safety violation caused
19 or constituted a contributing factor in bringing about: (a) a death or
20 personal injury; or (b) damage to real property in excess of fifty thou-
21 sand dollars, forfeit a sum not to exceed the greater of:

22 (i) two hundred fifty thousand dollars or three one-hundredths of one
23 percent of the annual intrastate gross operating revenue of the utility,
24 whichever is greater, constituting a civil penalty for each separate and
25 distinct offense; provided, however, that for purposes of this para-
26 graph, each day of a continuing violation shall not be deemed a separate
27 and distinct offense. The total period of a continuing violation, as

1 well as every distinct violation, shall be similarly treated as a sepa-
2 rate and distinct offense for purposes of this paragraph; or

3 (ii) the maximum forfeiture determined in accordance with subdivision
4 three of this section.

5 5. Notwithstanding the provisions of subdivision three or four of this
6 section, a public utility company or corporation that violates a
7 provision of this chapter, or an order or regulation adopted under
8 authority of this chapter, designed to protect the overall reliability
9 and continuity of electric service, including but not limited to the
10 restoration of electric service following a major outage event or emer-
11 gency, shall forfeit a sum not to exceed the greater of:

12 (a) five hundred thousand dollars or four one-hundredths of one
13 percent of the annual intrastate gross operating revenue of the utility,
14 whichever is greater, constituting a civil penalty for each separate and
15 distinct offense; provided, however, that for purposes of this paragraph
16 each day of a continuing violation shall not be deemed a separate and
17 distinct offense. The total period of a continuing violation, as well as
18 every distinct violation shall be similarly treated as a separate and
19 distinct offense for purposes of this paragraph; or

20 (b) the maximum forfeiture determined in accordance with subdivision
21 three of this section.

22 6. Any officer, agent, or employee of any corporation determined by
23 the commission to have violated the provisions of subdivision three,
24 four, or five of this section, and who knowingly violates a provision of
25 this chapter, regulation or an order adopted under authority of this
26 chapter so long as the same shall be in force, including a failure to
27 provide safe and adequate service, shall forfeit a sum not to exceed one
28 hundred thousand dollars constituting a civil penalty for each and every

1 offense and, in the case of a continuing violation, each day shall be
2 deemed a separate and distinct offense.

3 7. Any such assessment may be compromised or discontinued by the
4 commission. All moneys recovered pursuant to this section, together with
5 the costs thereof, shall be remitted to, or for the benefit of, the
6 ratepayers in a manner to be determined by the commission.

7 8. Upon a failure by a public utility company, corporation, or person
8 to remit any penalty assessed by the commission pursuant to this
9 section, the commission, through its counsel, may institute an action or
10 special proceeding to collect the penalty in a court of competent juris-
11 diction.

12 9. Any payment made by a public utility company, corporation or person
13 and the officers, agents and employees thereof as a result of an assess-
14 ment as provided in this section, and the cost of litigation and inves-
15 tigation related to any such assessment, shall not be recoverable from
16 ratepayers.

17 10. In construing and enforcing the provisions of this chapter relat-
18 ing to penalties, the act of any director, officer, agent or employee of
19 a public utility company, corporation or person acting within the scope
20 of his or her official duties or employment shall be deemed to be the
21 act of such public utility company or corporation.

22 § 2. Section 26 of the public service law is renumbered section 25.

23 § 3. Section 65 of the public service law is amended by adding two new
24 subdivisions 14 and 15 to read as follows:

25 14. In conjunction with a management and operations audit undertaken
26 pursuant to subdivision nineteen of section sixty-six of this article or
27 upon its own motion, the commission shall review the capability, includ-
28 ing but not limited to, the capability to implement emergency response

1 plans and restoration, of each gas corporation and electric corporation
2 to provide safe, adequate, and reliable service. Upon good cause shown,
3 the commission may direct such corporation to comply with additional and
4 more stringent terms and conditions of service than existed prior to the
5 commencement of the management and operations audit, or cause such
6 corporation to divest some or all of its state-based utility assets,
7 including franchise territories, based upon standards and procedures
8 established by the commission to ensure continuity of safe and adequate
9 service, due process, and fair and just compensation; provided, however,
10 that nothing in this subdivision limits the commission's authority to
11 undertake the actions set forth pursuant to sections twenty-four and
12 twenty-five of this chapter. In the case where the commission directs a
13 full or partial divestment of a corporation's assets, the commission
14 shall first proceed in such manner as to facilitate the voluntary trans-
15 fer of such assets.

16 15. The chief executive officer of each gas corporation and electric
17 corporation shall certify to the commission on or before March fifteenth
18 of each year that such corporation is in compliance with the require-
19 ments of this chapter and any rules, regulations, orders and procedures
20 adopted thereto, including the obligation that such corporation provide
21 safe and adequate service.

22 § 4. Subdivisions 19 and 21 of section 66 of the public service law,
23 subdivision 19 as added by chapter 556 of the laws of 1976 and the clos-
24 ing paragraph as added by chapter 586 of the laws of 1986 and subdivi-
25 sion 21 as added by chapter 718 of the laws of 1980, are amended and a
26 new subdivision 1-a is added to read as follows:

27 1-a. Review the annual capital expenditure of each gas or electric
28 corporation and may order such improvement in the manufacture, convey-

1 ing, transportation, distribution or supply of gas, in the manufacture,
2 transmission or supply of electricity, or in the methods employed by
3 such corporation as in the commission's judgment is adequate, just and
4 reasonable.

5 19. (a) The commission shall have power to provide for management and
6 operations audits of gas corporations and electric corporations. Such
7 audits shall be performed at least once every five years for combination
8 gas and electric companies, as well as for straight gas corporations
9 having annual gross revenues in excess of two hundred million dollars.
10 The audit shall include, but not be limited to, an investigation of the
11 company's construction program planning in relation to the needs of its
12 customers for reliable service [and], an evaluation of the efficiency of
13 the company's operations, recommendations with respect to same, and the
14 timing with respect to the implementation of such recommendations. The
15 commission shall have discretion to have such audits performed by its
16 staff, or by independent auditors.

17 In every case in which the commission chooses to have the audit
18 provided for in this subdivision or pursuant to subdivision fourteen of
19 section sixty-five of this article performed by independent auditors, it
20 shall have authority to select the auditors, and to require the company
21 being audited to enter into a contract with the auditors providing for
22 their payment by the company. Such contract shall provide further that
23 the auditors shall work for and under the direction of the commission
24 according to such terms as the commission may determine are necessary
25 and reasonable.

26 [The commission shall have authority to direct the company to imple-
27 ment any recommendations resulting from such audits that it finds to be
28 necessary and reasonable.]

1 (b) Each gas and electric corporation subject to an audit under this
2 subdivision shall file a report with the commission within thirty days
3 after issuance of such audit detailing its plan to implement the recom-
4 mendations made in the audit. After review of such plan, the commission
5 may require that such corporation amend the plan in a particular manner.
6 Such plan shall thereafter become enforceable upon approval by the
7 commission. The commission shall have power to commence a proceeding to
8 examine any such corporation's compliance with the recommendations of
9 such audit.

10 (c) Upon the application of a gas or electric corporation for a major
11 change in rates as defined in subdivision twelve of this section, the
12 commission shall review that corporation's compliance with the
13 directions and recommendations made previously by the commission, as a
14 result of the most recently completed management and operations audit.
15 The commission shall incorporate the findings of such review in its
16 opinion or order, and such findings shall be enforceable by the commis-
17 sion.

18 21. [The commission shall require every electric corporation to submit
19 storm plans to the commission for review and approval at such times and
20 in such detail and form as the commission shall require, provided,
21 however, that the same shall be filed at least annually.] (a) Each elec-
22 tric corporation shall annually, on or before December fifteenth, submit
23 to the commission an emergency response plan for review and approval.
24 The emergency response plan shall be designed for the reasonably prompt
25 restoration of service in the case of an emergency event, defined for
26 purposes of this subdivision as an event where widespread outages have
27 occurred in the service territory of the company due to storms or other
28 causes beyond the control of the company. The emergency response plan

1 shall include, but shall not be limited to, the following: (i) the iden-
2 tification of management staff responsible for company operations during
3 an emergency; (ii) a communications system with customers during an
4 emergency that extends beyond normal business hours and business condi-
5 tions; (iii) identification of and outreach plans to customers who had
6 documented their need for essential electricity for medical needs; (iv)
7 identification of and outreach plans to customers who had documented
8 their need for essential electricity to provide critical telecommuni-
9 cations, critical transportation and critical fuel distribution
10 services; (v) designation of company staff to communicate with local
11 officials and appropriate regulatory agencies; (vi) provisions regarding
12 how the company will assure the safety of its employees and contractors;
13 (vii) procedures for deploying company and mutual aid crews to work
14 assignment areas; (viii) identification of additional supplies and
15 equipment needed during an emergency; (ix) the means of obtaining addi-
16 tional supplies and equipment; (x) procedures to practice the emergency
17 response plan; and (xi) such other additional information as the commis-
18 sion may require. The filing with the commission shall also include a
19 copy of all written mutual assistance agreements among utilities. The
20 commission shall accord protected treatment of confidential, competi-
21 tively sensitive or other proprietary information contained in any emer-
22 gency response plan. Each such corporation shall, on an annual basis,
23 undertake drills implementing procedures to practice its emergency
24 management plan. The department may adopt additional requirements
25 consistent with ensuring the reasonably prompt restoration of service in
26 the case of an emergency event.

27 (b) After review of a corporation's emergency response plan, the
28 commission may require such corporation to amend the plan. The commis-

1 sion may also open an investigation of the corporation's plan to deter-
2 mine its sufficiency to respond adequately to an emergency event. If,
3 after hearings, the commission finds a material deficiency in the plan,
4 it may order the company to make such modifications that it deems
5 reasonably necessary to remedy the deficiency.

6 (c) The commission is authorized to open an investigation to review
7 the performance of any corporation in restoring service or otherwise
8 meeting the requirements of the emergency response plan during an emer-
9 gency event. If, after evidentiary hearings or other investigatory
10 proceedings, the commission finds that the corporation failed to reason-
11 ably implement its emergency response plan or the length of such corpo-
12 ration's outages were materially longer than they would have been but
13 for such failure to reasonably implement its emergency response plan,
14 the commission may deny the recovery of all, or any part of, the service
15 restoration costs, commensurate with the degree and impact of the
16 service outage; provided, however, that nothing herein limits the
17 commission's authority to otherwise commence a proceeding pursuant to
18 sections twenty-four and twenty-five of this chapter.

19 (d) The commission shall certify to the department of homeland securi-
20 ty and emergency services that each such corporation's emergency
21 response plan is sufficient to ensure to the greatest extent feasible
22 the timely and safe restoration of energy services after an emergency.

23 § 5. Section 68 of the public service law, as amended by chapter 52 of
24 the laws of 1940, is amended to read as follows:

25 § 68. [Approval of incorporation and franchises; certificate] Certif-
26 icate of public convenience and necessity. 1. Certificate required. No
27 gas corporation or electric corporation shall begin construction of a
28 gas plant or electric plant without first having obtained the permission

1 and approval of the commission. No such corporation shall exercise any
2 right or privilege under any franchise hereafter granted, or under any
3 franchise heretofore granted but not heretofore actually exercised, or
4 the exercise of which shall have been suspended for more than one year,
5 without first having obtained [the permission and approval of] a certif-
6 icate of public convenience and necessity issued by the commission.
7 Before such certificate shall be issued a certified copy of the charter
8 of such corporation shall be filed in the office of the commission,
9 together with a verified statement of the president and secretary of the
10 corporation, showing that it has received the required consent of the
11 proper municipal authorities. The commission shall have power to grant
12 the permission and approval herein specified whenever it shall after due
13 hearing determine that such construction or such exercise of the right,
14 privilege or franchise is [necessary or] convenient and necessary for
15 the public service. In making such a determination, the commission shall
16 consider the economic feasibility of the corporation, the corporation's
17 ability to finance improvements of a gas plant or electric plant, render
18 safe, adequate and reliable service, and provide just and reasonable
19 rates, and whether issuance of a certificate is in the public interest.
20 Except as provided in article [fourteen-a] fourteen-A of the general
21 municipal law, no municipality shall build, maintain and operate for
22 other than municipal purposes any works or systems for the manufacture
23 and supplying of gas or electricity for lighting purposes without a
24 certificate of authority granted by the commission. If the certificate
25 of authority is refused, no further proceedings shall be taken by such
26 municipality before the commission, but a new application may be made
27 therefor after one year from the date of such refusal.

1 2. Revocation or modification of certificate. The commission may
2 commence a proceeding to revoke or modify such certificate as it relates
3 to such corporation's service territory or any portion thereof based on
4 good cause shown, with the inquiry informed by consideration of the
5 following factors:

6 (a) the factors identified in subdivision one of this section for
7 issuance of a certificate of public convenience and necessity;

8 (b) whether another person, firm or corporation is qualified, avail-
9 able, and prepared to provide alternative service that is adequate to
10 serve the public convenience and necessity, and that the transition to
11 such alternative person, firm or corporation is in the public interest;
12 and

13 (c) upon any other standards and procedures deemed necessary by the
14 commission to ensure continuity of safe and adequate service, and due
15 process.

16 § 6. Paragraph d of subdivision 1 of section 119-b of the public
17 service law, as amended by chapter 445 of the laws of 1995, is amended
18 to read as follows:

19 d. "Underground facilities" means pipelines, conduits, ducts, cables,
20 wires, gas production and gathering pipeline systems designed to operate
21 at three hundred pounds per square inch gauge or higher, manholes,
22 vaults or other such facilities or their attachments[, which have been]
23 installed underground by an operator to provide services or materials.
24 Such term shall not include oil [and gas] production and gathering pipe-
25 line systems used primarily to collect oil [or gas] production from
26 wells.

1 § 7. Subdivision 4 of section 760 of the general business law, as
2 amended by chapter 685 of the laws of 1994, is amended to read as
3 follows:

4 4. "Underground facilities" means pipelines, conduits, ducts, cables,
5 wires, gas production and gathering pipeline systems designed to operate
6 at three hundred pounds per square inch gauge or higher, manholes,
7 vaults or other such facilities or their attachments[, which have been]
8 installed underground by an operator to provide services or materials.
9 Such term shall not include oil [and gas] production and gathering pipe-
10 line systems used primarily to collect oil [or gas] production from
11 wells.

12 § 8. Paragraphs a and b of subdivision 1 of section 765 of the general
13 business law, as amended by chapter 685 of the laws of 1994, are amended
14 to read as follows:

15 a. Failure to comply with any provision of this article shall subject
16 an excavator or an operator to a civil penalty of up to [one] two thou-
17 sand five hundred dollars for the first violation and up to an addi-
18 tional [seven] ten thousand [five hundred] dollars for each succeeding
19 violation [which] that occurs [in connection with the entire self-same
20 excavation or demolition activity] within a [two] twelve month period.

21 b. The penalties provided for by this article shall not apply to an
22 excavator who damages an underground facility due to the failure of the
23 operator to comply with any of the provisions of this article nor shall
24 in such instance the excavator be liable for repairs as prescribed in
25 subdivision [five] four of this section.

26 § 9. This act shall take effect immediately.

1 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
2 executive law relating to permitting the secretary of state to provide
3 special handling for all documents filed or issued by the division of
4 corporations and to permit additional levels of such expedited service,
5 as amended by section 1 of part L of chapter 60 of the laws of 2011, is
6 amended to read as follows:

7 § 2. This act shall take effect immediately, provided however, that
8 section one of this act shall be deemed to have been in full force and
9 effect on and after April 1, 2003 and shall expire March 31, [2013]
10 2014.

11 § 2. This act shall take effect immediately and shall be deemed to
12 have been in full force and effect on and after March 31, 2013.

13 PART Q

14 Section 1. This act enacts into law major components of legislation
15 which are necessary to implement the state fiscal plan for the 2013-2014
16 state fiscal year. Each component is wholly contained within a Subpart
17 identified as Subparts A through F. The effective date for each partic-
18 ular provision contained within such Subpart is set forth in the last
19 section of such Subpart. Any provision in any section contained within a
20 Subpart, including the effective date of the Subpart, which makes a
21 reference to a section "of this act", when used in connection with that
22 particular component, shall be deemed to mean and refer to the corre-
23 sponding section of the Subpart in which it is found. Section three of
24 this Part sets forth the general effective date of this Part.

25 SUBPART A

1 Section 1. Section 579 of the banking law, as amended by chapter 629
2 of the laws of 2002, is amended to read as follows:

3 § 579. Doing business without license prohibited. Only a [type B]
4 not-for-profit corporation [as defined in section two hundred one of the
5 not-for-profit corporation law of this state,] or an entity incorporated
6 in another state and having a similar not-for-profit status, shall
7 engage in the business of budget planning as defined in subdivision one
8 of section four hundred fifty-five of the general business law [of this
9 state] except as authorized by this article and without first obtaining
10 a license from the superintendent.

11 § 2. The opening paragraph of paragraph 1 of section 5 of the cooper-
12 ative corporations law, as amended by chapter 158 of the laws of 1978,
13 is amended to read as follows:

14 The business corporation law applies to every corporation heretofore
15 or hereafter formed under this chapter, or under any other statute or
16 special act of this state, or under laws other than the statutes of this
17 state, [which] that has as its purpose or among its purposes the cooper-
18 ative rendering of mutual help and service to its members and which, if
19 formed under laws other than the statutes of this state, would, if it
20 were to be formed currently under the laws of this state, be formed
21 under this chapter except a membership cooperative as defined in section
22 three of this chapter, to which the not-for-profit corporation law shall
23 apply. Any corporation to which the business corporation law is made
24 applicable by this section shall be treated as a "corporation," "domes-
25 tic corporation," or "foreign corporation," as such terms are used in
26 the business corporation law; provided, however, that neither the
27 purposes for which any such corporation may be formed under this chapter
28 nor its classification as a non-profit corporation shall thereby be

1 extended or affected. Any corporation to which the not-for-profit corpo-
2 ration law is made applicable by this section shall be [a type D not-
3 for-profit corporation] subject to provisions governing corporations
4 formed under subparagraph four of paragraph (b) of section two hundred
5 one of the not-for-profit corporation law.

6 § 3. Subdivision 4 of section 455 of the general business law, as
7 amended by chapter 456 of the laws of 2006, is amended to read as
8 follows:

9 4. Person or entity as used in this article shall not include a [type
10 B] not-for-profit corporation as defined in section two hundred one of
11 the not-for-profit corporation law of this state, or an entity incorpo-
12 rated in another state and having a similar not-for-profit status,
13 licensed by the superintendent of financial services, to engage in the
14 business of budget planning as defined in this section.

15 § 4. Paragraphs (a) and (c) of section 103 of the not-for-profit
16 corporation law, paragraph (a) as amended by chapter 807 of the laws of
17 1973 and paragraph (c) as amended by chapter 961 of the laws of 1972,
18 are amended to read as follows:

19 (a) Except as otherwise provided in this section, this chapter
20 applies to every domestic corporation as herein defined, and to every
21 foreign corporation as herein defined which is authorized to conduct or
22 which conducts any activities in this state. This chapter also applies
23 to any other domestic corporation or foreign corporation of any type or
24 kind to the extent, if any, provided under this chapter or any law
25 governing such corporation and, if no such provision for application is
26 made, to the extent, if any, that the membership corporations law
27 applied to such corporation as of the effective date of this chapter. A
28 corporation formed by a special act of this state which has as its prin-

1 cipal purpose an education purpose and which is a member of the univer-
2 sity of the state of New York, is an "education corporation" under
3 section two hundred sixteen-a of the education law.

4 To the extent that the membership corporations law or the general
5 corporation law applied to it as of the effective date of this chapter,
6 the corresponding provisions of this chapter apply to a corporation
7 heretofore formed by or pursuant to a special act of this state other
8 than a religious corporation or an "education corporation" under clause
9 (b) of subdivision one of section two hundred sixteen-a of the education
10 law, if (1) its principal purpose is a religious, charitable or educa-
11 tion purpose, and (2) it is operated, supervised or controlled by or in
12 connection with a religious organization. Any such corporation may
13 elect hereunder at any time after the effective date of this chapter to
14 file a restated certificate of [type] incorporation under section [one]
15 eight hundred [thirteen (Certificate of type of not-for-profit corpo-
16 ration)] five (Restated certificate of incorporation). Such restated
17 certificate of incorporation shall meet the requirements of section 402
18 (Certificate of incorporation; contents). Upon the filing of such
19 certificate by the department of state, this chapter shall apply in all
20 respects to such corporation.

21 This chapter also applies to any other corporation of any type or
22 kind, formed not for profit under any other chapter of the laws of this
23 state except a chapter of the consolidated laws, to the extent that
24 provisions of this chapter do not conflict with the provisions of such
25 unconsolidated law. If an applicable provision of such unconsolidated
26 law relates to a matter embraced in this chapter but is not in conflict
27 therewith, both provisions shall apply. Any corporation to which this
28 chapter is made applicable by this paragraph shall be treated as a

1 "corporation" or "domestic corporation" as such terms are used in this
2 chapter, except that the purposes of any such corporation formed or
3 formable under such unconsolidated law shall not thereby be extended.
4 For the purpose of this paragraph, the effective date of this chapter as
5 to corporations to which this chapter is made applicable by this para-
6 graph shall be September one, nineteen hundred seventy-three.

7 (c) If any provision in articles one to thirteen inclusive of this
8 chapter conflicts with a provision of any subsequent articles or of any
9 special act under which a corporation to which this chapter applies is
10 formed, the provision in such subsequent article or special act
11 prevails. A provision of any such subsequent article or special act
12 relating to a matter referred to in articles one to thirteen inclusive
13 and not in conflict therewith is supplemental and both shall apply.
14 Whenever the board of a [Type B] corporation formed for the purposes
15 specified in subparagraph two of paragraph (b) of section two hundred
16 one of this chapter, formed under a special act, reasonably makes an
17 interpretation as to whether a provision of the special act or this
18 chapter prevails, or both apply, such interpretation shall govern unless
19 and until a court determines otherwise, if such board has acted in good
20 faith for a purpose which it reasonably believes to be in the best
21 interests of the corporation, provided however, that such interpretation
22 shall not bind any governmental body or officer.

23 § 5. Paragraph (e) of section 104 of the not-for-profit corporation
24 law, as amended by chapter 833 of the laws of 1982, is amended to read
25 as follows:

26 (e) If an instrument which is delivered to the department of state
27 for filing complies as to form with the requirements of law [and there
28 has been attached to it the consent or approval of the supreme court

1 justice, governmental body or officer, or, other person or body, if any,
2 whose consent to or approval of such instrument or the filing thereof is
3 required by any statute of this state] and the filing fee and tax, if
4 any, required by any statute of this state in connection therewith have
5 been paid, the instrument shall be filed and indexed by the department
6 of state. No certificate of authentication or conformity or other proof
7 shall be required with respect to any verification, oath or acknowledg-
8 ment of any instrument delivered to the department of state under this
9 chapter, if such verification, oath or acknowledgment purports to have
10 been made before a notary public, or person performing the equivalent
11 function, of one of the states, or any subdivision thereof, of the
12 United States or the District of Columbia. Without limiting the effect
13 of section four hundred three of this chapter, filing and indexing by
14 the department of state shall not be deemed a finding that a certificate
15 conforms to law, nor shall it be deemed to constitute an approval by the
16 department of state of the name of the corporation or the contents of
17 the certificate, nor shall it be deemed to prevent any person with
18 appropriate standing from contesting the legality thereof in an appro-
19 priate forum. Upon the written notification to the department of state
20 by any state official, department, board, agency or other body that a
21 domestic corporation or foreign authorized corporation has failed to
22 obtain the consent or approval of such state official, department,
23 board, agency or other body for any certificate or instrument, the
24 corporation's authority to carry on, conduct or transact activities in
25 this state shall be suspended. Such suspension shall be annulled upon
26 the filing of a certificate of amendment with the required consent or
27 approval annexed thereto.

1 § 6. Subparagraph 7 of paragraph (a) of section 112 of the not-for-
2 profit corporation law, as amended by chapter 1058 of the laws of 1971,
3 is amended to read as follows:

4 (7) To enforce any right given under this chapter to members, a
5 director or an officer of a [Type B or Type C] corporation formed for
6 the purposes specified in subparagraph two, three or four of paragraph
7 (b) of section two hundred one of this chapter. The attorney-general
8 shall have the same status as such members, director or officer.

9 § 7. Section 113 of the not-for-profit corporation law is REPEALED.

10 § 8. Section 114 of the not-for-profit corporation law, as added by
11 chapter 847 of the laws of 1970, is amended to read as follows:

12 § 114. Visitation of supreme court.

13 [Type B and Type C corporations] Corporations formed for the purposes
14 specified in subparagraph two, three or four of paragraph (b) of section
15 two hundred one of this chapter, whether formed under general or special
16 laws, with their books and vouchers, shall be subject to the visitation
17 and inspection of a justice of the supreme court, or of any person
18 appointed by the court for that purpose. If it appears by the verified
19 petition of a member or creditor of any such corporation, that it, or
20 its directors, officers or agents, have misappropriated any of the funds
21 or property of the corporation, or diverted them from the purpose of its
22 incorporation, or that the corporation has acquired property in excess
23 of the amount which it is authorized by law to hold, or has engaged in
24 any business other than that stated in its certificate of incorporation,
25 the court may order that notice of at least eight days, with a copy of
26 the petition, be served on the corporation and the persons charged with
27 misconduct, requiring them to show cause at a time and place specified,
28 why they should not be required to make and file an inventory and

1 account of the property, effects and liabilities of such corporation
2 with a detailed statement of its transactions during the twelve months
3 next preceding the granting of such order. On the hearing of such
4 application, the court may make an order requiring such inventory,
5 account and statement to be filed, and proceed to take and state an
6 account of the property and liabilities of the corporation, or may
7 appoint a referee for that purpose. When such account is taken and
8 stated, after hearing all the parties to the application, the court may
9 enter a final order determining the amount of property so held by the
10 corporation, its annual income, whether any of the property or funds of
11 the corporation have been misappropriated or diverted to any other
12 purpose than that for which such corporation was incorporated, and
13 whether such corporation has been engaged in any activity not covered by
14 its certificate of incorporation. An appeal may be taken from the order
15 by any party aggrieved to the appellate division of the supreme court,
16 and to the court of appeals, as in a civil action. No corporation shall
17 be required to make and file more than one inventory and account in any
18 one year, nor to make a second account and inventory, while proceedings
19 are pending for the statement of an account under this section.

20 § 9. Paragraph (b) of section 201 of the not-for-profit corporation
21 law, as amended by chapter 847 of the laws of 1970, is amended to read
22 as follows:

23 (b) A corporation, [of a type and] for a purpose or purposes as
24 follows, may be formed under this chapter, provided consents required
25 under any other statute of this state have been obtained:

26 [Type A - A not-for-profit corporation of this type may be formed] (1)
27 for any lawful non-business purpose or purposes including, but not
28 limited to, any one or more of the following non-pecuniary purposes:

1 civic, patriotic, political, social, fraternal, athletic, agricultural,
2 horticultural, animal husbandry, and for a professional, commercial,
3 industrial, trade or service association.

4 [Type B - A not-for-profit corporation of this type may be formed] (2)
5 for any one or more of the following non-business purposes: charitable,
6 educational, religious, scientific, literary, cultural or for the
7 prevention of cruelty to children or animals.

8 [Type C - A not-for-profit corporation of this type may be formed] (3)
9 for any lawful business purpose to achieve a lawful public or quasi-
10 public objective.

11 [Type D - A not-for-profit corporation of this type may be formed
12 under this chapter] (4) when such formation is authorized by any other
13 corporate law of this state for any business or non-business, or pecuni-
14 ary or non-pecuniary, purpose or purposes specified by such other law,
15 whether such purpose or purposes are also within [types A, B, C] subpar-
16 agraphs one, two or three above or otherwise.

17 § 10. Paragraph (c) of section 201 of the not-for-profit corporation
18 law, as amended by chapter 1058 of the laws of 1971, is amended to read
19 as follows:

20 (c) If a corporation is formed for purposes which are [within both
21 type A and type B above, it is a type B corporation] specified in
22 subparagraphs one and two of paragraph (b) of this section, all
23 provisions governing corporations formed for purposes specified in
24 subparagraph two of paragraph (b) of this section shall apply to such
25 corporation. [If a corporation has among its purposes any purpose which
26 is within type C, such corporation is a type C corporation.] A [type D]
27 corporation [is subject to all provisions of this chapter which are
28 applicable to a type B corporation under this chapter] formed pursuant

1 to subparagraph four of paragraph (b) of this section shall be governed
2 by all provisions governing corporations formed for purposes specified
3 in paragraph two of subdivision (b) of this section unless provided to
4 the contrary in, and subject to the contrary provisions of, the other
5 corporate law authorizing formation under this chapter of [the type D]
6 such corporation.

7 § 11. Subparagraph 3 of paragraph (a) of section 301 of the not-for-
8 profit corporation law is amended to read as follows:

9 (3) Shall not contain any word or phrase, or any abbreviation or
10 derivative thereof, the use of which is prohibited or restricted by
11 [section 404 (Approvals and consents) or] any other statute of this
12 state, [unless in the latter case the] except in compliance with such
13 restrictions [have been complied with].

14 § 12. Subparagraphs 2 and 4 of paragraph (a) of section 402 of the
15 not-for-profit corporation law, subparagraph 2 as amended by chapter 847
16 of the laws of 1970 and subparagraph 4 as amended by chapter 679 of the
17 laws of 1985, are amended to read as follows:

18 (2) That the corporation is a corporation as defined in subparagraph
19 (a) (5) of section 102 (Definitions); the purpose or purposes for which
20 it is formed [and the type of corporation it shall be under section 201
21 (Purposes)]; and in the case of a [Type C] corporation formed for
22 purposes specified in subparagraph three of paragraph (b) of section 201
23 (Purposes), the lawful public or quasi-public objective [which] each
24 business purpose will achieve.

25 (4) [In the case of a Type A, Type B, or Type C corporation, the] The
26 names and addresses of the initial directors. In the case of a [Type D]
27 corporation formed under subparagraph four of paragraph (b) of section

1 201, the names and addresses of the initial directors, if any, may but
2 need not be set forth.

3 § 13. Paragraph (d) of section 502 of the not-for-profit corporation
4 law is amended to read as follows:

5 (d) A member's capital contribution shall be evidenced by a capital
6 certificate which shall be non-transferable, except that the certificate
7 of incorporation of a [Type A] corporation formed for the purposes spec-
8 ified in subparagraph one of paragraph (b) of section two hundred one of
9 this chapter may provide that its capital certificates, or some of them,
10 may be transferable to other members with the consent of the corporation
11 upon specified terms and conditions.

12 § 14. Paragraph (b) of section 503 of the not-for-profit corporation
13 law, subparagraph 1 as amended by chapter 847 of the laws of 1970, is
14 amended to read as follows:

15 (b) Each capital certificate shall when issued state upon the face
16 thereof:

17 [(1) That the corporation is a Type corporation under section
18 113 or section 402 of the New York Not-for-Profit Corporation Law.

19 (2)] (1) The name of the member to whom issued.

20 [(3)] (2) The amount of the member's capital contribution evidenced by
21 such certificate.

22 [(4)] (3) If appropriate, [that the corporation is a Type A corpo-
23 ration, and] in the case of a corporation formed for the purposes of
24 subparagraph (1) of paragraph (b) of section 201 (Purposes), that its
25 certificate of incorporation provides that the capital certificate is
26 transferable to other members with the consent of the corporation.

27 § 15. Subparagraph 1 of paragraph (b) of section 505 of the not-for-
28 profit corporation law, as amended by chapter 847 of the laws of 1970,

1 is REPEALED, and subparagraphs 2, 3, 4, 5 and 6 are renumbered subpara-
2 graphs 1, 2, 3, 4, and 5.

3 § 16. Subparagraph 3 of paragraph (a) of section 510 of the not-for-
4 profit corporation law, as amended by chapter 847 of the laws of 1970,
5 is amended to read as follows:

6 (3) If the corporation is, or would be if formed under this chapter[,
7 classified as a Type B or Type C corporation under] for purposes speci-
8 fied in subparagraph two or three of paragraph (b) of section 201,
9 (Purposes) such a sale, lease, exchange or other disposition shall in
10 addition require leave of the supreme court in the judicial district or
11 of the county court of the county in which the corporation has its
12 office or principal place of carrying out the purposes for which it was
13 formed.

14 § 17. Paragraph (a) of section 513 of the not-for-profit corporation
15 law, as amended by chapter 690 of the laws of 1978, is amended to read
16 as follows:

17 (a) [A] Unless otherwise provided by law or in the certificate of
18 incorporation, a corporation [which is, or would be if formed under this
19 chapter, classified as a Type B corporation shall] may hold full owner-
20 ship rights in any assets consisting of funds or other real or personal
21 property of any kind, that may be given, granted, bequeathed or devised
22 to or otherwise vested in such corporation in trust for, or with a
23 direction to apply the same to, any purpose specified in its certificate
24 of incorporation, and shall not be deemed a trustee of an express trust
25 of such assets, except for corporations formed for purposes specified in
26 subparagraph two of paragraph (b) of section 201 (Purposes). [Any other
27 corporation subject to this chapter may similarly hold assets so

1 received, unless otherwise provided by law or in the certificate of
2 incorporation.]

3 § 18. Paragraph (a) of section 601 of the not-for-profit corporation
4 law, as amended by chapter 1058 of the laws of 1971, is amended to read
5 as follows:

6 (a) A corporation [shall] may have one or more classes of members, or,
7 [in the case of a Type B corporation,] may have no members[, in which
8 case any such provision for classes of members or for no members]. A
9 corporation which has one or more classes of members shall [be] set
10 forth in the certificate of incorporation or the by-laws provisions for
11 such classes of members. Corporations, joint-stock associations, unin-
12 corporated associations and partnerships, as well as any other person
13 without limitation, may be members.

14 § 19. Subparagraph 3 of paragraph (a) of section 803 of the not-for-
15 profit corporation law, as added by chapter 168 of the laws of 1982, is
16 amended to read as follows:

17 (3) That the corporation is a corporation as defined in subparagraph
18 (a) (5) of section 102 (Definitions) [; the type of corporation it is
19 under section 201 (Purposes); and if the corporate purposes are
20 enlarged, limited or otherwise changed, the type of corporation it shall
21 thereafter be under section 201].

22 § 20. Subparagraph (ii) of paragraph (a) of section 804 of the not-
23 for-profit corporation law, as amended by chapter 139 of the laws of
24 1993, is amended to read as follows:

25 (ii) Every certificate of amendment of a corporation [classified as
26 type B or type C under section 201 (Purposes)] formed for the purposes
27 specified in subparagraph two or three of paragraph (b) of section 201
28 which seeks to change or eliminate a purpose or power enumerated in the

1 corporation's certificate of incorporation, or to add a power or purpose
2 not enumerated therein, shall have endorsed thereon or annexed thereto
3 the approval of a justice of the supreme court of the judicial district
4 in which the office of the corporation is located. Ten days' written
5 notice of the application for such approval shall be given to the attor-
6 ney-general.

7 § 21. Paragraphs (a) and (c) of section 907 of the not-for-profit
8 corporation law are amended to read as follows:

9 (a) [Where any constituent corporation or the consolidated corporation
10 is, or would be if formed under this chapter, a Type B or a Type C
11 corporation under section 201 (Purposes) of this chapter, no] No certifi-
12 cate shall be filed pursuant to section 904 (Certificate of merger or
13 consolidation; contents) or section 906 by corporations (Merger or
14 consolidation of domestic and foreign corporations) formed for the
15 purposes specified in subparagraph two or three of paragraph (b) of
16 section 201 until an order approving the plan of merger or consolidation
17 and authorizing the filing of the certificate has been made by the
18 supreme court, as provided in this section. A certified copy of such
19 order shall be annexed to the certificate of merger or consolidation.
20 Application for the order may be made in the judicial district in which
21 the principal office of the surviving or consolidated corporation is to
22 be located, or in which the office of one of the domestic constituent
23 corporations is located. The application shall be made by all the
24 constituent corporations jointly and shall set forth by affidavit (1)
25 the plan of merger or consolidation, (2) the approval required by
26 section 903 (Approval of plan) or paragraph (b) of section 906 (Merger
27 or consolidation of domestic and foreign corporations) for each constit-
28 uent corporation, (3) the objects and purposes of each such corporation

1 to be promoted by the consolidation, (4) a statement of all property,
2 and the manner in which it is held, and of all liabilities and of the
3 amount and sources of the annual income of each such corporation, (5)
4 whether any votes against adoption of the resolution approving the plan
5 of merger or consolidation were cast at the meeting at which the resol-
6 ution as adopted by each constituent corporation, and (6) facts showing
7 that the consolidation is authorized by the laws of the jurisdictions
8 under which each of the constituent corporations is incorporated.

9 (c) If the court shall find that any of the assets of any of the
10 constituent corporations are held for [a] any purpose specified [as Type
11 B] in subparagraph two or three of paragraph (b) of section 201
12 (Purposes) or are legally required to be used for a particular purpose,
13 but not upon a condition requiring return, transfer or conveyance by
14 reason of the merger or consolidation, the court may, in its discretion,
15 direct that such assets be transferred or conveyed to the surviving or
16 consolidated corporation subject to such purpose or use, or that such
17 assets be transferred or conveyed to the surviving or consolidated
18 corporation or to one or more other domestic or foreign corporations or
19 organizations engaged in substantially similar activities, upon an
20 express trust the terms of which shall be approved by the court.

21 § 22. Paragraphs (a) and (f) of section 908 of the not-for-profit
22 corporation law are amended to read as follows:

23 (a) One or more domestic or foreign corporations [which is, or would
24 be if formed under this chapter, a type A or type C corporation under
25 section 201 (Purposes)] may be merged or consolidated into a domestic or
26 foreign corporation which is, or would be if formed under the laws of
27 this state, a corporation formed under the business corporation law of
28 this state if such merger or consolidation is not contrary to the law of

1 the state of incorporation of any constituent corporation. With respect
2 to such merger or consolidation, any reference in paragraph (b) of
3 section 901 [of this article] (Power of merger or consolidation) or
4 paragraph (b) of section 901 of the business corporation law to a corpo-
5 ration shall, unless the context otherwise requires, include both domes-
6 tic and foreign corporations.

7 (f) [Where any constituent corporation is, or would be if formed under
8 this chapter, a Type C corporation under section 201 (Purposes), no] No
9 certificate shall be filed pursuant to this section by corporations
10 formed for the purposes specified in subparagraph two or three of para-
11 graph (b) of section 201 until an order approving the plan of merger or
12 consolidation and authorizing the filing of the certificate has been
13 made by the supreme court, as provided in section 907 (Approval by the
14 supreme court).

15 § 23. Paragraphs (b) and (c) and subparagraph 3 of paragraph (d) of
16 section 1001 of the not-for-profit corporation law, as amended by chap-
17 ter 434 of the laws of 2006, are amended to read as follows:

18 (b) If [the] a corporation [is a Type B, C or D corporation and]
19 formed for the purposes specified in subparagraph two, three or four of
20 paragraph (b) of section two hundred one of this chapter has no assets
21 to distribute and no liabilities at the time of dissolution, the plan of
22 dissolution shall include a statement to that effect.

23 (c) If [the] a corporation [is a Type B, C or D corporation and]
24 formed for the purposes specified in subparagraph two, three or four of
25 paragraph (b) of section two hundred one of this chapter has no assets
26 to distribute, other than a reserve not to exceed twenty-five thousand
27 dollars for the purpose of paying ordinary and necessary expenses of
28 winding up its affairs including attorney and accountant fees, and

1 liabilities not in excess of ten thousand dollars at the time of
2 adoption of the plan of dissolution, the plan of dissolution shall
3 include a statement to that effect.

4 (3) if there are assets received and held by the corporation [either]
5 for a purpose specified [as Type B] in subparagraph two or three of
6 paragraph (b) of section 201 (Purposes) or [which] that are legally
7 required to be used for a particular purpose, a statement that the
8 assets owned by the corporation, subject to any unpaid liabilities of
9 the corporation, shall be distributed as required by any gift instrument
10 or to a charitable organization or organizations exempt from taxation
11 pursuant to federal and state laws and engaged in activities substan-
12 tially similar to those of the dissolved corporation. Each such recipi-
13 ent organization shall be identified and the governing instrument and
14 amendments thereto of each of the proposed recipient organizations shall
15 be annexed to such statement, along with the financial reports of each
16 recipient organization for the last three years and a sworn affidavit
17 from a director and officer of each recipient organization stating the
18 purposes of the organization, and that it is currently exempt from
19 federal income taxation.

20 § 24. Paragraphs (a) and (d) of section 1002 of the not-for-profit
21 corporation law, as amended by chapter 434 of the laws of 2006, are
22 amended to read as follows:

23 (a) Upon adopting a plan of dissolution and distribution of assets,
24 the board shall submit it to a vote of the members, if any, and such
25 plan shall be approved at a meeting of members by two-thirds vote as
26 provided in paragraph (c) of section 613 (Vote of members); provided,
27 however, that if the corporation is [a Type B, C or D corporation]
28 formed for the purposes specified in subparagraph two, three or four of

1 paragraph (b) of section two hundred one of this chapter, other than a
2 corporation incorporated pursuant to article 15 (Public cemetery corpo-
3 rations), [and] has no assets to distribute, other than a reserve not to
4 exceed twenty-five thousand dollars for the purpose of paying ordinary
5 and necessary expenses of winding up its affairs including attorney and
6 accountant fees, and liabilities not in excess of ten thousand dollars
7 at the time of adoption of the plan of dissolution, the vote required by
8 the corporation's board of directors for adoption of the plan of dissol-
9 ution of such a corporation or by the corporation's members for the
10 authorization thereof shall be:

11 (1) In the case of a vote by the board of directors: (i) the number of
12 directors required under the certificate of incorporation, by-laws, this
13 chapter and any other applicable law; or

14 (ii) if the number of directors actually holding office as such at the
15 time of the vote to adopt the plan is less than the number required to
16 constitute a quorum of directors under the certificate of incorporation,
17 the by-laws, this chapter or any other applicable law, the remaining
18 directors unanimously;

19 (2) In the case of a vote by the members, (i) the number of members
20 required under the certificate of incorporation, by-laws, this chapter
21 and any other applicable law; or (ii) by the vote of members authorized
22 by an order of the supreme court pursuant to section 608 [of this chap-
23 ter] (Quorum at meeting of members) permitting the corporation to
24 dispense with the applicable quorum requirement.

25 Notice of a special or regular meeting of the board of directors or of
26 the members entitled to vote on adoption and authorization or approval
27 of the plan of dissolution shall be sent to all the directors and
28 members of record entitled to vote. Unless otherwise directed by order

1 of the supreme court pursuant to section 608 [of this chapter] (Quorum
2 at meeting of members), the notice shall be sent by certified mail,
3 return receipt requested, to the last known address of record of each
4 director and member not fewer than thirty, and not more than sixty days
5 before the date of each meeting provided, however, that if the last
6 known address of record of any director or member is not within the
7 United States, the notice to such director shall be sent by any other
8 reasonable means.

9 (d) The plan of dissolution and distribution of assets shall have
10 annexed thereto the approval of a justice of the supreme court in the
11 judicial district in which the office of the corporation is located in
12 the case of a [Type B, C or D]corporation formed for the purposes speci-
13 fied in subparagraph two, three or four of paragraph (b) of section two
14 hundred one of this chapter, and in the case of any other corporation
15 which holds assets at the time of dissolution legally required to be
16 used for a particular purpose, except that no such approval shall be
17 required with respect to the plan of dissolution of a corporation, other
18 than a corporation incorporated pursuant to article 15 (Public cemetery
19 corporations), which has no assets to distribute at the time of dissol-
20 ution, other than a reserve not to exceed twenty-five thousand dollars
21 for the purpose of paying ordinary and necessary expenses of winding up
22 its affairs including attorney and accountant fees, and liabilities not
23 in excess of ten thousand dollars, and which has complied with the
24 requirements of section 1001 (Plan of dissolution and distribution of
25 assets) and this section applicable to such a corporation. Application
26 to the supreme court for an order for such approval shall be by verified
27 petition, with the plan of dissolution and distribution of assets and
28 certified copies of the consents prescribed by this section annexed

1 thereto, and upon ten days written notice to the attorney general accom-
2 panied by copies of such petition, plan and consents. In such case where
3 approval of a justice of the supreme court is not required for a [Type
4 B, C or D] corporation formed for the purposes specified in subparagraph
5 two, three or four of paragraph (b) of section two hundred one of this
6 chapter, a copy of such plan certified under penalties of perjury shall
7 be filed with the attorney general within ten days after its authori-
8 zation.

9 § 25. Subparagraph 1 of paragraph (c) of section 1002-a of the not-
10 for-profit corporation law, as amended by chapter 434 of the laws of
11 2006, is amended to read as follows:

12 (1) assets received and held by the corporation [either] for a purpose
13 specified [as Type B] in subparagraph two or three of paragraph (b) of
14 section 201 (Purposes) or which are legally required to be used for a
15 particular purpose, shall be distributed to one or more domestic or
16 foreign corporations or other organizations engaged in activities
17 substantially similar to those of the dissolved corporation pursuant to
18 the plan of dissolution and distribution or, if applicable, as ordered
19 by the court to which such plan is submitted for approval under section
20 1002 (Authorization of plan). Any disposition of assets contained in a
21 will or other instrument, in trust or otherwise, made before or after
22 the dissolution, to or for the benefit of any corporation so dissolved
23 shall inure to or for the benefit of the corporation or organization
24 acquiring such assets of the dissolved corporation as provided in this
25 section, and so far as is necessary for that purpose the corporation or
26 organization acquiring such disposition shall be deemed a successor to
27 the dissolved corporation with respect to such assets; provided, howev-
28 er, that such disposition shall be devoted by the acquiring corporation

1 or organization to the purposes intended by the testator, donor or gran-
2 tor.

3 § 26. Subparagraph 4 of paragraph (a) of section 1003 of the not-for-
4 profit corporation law is REPEALED and subparagraphs 5, 6, 7 and 8 are
5 renumbered subparagraphs 4, 5, 6 and 7.

6 § 27. Subparagraph 2 of paragraph (b) of section 1003 of the not-for-
7 profit corporation law, as amended by chapter 434 of the laws of 2006,
8 is amended to read as follows:

9 (2) By the attorney general in the case of a [Type B, C or D] corpo-
10 ration formed for the purposes specified in subparagraph two, three or
11 four of paragraph (b) of section two hundred one of this chapter, or any
12 other corporation that holds assets at the time of dissolution legally
13 required to be used for a particular purpose.

14 § 28. Subparagraph 15 of paragraph (a) of section 1008 of the not-for-
15 profit corporation law, as amended by chapter 434 of the laws of 2006,
16 is amended to read as follows:

17 (15) Where assets were received and held by the corporation either for
18 a purpose specified [as Type B] in subparagraph two or three of para-
19 graph (b) of section 201 (Purposes), or were legally required to be used
20 for a particular purpose, the distribution of such assets to one or more
21 domestic or foreign corporations or other organizations engaged in
22 activities substantially similar to those of the dissolved corporation,
23 on notice to the attorney general and to such other persons, and in such
24 manner, as the court may deem proper.

25 § 29. Subparagraph 6 of paragraph (a) of section 1012 of the not-for-
26 profit corporation law is REPEALED.

27 § 30. Section 1302 of the not-for-profit corporation law, as amended
28 by chapter 847 of the laws of 1970, is amended to read as follows:

1 § 1302. Application to existing authorized foreign corporations.

2 Every foreign corporation which on the effective date of this chapter
3 is authorized to conduct activities in this state under a certificate of
4 authority heretofore issued to it by the secretary of state shall
5 continue to have such authority. Such foreign corporation, its members,
6 directors, and officers shall have the same rights, franchises, and
7 privileges and shall be subject to the same limitations, restrictions,
8 liabilities, and penalties as a foreign corporation authorized under
9 this chapter, its members, directors, and officers respectively. A
10 foreign corporation [may by amendment to its certificate of authority
11 set forth the type of corporation it is under section 201 (Purposes);
12 and in the absence of such amendment an authorized foreign corporation
13 shall be a Type B corporation] shall be subject to provisions governing
14 corporations formed under subparagraph two of paragraph (b) of section
15 201, unless otherwise required by law. Reference in this chapter to an
16 application for authority shall, unless the context otherwise requires,
17 include the statement and designation and any amendment thereof required
18 to be filed by the secretary of state under prior statutes to obtain a
19 certificate of authority.

20 § 31. Subparagraph 4 of paragraph (a) of section 1304 of the not-for-
21 profit corporation law, as amended by chapter 847 of the laws of 1970
22 and as renumbered by chapter 590 of the laws of 1982, is amended to read
23 as follows:

24 (4) That the corporation is a foreign corporation as defined in
25 subparagraph (a) (7) of section 102 (Definitions); [the type of corpo-
26 ration it shall be under section 201 (Purposes);] a statement of its
27 purposes to be pursued in this state and of the activities which it
28 proposes to conduct in this state; a statement that it is authorized to

1 conduct those activities in the jurisdiction of its incorporation; and
2 in the case of a [Type C] corporation formed for the purposes specified
3 in subparagraph three of paragraph (b) of section 201, the lawful public
4 or quasi-public objective which each business purpose will achieve.

5 § 32. Paragraph (a) of section 1321 of the not-for-profit corporation
6 law, subparagraphs 1, 2 and 3 as amended by chapter 847 of the laws of
7 1970, are amended to read as follows:

8 (a) Notwithstanding any other provision of this chapter, a foreign
9 corporation conducting activities in this state which is authorized
10 under this article, its directors, officers and members, shall be exempt
11 from the provisions of paragraph (e) of section 1317 (Voting trust
12 records), subparagraph (a) (1) of section 1318 (Liabilities of directors
13 and officers of foreign corporations), and subparagraph (a) (2) of
14 section 1320 (Applicability of other provisions) if when such provision
15 would otherwise apply[:

16 (1) The corporation is a Type A corporation under this chapter; its]
17 the corporation's principal activities are conducted outside this state;
18 the greater part of its property is located outside this state; and (1)
19 less than one third of its members are residents of this state; or

20 (2) [The corporation is a Type B corporation under this chapter; its
21 principal activities are conducted outside this state; the greater part
22 of its property is located outside this state; and] less than ten per
23 cent of its annual revenues is derived from solicitation of funds within
24 this state; or

25 (3) [The corporation is a Type C corporation under this chapter; its
26 principal activities are conducted outside this state; the greater part
27 of its property is located outside this state; and] less than one half
28 of its revenues for the preceding three fiscal years, or such portion

1 thereof as the foreign corporation was in existence, was derived from
2 sources within this state.

3 § 33. Paragraph (d) of section 1401 of the not-for-profit corporation
4 law is REPEALED and paragraph (e) is relettered paragraph (d).

5 § 34. Paragraph (b) of section 1402 of the not-for-profit corporation
6 law is REPEALED and paragraphs (c), (d), (e), (f), (g), (h) and (i) are
7 relettered paragraphs (b), (c), (d), (e), (f), (g) and (h).

8 § 35. Paragraph (c) of section 1403 of the not-for-profit corporation
9 law is REPEALED.

10 § 36. Paragraph (b) of section 1404 of the not-for-profit corporation
11 law is REPEALED and paragraphs (c), (d) and (e) are relettered para-
12 graphs (b), (c) and (d).

13 § 37. Paragraph (b) of section 1405 of the not-for-profit corporation
14 law is REPEALED and paragraphs (c), (d), (e) and (f) are relettered
15 paragraphs (b), (c) (d) and (e).

16 § 38. Paragraph (b) of section 1406 of the not-for-profit corporation
17 law is REPEALED and paragraphs (c), (d), (e) and (f) are relettered
18 paragraphs (b), (c), (d) and (e).

19 § 39. Paragraph (b) of section 1407 of the not-for-profit corporation
20 law is REPEALED and paragraphs (c) and (d) are relettered paragraphs (b)
21 and (c).

22 § 40. Paragraph (b) of section 1408 of the not-for-profit corporation
23 law is REPEALED and paragraph (c) is relettered paragraph (b).

24 § 41. Paragraph (b) of section 1409 of the not-for-profit corporation
25 law is REPEALED and paragraphs (c), (d), (e), (f), (g), (h), (i), (j)
26 and (k) are relettered paragraphs (b), (c), (d), (e), (f), (g), (h), (i)
27 and (j).

1 § 42. Paragraph (b) of section 1410 of the not-for-profit corporation
2 law is REPEALED and paragraph (c) is relettered paragraph (b).

3 § 43. Paragraph (b) of section 1411 of the not-for-profit corporation
4 law is REPEALED and paragraphs (c), (d), (e), (f), (g), (h) and (i) are
5 relettered paragraphs (b), (c), (d), (e), (f), (g) and (h).

6 § 44. Paragraph (d) of section 1412 of the not-for-profit corporation
7 law is REPEALED and paragraphs (e), (f) and (g) are relettered para-
8 graphs (d), (e) and (f), respectively.

9 § 45. Paragraph (c) of section 1505 of the not-for-profit corporation
10 law is REPEALED and paragraph (d) is relettered paragraph (c).

11 § 46. Subdivision 2 of section 2-b of the religious corporations law
12 is REPEALED and subdivisions 3 and 4 are renumbered subdivisions 2 and
13 3.

14 § 47. This act shall take effect on the sixtieth day after it shall
15 have become a law.

16 SUBPART B

17 Section 1. Paragraph (e) of section 104 of the business corporation
18 law, as amended by chapter 832 of the laws of 1982, is amended to read
19 as follows:

20 (e) If an instrument which is delivered to the department of state for
21 filing complies as to form with the requirements of law and where
22 required by statute there has been attached to it the consent or
23 approval of the state official, [department, board,] agency or other
24 body, if any, whose consent to or approval of such instrument or the
25 filing thereof is required by any statute of this state and the filing
26 fee and tax, if any, required by any statute of this state in connection

1 therewith have been paid, the instrument shall be filed and indexed by
2 the department of state. No certificate of authentication or conformity
3 or other proof shall be required with respect to any verification, oath
4 or acknowledgment of any instrument delivered to the department of state
5 under this chapter, if such verification, oath or acknowledgment
6 purports to have been made before a notary public, or person performing
7 the equivalent function, of one of the states, or any subdivision there-
8 of, of the United States or the District of Columbia. Without limiting
9 the effect of section four hundred three of this chapter, filing and
10 indexing by the department of state shall not be deemed a finding that a
11 certificate conforms to law, nor shall it be deemed to constitute an
12 approval by the department of state of the name of the corporation or
13 the contents of the certificate, nor shall it be deemed to prevent any
14 person with appropriate standing from contesting the legality thereof in
15 an appropriate forum. Upon the written notification to the department of
16 state by any state official, department, board, agency or other body
17 that a domestic corporation or foreign authorized corporation has failed
18 to obtain the consent or approval of such state official, department,
19 board, agency or other body for any certificate or instrument, the
20 corporation's authority to carry on, conduct or transact business in
21 this state shall be suspended. Such suspension shall be annulled upon
22 the filing of a certificate of amendment with the required consent or
23 approval annexed thereto.

24 § 2. Paragraphs (b) and (e) of section 201 of the business corporation
25 law, paragraph (b) as amended by chapter 182 of the laws of 1981, and
26 paragraph (e) as amended by section 71 of part A of chapter 58 of the
27 laws of 2010, are amended to read as follows:

1 (b) [The] Certification that approval of the industrial board of
 2 appeals has been obtained is required for the filing with the department
 3 of state of any certificate of incorporation, certificate of merger or
 4 consolidation or application of a foreign corporation for authority to
 5 do business in this state which states as the purpose or one of the
 6 purposes of the corporation the formation of an organization of groups
 7 of working men or women or wage earners, or the performance, rendition
 8 or sale of services as labor consultant or as advisor on labor-manage-
 9 ment relations or as arbitrator or negotiator in labor-management
 10 disputes.

11 (e) A corporation may not include as its purpose or among its purposes
 12 the establishment or maintenance of a hospital or facility providing
 13 health related services, as those terms are defined in article twenty-
 14 eight of the public health law unless its certificate of incorporation
 15 shall so state and such certificate [shall have annexed thereto the]
 16 includes a certification that approval of the public health and health
 17 planning council of such purpose has been obtained.

18 § 3. Clause (B) of subparagraph 5 of paragraph (a) of section 301 of
 19 the business corporation law, as amended by chapter 155 of the laws of
 20 2012, is amended to read as follows:

21 (B) Shall not contain any of the following words, or any abbreviation
 22 or derivative thereof:

23 acceptance	endowment	loan
24 annuity	fidelity	mortgage
25 assurance	finance	savings
26 bank	guaranty	surety
27 benefit	indemnity	title
28 bond	insurance	trust

1 casualty investment underwriter

2 doctor lawyer

3 unless the [approval of the superintendent of financial services is
4 attached to the] certificate of incorporation, or application for
5 authority or amendment thereof includes a certification that approval of
6 the superintendent of financial services has been obtained; or [that]
7 unless the word "doctor" or "lawyer" or an abbreviation or derivation
8 thereof is used in the name of a university faculty practice corporation
9 formed pursuant to section fourteen hundred twelve of the not-for-profit
10 corporation law or a professional service corporation formed pursuant to
11 article fifteen of this chapter, or a foreign professional service
12 corporation authorized to do business in this state pursuant to article
13 fifteen-A of this chapter, the members or shareholders of which are
14 composed exclusively of doctors or lawyers, respectively, or are used in
15 a context which clearly denotes a purpose other than the practice of law
16 or medicine.

17 § 4. Subparagraphs 6, 7 and 11 of paragraph (a) of section 301 of the
18 business corporation law, subparagraph 7 as amended by chapter 555 of
19 the laws of 1978 and subparagraph 11 as added by chapter 316 of the laws
20 of 2005, are amended to read as follows:

21 (6) Shall not, unless [the approval of the state board of standards
22 and appeals is attached to] the certificate of incorporation, or appli-
23 cation for authority or amendment thereof includes a certification that
24 the approval of the state board of standards and appeals has been
25 obtained, contain any of the following words or phrases, or any abbrevi-
26 ation or derivative thereof: union, labor, council, industrial organ-
27 ization, in a context which indicates or implies that the domestic
28 corporation is formed or the foreign corporation authorized as an organ-

1 ization of working men or women or wage earners or for the performance,
2 rendition or sale of services as labor or management consultant, adviser
3 or specialist, or as negotiator or arbitrator in labor-management
4 disputes.

5 (7) Shall not, unless [the approval of the state department of social
6 services is attached to] the certificate of incorporation, or applica-
7 tion for authority or amendment thereof includes a certification that
8 the approval of the state department of social services has been
9 obtained, contain the word "blind" or "handicapped". Such approval shall
10 be granted by the state department of social services, if in its opinion
11 the word "blind" or "handicapped" as used in the corporate name proposed
12 will not tend to mislead or confuse the public into believing that the
13 corporation is organized for charitable or non-profit purposes related
14 to the blind or the handicapped.

15 (11) Shall not, unless [the consent of the commissioner of education
16 is endorsed on or annexed to] the certificate of incorporation includes
17 a certification that the consent of the commissioner of education has
18 been obtained, contain the words "school;" "education;" "elementary;"
19 "secondary;" "kindergarten;" "prekindergarten;" "preschool;" "nursery
20 school;" "museum;" "history;" "historical;" "historical society;"
21 "arboretum;" "library;" "college;" "university" or other term restricted
22 by section two hundred twenty-four of the education law; "conservatory,"
23 "academy," or "institute," or any abbreviation or derivative of such
24 terms. Such consent shall not be granted by the commissioner of educa-
25 tion, if in the commissioner's opinion, the use of such terms in the
26 corporate name is likely to mislead or confuse the public into believing
27 that the corporation is organized for non-profit educational purposes or

1 for educational business purposes that are not specified in the corpo-
2 rate purposes and powers contained in its certificate of incorporation.

3 § 5. Section 406 of the business corporation law, as amended by chap-
4 ter 558 of the laws of 1999, is amended to read as follows:

5 § 406. Filing of a certificate of incorporation; facility for alcoholism
6 or alcohol abuse, substance abuse, substance dependence, or
7 chemical abuse or dependence.

8 Every certificate of incorporation which includes among its corporate
9 purposes the establishment or operation of a program of services for
10 alcoholism or alcohol abuse, substance abuse, substance dependence, or
11 chemical abuse or dependence shall [have endorsed thereon or annexed
12 thereto] include a certification that the approval of the commissioner
13 of the state office of alcoholism and substance abuse services of the
14 purposes has been obtained.

15 § 6. Paragraph (a) of section 806 of the business corporation law is
16 amended to read as follows:

17 (a) The department of state shall not file a certificate of amendment
18 reviving the existence of a corporation unless the certificate of amend-
19 ment includes a certification that the consent of the state tax commis-
20 sion to the revival [is delivered to the department] has been obtained.

21 If the name of the corporation being revived is not available under
22 section 301 (Corporate name; general) for use by a corporation then
23 being formed under this chapter, the certificate of amendment shall
24 change the name to one which is available for such use.

25 § 7. Paragraph (a) of section 1003 of the business corporation law is
26 amended by adding two new subparagraphs 6 and 7 to read as follows:

27 (6) A certification that consent of the department of taxation and
28 finance to the dissolution has been obtained.

1 (7) With respect to any corporation that has done business in the city
2 of New York and incurred liability for any tax or charge under chapter
3 six, seven, eight, ten, eleven, twelve, thirteen, fourteen, twenty-one,
4 twenty-four, twenty-five or twenty-seven of title eleven of the adminis-
5 trative code of the city of New York, a certification that consent of
6 the commissioner of finance of the city of New York to the dissolution
7 has been obtained.

8 § 8. Paragraph (a) of section 1004 of the business corporation law, as
9 amended by chapter 201 of the laws of 2009, is amended to read as
10 follows:

11 (a) [The department shall not file such certificate unless the consent
12 of the state department of taxation and finance to the dissolution is
13 attached thereto.] Upon [such] filing such certificate, the corporation
14 is dissolved.

15 § 9. Paragraph (b) of section 1004 of the business corporation law is
16 REPEALED.

17 § 10. Subparagraph 8 of paragraph (a) of section 1304 of the business
18 corporation law, as amended by chapter 684 of the laws of 1963 and as
19 renumbered by chapter 590 of the laws of 1982, is amended to read as
20 follows:

21 (8) A statement that the foreign corporation has not since its incor-
22 poration or since the date its authority to do business in this state
23 was last surrendered, engaged in any activity in this state, except as
24 set forth in paragraph (b) of section 1301 (Authorization of foreign
25 corporations), or in lieu thereof a certification that the consent of
26 the state tax commission to the filing of the application[, which
27 consent shall be attached thereto] has been obtained.

1 § 11. Paragraph (a) of section 1310 of the business corporation law is
2 amended by adding a new subparagraph 7 to read as follows:

3 (7) A certification that consent of the department of taxation and
4 finance to the surrender of authority has been obtained.

5 § 12. Paragraph (b) of section 1310 of the business corporation law is
6 REPEALED, and paragraphs (c) and (d) are relettered (b) and (c).

7 § 13. Section 216 of the education law, as amended by chapter 901 of
8 the laws of 1972, and the closing paragraph as added by chapter 316 of
9 the laws of 2005, is amended to read as follows:

10 § 216. Charters. Under such name, with such number of trustees or
11 other managers, and with such powers, privileges and duties, and subject
12 to such limitations and restrictions in all respects as the regents may
13 prescribe in conformity to law, they may, by an instrument under their
14 seal and recorded in their office, incorporate any university, college,
15 academy, library, museum, or other institution or association for the
16 promotion of science, literature, art, history or other department of
17 knowledge, or of education in any way, associations of teachers,
18 students, graduates of educational institutions, and other associations
19 whose approved purposes are, in whole or in part, of educational or
20 cultural value deemed worthy of recognition and encouragement by the
21 university. No institution or association which might be incorporated by
22 the regents under this chapter shall, without their consent, be incorpo-
23 rated under any other general law. An institution or association which
24 might be incorporated by the regents under this chapter may, with the
25 consent of the commissioner of education, be formed under the business
26 corporation law or pursuant to the not-for-profit corporation law if
27 [such consent of the commissioner of education is attached to] its
28 certificate of incorporation includes a certification that consent of

1 the commissioner of education to the incorporation of such institution
2 or association has been obtained. No individual, association, partner-
3 ship, company or corporation not authorized by special charter from the
4 legislature of this state or by charter from the regents to operate a
5 museum, or arboretum shall knowingly use, advertise or transact business
6 under the names "museum," or "arboretum," or any name, title or descrip-
7 tive material indicating or tending to imply that said individual, asso-
8 ciation, partnership, company or corporation conducts, carries on, or is
9 such a business when it is not, or that it is authorized to operate as
10 such, unless the right to do so has been granted by the regents or the
11 commissioner in writing. Any violation of this paragraph shall be a
12 misdemeanor. Notwithstanding any other provision of this section, an
13 individual, association, partnership, company or corporation doing busi-
14 ness under any of such names on the effective date of this paragraph may
15 come into compliance with this paragraph by obtaining consent of the
16 regents or the commissioner within one year of such effective date.

17 § 14. Paragraph (c) of subdivision 2 of section 130 of the general
18 business law, as amended by chapter 316 of the laws of 2005, is amended
19 to read as follows:

20 (c) No corporation, limited partnership or limited liability company
21 shall use or file a certificate for the use of any name or designation
22 to carry on or conduct or transact business in this state which consists
23 of or includes a word or words the use of which is prohibited or
24 restricted by subparagraphs three through eleven of paragraph (a) of
25 section three hundred one of the business corporation law or subpara-
26 graphs three through nine of paragraph (a) of section three hundred one
27 and paragraph (w) of section four hundred four of the not-for-profit
28 corporation law, or paragraph three of subdivision (a) of section

1 121-102 of the partnership law, or subdivisions (d) through (i) of
2 section two hundred four of the limited liability company law, respec-
3 tively, [without having obtained any necessary] unless such certificate
4 includes a certification that such consents or approvals which would
5 permit the use of the word or words pursuant to such laws has been
6 obtained, or where required by statute, such certificate has consents or
7 approvals endorsed thereon or are annexed thereto.

8 § 15. Subdivision 11 of section 130 of the general business law, as
9 added by chapter 316 of the laws of 2005, is amended to read as follows:

10 11. Notwithstanding any other provision of this section, an education
11 corporation may not file a certificate under this section with the
12 secretary of state, unless such certificate includes a certification
13 that the consent of the board of regents [is endorsed on or annexed
14 thereto] has been obtained. Nothing in this subdivision shall invali-
15 date a certificate lawfully filed by an education corporation pursuant
16 to this section prior to the effective date of this subdivision.

17 § 16. Subdivision (f) of section 204 of the limited liability company
18 law, as amended by chapter 155 of the laws of 2012, is amended to read
19 as follows:

20 (f) shall not contain the following words, or any abbreviation
21 or derivative thereof:

22	acceptance	guaranty
23	annuity	indemnity
24	assurance	insurance
25	attorney	investment
26	bank	lawyer
27	benefit	loan
28	bond	mortgage

1	casualty	savings
2	doctor	surety
3	endowment	title
4	fidelity	trust
5	finance	underwriter

6 unless the [approval of the superintendent of financial services is
7 attached to the] articles of organization include a certification that
8 approval of the superintendent of financial services has been obtained
9 or unless the word "doctor" or "lawyer" or an abbreviation or derivative
10 thereof is used in a context that clearly denotes a purpose other than
11 the practice of law or medicine;

12 § 17. Subdivisions (g) and (i) of section 204 of the limited liability
13 company law, subdivision (i) as added by chapter 316 of the laws of
14 2005, are amended to read as follows:

15 (g) shall not, unless [the approval of the state department of social
16 services is attached to] the articles of organization or application for
17 authority include a certification that the approval of the state depart-
18 ment of social services has been obtained, contain the word "blind" or
19 "handicapped." Such approval shall be granted by the state department of
20 social services if in its opinion the word "blind" or "handicapped" as
21 used in the limited liability company's proposed name will not tend to
22 mislead or confuse the public into believing that the limited liability
23 company is organized for charitable or nonprofit purposes related to the
24 blind or the handicapped; and

25 (i) shall not, unless the articles of organization or application for
26 authority include a certification that the consent of the commissioner
27 of education has been obtained, contain the following terms: "school,"
28 "education," "elementary," "secondary," "kindergarten," "prekindergar-

1 ten," "preschool," "nursery school," "museum," "history," "historical,"
2 "historical society," "arboretum," "library," "college," "university" or
3 other term restricted by section two hundred twenty-four of the educa-
4 tion law; "conservatory," "academy," or "institute" or any abbreviation
5 or derivative of such terms[, shall have endorsed thereon or annexed
6 thereto the consent of the commissioner of education].

7 § 18. Section 209 of the limited liability company law is amended to
8 read as follows:

9 § 209. Filing with the department of state. A signed articles of
10 organization and any signed certificate of amendment or other certif-
11 icates filed pursuant to this chapter or of any judicial decree of
12 amendment or cancellation shall be delivered to the department of state.
13 If the instrument that is delivered to the department of state for
14 filing complies as to form with the requirements of law and the filing
15 fee required by any statute of this state in connection therewith has
16 been paid, the instrument shall be filed and indexed by the department
17 of state. The department of state shall not review such articles or
18 certificates for legal sufficiency; its review shall be limited to
19 determining that the form has been completed. Upon the written notifica-
20 tion to the department of state by any state official, department,
21 board, agency or other body that a domestic limited liability company or
22 foreign authorized limited liability company has failed to obtain the
23 consent or approval of such state official, department, board, agency or
24 other body for any certificate or instrument, the limited liability
25 company's authority to carry on, conduct or transact business in this
26 state shall be suspended. Such suspension shall be annulled upon the
27 filing of a certificate of amendment with the required consent or
28 approval annexed thereto.

1 § 19. Clause (B) of subparagraph 5 of paragraph (a) of section 301 of
2 the not-for-profit corporation law, as amended by chapter 155 of the
3 laws of 2012, is amended to read as follows:

4 (B) Shall not contain any of the following words, or any abbreviation
5 or derivative thereof:

6 acceptance	fidelity	mortgage
7 annuity	finance	savings
8 assurance	guaranty	surety
9 bank	indemnity	title
10 bond	insurance	trust
11 casualty	investment	underwriter
12 doctor	lawyer	
13 endowment	loan	

14 unless [the approval of the superintendent of financial services is
15 attached to] the certificate of incorporation, or application for
16 authority or amendment thereof[;] includes a certification that the
17 approval of the superintendent of financial services has been obtained,
18 or [that] unless the word "doctor", or "lawyer", or the phrase "state
19 police" or "state trooper" or an abbreviation or derivation thereof,

1 [may be] is used only in the name of a corporation the membership of
2 which is composed exclusively of doctors, lawyers, state policemen or
3 state troopers, respectively.

4 § 20. Section 404 of the not-for-profit corporation law, as amended by
5 chapter 139 of the laws of 1993, paragraph (b) as amended by section 4
6 of part D of chapter 58 of the laws of 2006, paragraphs (c), (k) and (l)
7 as further amended by section 104 of part A of chapter 62 of the laws of
8 2011, paragraphs (a), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l),
9 (m), (n) and (r) as relettered by chapter 431 of the laws of 1993, para-
10 graph (g) as separately amended by chapter 201 of the laws of 1993,
11 paragraphs (o), (p) and (t) as amended by section 79 of part A of chap-
12 ter 58 of the laws of 2010, paragraph (q) as amended by chapter 198 of
13 the laws of 2010, paragraph (u) as amended by chapter 558 of the laws of
14 1999, paragraph (v) as added by chapter 598 of the laws of 2000 and as
15 further amended by section 104 of part A of chapter 62 of the laws of
16 2011, paragraph (w) as amended by chapter 316 of the laws of 2005, is
17 amended to read as follows:

18 § 404. Approvals and consents.

19 (a) Every certificate of incorporation which includes among its
20 purposes the formation of a trade or business association shall have
21 endorsed thereon or annexed thereto the consent of the attorney-general.

22 (b) (1) Every certificate of incorporation which includes among its
23 purposes the care of destitute, delinquent, abandoned, neglected or
24 dependent children; the establishment or operation of any adult care
25 facility, or the establishment or operation of a residential program for
26 victims of domestic violence as defined in subdivision four of section
27 four hundred fifty-nine-a of the social services law, or the placing-out
28 or boarding-out of children or a home or shelter for unmarried mothers,

1 excepting the establishment or maintenance of a hospital or facility
2 providing health-related services as those terms are defined in article
3 twenty-eight of the public health law and a facility for which an oper-
4 ating certificate is required by articles sixteen, nineteen, twenty-two
5 and thirty-one of the mental hygiene law; or the solicitation of
6 contributions for any such purpose or purposes, shall [have endorsed
7 thereon or annexed thereto] include a certification that the approval of
8 the commissioner of the office of children and family services, or with
9 respect to any adult care facility, the commissioner of health, of such
10 purpose has been obtained.

11 (2) A corporation whose statement of purposes specifically includes
12 the establishment or operation of a child day care center, as that term
13 is defined in section three hundred ninety of the social services law,
14 shall provide a certified copy of the certificate of incorporation, each
15 amendment thereto, and any certificate of merger, consolidation or
16 dissolution involving such corporation to the office of children and
17 family services within thirty days after the filing of such certificate,
18 amendment, merger, consolidation or dissolution with the department of
19 state. This requirement shall also apply to any foreign corporation
20 filing an application for authority under section thirteen hundred four
21 of this chapter, any amendments thereto, and any surrender of authority
22 or termination of authority in this state of such corporation.

23 (c) Every certificate of incorporation which includes among the
24 purposes of the corporation, the establishment, maintenance and opera-
25 tion of a hospital service or a health service or a medical expense
26 indemnity plan or a dental expense indemnity plan as permitted in arti-
27 cle forty-three of the insurance law, shall [have endorsed thereon or
28 annexed thereto] include a certification that the approval of the super-

1 intendent of financial services and the commissioner of health of such
2 purpose has been obtained.

3 (d) Every certificate of incorporation which includes a purpose for
4 which a corporation might be chartered by the regents of the university
5 of the State of New York shall [have endorsed thereon or annexed there-
6 to] include a certification that the consent of the commissioner of
7 education to such purpose has been obtained.

8 (e) Every certificate of incorporation of a cemetery corporation,
9 except those within the exclusionary provisions of section 1503 (Ceme-
10 tery corporations) shall [have endorsed thereon or annexed thereto]
11 include a certification that the approval of the cemetery board of such
12 purpose has been obtained.

13 (f) Every certificate of incorporation of a fire corporation shall
14 [have endorsed thereon or annexed thereto] include a certification that
15 the approval, signed and acknowledged, of the authorities of each city,
16 village, town or fire district in which the corporation proposes to act,
17 of such purpose has been obtained. Such authorities shall be: in a city,
18 the mayor; in a village, a majority of the trustees; in a town, a major-
19 ity of the members of the town board; in a fire district, a majority of
20 the fire commissioners. The members of the town board of a town, or the
21 trustees of a village, shall not consent to the formation of a fire
22 corporation as hereinbefore provided, until such board shall have held a
23 public hearing on the question of whether the fire company should be
24 incorporated. The notice shall be published at least once in each week
25 for two successive weeks in the official newspaper published in the
26 county in which such fire corporation intends to locate, prior to the
27 regular meeting of such board designated by the chairman of the board to
28 consider the matter. Such notice shall contain the name of the proposed

1 company, the names of the persons signing the certificate of incorpo-
2 ration, a brief description of the territory to be protected by the fire
3 company and that all persons interested shall be heard. If no newspaper
4 is published in the county the publication of the notice shall be in a
5 newspaper in an adjoining county selected by the chairman of such board.
6 All expenses in connection with such publication shall be borne by the
7 parties making the application and paid before the hearing.

8 (g) Every certificate of incorporation of a corporation for prevention
9 of cruelty to animals shall [have endorsed thereon or annexed thereto]
10 include a certification that the approval of the American Society for
11 the Prevention of Cruelty to Animals of such purpose has been obtained,
12 or, if such approval be withheld thirty days after application therefor,
13 a certified copy of an order of a justice of the supreme court of the
14 judicial district in which the office of the corporation is to be
15 located, dispensing with such approval, granted upon eight days' notice
16 to such society.

17 (h) Every certificate of incorporation of a Young Men's Christian
18 Association shall [have endorsed thereon or annexed thereto] include a
19 certification that the approval of the chairman of the national board of
20 Young Men's Christian Associations of such purpose has been obtained.

21 (i) Every certificate of incorporation which indicates that the
22 proposed corporation is to solicit funds for or otherwise benefit the
23 armed forces of the United States or of any foreign country, or their
24 auxiliaries, or of this or any other state or any territory, shall [have
25 endorsed thereon or annexed thereto] include a certification that the
26 approval of the chief of staff of such purpose has been obtained.

27 (j) Every certificate of incorporation which includes among its
28 purposes the organization of wage-earners for their mutual betterment,

1 protection and advancement; the regulation of hours of labor, working
2 conditions, or wages; or the performance, rendition or sale of services
3 as labor consultant, labor-management advisor, negotiator, arbitrator,
4 or specialist; and every certificate of incorporation in which the name
5 of the proposed corporation includes "union", "labor", "council" or
6 "industrial organization", or any abbreviation or derivative thereof in
7 a context that indicates or implies that the corporation is formed for
8 any of the above purposes, shall [have endorsed thereon or annexed ther-
9 eto] include a certification that the approval of the industrial board
10 of appeals of such purpose has been obtained. The board shall make such
11 inquiry into the purposes of the proposed corporation as it shall deem
12 advisable and shall order a hearing if necessary to determine whether or
13 not such purposes are in all respects consistent with public policy and
14 the labor law. Notice of the time and place of hearing shall be given to
15 the applicants and such other persons as the board may determine.

16 (k) Every certificate of incorporation for a corporation which has as
17 its exclusive purpose the promotion of the interests of savings bank
18 life insurance or the promotion of the interests of member banks may, if
19 the certificate includes a certification that approval of the super-
20 intendent of financial services [is endorsed thereon or annexed thereto]
21 has been obtained, use as a part of the corporate name any of the words
22 or phrases, or any abbreviation or derivative thereof, set forth in
23 subparagraph (5) of paragraph (a) of section 301 (Corporate name; gener-
24 al).

25 (l) Every certificate of incorporation for a corporation which has as
26 its exclusive purpose the creation of an association of licensed insur-
27 ance agents, licensed insurance brokers, or licensed insurance under-
28 writers and every application for authority of a foreign corporation

1 which is an independent laboratory engaged in testing for public safety,
2 or which has as its purpose the advancement of corporate, governmental,
3 and institutional risk and insurance management, or which has as its
4 exclusive purpose the creation of an association of insurers, each of
5 which is duly licensed in this state or, if it does no business or is
6 not licensed in this state, is duly licensed in another state or foreign
7 jurisdiction may, if the certificate includes a certification that
8 approval of the superintendent of financial services [is endorsed there-
9 on or annexed thereto] has been obtained, use as a part of the corporate
10 name any of the words or phrases, or any abbreviation or derivative
11 thereof, set forth in subparagraph (5) of paragraph (a) of section 301
12 (Corporate name; general).

13 (m) Every certificate of incorporation in which the name of the
14 proposed corporation includes the name of a political party shall [have
15 endorsed thereon or annexed thereto] include a certification that the
16 consent of the chairman of the county committee of such political party
17 of the county in which the office of the corporation is to be located
18 has been obtained, except in cases where the supreme court finds that
19 the withholding of such consent of the county chairman is unreasonable.

20 (n) Every certificate of incorporation in which the name of the
21 proposed corporation includes the words "American Legion," shall [have
22 endorsed thereon or annexed thereto] include a certification that the
23 approval of the Department of New York, the American Legion, duly
24 acknowledged by its commander or adjutant has been obtained.

25 (o) Every certificate of incorporation which includes among its corpo-
26 rate purposes or powers the establishment or maintenance of any hospi-
27 tal, as defined in article twenty-eight of the public health law, or the
28 solicitation of contributions for any such purpose, or purposes, shall

1 [have endorsed thereon or annexed thereto] include a certification that
2 the approval of the public health and health planning council of such
3 purpose has been obtained.

4 (p) Every certificate of incorporation of a medical corporation as
5 defined in article forty-four of the public health law and organized
6 pursuant thereto and pursuant to this chapter, shall [have endorsed
7 thereon or annexed thereto] include a certification that the consent of
8 the commissioner of health to and the approval of the public health and
9 health planning council of such purpose has been obtained.

10 (q) Every certificate of incorporation which includes among its corpo-
11 rate purposes or powers the establishment, or operation of a facility
12 for which an operating certificate from the commissioner of mental
13 health is required by article thirty-one of the mental hygiene law, or
14 the solicitation of contributions for any such purpose, shall [have
15 endorsed thereon or annexed thereto] include a certification that the
16 approval of the commissioner of mental health of such purpose has been
17 obtained.

18 (r) Every certificate of incorporation of a health maintenance organ-
19 ization as defined in article forty-four of the public health law and
20 organized pursuant thereto and pursuant to this chapter, shall [have
21 endorsed thereon or annexed thereto] include a certification that the
22 consent of the commissioner of health to such purpose has been obtained.

23 (t) Every certificate of incorporation which includes among its
24 purposes and powers the establishment or maintenance of a hospital or
25 facility providing health related services, as those terms are defined
26 in article twenty-eight of the public health law, or the solicitation of
27 contributions for any such purpose or two or more of such purposes,
28 shall [have endorsed thereon] include a certification that the approval

1 of the public health and health planning council of such purpose has
2 been obtained.

3 (u) Every certificate of incorporation which includes among the
4 purposes of the corporation, the establishment or operation of a
5 substance abuse, substance dependence, alcohol abuse, alcoholism, or
6 chemical abuse or dependence program, or the solicitation of contrib-
7 utions for any such purpose, shall [have endorsed thereon or annexed
8 thereto] include a certification that the consent of the commissioner of
9 the office of alcoholism and substance abuse services to its filing by
10 the department of state to such purpose has been obtained.

11 (v) Every certificate of incorporation which includes among the
12 purposes of the corporation, the establishment, maintenance and opera-
13 tion of a nonprofit property/casualty insurance company, pursuant to
14 article sixty-seven of the insurance law, shall [have endorsed thereon
15 or annexed thereto] include a certification that the approval of the
16 superintendent of financial services of such purpose has been obtained.

17 (w) Every certificate of incorporation in which the name of the
18 proposed corporation includes the terms: "school," "education," "elemen-
19 tary," "secondary," "kindergarten," "prekindergarten," "preschool,"
20 "nursery school," "museum," "history," "historical," "historical socie-
21 ty," "arboretum," "library," "college," "university" or other term
22 restricted by section two hundred twenty-four of the education law;
23 "conservatory," "academy," or "institute," or any abbreviation or deriv-
24 ative of such terms, shall [have endorsed thereon or annexed thereto]
25 include a certification that the consent of the commissioner of educa-
26 tion has been obtained.

27 § 21. Paragraphs (a) and (b) of section 804 of the not-for-profit
28 corporation law, as amended by chapter 139 of the laws of 1993, subpara-

1 graph (i) of paragraph (a) as amended by chapter 198 of the laws of
2 2010, are amended to read as follows:

3 (a) (i) A certificate of amendment shall not be filed if the amendment
4 adds, changes or eliminates a purpose, power or provision the inclusion
5 of which in a certificate of incorporation requires consent or approval
6 of a governmental body or officer or any other person or body, or if the
7 amendment changes the name of a corporation whose certificate of incor-
8 poration had such consent or approval endorsed thereon or annexed there-
9 to, unless such consent or approval is no longer required, or as
10 required by statute, such consent or approval is endorsed on or annexed
11 to or the certificate of amendment includes a certification that such
12 consent or approval has been obtained.

13 (ii) Every certificate of amendment of a corporation [classified as
14 type B or type C under section 201 (Purposes)] formed for the purposes
15 specified in subparagraph two or three of paragraph (b) of section 201
16 which seeks to change or eliminate a purpose or power enumerated in the
17 corporation's certificate of incorporation, or to add a power or purpose
18 not enumerated therein, shall [have endorsed thereon or annexed thereto]
19 include a certification that the approval of a justice of the supreme
20 court of the judicial district in which the office of the corporation is
21 located has been obtained. Ten days' written notice of the application
22 for such approval shall be given to the attorney-general.

23 (b) The department of state shall not file a certificate of amendment
24 reviving the existence of a corporation unless the certificate includes
25 a certification that the required consent or approval of a governmental
26 body or officer or any other person or body [required to be endorsed on
27 or annexed to the certificate of incorporation of a corporation formed
28 for similar purposes, is attached thereto] has been obtained, or, if

1 notice to the attorney-general was required prior to the filing of its
2 certificate of incorporation, the certificate of amendment should indi-
3 cate that such notice has been given as required by law.

4 § 22. Section 909 of the not-for-profit corporation law, as amended by
5 section 6 of part D of chapter 58 of the laws of 2006, is amended to
6 read as follows:

7 § 909. Consent to filing.

8 If the purposes of any constituent or consolidated corporation would
9 require the approval or consent of any governmental body or officer or
10 any other person or body under section 404 (Approvals and consents) no
11 certificate of merger or consolidation shall be filed pursuant to this
12 article unless the certificate includes a certification that such
13 approval of or consent [is endorsed thereon or annexed thereto] to such
14 purpose has been obtained or where required by statute, such approval or
15 consent is endorsed thereon or annexed thereto. A corporation whose
16 statement of purposes specifically includes the establishment or opera-
17 tion of a child day care center, as that term is defined in section
18 three hundred ninety of the social services law, shall provide a certi-
19 fied copy of any certificate of merger or consolidation involving such
20 corporation to the office of children and family services within thirty
21 days after the filing of such merger or consolidation with the depart-
22 ment of state.

23 § 23. Paragraph (a) of section 1003 of the not-for-profit corporation
24 law is amended by adding two new subparagraphs 8 and 9 to read as
25 follows:

26 (8) A certification that the consent of the department of taxation and
27 finance to the dissolution has been obtained.

1 (9) With respect to any corporation that has done business in the city
2 of New York and incurred liability for any tax or charge under chapter
3 six, seven, eight, ten, eleven, twelve, thirteen, fourteen, twenty-one,
4 twenty-four, twenty-five or twenty-seven of title eleven of the adminis-
5 trative code of the city of New York, a certification that consent of
6 the commissioner of finance of the city of New York to the dissolution
7 has been obtained.

8 § 24. Paragraph (a) of section 1004 of the not-for-profit corporation
9 law, as amended by chapter 201 of the laws of 2009, is amended to read
10 as follows:

11 (a) [The department of state shall not file a certificate of dissol-
12 ution unless the consent of the state department of taxation and finance
13 to the dissolution is attached thereto.] Upon filing the certificate,
14 the corporation is dissolved.

15 § 25. Paragraph (b) of section 1004 of the not-for-profit corporation
16 law is REPEALED.

17 § 26. Subparagraph 8 of paragraph (a) and paragraph (c) of section
18 1304 of the not-for-profit corporation law, subparagraph 8 of paragraph
19 (a) as renumbered by chapter 590 of the laws of 1982, are amended to
20 read as follows:

21 (8) A statement that the foreign corporation has not, since its incor-
22 poration or since the date its authority to conduct activities in this
23 state was last surrendered, done any act in this state, except as set
24 forth in paragraph (b) of section 1301 (Authorization of foreign corpo-
25 rations); or in lieu of such statement a certification that the consent
26 of the state tax commission to the filing of the application [shall be
27 attached thereto] has been obtained.

1 (c) If the application for authority sets forth any purpose or activ-
2 ity for which a domestic corporation could be formed only with the
3 consent or approval of any governmental body or officer, or other person
4 or body under section 404 (Approvals and consents), such application
5 shall include a certification that the consent to or approval [shall be
6 endorsed thereon or annexed thereto] of such purpose has been obtained,
7 or where required by statute, such approval or consent is endorsed ther-
8 eon or annexed thereto.

9 § 27. Paragraph (c) of section 1309 of the not-for-profit corporation
10 law, as added by chapter 961 of the laws of 1972, is amended to read as
11 follows:

12 (c) A certificate of amendment of application for authority shall not
13 be filed, if the amendment adds, changes or eliminates a purpose, power
14 or provision the inclusion of which in an application for authority
15 requires consent or approval of any governmental body or officer or
16 other person or body, or if the amendment changes the name of a corpo-
17 ration whose application for authority had such consent or approval
18 endorsed thereon or annexed thereto, unless such amendment includes a
19 certification that such consent to or approval [is endorsed on or
20 annexed to the certificate of amendment] of application for authority
21 has been obtained, or where required by statute, such approval or
22 consent is endorsed thereon or annexed thereto.

23 § 28. Paragraph (a) of section 1311 of the not-for-profit corporation
24 law is amended by adding a new paragraph 7 to read as follows:

25 (7) A certification that consent of the department of taxation and
26 finance to the surrender of authority has been obtained.

27 § 29. Paragraph (c) of section 1311 of the not-for-profit corporation
28 law is REPEALED and paragraph (d) is relettered paragraph (c).

1 § 30. Paragraph (b) of section 1505 of the not-for-profit law, as
2 added by chapter 871 of the laws of 1977, is amended to read as follows:

3 (b) Cemetery board endorsement. Every certificate of incorporation
4 of a cemetery corporation, except those within the exclusionary
5 provisions of section fifteen hundred three, shall [have endorsed there-
6 on or annexed thereto] include a certification that the approval of the
7 cemetery board as required in subdivision (e) of section four hundred
8 four of this chapter has been obtained.

9 § 31. Subparagraphs (A) and (B) of paragraph 3 of subdivision (a) of
10 section 121-102 of the partnership law, subparagraph (A) as amended by
11 chapter 316 of the laws of 2005, subparagraph (B) as amended by chapter
12 155 of the laws of 2012, are amended to read as follows:

13 (A) may not contain the following phrases or any abbreviation or
14 derivative thereof:

15	board of trade	state trooper
16	chamber of commerce	tenant relocation
17	community renewal	urban development
18	state police	urban relocation

19 Every certificate of limited partnership in which the name of the
20 proposed limited partnership includes the terms: "school," "education,"
21 "elementary," "secondary," "kindergarten," "prekindergarten,"
22 "preschool," "nursery school," "museum," "history," "historical,"
23 "historical society," "arboretum," "library," "college," "university" or
24 other term restricted by section two hundred twenty-four of the educa-
25 tion law; "conservatory," "academy," or "institute," or any abbreviation
26 or derivative of such terms, shall [have endorsed thereon or annexed
27 thereto] include a certification that the consent of the commissioner of
28 education has been obtained.

1 (B) may not contain the following words, or any abbreviation or deriv-
2 ative thereof:

3	acceptance	indemnity
4	annuity	insurance
5	assurance	investment
6	bank	lawyer
7	benefit	loan
8	bond	mortgage
9	casualty	savings
10	doctor	surety
11	endowment	title
12	fidelity	trust
13	finance	underwriter
14	guaranty	

15 unless the [approval of the superintendent of financial services is
16 attached to the] certificate of limited partnership includes a certif-
17 ication that the approval of the superintendent of financial services
18 has been obtained; or unless the word "doctor" or "lawyer" or an abbre-
19 viation or derivative thereof is used in a context which clearly denotes
20 a purpose other than the practice of law or medicine.

21 § 32. Subparagraph (C) of paragraph 3 of subdivision (a) of section
22 121-102 of the partnership law, as added by chapter 264 of the laws of
23 1991, is amended to read as follows:

24 (C) shall not, unless [the approval of the state department of social
25 services is attached to] the certificate of limited partnership or
26 application for authority or amendment thereof includes a certification
27 that the approval of the state department of social services has been
28 obtained, contain the word "blind" or "handicapped". Such approval shall

1 be granted by the state department of social services if in its opinion
2 the word "blind" or "handicapped" as used in the limited partnership
3 name proposed will not tend to mislead or confuse the public into
4 believing that the limited partnership is organized for charitable or
5 nonprofit purposes related to the blind or the handicapped.

6 § 33. Section 121-206 of the partnership law, as added by chapter 950
7 of the laws of 1990, is amended to read as follows:

8 § 121-206. Filing with the department of state. A signed certificate
9 of limited partnership and any signed certificates of amendment or other
10 certificates filed pursuant to this article or of any judicial decree of
11 amendment or cancellation shall be delivered to the department of state.
12 If the instrument which is delivered to the department of state for
13 filing complies as to form with the requirements of law and the filing
14 fee required by any statute of this state in connection therewith has
15 been paid, the instrument shall be filed and indexed by the department
16 of state. Upon the written notification to the department of state by
17 any state official, department, board, agency or other body that a
18 domestic limited partnership or foreign authorized limited partnership
19 has failed to obtain the consent or approval of such state official,
20 department, board, agency or other body for any certificate or instru-
21 ment, the limited partnership's authority to carry on, conduct or trans-
22 act business in this state shall be suspended. Such suspension shall be
23 annulled upon the filing of a certificate of amendment with the required
24 consent or approval annexed thereto.

25 § 34. Section 14 of the private housing finance law, as amended by
26 chapter 544 of the laws of 1961, is amended to read as follows:

27 § 14. Consent of commissioner to incorporation. Whenever any such
28 certificate shall be presented to the secretary of state, [he] the

1 secretary shall not file such certificate unless [there shall accompany
2 the same a] the certificate includes a certification that a certificate
3 of the commissioner that he consents to the filing of such certificate
4 has been obtained; nor shall any amendment to the certificate of incor-
5 poration be filed unless it [is accompanied by] includes a certification
6 that a certificate of the commissioner consenting thereto has been
7 obtained. If a company has entered into a contract with a municipality
8 for the construction of a municipally aided project, the commissioner
9 shall not issue a certificate consenting to an amendment of the certif-
10 icate of incorporation of such company, unless the supervising agency
11 has given its written consent to such amendment.

12 § 35. Subdivision 5 of section 573 of the private housing finance law,
13 as amended by chapter 410 of the laws of 1984, is amended to read as
14 follows:

15 5. The secretary of state shall not file the certificate of incorpo-
16 ration of any such corporation or any amendment thereto unless the
17 certificate includes a certification that the consent or approval of the
18 commissioner or the supervising agency, as the case may be, [is affixed
19 thereon or attached thereto] has been obtained. Consent to the filing of
20 such certificate of incorporation shall be based upon findings by the
21 commissioner or supervising agency as to the character and competence of
22 the sponsor.

23 § 36. Subdivision 1 of section 2801-a of the public health law, as
24 amended by section 57 of part A of chapter 58 of the laws of 2010, is
25 amended to read as follows:

26 1. No hospital, as defined in this article, shall be established
27 except with the written approval of the public health and health plan-
28 ning council. No certificate of incorporation of a business membership

1 or not-for-profit corporation shall hereafter be filed which includes
2 among its corporate purposes or powers the establishment or operation of
3 any hospital, as defined in this article, or the solicitation of
4 contributions for any such purpose, or two or more of such purposes,
5 except with the written approval of the public health and health plan-
6 ning council, and when otherwise required by law of a justice of the
7 supreme court, [endorsed on or annexed to] the certificate of incorpo-
8 ration includes a certification that such written approval has been
9 obtained. No articles of organization of a limited liability company
10 established pursuant to the New York limited liability company law which
11 includes among its powers or purposes the establishment or operation of
12 any hospital as defined in this article, shall be filed with the depart-
13 ment of state except [upon] when the articles of organization include a
14 certification that the approval of the public health and health planning
15 council has been obtained.

16 § 37. Section 41 of the transportation corporations law, as amended by
17 chapter 782 of the laws of 1969, is amended to read as follows:

18 § 41. Municipal consent to incorporation. No certificate of incorpo-
19 ration of a water-works corporation shall be filed unless [there be
20 annexed thereto a] the certificate includes a certification that consent
21 to the formation of the corporation, signed and acknowledged by the
22 local authorities of each municipality named in such certificate has
23 been obtained. Such authorities shall be: in a city, a majority of the
24 members of the board or body having charge of the water supply, or if
25 there be no such board or body, a majority of the members of the local
26 legislative body; in a village, a majority of the members of the board
27 of trustees; in a town outside of a village, the town superintendent of
28 highways and a majority of the members of the town board. Such consent

1 to the formation of the corporation shall not be granted by said local
2 authorities until ten days prior notice in writing of the application
3 for such consent and until an engineering plan for proposed water system
4 specifying location and size and type of wells, pumps, distribution
5 mains and other facilities of the water supply and/or distribution
6 system is furnished by the water works corporation to the local authori-
7 ties and to the county water authority, and to the county water district
8 if there be such authority or district where the proposed corporation
9 seeks to operate; and until said authority or district has reported in
10 writing to the municipality named in the certificate of incorporation
11 its recommendations as to whether or not such consent should be granted,
12 setting forth the reasons for such recommendation and a finding as to
13 whether the proposed water supply and/or distribution system is reason-
14 ably comparable to standards of a county-wide water system and suitable
15 for eventual integration with such county-wide water system. Said report
16 shall be filed with such municipality on or before the tenth day after
17 the giving of the notice aforesaid.

18 § 38. Subdivision 1 of section 116 of the transportation corporations
19 law, as amended by chapter 828 of the laws of 1970, is amended to read
20 as follows:

21 1. No certificate of incorporation of a sewage-works corporation shall
22 be filed unless [there be annexed thereto] the certificate includes a
23 certification that a certificate or certificates duly executed in behalf
24 of the local governing bodies of the city, town or village, as the case
25 may be, in which any part of a sewer system provided by such corporation
26 is situate and, in the county of Suffolk, an additional certificate duly
27 executed in behalf of the county sewer agency, consenting to the forma-

1 tion of the corporation for the area described in such certificate has
2 been obtained.

3 § 39. This act shall take effect immediately; provided however that
4 section twenty-three of this act shall take effect on the sixtieth day
5 after it shall have become a law.

6 SUBPART C

7 Section 1. Paragraph (a) of section 602 of the business corporation
8 law is amended to read as follows:

9 (a) Meetings of shareholders may be held at such place, within or
10 without this state, as may be fixed by or under the by-laws, or if not
11 so fixed, at the office of the corporation in this state. Except as
12 provided in the by-laws, shareholders may participate in a meeting by
13 means of conference telephone or similar communications equipment by
14 means of which all persons participating in the meeting can hear each
15 other. Such participation shall constitute presence in person at the
16 meeting.

17 § 2. Paragraph (b) of section 402 of the limited liability company law
18 is amended to read as follows:

19 (b) Except as provided in the operating agreement, any member may vote
20 in person [or], by proxy, or by electronic means.

21 § 3. Paragraphs (a) and (c) of section 603 of the not-for-profit
22 corporation law, paragraph (c) as amended by chapter 961 of the laws of
23 1972, are amended to read as follows:

24 (a) Meetings of members may be held at such place, within or without
25 this state, as may be fixed by or under the by-laws or, if not so fixed,
26 at the office of the corporation in this state. Except as provided in

1 the by-laws, members may participate in a meeting by means of conference
2 telephone or similar communications equipment by means of which all
3 persons participating in the meeting can hear each other. Such partic-
4 ipation shall constitute presence in person at the meeting.

5 (c) Special meetings of the members may be called by the board and by
6 such person or persons as may be authorized by the certificate of incor-
7 poration or the by-laws. In any case, such meetings may be convened by
8 the members entitled to cast ten per cent of the total number of votes
9 entitled to be cast at such meeting, who may, in writing, demand the
10 call of a special meeting specifying the date and month thereof, which
11 shall not be less than two nor more than three months from the date of
12 such written demand. The secretary of the corporation upon receiving the
13 written demand shall promptly give notice of such meeting, or if he
14 fails to do so within five business days thereafter, any member signing
15 such demand may give such notice. The meeting shall be held at the place
16 fixed in the by-laws or, if not so fixed, at the office of the corpo-
17 ration. Except as provided in the by-laws, members may participate in a
18 meeting by means of conference telephone or similar communications
19 equipment by means of which all persons participating in the meeting can
20 hear each other. Such participation shall constitute presence in person
21 at the meeting.

22 § 4. Paragraph (b) of section 121-405 of the partnership law, as added
23 by chapter 950 of the laws of 1990, is amended to read as follows:

24 (b) A partnership agreement may set forth provisions relating to
25 notice of the time, place or purpose of any meeting at which any matter
26 is to be voted on by any general partners, waiver of any such notice,
27 action by consent without a meeting, the establishment of a record date,
28 quorum requirements, voting in person [or], by proxy, or by electronic

1 means or any other matter with respect to the exercise of any such right
2 to vote.

3 § 5. This act shall take effect immediately.

4 SUBPART D

5 Section 1. Section 401 of the business corporation law, as amended by
6 chapter 900 of the laws of 1974, is amended to read as follows:

7 § 401. Incorporators.

8 One or more natural persons [of the age of] at least eighteen years
9 [or over] of age or any partnership, limited liability company, or
10 corporation, singly or jointly with others, may act as incorporators of
11 a corporation to be formed under this chapter.

12 § 2. Subdivisions (a) and (b) of section 203 of the limited liability
13 company law, subdivision (a) as amended by chapter 470 of the laws of
14 1997, is amended to read as follows:

15 (a) One or more natural persons at least eighteen years of age or any
16 partnership, limited liability company, singly or jointly with others,
17 may act as an organizer or organizers to form a limited liability compa-
18 ny by (i) preparing the articles of organization of such limited liabil-
19 ity company in accordance with subdivision (e) of this section, (ii)
20 executing such articles of organization in accordance with section two
21 hundred seven of this article and (iii) filing such articles, entitled
22 "Articles of organization of... (name of limited liability company)
23 under section two hundred three of the Limited Liability Company Law,"
24 in accordance with section two hundred nine of this article.

25 (b) An organizer may, but need not be, a member of the limited liabil-
26 ity company that he [or], she or it forms.

1 § 3. Section 401 of the not-for-profit corporation law, as amended by
2 chapter 901 of the laws of 1974, is amended to read as follows:

3 § 401. Incorporators.

4 One or more natural persons at least eighteen years of age or any
5 partnership, limited liability company, or corporation, singly or joint-
6 ly with others, may act as incorporators of a corporation to be formed
7 under this chapter.

8 § 4. This act shall take effect immediately.

9 SUBPART E

10 Section 1. Section 19 of the general associations law, as amended by
11 chapter 166 of the laws of 1991, is amended to read as follows:

12 § 19. Service of process. Service of process against an association
13 upon the secretary of state shall be made by personally delivering to
14 and leaving with [him] the secretary of state or a deputy [secretary of
15 state or an associate attorney, senior attorney or attorney in the
16 corporation division of the department of state, duplicate copies of
17 such process], or with any person authorized by the secretary of state
18 to receive such service at the office of the department of state in the
19 city of Albany, duplicate copies of such process together with the stat-
20 utory fee, which fee shall be a taxable disbursement. [At the time of
21 such service the plaintiff shall pay a fee of forty dollars to the
22 secretary of state which shall be a taxable disbursement. If the cost of
23 registered mail for transmitting a copy of the process shall exceed two
24 dollars, an additional fee equal to such excess shall be paid at the
25 time of the service of such process.] The secretary of state shall
26 [forthwith] promptly send by certified registered mail one of such

1 copies of such process to the association at the address fixed for that
2 purpose, as herein provided. If the action or proceeding is instituted
3 in a court of limited jurisdiction, service of process may be made in
4 the manner provided in this section if the cause of action arose within
5 the territorial jurisdiction of the court and the office of the defend-
6 ant, as set forth in its statement filed pursuant to section eighteen of
7 this chapter, is within such territorial jurisdiction.

8 § 2. This act shall take effect immediately.

9 SUBPART F

10 Section 1. Subdivision 1 of section 180 of the tax law, as amended by
11 section 42 of part A of chapter 389 of the laws of 1997, is amended to
12 read as follows:

13 1. (a) Imposition. Every stock corporation incorporated under any law
14 of this state and every corporation formed under the business corpo-
15 ration law of this state shall pay a tax of [one-twentieth of one per
16 centum] ten dollars upon [the amount of the par value of all] the shares
17 [with a par value] which it is authorized to issue [and a tax of five
18 cents on each share without a par value which it is authorized to
19 issue], and a like tax upon any shares subsequently authorized[, except
20 as hereinafter provided] or changed.

21 (b) [Changes with respect to shares. (1) Every corporation which shall
22 change shares with par value into shares without par value shall pay a
23 tax of five cents for each share without par value resulting from such
24 change, less one-twentieth of one per centum of the par value on the
25 shares with par value so changed.

1 (2) Every corporation which shall change shares without par value into
2 shares with par value shall pay a tax of one-twentieth of one per centum
3 upon the amount of the par value of the shares resulting from such
4 change, less five cents with respect to each share without par value so
5 changed.

6 (3) Every corporation which shall change shares without par value into
7 shares without par value shall pay a tax of five cents for each share
8 without par value resulting from such change, less five cents with
9 respect to each share without par value so changed, and less five cents
10 with respect to each share without par value not authorized previous to
11 such change but resulting from such change and issued pursuant to the
12 terms upon which such change is made, provided such change is effected
13 after the expiration of five years from the date of the filing of a
14 certificate of incorporation pursuant to the stock corporation law or
15 the business corporation law or a certificate of amendment to effect the
16 change provided for in subparagraph five of paragraph c of subdivision
17 two of section thirty-five of the stock corporation law or in subpara-
18 graph eleven of paragraph (b) of section eight hundred one of the busi-
19 ness corporation law.

20 (4) Every corporation which shall change shares with par value into
21 both shares with par value and shares without par value shall pay a tax
22 of one-twentieth of one per centum upon the amount of the par value of
23 the shares with par value resulting from such change plus five cents for
24 each share without par value resulting from such change, less one-twen-
25 tieth of one per centum of the par value of the shares with par value so
26 changed.

27 (5) Every corporation which shall change shares without par value into
28 both shares with par value and shares without par value shall pay a tax

1 of one-twentieth of one per centum upon the amount of the par value of
2 the shares with par value resulting from such change plus five cents for
3 each share without par value resulting from such change, less five cents
4 with respect to each share without par value so changed.

5 (c) Minimum tax. Provided, that in no case shall a tax under this
6 section be less than ten dollars.

7 (d)] Payment. Such tax shall be due and payable upon the incorporation
8 of such corporation and upon any subsequent authorization, increase of
9 par value or change of shares. [Except in the case of a railroad corpo-
10 ration, neither the secretary of state nor county clerk shall file any
11 certificate of incorporation, or of amendment increasing capital stock,
12 or the number of par value of shares, or a certificate of merger or
13 consolidation, or certificate of change or authorization of shares, or
14 give any certificate to any such corporation until such tax has been
15 paid, and no stock corporation or corporation formed under the business
16 corporation law shall have or exercise any corporate franchise or
17 powers, or carry on business in this state until such tax shall have
18 been paid.

19 (e)] (c) Mergers and consolidations. In case of the merger or the
20 consolidation of existing corporations into a single corporation, a new
21 corporation resulting from such consolidation or a constituent corpo-
22 ration surviving such merger or consolidation shall be required to pay
23 the tax hereinbefore provided for, only if it is incorporated under the
24 laws of this state[, and then only upon the taxable amount of its capi-
25 tal stock or shares in excess of the aggregate amount of capital stock
26 or shares of such of the constituent corporations as were organized
27 under the laws of this state].

1 [(f)] (d) Special corporations. This section shall not apply to state
2 and national banks and trust companies or to building, mutual loan,
3 accumulating fund and cooperative associations. [A railroad corporation
4 need not pay such tax at the time of filing its certificate of incorpo-
5 ration, but shall pay the same before the public service commission
6 shall grant a certificate, as required by the railroad law, authorizing
7 the construction of the road as proposed in its articles of association,
8 and such certificate shall not be granted by the public service commis-
9 sion until it is furnished with a receipt for such tax from the secre-
10 tary of state. If the board of railroad commissioners or public service
11 commission shall have heretofore granted, or the public service commis-
12 sion shall hereafter grant, such certificate and upon an appeal from the
13 determination of such board of railroad commissioners or public service
14 commission, such certificate has been or may hereafter be denied, the
15 state treasurer shall refund the amount of tax so paid to the railroad
16 corporation or corporations by which such tax was paid, upon proof of
17 payment being presented and appropriation being made therefor.]

18 § 2. Subdivision 2 of section 180 of the tax law, as amended by chap-
19 ter 685 of the laws of 1938, is amended to read as follows:

20 2. The tax imposed by this section shall be collected by the state
21 officer in whose office the original certificate of incorporation or
22 [certificate of increase of amount of capital stock or certificate of
23 increase of number or par value of shares or consolidation agreement,
24 or] certificate changing or authorizing shares, as the case may be, is
25 required by law to be filed, and such state officer shall[, except in
26 the case of the certificate of incorporation of a railroad corporation,]
27 collect such tax before filing such certificate and shall note the
28 payment of such tax thereon and shall issue a receipt therefor.

1 § 3. Subdivision 1 of section 181 of the tax law, as amended by
2 section 43 of part A of chapter 389 of the laws of 1997, is amended to
3 read as follows:

4 1. (a) Definition. As used in this section, the term "corporation"
5 includes a joint-stock company or association and any business conducted
6 by a trustee or trustees wherein interest or ownership is evidenced by
7 certificate or other written instrument.

8 (b) Imposition. Every foreign corporation, except banking corporations
9 as defined in paragraph one, two, three, four, five, six, seven or eight
10 of subsection (a) of section fourteen hundred fifty-two of this chapter,
11 fire, marine, casualty and life insurance companies, co-operative
12 fraternal insurance companies, and building and loan associations, doing
13 business in this state, shall pay a license fee of [one-twentieth of one
14 per centum] ten dollars on its issued [par value] capital stock employed
15 within this state [and five cents on each share of its capital stock
16 without par value employed within this state] and a like tax upon any
17 capital stock subsequently authorized or changed for the privilege of
18 exercising its corporate franchises or carrying on its business in such
19 corporate or organized capacity in this state. [The first payment
20 pursuant to this section shall not be less than ten dollars.]

21 (c) [Recomputation based on changes. In any case where a change is
22 made in the capital share structure of a corporation, or the amount of
23 capital stock employed in this state is increased, the fee shall be
24 recomputed on the basis of such change or increase, and there shall be
25 credited against the fee, as recomputed, the amount of any fee that may
26 have been previously paid pursuant to this section, but, if the fee
27 previously paid exceeds the fee as recomputed, there shall be no refund.

1 (d) Apportionment. The measure of the amount of capital stock employed
2 in this state shall be such a portion of the issued capital stock as the
3 gross assets, exclusive of obligations issued by the United States and
4 cash on hand and on deposit, employed in business by such corporation
5 within this state, bear to the gross assets, exclusive of obligations
6 issued by the United States and cash on hand and on deposit, wherever
7 employed in business by such corporation, except that the amount of
8 capital stock employed in this state by a corporation subject to tax
9 under article nine-A of this chapter shall be that proportion of its
10 capital stock which is equal to the proportion of its business, invest-
11 ment and subsidiary capital allocable within the state pursuant to the
12 provisions of said article. The capital of a corporation invested in the
13 stock of another corporation shall be deemed to be assets located where
14 the assets of the issuing corporation, other than patents, copyrights,
15 trade-marks, contracts and good will, are located.

16 (e) Procedures and collection. The amount of capital upon which such
17 license fees shall be paid shall be fixed by the commissioner, who shall
18 have the same authority to examine the books and records in this state
19 of such foreign corporations, and the employees thereof as such commis-
20 sioner has in the case of domestic corporations, and the commissioner
21 shall have the same power to issue a warrant for the collection of such
22 license fees, as now exists with regard to domestic corporations.

23 (f)] Article nine-A taxpayers. Notwithstanding any other provision of
24 this section, every foreign corporation subject to tax under article
25 nine-A of this chapter shall also be subject to the license fee imposed
26 by this section for the privilege of exercising its corporate franchise,
27 or of doing business, or of employing capital, or of owning or leasing

1 property in this state in a corporate or organized capacity, or of main-
2 taining an office in this state.

3 § 4. This act shall take effect immediately.

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

13 § 3. This act shall take effect immediately provided, however, that
14 the applicable effective date of Subparts A through F of this act shall
15 be as specifically set forth in the last section of such Subparts.

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

25 § 3. This act shall take effect immediately provided, however, that
26 the applicable effective date of Parts A through Q of this act shall be
27 as specifically set forth in the last section of such Parts.