

New York State Canal Corporation

Subsidiary Report **For The Fiscal Year Ending December 31, 2015**

This Subsidiary Report has been prepared pursuant to Public Authorities Law §2827-a.

Name, Address and Contact Information

New York State Canal Corporation
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Board Members

Joanne M. Mahoney, Chair
Donna J. Luh, Vice Chair
Richard N. Simberg
J. Donald Rice Jr.
José Holguín-Veras, Ph.D

Officers

Joanne M. Mahoney, Chair
Donna J. Luh - Vice Chair
Vacant- Treasurer
William McDonough - Assistant Treasurer
Vacant - Secretary
Jerry Yomoah - Assistant Secretary
Keith Fragomeni - Assistant Secretary
Robert L. Megna - Executive Director

Executive Staff

Robert L. Megna - Executive Director
Brian U. Stratton - Director of Canals

Organization Chart

A copy of the organization chart is included with this report.

New York State Canal Corporation

Purpose

The New York State Canal Corporation was created as a public benefit corporation as a subsidiary corporation of the New York State Thruway Authority. The Canal Corporation is solely created to, and shall have only the power to, operate, maintain, construct, reconstruct, improve, develop, finance, and promote the New York State Canal System.

A copy of the Canal Corporation Bylaws, the Thruway Authority Act and the Canal Law are included with this report.

Mission

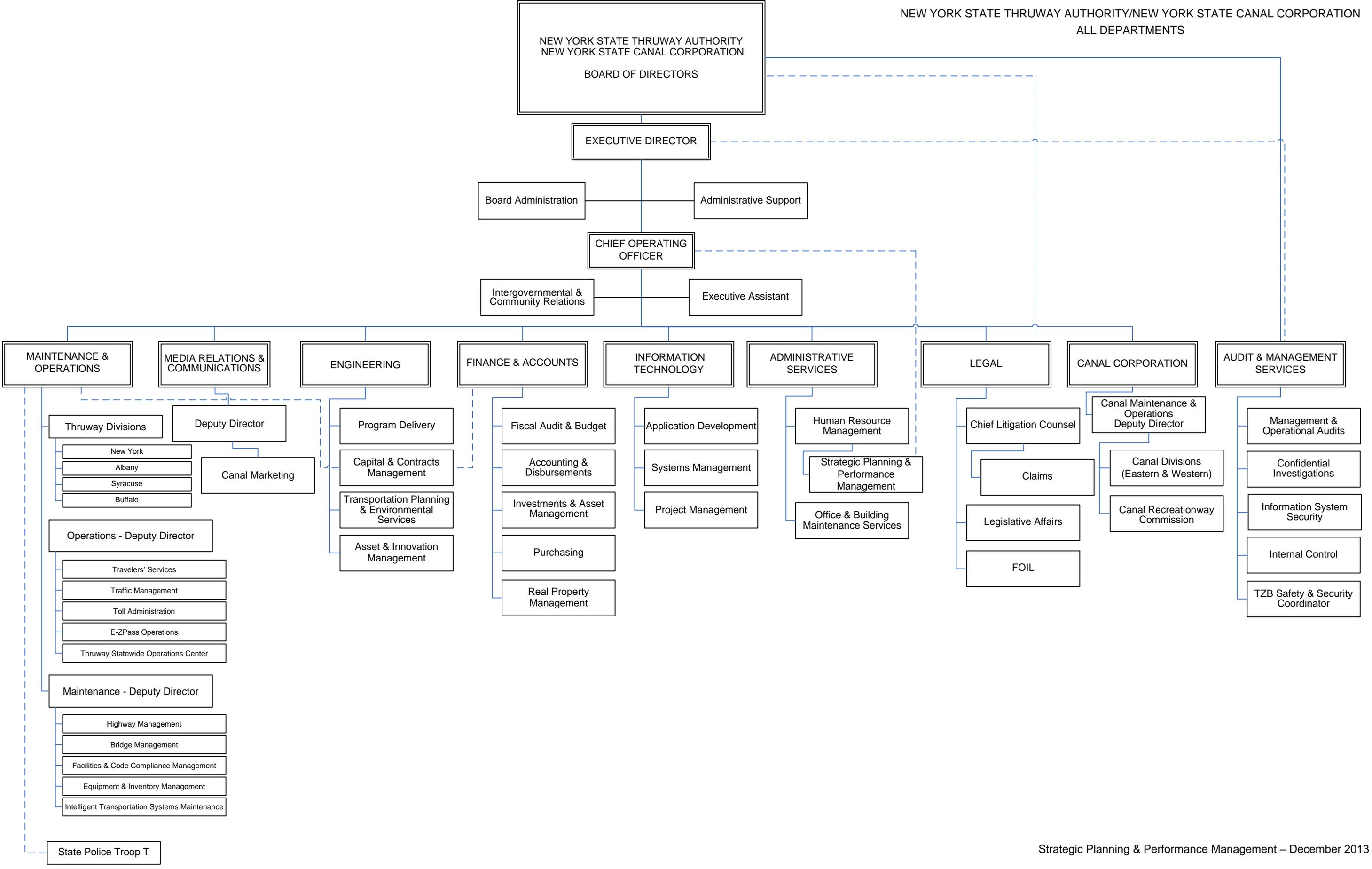
We offer a user-fee supported Highway and Canal System that delivers high levels of safety and service.

Operations

Historically, the Canal Corporation produced significant economic growth for the State and nation, creating inland trade and propelling economic development. The ongoing operations and maintenance programs administered by the Corporation continue to revitalize and transform the Canal System into a first class tourist destination, while continuing its long standing role as a commercial corridor, combining to help revitalize upstate communities in both urban and rural areas.

Capital Program Projects

A copy of the 2015 Canal Contracts Program Lettings and the 2016 Canal Contracts Program Lettings are included with this report.



2015 Canal Contracts Program Lettings

LETTING YEAR	QTR.	ITEM NO.	PROJECT DESCRIPTION	CONSTRUCTION CONTRACT VALUE
Syracuse Division Projects				
2015	1	C32.1	Brewerton: North Dock Wall - Rehabilitation, Oswego County	\$2,924,961
	2	C271.1	Newark: Replace Lower Miter Gates at Lock E-28B, Wayne County	\$1,358,018
	3	C46.1	May's Point: Movable Dam 18 - Rehabilitation, Seneca County	\$7,198,216
2015 Syracuse Division Total:				\$11,481,195
Buffalo Division Projects				
2015	2	C78.2	Lock E-34: Shotcrete Wall - Rehabilitation, Niagara County	\$787,231
2015 Buffalo Division Total:				\$787,231
2015 Canal Corporation Total:				\$12,268,426

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2016 Canal Contracts Program Lettings

LETTING YEAR	QTR.	ITEM NO.	PROJECT DESCRIPTION	CONSTRUCTION CONTRACT VALUE
Albany Division Projects				
2016	2	C259.1	Amsterdam: Guy Park Manor Repairs at Lock E-11, Montgomery County (Tropical Storms Irene and Lee Recovery Project - Partial FEMA Eligible)	\$5,250,000
	4	T20.1	Fort Edward to Fort Ann: Canalway Trail, Washington County (funded with 2005 Transportation Bond Act funds)	\$4,410,000
2016 Albany Division Total:				\$9,660,000
Syracuse Division Projects				
2016	2	C53.1	Lyons: Fabrication of New Gates for Lyons Section Dry Dock, Wayne	\$1,020,000
	3	C113.1	Palmyra: Ganargua Creek Aqueduct - Rehabilitation, Wayne County	\$3,000,000
	3	C176.1	Newark: Military Run Stream Culvert - Replacement, Wayne County	\$600,000
2016 Syracuse Division Total:				\$4,620,000
Buffalo Division Projects				
2016	1	C217.1	Monroe County: Erie Canal Lock 32 Bypass Culvert - Repairs, Monroe County (funded with 2005 Transportation Bond Act funds)	\$2,000,000
2016 Buffalo Division Total:				\$2,000,000
2016 Canal Corporation Total:				\$16,280,000

12/28/15

**New York State
Canal Corporation**



BYLAWS

April 2010

**BYLAWS
OF THE
NEW YORK STATE
CANAL CORPORATION**

**Adopted at Canal Corporation
Board Meeting CC-1 on September 2, 1992**

(As revised April 1, 2010 by Board Resolution Number 497)

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**BYLAWS
OF THE
NEW YORK STATE
CANAL CORPORATION**

**ARTICLE I
THE BOARD**

- A. **The Board.** The governing body of the New York State Canal Corporation (hereinafter the “Corporation”) shall be the Corporation Board, which shall consist of the seven Members appointed by the Governor, by and with the advice and consent of the Senate, as the Members of the New York State Thruway Authority (hereinafter the “Authority”) Board. The Member of the Corporation Board that has been designated by the Governor as Chairman of the Authority (hereinafter the “Chair”), is the Chair of the Corporation until the conclusion of his or her term, is the "appointing authority," as defined in Section 2, subdivision 9, of the Civil Service Law, and has the power to appoint and remove Officers, agents and employees and fix their compensation, provided, however, that the appointment of the Executive Director shall be subject to confirmation by the New York State Senate in accordance with the effective date of Chapter 506 of the Laws of 2009 implementing Public Authorities Law Section 2852. The Chair shall have the power to remove the Executive Director, after the approval of the Governance Committee and after the approval of the majority of the Board at a duly called meeting of the Board. All other powers granted by statute to the Board, unless expressly delegated by these Bylaws or other action of the Board, are reserved unto the Board.
- B. **Place, Time and Notice of Meetings.**
1. Meetings of the Board shall be held at least quarterly at such places and times as shall be

called by the Chair, upon notice at the time and at the place within the State of New York as shall be specified in such notice, which shall be given to each Member by mailing the same at least seven business days, or by telephone, personal delivery, facsimile, or other electronic means of transmitting the same at least three business days, before the time fixed for the meeting.

In the event the Chair shall certify that an urgent need exists for a meeting, the Chair may give notice of such meeting by telephone, personal delivery, facsimile, or other electronic means of transmission not less than twenty-four hours before the time fixed for the meeting.

In lieu of the notice prescribed in this paragraph, a waiver thereof in writing signed by the Member or Members entitled to said notice, whether before or after the time stated therein for the meeting, shall be deemed equivalent to such notice for the purposes of this paragraph. No notice to, or waiver by, any Member with respect to a meeting shall be required if such Member is present at the meeting. Except as provided in Article V of these Bylaws with respect to amendments thereof, any and all business may be transacted at any meeting of the Corporation.

2. Electronic Participation. Any one or more Members of the Board, or any committee thereof, with the prior approval of the Chair, may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation of a Member by such means shall constitute presence in person at a meeting and shall be acknowledged by such Member in a writing appended to the minutes of such meeting upon their acceptance by the Board. Any one or more Members of the Board or any committee thereof, with the prior approval of the Chair, may participate in a meeting of

such Board or committee by means of videoconferencing provided the public has an opportunity to attend, listen and observe at any site at which a Member participates.

- C. **Quorum**. A majority of the Members of the Board then sitting shall constitute a quorum for the transaction of any business or the exercise of any power or function of the Corporation and the Board shall have the power to act by a majority of the Members present at any meeting at which a quorum is in attendance.
- D. **Adjournment**. Any meeting of the Board may be adjourned from time to time by the Members present, and no notice shall be required of any adjourned meeting beyond the announcement of such adjournment at the meeting or the adjournment thereof. In the absence of a quorum, any meeting of the Board may be postponed and notice of the new date shall be given in accordance with the provisions of this Article.

ARTICLE II
OFFICERS

- A. **Officers**. The Officers of the Corporation shall be the Chair, the Vice-Chair, the Secretary, the Treasurer and the Executive Director. The Officers of the Corporation shall also include such Assistant Secretaries and Assistant Treasurers as the Chair may, from time to time, by resolution, name and appoint. Any two or more of such offices, except Chair and Vice-Chair, may be held simultaneously by the same Member of the Board. The office of Executive Director shall not be held by any Member of the Board. The offices of Secretary, Treasurer, Assistant Secretary and Assistant Treasurer may be held simultaneously by the same person. The Chair may, from time to time, pursuant to the provisions of Public Authorities Law Section 382, name and appoint additional Officers, fix their compensation and define their duties.
- B. **Chair**. The Chair shall set the agenda for, and preside over, all meetings of the Board and is specifically authorized to do the following:
1. Take all steps necessary and proper in the Chair's judgment to carry out the decisions and policies of the Board.
 2. To the extent not otherwise provided by resolution of the Board, exercise such powers of the Board and take all steps necessary and proper in the judgment of the Chair to carry out the responsibilities and duties of the Corporation as required by law.
 3. Delegate to any Officer, Staff member, assistant or employee such of the Chair's duties, powers and functions as the Chair may deem necessary or appropriate; provided, however, that the Chair may revoke any such delegation at any time.
- C. **Vice-Chair**. The Vice-Chair shall be Acting Chair and shall assume and perform all powers and duties of the Chair in the event the office of the Chair is vacant or the Chair is unable to

perform such duties by reason of illness, disability or absence.

- D. **Treasurer**. The Treasurer is authorized to sign vouchers, payrolls and requisitions for the disbursement of monies of the Corporation from funds of the Corporation; sign and cosign checks in the name of the Corporation for the withdrawal of monies from any bank account held by the Corporation; and make and sign statements showing the financial condition of the Corporation.
- E. **Secretary**. The Secretary shall: keep the minutes of the meetings of the Board; affix and attest the seal of the Corporation; certify copies of Corporation papers and records; ensure that all notices of meetings required to be given to Members of the Board are duly given; and ensure that all reports, statements and other documents required by law are properly kept and filed.
- F. **Assistant Treasurer**. The Assistant Treasurer, and if there be more than one, the one so delegated, shall perform such duties as may be assigned by the Treasurer, and shall perform the duties of the Treasurer in the event the office of Treasurer is vacant, or in the event the Treasurer is unable to perform such duties by reason of illness, disability or absence.
- G. **Assistant Secretary**. The Assistant Secretary, and if there be more than one, the one so delegated, shall perform such duties as may be assigned by the Secretary, and shall perform the duties of the Secretary in the event the office of Secretary is vacant, or in the event that the Secretary is unable to perform such duties by reason of illness, disability or absence.
- H. **Executive Director**. The Executive Director, under the supervision of and subject to the directions of the Chair, is the chief executive officer of the Corporation and is primarily responsible for the discharge of the administrative functions of the Corporation, including the giving of such orders and directives as are necessary for the conduct of the Corporation's

business. The Executive Director shall attend all meetings of the Board, shall preside at meetings of the Staff and shall be a member of all standing and ad hoc committees of the Corporation. The Executive Director is hereby designated an Assistant Secretary and an Assistant Treasurer. The Executive Director is specifically authorized to do the following in accordance with the decisions and policies of the Board:

1. Approve the expenditure of Corporation funds.
2. Sign documents, releases, conveyances, contracts and agreements in the name of the Corporation.
3. Sign vouchers, payrolls and requisitions for the disbursement of monies of the Corporation from funds of the Corporation; sign and cosign checks in the name of the Corporation for the withdrawal of monies from any bank account held by the Corporation; and make and sign statements showing the financial condition of the Corporation.
4. Provide for the prosecution, defense, settlement or compromise of any action, proceeding or claim by or against the Corporation, as the case may be, which, in the Executive Director's judgment, is in the best interests of the Corporation, provided that the expenditure of Corporation funds for such prosecution, defense, settlement or compromise does not exceed \$2.5 million.
5. Delegate to any Staff member, assistant or employee such of the Executive Director's duties, powers and functions as the Executive Director may deem necessary or appropriate; provided, however, that the Executive Director may revoke any such delegation at any time.

ARTICLE III

STAFF

1. **The Staff**. The Staff of the Corporation shall be the Chief of Staff and the Director of Canals.
2. **Chief of Staff**. The Chief of Staff shall be primarily responsible for overseeing interdepartmental projects, delivering customer service improvements, public and community affairs, and administrative analysis. In addition, the Chief of Staff shall perform such duties as may be assigned by the Executive Director.
3. **Director of Canals**. The Corporation shall be under the direct supervision of the Director of Canals. The Director of Canals shall be responsible for the operation, maintenance, development and improvement of the Canal System, consistent with the Canal Law and applicable provisions of the Public Authorities Law. The Director of Canals shall also perform such other duties as from time to time may be assigned by the Board, the Chair, the Executive Director or the Chief of Staff.

ARTICLE IV
MISCELLANEOUS

- A. **Seal**. The official seal of the Corporation shall be a design bearing the outline of the map of the State of New York and generally indicating the route of the Canal system and bearing the words “New York State Canal Corporation” around the circumference thereof. The Secretary shall be the custodian of the seal.
- B. **Fiscal Year**. The fiscal year of the Corporation shall be the same as that of the Authority.
- C. **Service of Process and Papers**. The General Counsel is authorized to receive service of legal process and all papers of a similar nature or import.
- D. **Committees**. There shall be an Audit Committee, a Governance Committee and a Finance Committee, the membership of which shall be comprised of Members of the Board. The Chair or the Executive Director may appoint standing or ad hoc committees to provide for the efficient management of the Corporation and may designate the membership and define the duties of such committees.

ARTICLE V
AMENDMENTS

The Bylaws of the Corporation may be altered, amended or repealed by resolution of the Board, provided that a copy of the proposal to so alter, amend or repeal such Bylaws shall be mailed, electronically transmitted or delivered to each Member of the Board at least seven business days prior to the date of the meeting at which such proposal is to be considered. The Members may, however, by unanimous consent, agree to consider and act upon any such proposal at any duly called meeting of the Board.

PUBLIC AUTHORITIES LAW
ARTICLE 2. PARK, PARKWAY AND HIGHWAY AUTHORITIES
TITLE 9. NEW YORK STATE THRUWAY AUTHORITY

§ 350. Short title

This title may be cited as "New York State thruway authority act".

§ 351. Definitions

As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section three hundred fifty-two of this title.

2. The term "thruway" shall mean generally a divided highway under the jurisdiction of the authority for mixed traffic with access limited as the authority may determine and generally with grade separations at intersections, and such bridges, buildings, tunnels, and other structures and facilities related thereto as the authority may determine.

3. The terms "bonds" and "notes" shall mean bonds and notes, respectively, issued by the authority pursuant to this title.

4. The term "comptroller" shall mean the comptroller of the state of New York.

5. The term "commissioner" shall mean the commissioner of transportation of the state of New York.

6. The term "municipality" shall mean a county, town, city, village, special district or other political subdivision.

7. The term "highway" shall mean a public road or parkway, maintained by the state or a municipality.

8. The term "real property" shall mean lands, waters, rights in lands or waters, structures, franchises and interests in land, including lands under water, riparian rights, property rights in air space and/or subsurface space and any and all other things and rights usually included within the said term and includes also any and all interests in such property less than full title, such as easements permanent or temporary, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right legal or equitable.

9. The term "state" shall mean the state of New York.

10. The term "New York state canal system" shall mean all of the canals, canal lands, feeder canals, reservoirs, canal terminals, canal terminal lands and other property under the jurisdiction of the authority pursuant to article one-A of the canal law.

11. The term "Tappan Zee ferry service" shall mean a high speed ferry service for use by commuters and others between Rockland county, Westchester county and the city of New York. It shall include all real property, buildings, terminals, vessels, structures and other facilities related thereto as the authority may determine.

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

13. The term "canal corporation" shall mean the New York state canal corporation created pursuant to section three hundred eighty-two of this title.

§ 352. New York State thruway authority

1. A board to be known as "New York state thruway authority" is hereby created. Such board shall be a body corporate and politic constituting a public corporation. It shall consist of seven members appointed by the governor by and with the advice and consent of the senate. The members first appointed shall serve for terms ending three, six and nine years, respectively from January first next succeeding their appointment. Provided, however, that two board members first appointed on or after the effective date of the chapter of the laws of two thousand five which amended this subdivision shall serve an initial term of two years; provided further that two other board members first appointed on or after the effective date of the chapter of the laws of two thousand five which amended this subdivision shall serve an initial term of three years. Their successors shall be appointed for terms of nine years each. A member to be designated as chairman in his or her appointment as a member shall be chairman of such board until his or her term as member expires. The chairman and the other members shall serve without salary or other compensation, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

2. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the board created by this section; provided, however, a member who holds such other public office or employment shall receive no additional compensation for services rendered pursuant to this title.

3. The power of such corporation shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or its officers, agents and employees such powers and duties as it may deem proper.

4. Such board and its corporate existence shall continue so long as it shall have notes, bonds or other obligations outstanding (including notes, bonds or obligations hereafter issued or incurred) and until its existence shall be terminated by law. Upon the termination of the existence of the authority, all its rights and properties shall pass to and be vested in the state.

§ 353. Purposes of the authority and benefits therefrom

The authority is created to and shall have power to finance, construct, reconstruct, improve, develop, maintain or operate a thruway system as provided by and subject to the provisions of this

title together with facilities for the public incidental thereto. It is hereby found and declared that such purposes are in all respects for the benefit of the people of the state of New York for the increase of their pleasure, convenience and welfare, for the improvement of their health, to facilitate transportation for their recreation and commerce and for the common defense; and the authority shall be regarded as performing a governmental function in carrying out its corporate purpose and in exercising the powers granted by this title.

§ 354. Powers of the authority

Except as otherwise limited by this title, the authority shall have power

1. To sue and be sued;
2. To have a seal and to alter the same at pleasure;
3. To acquire, hold and dispose of personal property for its corporate purposes;
4. To acquire and hold in the name of the state by purchase or appropriation real property or rights or easements therein and to sell, exchange, or otherwise dispose of any real property not necessary for its corporate purposes or whenever the board shall determine that it is in the interest of the authority; and upon such terms and conditions and uses as the board shall determine, to lease or to grant permits to occupy real property not presently required for thruway purposes but held for future use in carrying out its corporate purposes;
5. To make by-laws for its organization and internal management and, subject to agreements with noteholders or bondholders, rules and regulations governing the use of the thruways and all other properties and facilities under its jurisdiction, which shall be filed with the department of state in the manner provided by section one hundred two of the executive law;
6. To appoint officers, agents and employees and fix their compensation, provided, however, that the appointment of the executive director shall be subject to confirmation by the senate in accordance with section twenty-eight hundred fifty-two of this chapter; subject however to the provisions of the civil service law, which shall apply to the authority and to the subsidiary corporation thereof as a municipal corporation other than a city;
7. To make contracts, and to execute all instruments necessary or convenient;
8. Subject to agreements with noteholders or bondholders, to fix and collect such fees, rentals and charges for the use of the thruway system or any part thereof necessary or convenient, with an adequate margin of safety, to produce sufficient revenue to meet the expense of maintenance and operation and to fulfill the terms of any agreements made with the holders of its notes or bonds, and to establish the rights and privileges granted upon payment thereof; provided, however, that tolls may only be imposed for the passage through locks and lift bridges by vessels which are propelled in whole or in part by mechanical power; and provided further that no tolls shall be imposed or collected prior to the first day of April, nineteen hundred ninety-three.
9. To retain and employ private consultants on a contract basis for rendering professional and technical assistance and advice;
10. To construct, reconstruct or improve on or along the thruway system in the manner herein provided, suitable facilities for gas stations, restaurants, and other facilities for the public, or to lease the right to construct, reconstruct or improve and operate such facilities; such facilities shall be

publicly offered for leasing for operation, or the right to construct, reconstruct or improve and operate such facilities shall be publicly offered under rules and regulations to be established by the authority, provided, however, that lessees operating such facilities at the time this act becomes effective, may reconstruct or improve them or may construct additional like facilities, in the manner and upon such terms and conditions as the board shall determine; and provided further, however, that such facilities constructed, reconstructed or improved on or along the canal system shall be consistent with the canal recreationway plan approved pursuant to section one hundred thirty-eight-c of the canal law and section three hundred eighty-two of this title;

11. To construct and maintain over, under, along or across a thruway under its jurisdiction telephone, telegraph, television, electric power and other wires or cables, pipe lines, water mains and other conduits and mechanical equipment, not inconsistent with the appropriate use of the thruways, or to contract for such construction; and upon such terms and conditions as the board shall determine, to lease all or any part of such property and facilities or the right to use the same, whether such facilities are constructed by the authority or under a contract for such construction, or to lease the right to construct and use such facilities or to grant permits or easements for such purposes to any governmental agency of the state of New York or to any public corporation, or to the United States of America or any governmental agency thereof for any public purposes or to individuals, partnerships and corporations, provided, however, that no lease or renewal thereof shall be granted for a period of more than thirty years from the date when such lease is made;

12. To borrow money and issue negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

13. To enter on any lands, waters, or premises for the purpose of making borings, soundings, and surveys;

14. To accept any gifts or any grant of funds or property from the federal government or from the state of New York or any other federal or state public body or political subdivision or any other person and to comply with the terms and conditions thereof;

15. To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

§ 355. Officers and employees; transfer, promotion and seniority

1. Officers and employees of state departments, agencies, or the canal corporation may be transferred to the authority and officers, agents and employees of the authority may be transferred to state departments, agencies, or the canal corporation, without examination and without loss of any civil service status or rights. No such transfer from the authority or canal corporation to any state department, agency, or division may, however, be made except with the approval of the head of the state department, agency, or division involved and the director of the budget and in compliance with the rules and regulations of the state civil service commission.

2. Promotions from positions in state departments and agencies to positions in the authority or canal corporation, and vice versa, may be made from interdepartmental promotion lists resulting from promotion examinations in which employees of the authority, employees of the canal corporation, and employees of the state are eligible to participate.

3. In computing seniority for purposes of promotion or for purposes of suspension or demotion upon the abolition of positions in the service of the authority or in the service of the state, in the case of an employee of the authority a period of prior employment in the service of the state shall be counted in the same manner as though such period of employment had been in the service of the authority, and in the case of an employee of the state a period of prior employment in the service of the authority shall be counted in the same manner as though such period of employment had been in the service of the state. For the purposes of the establishment and certification of preferred lists, employees suspended from the authority shall be eligible for reinstatement in the service of the state, and employees suspended from the service of the state shall be eligible for reinstatement in the service of the authority, in the same manner as though the authority were a department of the state. All provisions contained within this subdivision shall apply to the canal corporation in the same manner that they apply to the authority.

§ 356. Thruway sections and connections; assuming jurisdiction

At any time after this title shall become effective the authority may adopt a resolution assuming jurisdiction for its corporate purposes of any or all of the thruway sections or connections below described and such connections with highways, hereinafter referred to as "highway connections," as the authority may deem advisable in the interest of the public to serve traffic needs, and the authority shall continue to have such jurisdiction so long as its corporate existence shall continue.

Pending the adoption of such resolution, the commissioner shall have all the powers herein conferred upon the authority to construct, reconstruct, improve, maintain, and operate such thruway sections and connections, and highway connections, and to acquire in the name of the state real property therefor. Subject to such deviations therefrom as the authority may deem advisable in the interest of the public to serve traffic needs, such thruway sections and connections shall be as follows:

1. Southern Westchester connection. Beginning at the northerly terminus of the Major Deegan expressway in the vicinity of Jerome avenue at the New York city corporate line, thence extending in a general northerly direction through the city of Yonkers to connect with the southerly end of the Hudson section at a point in the vicinity of Tuckahoe road to be determined by the commissioner. No fees or other charges may be imposed for vehicular use of this connection.

2. The Hudson section. Beginning at the northerly end of the southern Westchester connection at or near Tuckahoe road, thence in a general northerly and westerly direction crossing the Hudson river at a point south of Highland Falls, which crossing shall be known as "The Governor Malcolm Wilson Tappan Zee Bridge", including a highway connection between "The Governor Malcolm Wilson Tappan Zee Bridge" and the New England section of the thruway presently known as interstate route two hundred eighty-seven, thence in a general westerly direction to intersect with existing route number seventeen or to a connection with that route, including a thruway connection from that portion of the section west of the Hudson river, generally southerly to a point to be determined by the authority on the New York-New Jersey boundary line.

3. The Catskill section. Beginning at the northerly end of the Hudson section, extending in a general northerly direction in the vicinity of Central Valley, Highland Mills, Woodbury Falls, Vails Gate, thence through or passing Newburgh on the west, including a highway connection which runs from the Pennsylvania line at Port Jervis to the Connecticut border east of Brewster, presently

known as interstate route 84, except for that portion of the highway connection between the interchange with the easternmost state highway on the west shore of the Hudson river (currently designated state touring route 9W) and the interchange with the westernmost state highway on the east shore of the Hudson river (currently designated state touring route 9D) which is subject to the jurisdiction of the New York state bridge authority, thence northerly past Plattekill and New Paltz, thence passing through or near the city of Kingston and continuing northerly to the west of Saugerties and Catskill, continuing northerly passing in the vicinity of West Coxsackie and Ravena, thence northerly passing the Feura Bush railroad yards in the vicinity of either their easterly or westerly extremities, thence continuing northerly passing to the west or through the westerly part of the city of Albany, and intersecting United States route number twenty in the vicinity of McKownville.

4. The Mohawk section. Starting at the northerly end of the Catskill section on United States route number twenty in the vicinity of McKownville, continuing in a northwesterly direction toward the city of Schenectady, and thence around the southerly side of Schenectady, continuing through or along the Mohawk Valley bypassing or passing through the city of Utica, thence westerly passing in the vicinity of Whitesboro and continuing to the north of the city of Oneida, thence westerly to the south of the Cicero swamp to a point on United States route number eleven north of the village of Liverpool.

5. The Ontario section. Starting at the westerly end of the Mohawk section at a point on United States route number eleven north of the village of Liverpool, thence westerly north of Onondaga lake, thence in a westerly direction passing in the vicinities of Warners, Memphis, Jordan and Weedsport, crossing the New York Central and West Shore railroads in the vicinity of the village of Port Byron, thence southwestly crossing the Seneca river in the vicinity of May's Point, thence westerly north of the villages of Seneca Falls and Waterloo and passing in the vicinities of West Junius, Phelps, Clifton Springs and Manchester, passing north of Victor and in the vicinity of Fisher and Severance, continuing westerly to a point in the vicinity of the city of Batavia, thence westerly to a point in the vicinity of Williamsville, including a spur to Main street, in the vicinity of Kensington Avenue in the town of Amherst, thence southerly generally parallel to and west of Union road to a point south of the Lehigh Valley railroad tracks, thence southwestly to a point at the junction of the Erie and Niagara sections in the vicinity of the crossing of Dingens street and the Lehigh Valley railroad in the town of Cheektowaga.

6. The Erie section. Starting at its junction with the Niagara section at a point in the vicinity of the crossing of Dingens street and the Lehigh Valley railroad in the town of Cheektowaga, thence southerly generally paralleling the Lehigh Valley railroad to Cazenovia creek and extending southerly and southwestly to a point north of the village of Hamburg, thence in a southwestly direction generally paralleling the existing Southwestern Boulevard to a point near the village of Irving, thence bypassing the village of Silver Creek to the south, thence extending in a general southwestly direction to the Pennsylvania state line on a location lying in the vicinity of United States route number twenty and state touring route number five.

7. The New England section. Beginning at or near the point of intersection of the Bronx and Pelham parkway and the extension of Bruckner boulevard in New York city, extending in a generally northerly direction to a point on or near east two hundred twenty-second street, thence generally in an eastern direction to the New York city-Westchester county line north of Pelham Bay park, thence generally in a northeasterly direction through the town of Pelham, the city of New

Rochelle, the town of Mamaroneck, the village of Mamaroneck, the town of Harrison, the city of Rye, the town of Rye and the village of Port Chester, to a point on the New York-Connecticut state line.

8. The Niagara section. Starting at the junction of the Erie and the Ontario sections at a point in the vicinity of the crossing of Dingens street and the Lehigh Valley railroad in the town of Cheektowaga, thence generally in a westerly direction to Erie street in the city of Buffalo, thence continuing in a general northwesterly direction to the Front, thence through the Front and north between Niagara street and the ship canal to the right of way of the abandoned Erie canal near the northern end of such ship canal, thence generally along such right of way, deviating therefrom to make a connection with the easterly approach of the South Grand Island bridge, thence across the Niagara river, utilizing the existing South Grand Island bridge or constructing another bridge parallel to such bridge, or both, thence along or parallel to existing Grand Island boulevard, across the Niagara river, utilizing the existing North Grand Island bridge, or constructing another bridge parallel to such bridge, or both.

9. The Berkshire section. Starting at a point or points on the Catskill section northeast of Becker's Corners, thence easterly to a point on the West bank of the Hudson river, which point shall be more than fifteen miles north of the Rip Van Winkle bridge, thence across a bridge to be constructed by the authority and which crossing shall be known as "The Castleton-on-Hudson Bridge"; and thence generally in a southeasterly direction and passing in the vicinity of the hamlets of Brookview, North Chatham, Old Chatham, and East Chatham to a point on the New York-Massachusetts boundary line near the hamlet of State Line.

The thruway constructed along the routes designated in this section shall be known as "The Governor Thomas E. Dewey Thruway".

§ 356-a. Names and designations of thruway sections and connections

To facilitate travel thereon, certain sections and connections of the thruway may be adequately marked by lettering, devices, emblems or signs by the authority to afford the following designations:

1. The thruway constructed along the routes described in subdivisions one, two, three, four and five of section three hundred fifty-six of this article shall be known as "The Iroquois Trail".

2. The thruway constructed along the route described in subdivision six of section three hundred fifty-six of this article shall be known as "The Erie Path".

3. The thruway constructed along the route described in subdivision seven of section three hundred fifty-six of this article shall be known as "The Mohican Path".

4. The thruway constructed along the route described in subdivision eight of section three hundred fifty-six of this article shall be known as "The Tuscarora Path".

5. The thruway constructed along the route described in subdivision nine of section three hundred fifty-six of this article shall be known as "The Algonquin Path".

§ 356-b. Thruway to be designated as a section of a national network of Blue Star memorial highways

The thruway sections and connections constructed as provided in section three hundred fifty-six, collectively, shall be designated, in addition to any official name, as the New York state section of a national network of Blue Star memorial highways as a living memorial and tribute to those men and women who served in the nation's armed forces in world wars I and II, the Korean conflict [fig 1] , the Vietnam conflict, the Grenadan conflict, the Lebanese conflicts, the Panamanian conflict and the Persian Gulf War known as Operation Desert Shield - Operation Desert Storm.

§ 357. Right of authority to use state property; payment for improvements

On assuming jurisdiction of a thruway highway section or connection or any part thereof, or of a highway connection, or of the New York state canal system, the authority shall have the right to possess and use for its corporate purposes so long as its corporate existence shall continue, any real property and rights in real property theretofore acquired by the state, including all improvements thereon and state canal lands and properties; provided that the use by the authority of canal lands and properties for highway purposes shall not interfere with the use thereof for canal purposes.

§ 357-a. State Police - payment for services

Enforcement assistance provided by the division of state police at the request of the authority shall be reimbursed by the authority from the miscellaneous special revenue fund, New York state thruway authority account. The comptroller is hereby authorized and directed to deposit to this account revenues received from the thruway authority as reimbursement for expenditures. In addition, the authority shall reimburse the division for administrative and other support services connected with such assistance. Such reimbursement shall be made from the general fund. The authority shall deposit said reimbursement funds for administrative and other support services to the credit of the division of state police on a quarterly basis, on or before June thirtieth, September thirtieth, December thirtieth and March first of each year.

§ 358. Acquisition of real property by the commissioner

1. On assuming jurisdiction of a thruway section or connection or any part thereof, or of a highway connection, the authority may from time to time determine what real property is necessary for the construction, improvement and operation thereof, in addition to real property theretofore acquired by the state. If funds are made available by the authority for payment of the cost and expense of the acquisition thereof, the commissioner when requested by the authority shall acquire such real property in the name of the state by appropriation, and, where necessary, remove the owner or occupant thereof and obtain possession according to the procedure provided by section three hundred forty-seven of the highway law. The authority shall have the right to possess and use for its corporate purposes so long as its corporate existence shall continue all such real property and rights in real property so acquired.

2. Claims for the value of the property appropriated and for legal damages caused by any such appropriation shall be adjusted and determined by the commissioner with the approval of the authority, or by the court of claims as provided in said section three hundred forty-seven. When a

claim has been filed with the court of claims, the claimant shall cause a copy of such claim to be served upon the authority and the authority shall have the right to be represented and heard before said court. All awards and judgments arising from such claims shall be paid out of moneys of the authority.

§ 358-a. Acquisition of real property by the authority

On assuming jurisdiction of a thruway section or connection or any part thereof, or of a highway connection, the authority may from time to time determine what real property is necessary for the construction, improvement and operation of such thruway section or connection or part thereof, or of a highway connection, in addition to real property acquired or to be acquired by the state, and thereupon may acquire such real property by condemnation pursuant to the condemnation law. The authority may also, and in any case, acquire real property in the name of the state by deed and may pay such price therefor as shall be agreed with the owner thereof.

§ 359. Construction, reconstruction and improvement

1. On assuming jurisdiction of a thruway section or connection or any part thereof, or of a highway connection, or of the New York state canal system, the authority shall proceed with the construction, reconstruction or improvement thereof. All such work shall be done pursuant to a contract or contracts which shall be let to the lowest responsible bidder, by sealed proposals publicly opened, after public advertisement and upon such terms and conditions as the authority shall require; provided, however, that the authority may reject any and all proposals and may advertise for new proposals, as herein provided, if in its opinion, the best interests of the authority will thereby be promoted; provided further, however, that at the request of the authority, all or any portion of such work, together with any engineering required by the authority in connection therewith, shall be performed by the commissioner and his subordinates in the department of transportation as agents for, and at the expense of, the authority.

2. All construction, reconstruction and improvements and any engineering work required in connection therewith which are performed on behalf of the authority by the commissioner shall be carried on, generally, in the same manner and subject to the same provisions of law as apply to the construction and improvement of state highways.

3. Highway and railroad grade crossings shall in general be separated by structures to be determined by the authority, and the authority is hereby authorized to combine or relocate intersecting highways, to adjust traffic to such grade separation structures, except that the grade crossing elimination structures involved in public service commission cases number fifty-four hundred seventy-two and nine thousand fifty-eight shall remain under the jurisdiction of such commission. The cost of all such structures, except such part as is otherwise payable, shall be borne by the authority. Telephone and telegraph wires, power transmission and gas, oil and water lines, conduits, cables of every kind and nature which may be affected by thruway construction, reconstruction or improvement, may, in the discretion of the authority, be relocated in suitable facilities and the expense of such relocation and of installing such facilities shall be borne by the authority. The work of such relocation may be done by the owner of such wires, lines, conduits and cables, and the

authority is hereby empowered to enter into an agreement with such owner for the performance of all or any part of the work of such relocations at the expense of the authority.

4. In the case of a separation of a grade crossing pursuant to the preceding subdivision, the structure shall be maintained and repaired by the authority. Whenever the authority determines that a separation structure carrying a highway under the jurisdiction of a municipality requires major repair or reconstruction, the authority, with the approval of the commissioner of transportation and after consultation with such municipality, may close the bridge and provide adequate alternative detour routing and signing. In the case of municipal highways, the responsibility for rehabilitation and reconstruction of the wearing surface, sidewalks, curbs and railings shall be the responsibility of the authority. Highways combined, relocated or carried over or under a thruway section or connection, or a highway connection, under the provisions of the preceding subdivision, shall, upon completion of the work, revert to and become the responsibility, with regard to maintenance and repair, of the state or municipality, as the case may be, formerly having jurisdiction there over.

§ 359-a. Procurement contracts

For the purposes of section twenty-eight hundred seventy-nine of this chapter as applied to the authority or the canal corporation, the term "procurement contract" shall mean any written agreement for the acquisition of goods or services of any kind by the authority or the canal corporation in the actual or estimated amount of fifteen thousand dollars or more.

§ 360. Operation and maintenance

Operation and maintenance by the authority of any thruway section or connection or any part thereof or of a highway connection, the New York state canal system of which it has assumed jurisdiction shall be performed (a) by the use of authority forces and equipment at the expense of the authority or by agreement at the expense of the state or other parties; (b) by contract with municipalities or independent contractors; (c) at the request of the authority, by the commissioner and his subordinates in the department of transportation as agents for, and at the expense of the authority, or (d) by a combination of such methods.

§ 361. Traffic control

1. (a) In addition to the powers conferred by the vehicle and traffic law, the authority is hereby authorized to promulgate such rules and regulations for the use and occupancy of the thruway as may be necessary and proper for the public safety and convenience, for the preservation of its property and for the collection of tolls and provided further that the authority, in consultation with the departments of environmental conservation and transportation, is hereby authorized to promulgate rules and regulations necessary to implement a heavy duty vehicle roadside inspection program pursuant to section 19-0320 of the environmental conservation law.

(b) Notwithstanding any inconsistent provisions of any general, special or local law, the thruway authority shall mark, with appropriate directional signs, the exits nearest to any state owned unique natural attraction within forty miles of the thruway which lies wholly or partially within the state of New York, such as, lakes more than ten miles in length, excepting Lake Ontario and Lake Erie, and mountains more than five thousand feet in height.

(c) Notwithstanding any inconsistent provisions of the general business law or of any other law, general, special or local, the landing and take-off of planes on the thruway system shall be governed by rules and regulations promulgated by the thruway authority.

(d) The violation of any such rule or regulation promulgated pursuant to this section shall be an offense and a first conviction thereof shall be punishable by a fine of not more than fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; a second such conviction within eighteen months thereafter shall be punishable by a fine of not more than one hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; and a third or subsequent conviction within eighteen months after the first conviction shall be punishable by a fine of not more than two hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment; provided, however, that the violation of any such rule or regulation relating to the transportation of explosives class a or class b shall be a misdemeanor, punishable by a fine not exceeding twenty-five hundred dollars or by imprisonment for a term not exceeding one year or by both such fine and imprisonment.

(e) For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of those rules and regulations of the authority which are herein defined as offenses shall nevertheless be deemed misdemeanors for the sole purpose of making applicable all procedural provisions of law relating to misdemeanors, and courts of special sessions outside the city of New York and in the city of New York, the criminal court of the city of New York, in the first instance, shall have exclusive jurisdiction to hear and determine charges of such violations and provided, further, that no jury trial shall be allowed for such violations.

2. Enforcement of the rules and regulations of the thruway authority and of those provisions of the vehicle and traffic law applicable to the thruway shall be by authority forces, provided however, that at the request of the authority, such enforcement shall be the duty of the division of state police. Violators shall be apprehended and prosecuted in the same manner as provided for the apprehension and prosecution of violators of the vehicle and traffic law who commit violations thereof upon the state highway system. Authority forces specifically employed for the enforcement of such rules and regulations, during the term of such employment, shall be uniformed, shall have the powers of peace officers, as set forth in section 2.20 of the criminal procedure law, and shall have, within the limits of any municipality within which any portion of the thruway system under the jurisdiction of the authority shall be located, all the powers of a peace officer in the execution of criminal processes; and criminal process issued by any court or magistrate of a municipality within which any portion of the thruway system under the jurisdiction of the authority shall be located, may be directed to and executed by any such employee notwithstanding the provisions of any local or special law, ordinance or regulation.

§ 361-a. Restriction and regulation of advertising devices

1. Except as otherwise provided in this section, the erection or maintenance of any advertising device located within six hundred sixty feet of the nearest edge of the right-of-way of the thruway without a written permit therefor granted by the authority pursuant to this section is prohibited.

2. The term "advertising device" as used in this section shall include any billboard, sign, notice, poster, display or other device intended to attract or which does attract the attention of operators of

motor vehicles on the thruway, and shall, where so determined by the authority, include a structure erected or used in connection with the display of any such device and all lighting or other attachments used in conjunction therewith.

3. The authority may from time to time adopt, modify, amend or repeal regulations governing the issuance of permits or renewals thereof for the erection and maintenance of advertising devices. Such regulations shall be designed to effectuate the general purposes of this article and the specific objectives and standards hereinafter set forth:

(a) To provide for maximum visibility along the thruway system and connecting roads or highways;

(b) To prevent unreasonable distraction of operators of motor vehicles;

(c) To prevent confusion with regard to traffic lights, signs or signals or otherwise interfere with the effectiveness of traffic regulations;

(d) To preserve and enhance the natural scenic beauty or the aesthetic features of the thruway system and adjacent areas;

(e) To promote maximum safety, comfort and well-being of the users of the thruway.

4. To effectuate the purposes of this section, the authority may limit the application of any regulation adopted hereunder to exclude or include, in whole or in part:

(a) Specified areas of the thruway system based upon use, population density, nature of the surrounding community, special conditions prevailing therein, or such other factors as may make differentiation or separate classification or regulation necessary, proper or desirable;

(b) Particular types or classes of advertising devices based upon size, design, lighting or such other factors as may make differentiation or separate classification or regulation necessary, proper or desirable;

(c) The erection or maintenance of advertising devices on particular sections or portions of the thruway system.

(d) Notwithstanding any contrary provisions of this section, the authority shall permit the erection of not more than six advertising billboard signs in the city of New Rochelle along interstate route ninety-five where the location and erection of such signs are:

(1) consistent with and part of an urban renewal program which decreases the total number of advertising billboard signs in the renewal area;

(2) approved by such city;

(3) part of the subject of a United States District Court settlement order regarding the regulation of such signs within such city ; and

(4) consistent with the size, lighting, spacing and all other requirements of federal law, including those established in the agreements entered into by the state pursuant to sections eighty-six and eighty-eight of the highway law.

5. Application for permits or renewals thereof shall be on forms prescribed by the authority and shall contain such information as the authority may require. The authority may by regulation adopt, modify, amend or repeal permit application fees, annual permit fees and permit renewal fees,

provided, however, that such fees shall not exceed the advertising device fees established by regulation by the commissioner of transportation. Each permit shall be valid for a period to be established by the authority and may be renewed from time to time for such periods, as established by the authority, within thirty days of the expiration date thereof upon payment to the authority of the renewal fee.

6. The permit or renewal thereof shall be revocable at any time on thirty days notice to the permittee in the event of a violation of the requirements of this section or any regulation lawfully adopted hereunder. Any advertising device erected or maintained after September first, nineteen hundred fifty-two in violation of this section or any regulation adopted hereunder is hereby declared to be, and is, a public nuisance and such device may without notice be abated and removed by any officer or employee of the authority, or upon request of the authority, by any peace officer acting pursuant to his special duties, or police officer.

7. The authority by regulation may exclude from the coverage of this section advertising devices which it finds do not interfere with safety on the thruway system or contravene any of the other standards set forth in this section, including but not limited to

(a) Advertising devices which are to be erected or maintained on property for the purpose of setting forth or indicating

- (1) The name and address of the owner, lessee or occupant of such property, or
- (2) The name or type of business or profession conducted on such property, or
- (3) Information required or authorized by law to be posted or displayed thereon.

(b) Advertising devices which are not visible from any traveled portion of the thruway system;

(c) Advertising devices indicating the sale or leasing of the property upon which they are placed.

(d) Directional or other official signs and signals erected or maintained by the state or other public agency having jurisdiction.

8. Nothing in this section shall apply with respect to any property which is owned or leased by the state of New York or any agency thereof or with respect to which the state of New York or any agency thereof has or shall have a valid easement or covenant with the owner thereof concerning the restriction, removal or prohibition of advertising devices.

9. Nothing in this section shall be construed to abrogate or affect the provisions of any municipal ordinance, regulation or resolution which are more restrictive concerning advertising devices than the provisions of this section or of the regulations adopted hereunder.

10. [Repealed]

§ 361-b. Jurisdiction in certain suits against the authority

Exclusive jurisdiction is hereby conferred upon the court of claims to hear and determine the claims of any person against the authority (a) for its tortious acts and those of its agents, and (b) for breach of a contract relating to construction, reconstruction, improvement, maintenance or

operation, in the same manner and to the extent provided by and subject to the provisions of the court of claims act with respect to claims against the state, and to make awards and render judgments therefor. All awards and judgments arising from such claims shall be paid out of moneys of the authority.

§ 361-c. Tourist information facilities

The authority shall provide tourist information services at all service areas where food is offered for sale, provided that: the department of commerce and or local and regional tourist promotion agencies shall provide the authority with ample supplies of such literature and brochures necessary for distribution to the traveling public.

§ 361-d. Agreement with the office of parks, recreation and historic preservation

Notwithstanding any other provision of law, and consistent with agreements with bondholders and noteholders, the authority may enter into agreements and contracts with the office of parks, recreation and historic preservation permitting the use of an electronic toll collection system used by the authority or components thereof for payment of any entrance fee or parking fee at any historic site, park or recreational facility subject to the provisions of this chapter, policies and such other conditions as may be established by the authority.

§ 362. Assistance by state officers, departments, boards, divisions and commissions

At the request of the authority, engineering and legal services for such authority shall be performed by forces or officers of the department of transportation and the department of law respectively, and all other state officers, departments, boards, divisions and commissions shall render services within their respective functions. At the request of the authority, services in connection with the collection of any charges or fees for the use of the thruway, the New York state canal system or any part thereof may be performed by the department of motor vehicles.

§ 363. Annual report

The authority shall submit to the governor, to the legislature, to the comptroller and to the director of the budget on or before the first day of February of each year a detailed report setting forth its operations and fiscal transactions during the preceding calendar year with a statement of its financial condition as of the end of such year and a statement of all receipts and expenditures during such year. Such report shall include detailed information relating to additional expenditures incurred by the authority as a result of the amendments made to subdivision four of section three hundred fifty-nine of this chapter pursuant to the chapter of the laws of nineteen hundred ninety-two which enacted this sentence.

§ 364. Deposit and investment of moneys of the authority

All moneys of the authority from whatever source derived shall be paid to the comptroller as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be

paid out on check of the comptroller on requisition of the chairman of the authority or of such other person as the authority may authorize to make such requisition. All deposits of such moneys shall, if required by the comptroller or the authority, be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits. The comptroller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing.

Notwithstanding the provisions of this section, the authority shall have power, subject to the approval of the comptroller, to contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment and payment of any moneys of the authority, or any moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds, and to carry out any such contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

Moneys of the authority not required for immediate use may, in the discretion of the authority, be invested by the comptroller in obligations in which the comptroller may invest pursuant to section ninety-eight-a of the state finance law.

Subject to agreements with noteholders and bondholders and the approval of the comptroller, the authority shall prescribe a system of accounts.

§ 365. Notes or bonds of the authority

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

(b) The authority shall have power from time to time to issue renewal notes, to issue bonds to pay notes, and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded.

(c) Except as may otherwise be expressly provided by the authority, every issue of the notes or bonds shall be general obligations payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of notes or bonds pledging any receipts or revenues.

2. The notes and bonds shall be authorized by resolution of the board, shall bear such date or dates and mature at such time or times, in the case of notes and any renewals thereof within five years after their respective dates and in the case of bonds not exceeding forty years from their respective dates, as such resolution or resolutions may provide. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide. Bonds and notes shall be sold by the authority, at public or private sale, at such price or prices as the authority may determine. Bonds and notes of the authority shall not be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller, where such sale is not to the comptroller, or by the director of the budget, where such sale is to the comptroller. Bonds and notes sold at public sale shall be sold by the comptroller, as agent of the authority, in such manner as the authority, with the approval of the comptroller, shall determine.

3. Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to

(a) pledging all or any part of the fees, charges, gifts, grants, rents, revenues or other moneys received or to be received and leases or agreements to secure the payment of the notes or bonds or of any issue thereof subject to such agreements with bondholders as may then exist;

(b) The rates of the fees or charges to be established, and the amounts to be raised in each year thereby and the use and disposition of the fees, charges, gifts, grants, rents, revenues or other moneys received or to be received;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the purpose to which the proceeds of sale of any issue of notes or bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(e) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; the refunding of outstanding or other notes or bonds;

(f) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(g) limitations on the amount of moneys to be expended by the authority for operating, administrative or other expenses of the authority;

(h) in the case of notes or bonds not guaranteed by the state, vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this

title, and limiting or abrogating the right of the bondholders to appoint a trustee under this title or limiting the rights, duties and powers of such trustee;

(i) the acquisition of jurisdiction over, and of property for, thruways, the New York state canal system, and the construction, reconstruction, improvement, maintenance or operation thereof;

(j) any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

4. Whenever the authority pledges its revenues under a resolution authorized by this section, such resolution shall not prohibit the authority from financing for additional corporate transportation purposes authorized by law secured by an additional pledge of such revenues. Such additional pledge of revenues may, in the discretion of the authority, be subordinate to the pledge of such revenues securing other bonds, notes or other evidence of indebtedness of the authority. Provided, however, the authority shall not make any such additional pledge if the security of the bonds, notes or other evidences of indebtedness previously issued will be impaired as a result thereof.

5. It is the intention hereof that any pledge made by the authority shall be valid and binding from the time when the pledge is made; that the moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

6. Neither the members of the board nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

7. The authority shall have power out of any funds available therefor to purchase notes or bonds, which shall thereupon be cancelled, at a price not exceeding (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to said date.

§ 366. Guaranty by the state

1. To the extent authorized by the constitution at the time of the issuance of notes or bonds, the punctual payment of the notes and bonds shall be, and the same hereby is, fully and unconditionally guaranteed by the state, both as to principal and interest, according to their terms; and such guaranty shall be expressed upon the face thereof by the signature or facsimile signature of the comptroller or a deputy comptroller. In the event that the authority shall fail to pay when due, the principal of, or interest on, the notes or bonds, the comptroller shall pay the holder thereof, and thereupon the state shall be subrogated to the rights of the noteholders or bondholders so paid.

2. The authority shall have power to issue notes and bonds without the guaranty of the state and may issue such notes or bonds before and after the issuance of notes or bonds so guaranteed.

3. When guaranteed notes or guaranteed bonds are outstanding, notes or bonds secured by a pledge of receipts or revenues having priority over such outstanding guaranteed notes or guaranteed bonds shall not be issued, except with the consent of the comptroller, and unless the authority shall by resolution first find and determine that, notwithstanding such pledge, the authority will have adequate means to meet its obligations to the holders of such outstanding guaranteed notes or bonds.

4. When notes or bonds are outstanding secured by a pledge of receipts or revenues, guaranteed notes or bonds either unsecured, or secured by a pledge of receipts or revenues subordinate to the pledge securing such outstanding notes or bonds, shall not be issued unless the authority shall first find and determine by resolution that notwithstanding the pledge securing such outstanding notes or bonds, the authority will have adequate means to meet its obligations on the guaranteed notes or bonds about to be issued.

§ 367. State's right to require redemption of bonds

Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the authority to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than fifteen years after the date of the bonds of such issue at one hundred four per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers published and circulating respectively in the cities of Albany and New York at least twice, the first publication to be at least thirty days before the date of redemption. The provisions of this section relating to the state's right to require redemption of bonds, shall not apply to state-supported debt, as defined by section sixty-seven-a of the state finance law, issued by the authority. Such authority bonds shall remain subject to redemption pursuant to any contract with the holders of such bonds.

§ 368. Remedies of noteholders and bondholders

1. In the event that the authority shall default in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Albany and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in his or its own name

(a) by mandamus or other suit, action or proceeding at law or in equity enforce all rights of the noteholders or bondholders, including the right to require the authority to collect fees, rentals and charges adequate to carry out any agreements with the holders of such notes or bonds and to perform its duties under this title;

(b) bring suit upon such notes or bonds;

(c) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such notes or bonds;

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds;

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences; provided, however, that this clause (e) shall not be applicable in the case of notes or bonds guaranteed by the state.

3. Such trustee, whether or not the issue of bonds or notes represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the thruway, the fees, rentals, charges or other revenues of which are pledged for the security of the bonds or notes of such issue and such receiver may enter and take possession of such part or parts of the thruway and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the construction, operation, maintenance and reconstruction of such part or parts of the thruway and proceed with any construction thereon which the authority is under obligation to do and shall operate, maintain and reconstruct such part or parts of the thruway, and collect and receive all fees, rentals, charges and other revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders or noteholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any tolls, rentals and other revenues derived from such part or parts of the thruway.

4. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

5. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Albany.

6. Before declaring the principal of notes or bonds not guaranteed by the state due and payable, the trustee shall first give thirty days' notice in writing to the authority.

§ 369. Liability of state

The state shall be liable on notes or bonds guaranteed hereunder but shall not be liable on notes or bonds not guaranteed by the state which shall not be a debt of the state.

§ 370. Notes and bonds legal investments for public officers and fiduciaries

The notes and bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and saving associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The notes and bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 371. Tax exemption

The property of the authority and its income and operations shall be exempt from taxation.

§ 372. Tax covenant

The state covenants with the purchasers and with all subsequent holders and transferees of notes and bonds issued by the authority, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority issued pursuant to this title and the income therefrom and all its fees, charges, rents, gifts, grants, revenues, receipts and other moneys received or to be received, pledged to pay or secure the payment of such notes or bonds shall at all times be free from taxation except for estate or gift taxes and taxes on transfers.

§ 373. Agreement of the state

1. The state does pledge to and agree with the holders of notes, bonds, or other obligations of the authority not guaranteed by the state that the state will not limit or alter the rights hereby vested in the authority to establish and collect such fees, rentals and charges as may be convenient or necessary to produce sufficient revenue to meet the expense of maintenance and operation and to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such notes, bonds, and other obligations, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged.

2. The state does pledge to and agree with the holders of any notes or bonds of the authority, not guaranteed by the state, secured by a pledge of the tolls or other revenues or any part thereof from any bridge constructed by the authority across the Hudson river south of Bear mountain bridge or from any part of the thruway which includes such bridge, that no bridge or tunnel constituting a connection for vehicular traffic over, under or across the Hudson river between the present location of the Bear mountain bridge and the boundary line between the state of New York and the state of New Jersey at the west side of the Hudson river will be constructed or maintained so long as the obligations of such bonds for principal and interest shall not have been paid or otherwise discharged.

§ 374. Title not affected if in part unconstitutional

If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 375. Inconsistent provisions in other acts superseded

In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling.

§ 376. Further additional powers of the authority

The authority shall have the power, in addition to the powers granted in other sections of this title:

1. (a) To enter into a cooperative highway contractual agreement or agreements with the commissioner of transportation for the financing by the authority of expenditures made in advance by the state for design, acquisition, construction, reconstruction or the reconditioning and preservation of transportation facilities pursuant to the provisions of section eighty-eight-b of the state finance law, state highways, state parkways, state arterial highways in cities and related facilities and structures thereon, including bridges, the reconditioning and preservation of structures separating highways and railroads, and the traffic operations program to increase capacity and safety on existing street and highway systems in urban areas, capacity and infrastructure improvements to state, county, town, city or village roads, highways, parkways and bridges, in any case where the expense thereof is paid in whole or in part by the state.

(b) To issue use permits to the commissioner of transportation for projects financed by the authority of expenditures made in advance by the state in accordance with the provisions of a cooperative highway contractual agreement or agreements provided, that such projects are maintained and operated under the supervision of the department of transportation or the municipal agency designated by the commissioner of transportation without cost to the New York State thruway authority for the full term of such agreement or agreements, and, provided further that such use permit shall be granted by the authority for the use of such projects by the department of transportation or the municipal agency designated by the commissioner of transportation on a toll free basis.

2. From time to time to issue emergency highway reconditioning and preservation bonds and notes for the purposes of this section. All the provisions of this title relating to bonds and notes,

which are not inconsistent with the provisions of this section, shall apply to the bonds and notes authorized by this section. The authority shall not issue emergency highway reconditioning and preservation bonds and notes in an aggregate principal amount exceeding:

(a) one hundred million dollars, excluding bonds issued to refund outstanding notes, in the period from April first, nineteen hundred seventy-two through March thirty-first, nineteen hundred eight-two; and

(b) an additional one hundred thirty-six million dollars, excluding bonds issued to refund outstanding notes, on or after April first, nineteen hundred eighty-two but before April first, nineteen hundred eight-six.

2-a. From time to time issue emergency highway construction and reconstruction bonds and notes for the purposes of this section. All the provisions of this title relating to bonds and notes which are not inconsistent with the provisions of this section shall apply to the bonds and notes authorized by this section. The authority shall not issue emergency highway construction and reconstruction bonds and notes in an aggregate principal amount exceeding: (a) one hundred million dollars, excluding bonds or notes issued to refund outstanding bonds or notes, before April first, nineteen hundred ninety and (b) an additional thirty-four million dollars, excluding bonds or notes issued to refund outstanding bonds or notes, on or after April first, nineteen hundred ninety and (c) an additional ninety-three million dollars, excluding bonds or notes, issued to refund outstanding bonds or notes on or after April first, nineteen hundred ninety-one and (d) an additional ninety million dollars, excluding bonds or notes issued to refund outstanding bonds or notes, on or after April first, nineteen hundred ninety-two.

2-b. From time to time to enter into agreements with the commissioner of transportation to finance the capital costs of projects authorized pursuant to section eighty-eight-b of the state finance law, and to issue bonds and notes for capital projects approved by metropolitan planning organizations or transportation coordinating committees pursuant to the provisions of such section eighty-eight-b. All the provisions of this title relating to bonds and notes which are not inconsistent with the provisions of this section shall apply to the bonds and notes authorized by this section. No bonds or notes shall be issued for the purposes authorized by this subdivision after the thirty-first day of March, two thousand.

2-c. From time to time to issue additional emergency highway reconditioning and preservation bonds and notes for the purposes of this section. All the provisions of this title relating to bonds and notes, which are not inconsistent with the provisions of this section, shall apply to the bonds and notes authorized by this section. The authority shall not issue such additional emergency highway reconditioning and preservation bonds and notes in an aggregate principal amount exceeding (a) forty-eight million dollars, excluding bonds or notes issued to refund outstanding bonds or notes, on or after April first, nineteen hundred ninety, and (b) an additional eighty-four million dollars excluding bonds or notes issued to refund outstanding bonds or notes on or after April first, nineteen hundred ninety-one, and (c) an additional eighty-five million dollars, excluding bonds or notes issued to refund outstanding bonds or notes, on or after April first, nineteen hundred ninety-two.

3. In addition to the provisions authorized by this title any resolution or resolutions authorizing any bonds or notes for the purposes of this section may contain provisions which may be a part of the contract with the holders of such bonds providing for the creation and establishment and maintenance of reserve funds and payments to such reserve funds as hereinafter in this subdivision set forth.

The authority may create and establish reserve funds to be known as the emergency highway reconditioning and preservation debt service reserve fund, the emergency highway construction and reconstruction debt service reserve fund and the suburban transportation debt service reserve fund and may pay into such reserve funds (a) moneys made available by the state for the purposes of such funds from the emergency highway reconditioning and preservation fund, or the emergency highway construction and reconstruction fund or the suburban transportation fund as created by section eighty-nine, eighty-nine-a or eighty-eight-b of the state finance law, respectively; (b) any proceeds of sale of bonds and notes to the extent provided in the resolution of the authority authorizing the issuance thereof; and (c) any other moneys which may be made available to the authority for the purposes of such funds from any other source or sources. The moneys held in or credited to such debt service reserve funds established under this subdivision, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the authority secured by such reserve funds, as the same mature, the purchase of such bonds of the authority, the payment of interest on such bonds of the authority or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in any such funds shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such funds to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the authority then outstanding and secured by such reserve funds, except for the purpose of paying principal and interest on the bonds of the authority secured by such reserve funds maturing and becoming due and for the payment of which other moneys of the authority are not available. Any income or interest earned by, or increment to, any such debt service reserve funds due to the investment thereof may be transferred to any other fund or account of the authority established for the purposes of this section to the extent it does not reduce the amount of such debt service reserve funds below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding and secured by such reserve funds.

4. The authority shall not issue bonds at any time for the purposes of this section if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the bonds outstanding and then to be issued and secured by any debt service reserve fund will exceed the amount of such reserve fund at the time of issuance, unless the authority at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such reserve fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds then to be issued and on all other bonds of the authority then outstanding and secured by such reserve fund.

5.

(a) To assure the continued operation and solvency of the authority for the carrying out of the purposes relating to this section provision is made in this section for the accumulation in the debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding and secured by such reserve fund. In order further to assure the maintenance of such debt service reserve fund, with respect to bonds of the authority issued pursuant to this section prior to April first, nineteen hundred ninety, there shall be annually apportioned and paid to the authority for deposit in such debt service reserve fund such sum, if any, as shall be certified by the chairman of the authority to the governor and state director of the budget as necessary to restore such reserve fund to

an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the authority then outstanding and secured by such reserve fund. The chairman of the authority shall annually, on or before December first, make and deliver to the governor and state director of the budget his certificate stating the sum, if any, required to restore such debt service reserve fund to the amount aforesaid, and the sum or sums so certified, if any, shall be apportioned and paid to the authority during the then current state fiscal year.

(b) To assure the continued operation and solvency of the authority for the carrying out of the purposes relating to this section, provision is made in this section for the accumulation in the debt service reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding and secured by such reserve fund; provided however for such bonds issued by the authority after April first, nineteen hundred ninety-two, such debt service reserve fund may in the discretion of the authority and consistent with any covenants with any existing bondholders and without impairing the rights of any existing bondholders be sized in an amount equal to not less than one-half of the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on such bonds of the authority then outstanding and secured by such debt service reserve fund. In order to further assure the maintenance of such debt service reserve fund, with respect to bonds of the authority issued pursuant to subdivisions two-a, two-b and two-c of this section after April first, nineteen hundred ninety, the authority shall create a special subaccount in each revenue fund established pursuant to any resolution or resolutions authorizing such bonds. Such subaccounts shall consist of the moneys available after April first, nineteen hundred ninety, pursuant to sections two hundred eighty-two-b, two hundred eighty-two-c, two hundred eighty-four-a and two hundred eighty-four-c of the tax law, respectively, in the emergency highway reconditioning and preservation fund reserve account established pursuant to paragraph (b) of subdivision two of section eighty-nine of the state finance law and in the emergency highway construction and reconstruction fund reserve account established pursuant to paragraph (b) of subdivision two of section eighty-nine-a of the state finance law, apportioned and paid to the authority for deposit in such subaccount of the revenue fund. Amounts in each such subaccount shall be kept separate and shall not be commingled with any other moneys in the custody of the authority. Amounts in each such subaccount shall be applied solely to pay such sum, if any, as shall semi-annually, (on such dates as are established under the terms of any cooperative highway contractual agreement of the department of transportation with the New York state thruway authority entered into on or after April first, nineteen hundred ninety which is then in effect), be certified by the chairman of the authority to the governor and state director of the budget as necessary to provide funds in an amount sufficient together with other moneys available to the authority for such purpose, to pay one-half of the total annual principal and interest maturing and becoming due during the next succeeding twelve calendar months on all bonds of the authority issued pursuant to subdivisions two-a, two-b and two-c of this section after April first, nineteen hundred ninety and maintaining or funding debt service reserve funds therefor. Any surplus of funds in excess of such certified amounts remaining in each such subaccount after such payments, if any, have been made shall on the dates established under the terms of such cooperative highway agreements, be paid over for deposit, respectively, in the emergency highway reconditioning and preservation fund reserve account established pursuant to paragraph (b) of subdivision two of section eighty-nine of the state finance law and in the emergency highway construction and reconstruction fund reserve account established pursuant to paragraph (b) of subdivision two of section eighty-nine-a of the state finance law.

6. In computing the debt service reserve fund for the purposes of this section, securities in which all or a portion of such reserve fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the authority.

7. The authorization, sale and issuance of bonds, notes or other obligations pursuant to this section shall not be deemed an action as such term is defined in article eight of the environmental conservation law for the purposes of such article. Such exemption shall be strictly limited in its application to such financing activities of the authority and does not exempt the department of transportation or any other entity from compliance with such article.

§ 377. Provision for servicing state vehicles with petroleum, etc.

The authority shall have the power to provide and shall provide to state-owned or leased motor vehicles, gasoline and other petroleum by-products that are presently provided or will be provided to motor vehicles owned, leased or operated by the authority. The charge for providing such goods and services shall be equal to the cost to provide such to vehicles owned, leased or used by the authority except that a fee may also be charged to cover the necessary operating costs incurred as a result of providing such goods and services. Payment shall be accomplished by charging such cost-back against the centralized services fund established by state finance law section ninety-seven-g.

§ 378. Specially priced commuter tickets

In the event that the authority offers specially priced commuter tickets for use on its Grand Island bridges, such tickets shall be made available for any vehicle regularly operated by a resident of Grand Island, whether such vehicle is owned by, leased to or loaned by an employer to such resident.

§ 379. Further additional powers of the authority to finance certain repayment obligations of the state in connection with the purchase of real property for highway purposes

1. (a) The authority is hereby authorized, as a corporate purpose thereof, to issue bonds and notes in an aggregate principal amount not to exceed fifty million dollars and to make available the proceeds from the sale of such bonds and notes, net of all costs to the authority in connection therewith, to the commissioner, for the purposes of financing a portion of the repayment to the treasurer of the United States of funds in an amount as determined by the secretary of the United States department of transportation to be equal to the amount of federal funds previously expended as adjusted by credits received to acquire real property for the portion of Interstate-478 which was withdrawn from the federal interstate system in accordance with federal law. Provided, however, that the authority shall not issue any bonds or notes authorized by this section until the federal highway administration has ruled on an application by the state, or the state and the city of New York, seeking a waiver of the repayment obligation of the state and city for federal funds expended to acquire real property for a portion of Interstate 478.

(b) Such bonds and notes shall be issued with the approval of the director of the budget and shall be special limited obligations of the authority, secured by and payable solely out of certain lease payments made by the state and funds and accounts held under the resolution pursuant to

which such bonds and notes are issued, without recourse against other assets, revenues or funds of or other payments due to the authority.

(c) Such bonds and notes shall contain on the face thereof a statement to the effect that they shall not be deemed to be an obligation of the state and the state shall not be liable thereon.

(d) Such bonds shall be scheduled to mature over a term not to exceed thirty years.

(e) The provisions of title ten of article nine of this chapter, shall not apply in any way to the bonds or notes authorized to be issued by this section.

(f) All the provisions of this title relating to bonds and notes, which are not inconsistent with the provisions of this section, shall apply to the bonds and the notes authorized by this section, including, but not limited to, the power to issue renewal notes or refunding bonds thereof.

2. (a) Notwithstanding any general, special or local law, the state, acting by and through the commissioner, shall have the power to convey to the authority or its successor agency, without public bidding, public sale, or public notice, for such term, and upon such terms and conditions as the parties thereto shall agree, a leasehold interest in the real property purchased in part with federal funds in the name of the state for the portion of then-designated Interstate-478 which was withdrawn from the interstate system in accordance with federal law. Any lease entered into pursuant to the provisions of this section shall be for a period not less than that for which debt service is due and payable on any bonds and notes issued by the authority pursuant to this section and not more than thirty days after the period for which debt service is due and payable on any bonds and notes issued by the authority pursuant to this section.

(b) Notwithstanding the provisions of any general, special or local law, the state, acting by and through the commissioner, is hereby authorized to lease from the authority or its successor agency its interest in the real property purchased in part with federal funds in the name of the state for the portion of the then-designated Interstate-478 which was withdrawn from the interstate system in accordance with federal law, such lease to be upon such terms and conditions as the parties thereto shall agree, provided that such lease shall: (i) be for a period not less than that for which debt service is due and payable on any bonds and notes issued by the authority pursuant to this section and not more than thirty days after the period for which debt service is due and payable on any bonds and notes issued by the authority pursuant to this section, (ii) provide for lease rental payments equal to the amount needed to pay debt service on said notes or bonds as the same become due and equal to the amount needed to cover all direct and/or indirect costs incurred by the authority and not reimbursed from bond proceeds, (iii) provide that during any year in which no debt service is due and payable on any such bonds and notes such lease rental payments shall be in an amount equal to one dollar, (iv) provide that the authority shall have no obligations or duties with respect to such real property except as set forth in this section, (v) provide that during such leasehold any future proposed acquisition, disposition or new or different utilization, development or improvement of the real property subject to such leasehold interest shall be subject to the provision of paragraph b of subdivision five of section three hundred forty-b of the highway law, if applicable by the terms thereof, (vi) provide that the lease rental revenue stream thereunder may be assigned to a trustee for the payment of holders of bonds authorized by this chapter but prohibit the assignment of any other interests in the land subject to such lease to said trustee, and (vii) provide that the obligation of the state to make such lease rental payments shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory

only to the extent of moneys made available to the state, and that no liability on account thereof shall be incurred by the state beyond the moneys available for the purpose thereof, and that any obligation to make lease rental payments shall be subject to annual appropriation by the legislature.

(c) The attorney general shall approve or disapprove of the form and sufficiency and manner of execution of any lease executed by the commissioner pursuant to the provisions of this section.

§ 380. Further additional powers of the authority to finance certain local highway and bridge improvements and payments to the authority

1. (a) The authority is hereby authorized, as additional corporate purposes thereof: (i) to issue bonds and notes and to incur obligations secured by the moneys as provided in the service contracts authorized pursuant to section eleven of chapter three hundred twenty-nine of the laws of nineteen hundred ninety-one, as amended; (ii) to make available the proceeds from the sale of such bonds and notes, net of all costs to the authority in connection therewith, for the purposes of financing all or a portion of the capital costs of local highway and bridge projects pursuant to sections ten-c, ten-f and ten-g of the highway law and sections sixteen and sixteen-a of the chapter of the laws of nineteen hundred ninety-one which enacted this section, section eighty-b of the highway law and section fifteen of chapter three hundred twenty-nine of the laws of nineteen hundred ninety-one which enacted this section, and project costs for: construction, reconstruction, improvement, reconditioning and preservation of rail freight facilities and intercity rail passenger facilities and equipment; construction, reconstruction, improvement, reconditioning and preservation of state, municipal and privately owned ports; construction, reconstruction, improvement, reconditioning and preservation of municipal airports; privately owned airports and aviation capital facilities, excluding airports operated by the state or operated by a bi-state municipal corporate instrumentality for which federal funding is not available provided the project is consistent with an approved airport layout plan; construction, reconstruction, enhancement, improvement, replacement, reconditioning, restoration, rehabilitation and preservation of state, county, town, city and village roads, highways, parkways and bridges, and construction, reconstruction, improvement, reconditioning and preservation of fixed ferry facilities of municipal and privately owned ferry lines for transportation purposes; (iii) to enter into agreements with the commissioner with respect to financing any such local highways and bridges owned, maintained or operated by a municipality, and (iv) to enter into service contracts, contracts, agreements, deeds and leases with the director of the budget or the commissioner of transportation and project sponsors and others to provide for the financing by the authority of project costs for: construction, reconstruction, improvement, reconditioning and preservation of rail freight facilities and intercity rail passenger facilities and equipment; construction, reconstruction, improvement, reconditioning and preservation of state, municipal and privately owned ports; construction, reconstruction, improvement, reconditioning and preservation of municipal airports; privately owned airports and aviation capital facilities, excluding airports operated by the state or operated by a bi-state municipal corporate instrumentality for which federal funding is not available provided the project is consistent with an approved airport layout plan; construction, reconstruction, enhancement, improvement, replacement, reconditioning, restoration, rehabilitation and preservation of state, county, town, city and village roads, highways, parkways and bridges; and construction, reconstruction, improvement, reconditioning and preservation of fixed ferry facilities of municipal and privately owned ferry lines for transportation purposes. The director of the budget and the commissioner of transportation are each hereby authorized to enter into service contracts, contracts, agreements, deeds and leases with

the authority, project sponsors or others to provide for the financing by the authority of the project costs specified in subparagraph (iv) of the preceding sentence.

(b) Such obligations shall be issued or incurred with the approval of the director of the budget and shall be special limited obligations of the authority secured by and payable solely out of amounts appropriated by the legislature as authorized pursuant to such section eleven of chapter three hundred twenty-nine of laws of nineteen hundred ninety-one, as amended, and any other funds appropriated by the legislature to the authority therefor without recourse against any other assets, revenues or funds of or other payments due to the authority.

(c) [Redesignated]

(d) Such obligations shall contain on the face thereof a statement to the effect that they shall not be deemed to be an obligation of the state and that the state shall not be liable thereon.

(e) All of the provisions of this title relating to bonds and notes, which are not inconsistent with the provisions of this section, shall apply to obligations authorized by this section, including but not limited to the power to issue renewal notes or refunding bonds thereof.

(f) Notwithstanding any inconsistent provision of law, any place where reference to paragraph (c) of this subdivision is made in law it shall be deemed to be a reference to paragraph (b) of this subdivision as relettered by chapter six hundred thirty-seven of the laws of nineteen hundred ninety-six which added this paragraph.

2. Not less than one hundred twenty days before the beginning of each state fiscal year, the chairman of the authority shall certify to the comptroller and to the director of the budget a schedule of anticipated cash requirements for such fiscal year. The total amount so certified for such fiscal year shall be equal to the total amount of the debt service due or expected to be due during such fiscal year on obligations of the authority incurred pursuant to subdivision one of this section, including payments of interest and principal (including sinking fund payments), together with:

(a) the amount, if any, due to any provider of any insurance policy, letter of credit or other letter of enhancement or a related facility with respect to such obligations, representing payments made by it as provided in the applicable resolution or trust indenture as a result of any previous failure of the state to make any payment provided for in this section, including any related reasonable interest, fees or charges so provided;

(b) the amount, if any, required to restore any applicable reserve fund to the applicable reserve fund requirement to the extent any deficiency therein has resulted directly or indirectly from failure by the state to make any payment provided for in this section;

(c) the amount, if any, required to be rebated to the United States to provide for continued exclusion from federal income taxation of interest on obligations of the authority; and

(d) the expenses of the establishment and continued operating expenses of the authority relating to local highway and bridge projects and project costs for: construction, reconstruction, improvement, reconditioning and preservation of rail freight facilities and intercity rail passenger facilities and equipment; construction, reconstruction, improvement, reconditioning and preservation of state, municipal and privately owned ports; construction, reconstruction, improvement, reconditioning and preservation of municipal airports; privately owned airports and aviation capital facilities, excluding airports operated by the state or operated by a bi-state

municipal corporate instrumentality for which federal funding is not available provided the project is consistent with an approved airport layout plan; construction, reconstruction, enhancement, improvement, replacement, reconditioning, restoration, rehabilitation and preservation of state, county, town, city and village roads, highways, parkways and bridges; and construction, reconstruction, improvement, reconditioning and preservation of fixed ferry facilities of municipal and privately owned ferry lines for transportation purposes, funded pursuant to section eleven of chapter three hundred twenty-nine of the laws of nineteen hundred ninety-one, as amended, including, but not limited to, trustees' fees, fees payable to providers of credit facilities, fees for issuing and paying agents, remarketing agents and dealers, legal counsel, financial or other advisors or consultants, independent auditors, providers of interest rate exchange agreements, rating agencies, transfer or information agents, the publication of advertisements and notices, surety arrangements, and printer's fees or charges incurred by the authority to comply with applicable federal and state securities and tax laws; and any other costs of issuance in excess of the amount provided therefor from the proceeds of the sale of such obligations, to the extent that any of the foregoing amounts or expenses are not to be paid from other resources available to the authority for such purpose.

3. The chairman of the authority may revise such certification at such times as shall be determined by the chairman; provided, however, that the chairman of the authority shall revise such certification not later than thirty days after the issuance of any obligations authorized pursuant to subdivision one of this section including refunding bonds, and the adoption of any interest rate exchange or other financial arrangement affecting the cash requirements of the authority with respect to the obligations incurred pursuant to this section.

4. Such certification shall provide for payments on such dates as the authority deems appropriate to ensure that sufficient funds will be available from the sources identified in this section to enable it to meet its current obligations with respect to those obligations incurred pursuant to this section as they become due.

5. Upon receipt of such certification, or any revision thereof, the comptroller shall pay such amount to the authority in accordance with such certification, from the service contracts authorized pursuant to section eleven of chapter 329 of the laws of nineteen hundred ninety-one, as amended, or from any other amount appropriated for such purpose. Such payments shall be made on or before the date specified in each certificate or within thirty days after such receipt, whichever is later, provided that all such amounts shall have been first appropriated by the state.

6. The state, acting through the director of the budget, and the authority may enter into, amend, modify, or rescind one or more agreements providing for the specific manner, timing, and amount of payments to be made under this section, but only in conformity with this section. The agreement of the state contained in this section shall be deemed executory only to the extent of appropriations available for payments under this section and no liability on account of any such payment shall be incurred by the state beyond such appropriations.

7. The authorization, sale and issuance of bonds, notes or other obligations pursuant to this section shall not be deemed an action as such term is defined in article eight of the environmental conservation law for the purposes of such article. Such exemption shall be strictly limited in its

application to such financing activities of the authority and does not exempt the department of transportation or any other entity from compliance with such article.

§ 381. Further additional powers of the authority

1. The authority is hereby authorized, as additional corporate purposes thereof: (a) to issue bonds and notes and to incur obligations secured by the moneys as provided in the service contracts authorized pursuant to section fourteen of the chapter of the laws of nineteen hundred ninety-one which enacted this section; and (b) to make available the proceeds from the sale of such bonds and notes, net of all costs to the authority in connection therewith, to provide moneys to the authority to achieve the same corporate purposes as set forth in section three hundred sixty-five of this chapter. The authority is further authorized to issue such obligations in an aggregate principal amount not to exceed eighty million dollars, exclusive of the principal amount of bonds, notes or other obligations issued and applied (1) to fund any related debt service fund, or other reserve funds as may be needed, (2) to provide capitalized interest, and (3) to provide fees and other charges and expenses, including underwriters' discount and the purchase of any credit or liquidity enhancement facilities, related to the issuance of bonds, notes or other obligations and the maintenance of such reserves, all as determined by the authority and excluding bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued pursuant to this section. In computing the total principal amount of bonds, notes or other obligations that may at any time be issued for any purpose under this section, the amount of the outstanding bonds, notes or other obligations that constitutes interest under the United States Internal Revenue Code of 1986, as amended to the effective date of this section, shall be excluded. Provided, however, that upon any refunding or repayment, except in connection with the termination of the existence of the authority or if otherwise authorized by the legislature, the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than the amount authorized by this section only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For purposes of this section, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof.

2. Such obligations shall be special limited obligations of the authority, secured by and payable solely out of payments received pursuant to service contract or contracts authorized by section [fig 1] fourteen of the chapter of the laws of nineteen hundred ninety-one which enacted this section, funded by amounts appropriated by the legislature and any other funds appropriated by the legislature to the authority therefor, without recourse against any other assets, revenues or funds of or other payments due to the authority.

3. Such obligations shall contain on the face thereof a statement to the effect that they shall not be deemed to be an obligation of the state and that the state shall not be liable thereon.
4. Such obligations shall be scheduled to mature over a term not to exceed thirty years.
5. All the provisions of this title relating to bonds and notes, which are not inconsistent with the provisions of this section, shall apply to obligations authorized by this section, including, but not limited to, the power to issue renewal notes or refunding bonds thereof.

§ 382. Canal corporation

1. There is hereby created a public benefit corporation known as the "New York state canal corporation" (hereinafter referred to as the "canal corporation") as a subsidiary corporation of the authority. The canal corporation is solely created to, and shall have only the power to, operate, maintain, construct, reconstruct, improve, develop, finance, and promote the New York State canal system.
2. The authority may transfer to the canal corporation any moneys, real, personal, or mixed property or any personnel in order to carry out the purposes of this section. The canal corporation and any of its property, functions, and activities shall have all of the privileges, immunities, tax exemptions and other exemptions of the authority and of the authority's property, functions, and activities. The canal corporation shall be subject to the restrictions and limitations to which the authority may be subject. The canal corporation shall be subject to suit in accordance with section three hundred sixty-one-b of this title. The canal corporation may delegate to one or more of its members, or its officers, agents and employees, such duties and powers as it may deem proper.
3. The members of the canal corporation shall be the same persons holding the offices of members of the authority.
4. No officer or member of the canal corporation shall receive any additional compensation, either direct or indirect, other than reimbursement for actual and necessary expenses incurred in the performance of his or her duties, by reason of his or her serving as a member, director, or trustee of the canal corporation.
5. The employees of the canal corporation, except those who are also employees of the authority, generally shall not be deemed to be employees of the authority by reason of their employment by the canal corporation. However, officers, agents, and employees of the canal corporation and officers, agents, and employees of the authority may transfer between the canal corporation and the authority, or vice versa, as provided for in section three hundred fifty-five of this title, and employees of the canal corporation may be placed on promotion lists for authority jobs and vice versa, provided, however, that the canal corporation and the authority are separate promotion units for the purposes of subdivision five of section fifty-two of the civil service law. Such departmental and interdepartmental promotion eligible lists shall not be certified until after the promotion unit eligible lists have been exhausted. All officers, agents, and employees of the canal corporation shall be subject to the provisions of the civil service law which shall apply to the canal corporation as a

municipal corporation other than a city. The canal corporation shall participate in the New York state and local employees' retirement system.

6. The fiscal year of the canal corporation shall be the same as the fiscal year for the authority.

7. The canal corporation shall have the power to:

(a) operate, maintain, construct, reconstruct, improve, develop, finance, and promote the New York state canal system as defined in the canal law;

(b) sue and be sued;

(c) have a seal and alter the same at pleasure;

(d) make and alter by-laws for its organization and internal management and make rules and regulations governing the use of its property and facilities;

(e) appoint officers, agents and employees, who shall be subject to section three hundred fifty-five of this title, and fix their compensation;

(f) make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;

(g) acquire, hold, and dispose of real or personal property for its corporate purposes;

(h) engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice;

(i) procure insurance against any loss in connection with its activities, properties, and other assets, in such amount and from such insurers as it deems desirable;

(j) invest any funds of the canal corporation, or any other monies under its custody and control not required for immediate use or disbursement, at the discretion of the canal corporation, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government, or in any other obligations in which the comptroller of the state is authorized to invest pursuant to section ninety-eight-a of the state finance law;

(k) exercise those powers and duties of the authority pursuant to the canal law;

(l) prepare and submit a capital program plan pursuant to section ten of the canal law;

(m) approve and implement the New York state canal recreationway plan submitted pursuant to section one hundred thirty-eight-c of the canal law. The canal corporation's review and approval of the canal recreationway plan shall be based upon its consideration of a generic environmental impact statement prepared by the canal corporation in accordance with article eight of the environmental conservation law and the regulations thereunder. Prior to the implementation of any substantial improvement by the canal corporation on canal lands, canal terminals, or canal terminal lands, or the lease of canal lands, canal terminals, or canal terminal lands for substantial commercial improvement, the canal corporation, in addition to any review taken pursuant to section 14.09 of the parks, recreation and historic preservation law, shall conduct a reconnaissance level survey within three thousand feet of such lands to be improved of the type, location, and significance of historic buildings, sites, and districts listed on, or which may be eligible, for the state or national registers of

historic places. The findings of such survey shall be used to identify significant historical resources and to determine whether the proposed improvements are compatible with such historic buildings, sites, and districts;

(n) enter on any lands, waters, or premises for the purpose of making borings, soundings, and surveys; and

(o) accept any gifts or any grant of funds or property from the federal government or from the state or any other federal or state public body or political subdivision or any other person and to comply with the terms and conditions thereof.

8. (a) The canal corporation shall review the budget request submitted by the canal recreationway commission pursuant to section one hundred thirty-eight-b of the canal law.

(b) The canal corporation, on or before the first day of November, nineteen hundred ninety-two and on or before the fifteenth day of September of each year thereafter, shall submit to the director of the budget a request for the expenditure of funds available from the New York state canal system development fund pursuant to section ninety-two-u of the state finance law or available from any other non-federal sources appropriated from the state treasury.

(c) In the event that the request submitted by the canal corporation to the director of the budget differs from the request submitted by the commission to the canal corporation, then the request submitted by the canal corporation to the director of the budget shall specify the differences and shall set forth the reasons for such differences.

9. The canal corporation shall review the recommendations of the canal recreationway commission concerning the future use of canal lands in the Adirondack park issued pursuant to section one hundred thirty-eight-b of the canal law, and shall report to the governor and the legislature not later than the first day of October, nineteen hundred ninety-four, identifying any property not needed for canal purposes that may be transferred to the department of environmental conservation.

10. The canal corporation shall not have the power to issue bonds, notes, or other obligations.

11. The canal corporation may do any and all things necessary or convenient to carry out and exercise the powers given and granted by this section.

12. The authority and all other state officers, departments, boards, divisions, commissions, public authorities, and public benefit corporations may render such services to canal corporation within their respective functions as may be requested by the canal corporation.

13. Whenever any state political subdivision, municipality, commission, agency, officer, department, board, division, or person is authorized and empowered for any of the purposes of this title to cooperate and enter into agreements with the authority, such state political subdivision, municipality, commission, agency, officer, department, board, division, or person shall have the same authorization and power for any such purposes to cooperate and enter into agreements with the canal corporation.

§ 383. Additional powers of the authority to finance certain projects in connection with the New York state canal system

1. (a) The authority is hereby authorized, as an additional corporate purpose thereof, to issue its bonds, notes and other obligations in conformity with applicable provisions of the uniform commercial code for purposes of financing the construction, reconstruction, development and improvement of the New York state canal system.

(b) The authority may issue bonds, notes or other obligations pursuant to paragraph (a) of this subdivision in an aggregate principal amount not exceeding sixty million dollars plus a principal amount of bonds, notes or other obligations issued (i) to fund any related debt service reserve fund, (ii) to provide capitalized interest for a period not exceeding six months, except that where the proceeds of such bonds, notes or other obligations are expended on a revenue-producing project, such period shall be that allowable under the United States internal revenue code of nineteen hundred eighty-six, as amended, in order to preserve the exclusion of interest on such bonds, notes or other obligations from federal income taxation, and (iii) to provide fees and other charges and expenses, including underwriters' discounts, related to the issuance of such bonds, notes and other obligations and the maintenance of such reserves, all as determined by the authority, excluding bonds, notes and other obligations issued to refund outstanding bonds, notes and other obligations issued pursuant to this section.

(c) The authority, in addition to the bonds, notes and other obligations authorized pursuant to paragraph (b) of this subdivision, may issue bonds, notes or other obligations pursuant to paragraph (a) of this subdivision in an aggregate principal amount not exceeding ten million dollars for the purpose of funding capital construction and reconstruction projects on the New York state canal system which are deemed by the authority as necessary due to the existence of an emergency involving danger to life, safety or property which requires immediate action. Provided, however, that no such bonds, notes or other obligations shall be issued pursuant to this paragraph until the authority has exhausted its authorization pursuant to paragraph (b) of this subdivision.

(d) In computing the total principal amount of bonds, notes and other obligations that may at any time be issued for any purpose under this section, the amount of the bonds, notes or other obligations that constitutes interest under the United States internal revenue code of nineteen hundred eighty-six, as amended, shall be excluded.

2. All of the provisions of this title relating to bonds, notes and other obligations, which are not inconsistent with this section, shall apply to obligations authorized by this section, including but not limited to the power to issue renewal notes or refunding bonds thereof.

§ 384. Additional powers of the authority to undertake and finance certain transportation projects

1. (a) The authority is hereby authorized and directed, as an additional corporate purpose thereof, to enter into contracts or agreements with any private person or corporation or with the state or local governments or with other public corporations to finance, construct, reconstruct, improve or develop the following transportation projects subject to the limitations prescribed by this section: (i) the projects, or portions thereof, known as the inner harbor project and the intermodal transportation project located in Onondaga county, including but not limited to, the consolidation of the Syracuse canal terminal and the planning, design and construction of an intermodal transportation facility,

provided, however, that prior to proceeding with the inner harbor project, the authority and the city of Syracuse shall enter into a memorandum of understanding regarding the undertaking of such project; (ii) the project, or portions thereof, known as the horizons waterfront development project generally located in and around Erie county, and the New York state canal system generally located along the Erie canal in Erie and Niagara counties; and (iii) the project, or portions thereof, known as the Stewart airport access project located in Orange county to provide direct access to Stewart international airport from interstate eighty-four in the vicinity of the airport. Notwithstanding the provisions of article VI-A and section one hundred thirty-eight-c of the canal law and paragraph (m) of subdivision seven of section three hundred eighty-two of this chapter, the New York state thruway authority, or the subsidiary corporation thereof, is authorized to enter into an agreement with the city of Syracuse for the leasing of the land comprising the inner harbor project in Onondaga county. Any projects for the construction, reconstruction or improvement of property or structures undertaken pursuant to this section shall be in full compliance with title thirteen of article twenty-seven of the environmental conservation law and shall be deemed public works for the purposes of section two hundred twenty of the labor law and section one hundred three of the general municipal law, except that any contracts let by the authority for the construction, reconstruction or improvement of such projects shall be subject to section three hundred fifty-nine of this title. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article and its contracts for such projects as provided in this article shall be deemed state contracts within the meaning set forth in such article.

(b) The authority is hereby authorized, as an additional corporate purpose thereof, to issue its bonds, notes and other obligations in conformity with applicable provisions of the uniform commercial code in a principal amount necessary to achieve purposes enumerated in paragraph (a) of this subdivision, including a principal amount necessary to provide capitalized interest for a period not to exceed six months subject to the limitations in subdivision three of this section. In computing the total principal amount of bonds, notes and other obligations that may at any time be issued for any purpose under this section, the amount of the outstanding bonds or notes that constitutes interest under the United States internal revenue code of nineteen hundred eighty-six, as amended to the effective date of this section, shall be excluded.

2. All of the provisions of this title, which are not inconsistent with the provisions of this section, shall apply to the projects and obligations authorized by this section, including but not limited to the power to issue renewal notes or refunding bonds.

3. The authority shall make available a total amount of moneys not exceeding fifty million dollars, exclusive of federal funds and any state and local moneys which may be available, for capital purposes and for the other purposes enumerated in this section. The fifty million dollar amount shall be distributed as follows: (a) (i) an amount not to exceed fifteen million dollars shall be made available for the project, or portions thereof, known as the inner harbor project located in Onondaga county including, but not limited to, dredging of inner harbor, reconstruction of harbor piers including but not limited to site preparation, utility lines, and hard edging of the pier, marina development including the establishment of dock space, parking, hoists, and lifts, shoreline and west side harbor landscaping, gateway and finger park development, southern pier freighthouse rehabilitation, and the reconstruction of Solars Boulevard including design and construction, excavation, curbing, lighting and paving and infrastructure projects related thereto; (ii) an amount not to exceed five million dollars shall be made available for the project, or portions thereof, known

as the intermodal transportation facility located in Onondaga county and infrastructure projects related thereto; (b) an amount not to exceed fifteen million dollars shall be made available for improvements related to the Buffalo inner harbor component of the horizons waterfront development project, or portions thereof, generally located in and around Erie county, and the New York state canal system generally located along the Erie canal in Erie and Niagara counties. The horizons waterfront development project improvements shall include the inner harbor project generally located in the city of Buffalo in the vicinity of the foot of Main street on the Buffalo river and may include, but not be limited to, the development of an automobile, bus, rail, water taxi, cycling, and pedestrian intermodal transportation hub and the waterfront area which will be serviced, including but not limited to design, environmental studies, real estate acquisition, construction, reconstruction, construction inspection, landscaping, excavation and dredging, enhancement related improvements and infrastructure improvements related thereto. The improvements to the New York state canal system may include but not be limited to construction, reconstruction, and development, terminal wall rehabilitation, transient docking, boater services, landscaping, and signage in the city of Tonawanda and the city of North Tonawanda; and (c) an amount not to exceed fifteen million dollars shall be made available for the project, or portions thereof, known as the Stewart airport access project located in Orange county to provide direct access to Stewart international airport from interstate eighty-four in the vicinity of the airport.

§ 385. Additional powers of the authority to issue special dedicated highway and bridge trust fund bonds

1. (a) The authority is hereby authorized, as an additional corporate purpose thereof: (i) to enter into a dedicated highway and bridge trust fund cooperative agreement or agreements with the commissioner of transportation for the financing by the authority of disbursements made by the state or project sponsor for any of the activities authorized pursuant to the provisions of section eighty-nine-b of the state finance law in any case where the expense thereof is paid in whole or in part by the state or project sponsor; and (ii) to issue use permits or leases to the department of transportation, or project sponsor, as the case may be, for projects financed by the authority of disbursements made by the state or project sponsor in accordance with the provisions of a dedicated highway and bridge trust fund cooperative agreement or agreements, provided that such projects are maintained and operated under the supervision of the department of transportation without cost to the New York state thruway authority for the full term of such agreement or agreements, and provided further that such use permit or lease shall be granted by the authority on a toll free basis. Provided, however, that at any time after April first, nineteen hundred ninety-five, no dedicated highway and bridge trust fund cooperative agreement with the commissioner of transportation pursuant to this section, nor any supplement thereto, need provide any conveyance of an interest in the property to the New York state thruway authority in connection with any obligations incurred pursuant to this section; and any such conveyance evidenced by a dedicated highway and bridge trust fund cooperative agreement before such date shall, consistent with the rights of holders of any such obligations incurred pursuant to this section, revert to the people of the state of New York by appropriate instrument or instruments, by quitclaim deed or otherwise, in confirmation of such reversion and any related use permits shall be voided.

(b) The authority is hereby authorized, as additional corporate purposes thereof solely upon the request of the director of the budget: (i) to issue special emergency highway and bridge trust fund bonds and notes for a term not to exceed thirty years and to incur obligations secured by the moneys

appropriated from the dedicated highway and bridge trust fund established in section eighty-nine-b of the state finance law; (ii) to make available the proceeds in accordance with instructions provided by the director of the budget from the sale of such special emergency highway and bridge trust fund bonds, notes or other obligations, net of all costs to the authority in connection therewith, for the purposes of financing all or a portion of the costs of activities for which moneys in the dedicated highway and bridge trust fund established in section eighty-nine-b of the state finance law are authorized to be utilized or for the financing of disbursements made by the state for the activities authorized pursuant to section eighty-nine-b of the state finance law; and (iii) to enter into agreements with the commissioner of transportation pursuant to section ten-e of the highway law with respect to financing for any activities authorized pursuant to section eighty-nine-b of the state finance law, or agreements with the commissioner of transportation pursuant to sections ten-f and ten-g of the highway law in connection with activities on state highways pursuant to these sections, and (iv) to enter into service contracts, contracts, agreements, deeds and leases with the director of the budget or the commissioner of transportation and project sponsors and others to provide for the financing by the authority of activities authorized pursuant to section eighty-nine-b of the state finance law, and each of the director of the budget and the commissioner of transportation are hereby authorized to enter into service contracts, contracts, agreements, deeds and leases with the authority, project sponsors or others to provide for such financing. The authority shall not issue any bonds or notes in an amount in excess of \$ 16.5 billion, plus a principal amount of bonds or notes: (A) to fund capital reserve funds; (B) to provide capitalized interest; and, (C) to fund other costs of issuance. In computing for the purposes of this subdivision, the aggregate amount of indebtedness evidenced by bonds and notes of the authority issued pursuant to this section, as amended by a chapter of the laws of nineteen hundred ninety-six, there shall be excluded the amount of bonds or notes issued that would constitute interest under the United States Internal Revenue Code of 1986, as amended, and the amount of indebtedness issued to refund or otherwise repay bonds or notes.

(c) Such obligations shall be issued or incurred with the approval of the director of the budget and shall be special obligations of the authority secured by and payable solely out of amounts appropriated by the legislature as authorized pursuant to section eighty-nine-b of the state finance law without recourse against any other assets, revenues or funds of or other payments due to the authority. Upon payments of such appropriated amounts from the fund established pursuant to section eighty-nine-b of the state finance law to the account of the authority, such funds may be pledged by the authority to secure its bonds, notes and other obligations authorized by paragraph (b) of this subdivision and shall be held free and clear of any claim by any person arising out of or in connection with articles twelve-A, thirteen-A and twenty-one of the tax law. Without limiting the generality of the foregoing and without limiting the rights and duties of the commissioner of taxation and finance under articles twelve-A, thirteen-A and twenty-one of the tax law, no taxpayer, or any other person, including the state, shall have any right or claim against the authority or any of its bondholders to any moneys appropriated and transferred from the dedicated highway and bridge trust fund established by section eighty-nine-b of the state finance law for or in respect of a refund, rebate, credit, reimbursement or other repayment of taxes paid under such articles of the tax law.

(d) The notes, bonds or other obligations of the authority authorized by this section shall not be a debt of the state and the state shall not be liable thereon, nor shall they be payable out of any funds other than those of the authority pledged therefor; and such bonds and notes shall contain on the face thereof a statement to such effect. In addition, any agreements entered into by the department of transportation pursuant to sections ten-e, ten-f and ten-g of the highway law or any other entity

on behalf of the state to effect the implementation of any of the activities financed in whole or in part with proceeds of the obligations of the authority authorized in this section do not constitute or create a debt of the state, nor a contractual obligation in excess of the amounts appropriated therefor and the state has no continuing legal or moral obligation to appropriate money for payments due under such contracts.

(e) All of the provisions of this title relating to bonds and notes, which are not inconsistent with the provisions of this section, shall apply to obligations authorized by this section, including but not limited to the power to establish adequate reserves therefor and to issue renewal notes or refunding bonds thereof, provided, however, that the authority shall be authorized to issue variable rate bonds or notes pursuant to this section only until June thirtieth, two thousand, after which date no bonds or notes issued by the authority pursuant to this section may have interest rates which vary, provided further that the expiration of such authority shall not affect any such bonds or notes issued prior to such date.

2. Not less than one hundred twenty days before the beginning of each state fiscal year, the chairman of the authority shall certify to the comptroller and to the director of the budget a schedule of anticipated cash requirements for such fiscal year pursuant to any agreements entered into by the authority with the commissioner of transportation pursuant to sections ten-e, ten-f and ten-g of the highway law. The amounts so certified shall constitute required dedicated highway and bridge trust fund cooperative agreement payments due pursuant to such agreements under sections ten-e, ten-f and ten-g of the highway law. The total amount so certified for such fiscal year shall be equal to the total amount of the debt service due or expected to be due during such fiscal year on obligations of the authority incurred pursuant to subdivision one of this section, including payments of interest and principal (including sinking fund payments), together with:

(a) the amount, if any, due to any provider of any insurance policy, letter of credit or other letter of enhancement or a related facility with respect to such obligations, representing payments made by it as provided in the applicable resolution or trust indenture as a result of any previous failure of the state to make any payment provided for in this section, including any related reasonable interest, fees or charges so provided;

(b) the amount, if any, required to restore any applicable reserve fund to the applicable reserve fund requirement to the extent any deficiency therein has resulted directly or indirectly from failure by the state to make any payment provided for in this section;

(c) the amount, if any, required to be rebated to the United States to provide for continued exclusion from federal income taxation of interest on obligations of the authority; and

(d) the expenses of the establishment and continued operating expenses of the authority related to the financing of activities funded with the proceeds of obligations authorized by subdivision one of this section, including, but not limited to, trustees' fees, fees payable to providers of credit facilities, fees for issuing and paying agents, remarketing agents and dealers, legal counsel, financial or other advisors or consultants, independent auditors, rating agencies,¹¹¹ transfer or information agents, the publication of advertisements and notices, surety arrangements, and printers' fees or charges incurred by the authority to comply with applicable federal and state securities and tax laws; and any other costs of issuance in excess of the amount provided therefor from the proceeds of the sale of such obligations, to the extent that any of the foregoing amounts or expenses are not to be paid from other resources available to the authority for such purpose.

3. The chairman of the authority may revise such certification at such times as shall be determined by the chairman; provided, however, that the chairman of the authority shall revise such certification not later than thirty days after the issuance of any obligations authorized pursuant to subdivision one of this section including refunding bonds, and affecting the cash requirements of the authority with respect to the obligations incurred pursuant to this section.

4. Such certification shall provide for payments on such dates as the authority and the director of the budget deems appropriate to ensure that sufficient funds will be available from the sources identified in this section to enable it to meet its current obligations with respect to those obligations incurred pursuant to this section as they become due.

5. Upon receipt of such certification, or any revision thereof, the comptroller shall pay such dedicated highway and bridge trust fund cooperative agreement payments to the authority in accordance with such certification, from the dedicated highway and bridge trust fund established by section eighty-nine-b of the state finance law. Such payments shall be made on or before the date specified in each certificate or within thirty days after such receipt, whichever is later, provided that all such amounts shall have been first appropriated by the state.

6. The agreement of the state contained in this section shall be deemed executory only to the extent of appropriations available for payments under this section and no liability on account of any such payment shall be incurred by the state beyond such appropriations. The state, acting through the director of the budget, and the authority may enter into, amend, modify, or rescind one or more agreements providing for the specific manner, timing, and amount of payments to be made under this section, but only in conformity with this section.

7. The authorization, sale and issuance of bonds, notes or other obligations pursuant to this section shall not be deemed an action as such term is defined in article eight of the environmental conservation law for the purposes of such article. Such exemption shall be strictly limited in its application to such financing activities of the authority and does not exempt the department of transportation or any other entity from compliance with such article.

8. The state of New York shall and hereby agrees to and does indemnify and save harmless the New York state thruway authority from and against any and all liability, loss, damage, interest, judgments and liens growing out of, and any and all costs and expenses (including, but not limited to, counsel fees and disbursements) arising out of or incurred in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against the New York state thruway authority arising out of any determinations made or actions taken or omitted to be taken or compliance with any obligations under or pursuant to this section.

9. Nothing contained in this section shall be deemed to restrict the right of the state to amend, repeal, modify or otherwise alter statutes imposing or relating to any taxes or fees, including the taxes imposed pursuant to section two hundred eighty-four, articles thirteen-A and twenty-one of the tax law and fees imposed by section four hundred one of the vehicle and traffic law. The authority shall not include within any resolution, contract or agreement with holders of the bonds, notes and other obligations issued under this title any provision which provides that a default occurs

as a result of the state exercising its right to amend, repeal, modify or otherwise alter any such taxes and fees.

10. Any resolution authorizing bonds, notes or other obligations shall reserve the right of the state, upon amendment of the New York state constitution allowing the issuance, or assumption, of bonds, notes or other obligations secured by revenues, which may include the revenues securing bonds, notes or other obligations of the authority, (i) to assume, in whole or in part, such bonds, notes or other obligations of the authority, (ii) to extinguish the existing lien of such resolution, and (iii) to substitute security for the bonds, notes, or other obligations of the authority, in each case only so long as such assumption, extinguishment or substitution is done in accordance with such resolution.

§ 386. Additional powers of the authority to issue special rail and aviation transportation bonds

1. The authority is hereby authorized, as an additional corporate purpose thereof to enter into service contracts, contracts, agreements, deeds, leases with the director of the budget, the commissioner of transportation, municipalities and others to provide for the financing by the authority of rail and aviation transportation projects as authorized by section fourteen-j of the transportation law.

2. The authority is hereby authorized, as an additional corporate purpose thereof, solely at the request of the director of the budget: a. to issue special rail and aviation transportation bonds, notes or other obligations in an aggregate principal amount not to exceed forty million dollars plus a principal amount of bonds, notes or other obligations issued (i) to fund any related debt service reserve fund, (ii) to provide capitalized interest and (iii) to provide fees and other charges and expenses, including but not limited to legal fees, underwriters' discounts, related to the issuance of such bonds, notes and other obligations and the maintenance of such reserves, all as determined by the authority, excluding bonds, notes or other obligations issued to refund outstanding bonds, notes or other obligations issued pursuant to this section. Such bonds, notes or other obligations may be issued for a term not to exceed thirty years and shall be secured by the moneys provided pursuant to a service contract, contract, lease or agreement entered into with the director of the budget, the commissioner of transportation, municipalities or others pursuant to subdivision one of this section for the purpose of financing activities pursuant to section fourteen-j of the transportation law, such service contract, contract, lease or agreement to provide for the payment of debt service, funding of necessary reserves and all other expenses of the authority as agreed to by the parties, provided, however, that such service contract, contract, lease or agreement shall provide that the obligation of the state to make such payments shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys made available to the state, and that no liability on account thereof shall be incurred by the state beyond the moneys available for the purpose thereof and that any obligation to make such payments shall be subject to annual appropriations by the legislature; to make available the proceeds net of all costs to the authority in connection therewith in accordance with such agreements or as authorized and directed by law for the purposes of financing activities pursuant to and in conformance with section fourteen-j of the transportation law.

3. Such obligations shall be issued or incurred with the approval of the director of the budget and shall be special limited obligations of the authority secured by and payable solely out of amounts

appropriated by the legislature for payments pursuant to a service contract, contract, lease or agreement authorized pursuant to subdivision one of this section and any other funds appropriated by the legislature to the authority therefor without recourse against any other assets, revenues or funds of or other payments due to the authority.

4. Such obligations shall contain on the face thereof a statement to the effect that they shall not be deemed to be an obligation of the state and that the state shall not be liable thereon.

5. All of the provisions of this title relating to bonds and notes, which are not inconsistent with the provisions of this section shall apply to obligations authorized by this section, including but not limited to the power to issue renewal notes or refunding bonds thereof, provided, however, that the authority shall be authorized to issue variable rate bonds or notes pursuant to this section only until June thirtieth, nineteen hundred ninety-four, after which date no bonds or notes issued by the authority pursuant to this section may have interest rates which vary, provided further that the expiration of such authority shall not affect any such bonds or notes issued prior to such date.

6. The authorization, sale and issuance of bonds, notes or other obligations pursuant to this section shall not be deemed an action as such term is defined in article eight of the environmental conservation law for the purposes of such article. Such exemption shall be strictly limited in its application to such financing activities of the authority and does not exempt the department of transportation or any other entity from compliance with such article.

7. The attorney general shall approve or disapprove of the form of any service contract, contract, lease or agreement authorized pursuant to this section.

§ 387. Fees for searches and copies of accident and accident reconstruction reports

Notwithstanding any other law to the contrary, the fees for searching the records of the authority for an accident report, for furnishing a copy of an accident report, and for furnishing a copy of an accident reconstruction report shall not exceed the fees charged by the division of state police pursuant to section sixty-six-a of the public officers law and/or by the department of motor vehicles pursuant to section two hundred two of the vehicle and traffic law, provided, however, that no fee shall be charged to any public officer, board or body, or volunteer fire company, for searches or copies of accident reports to be used for a public purpose.

CANAL LAW
ARTICLE 1. SHORT TITLE AND DEFINITIONS

§ 1. Short title

This chapter shall be known as the "Canal Law."

§ 2. Definitions

The following terms when used in this chapter, unless otherwise expressly stated or unless the context or subject matter requires otherwise, shall have the following meanings:

1. "New York State Canal System", "Canal System" or "Barge Canal System" shall each mean all the canals, canal lands, feeder canals, reservoirs, canal terminals and canal terminal lands of the state as hereinafter defined. All general references herein to "canal" shall be deemed to mean the New York state canal system.

2. "Canals" shall mean the channel and adjacent state-owned banks of the inland waterways of the state constructed, improved, or designated by authority of the legislature as canals and shall include canalized rivers and lakes, canal water supply reservoirs, canal water supply feeder channels and all appertaining structures necessary for the proper maintenance and operation of the canals.

3. "Canal Terminal" or "Barge Canal Terminal" shall each mean the facilities which have been constructed or acquired under authority of the legislature in connection with the canal system for loading, unloading, and/or temporarily storing commodities transported upon the canals and shall include docks, dock walls, bulkheads, wharves, piers, slips, basins, harbors, grain elevators, buildings, equipment, tracks and roadways together with the lands now owned or as may hereafter be acquired by the state for the proper maintenance and operation of the canal terminals.

4. "Erie Canal" shall mean the portion of the canal system connecting the Hudson river at Albany with the Niagara river at Buffalo, and for the purposes of article thirteen-A of this chapter and section ninety-two-u of the state finance law and subdivision ten of section three hundred fifty-one of the public authorities law, shall be deemed to include the historic Erie Canal and its western terminus in the city of Buffalo and historic lock number 1 in the city of Albany.

5. "Oswego Canal" shall mean the portion of the canal system connecting the Erie canal at Three Rivers with Lake Ontario at Oswego.

6. "Champlain Canal" shall mean the portion of the canal system connecting the easterly end of the Erie canal at Waterford with Lake Champlain at Whitehall.

7. "Cayuga and Seneca Canals" shall mean the portions of the canal system connecting the Erie canal at a point near Montezuma with Cayuga and Seneca lakes and through Cayuga lake and Cayuga inlet to the southerly side of State Street in the city of Ithaca and through Seneca lake with Montour Falls.

8. "Canal Lands" shall mean all lands and waters forming a part of the canal system title to which was originally vested in the state, acquired by the state or which may in the future be acquired by the state for canal purposes.

9. "Blue Line" shall mean the boundary of canal lands owned by the state previous to the approval of chapter one hundred forty-seven, laws of nineteen hundred three.

10. "Old Canal Lands" shall mean canal lands lying within the blue line.

11. "Barge Canal Lands" shall mean canal lands acquired subsequent to the approval of chapter one hundred forty-seven, laws of nineteen hundred three, except barge canal terminal lands acquired under the provisions of chapter seven hundred forty-six, laws of nineteen hundred eleven, and acts amendatory thereto.

12. "Canal Terminal Lands" or "Barge Canal Terminal Lands" shall each mean canal lands acquired under the provisions of chapter seven hundred forty-six, laws of nineteen hundred eleven, and amendatory laws.

13. "Permit" shall mean a revocable agreement granting temporary occupancy or use of lands or structures of the canal system.

14. "Float" shall mean every boat, vessel, raft or floating thing navigated on the canals or moved thereupon under the direction of some person having the charge thereof.

15. "Master" shall mean every person having for the time the charge, control or direction of any float.

16. "Person" shall mean an individual, partnership, corporation or association.

17. "Great Lakes-Hudson River waterway" shall mean that section of the Erie canal from Waterford to Three Rivers Point and the Oswego canal thence to the port of Oswego as such waterway was designated by acts of congress authorizing the federal aid improvement project for the Great Lakes-Hudson River waterway.

18. "Authority" shall mean the New York state thruway authority, a body corporate and politic constituting a public corporation created and constituted pursuant to title nine of article two of the public authorities law.

19. "Adirondack park" shall have the same meaning as set forth in section 9-0101 of the environmental conservation law.

20. "Commission" shall mean the canal recreationway commission created pursuant to section one hundred thirty-eight-a of this chapter.

21. "Corporation" shall mean the New York state canal corporation, a subsidiary of the New York state thruway authority, created pursuant to section three hundred eighty-two of the public authorities law.

22. "Canal fund" shall mean the New York state canal system development fund established pursuant to section ninety-two-u of the state finance law.

23. "Canalway trail" shall mean any multi-use recreational trail located on lands under the jurisdiction of the corporation. The exact boundaries and location of such trail and any portions or sections thereof shall be determined by the corporation except that the boundaries and location of such trail shall be determined in such a manner that no portion thereof shall be within the Adirondack Park.

Article 1-A – Transfer to New York State Thruway Authority

§ 5. Transfer of powers and duties relating to canals and canal lands to the New York state thruway authority

The powers and duties of the commissioner of transportation relating to the New York state canal system as set forth in articles one through and including fourteen, except article seven, of this chapter, and except properties in use on the effective date of this article in support of highway maintenance, equipment management and traffic signal operations of the department of transportation, are hereby transferred to and merged with the authority, to be exercised by the authority on behalf of the people of the state of New York. In addition, the commissioner of transportation and the chairman of the authority may, in their discretion, enter into an agreement or agreements transferring the powers and duties of the commissioner of transportation relating to any or all of the bridges and highways as set forth in article seven of this chapter, to be exercised by the authority on behalf of the people of the state of New York, and shall enter into an agreement or agreements for the financing, construction, reconstruction or improvement of lift and movable bridges on the canal system. Such powers shall be in addition to other powers enumerated in title nine of article two of the public authorities law. All of the provisions of title nine of article two of such law which are not inconsistent with this chapter shall apply to the actions and duties of the authority pursuant to this chapter. The authority shall be deemed to be the state in exercising the powers and duties transferred pursuant to this section but for no other purposes.

§ 6. Transfer of canal lands and other assets

1. The jurisdiction of the commissioner of transportation over the New York state canal system and over all state assets, equipment and property, both tangible and intangible, owned or used in connection with the planning, development, construction, reconstruction, maintenance and operation of the New York state canal system, as set forth in articles one through and including fourteen, except article seven, of this chapter, and except properties in use on the effective date of this article in support of highway maintenance, equipment management and traffic signal operations of the department of transportation are hereby transferred without consideration to the authority, to be held by the authority in the name of the people of the state of New York. In addition the commissioner of transportation and the chairman of the authority may, in their discretion, enter into an agreement or agreements transferring jurisdiction over any or all of the bridges and highways set forth in article seven of this chapter, and any or all state assets, equipment and property, both tangible and intangible, owned or used in connection with the planning, development, construction, reconstruction, maintenance and operation of such bridges and highways, which shall be transferred without consideration to the authority, to be held by the authority through the corporation in the name of the people of the state of New York. Any other rights and obligations resulting from or arising out of the planning, development, construction, reconstruction, operation or maintenance of the New York state canal system shall be deemed assigned to and shall be exercised by the authority through the corporation, except that the authority may designate the commissioner of transportation to be its agent for the operation and maintenance of the New York state canal system, provided that such designation shall have no force or effect after March thirty-first, nineteen hundred ninety-three. Such canal system shall remain the property of the state and under its management and control as

exercised by and through the authority, through the corporation which shall be deemed to be the state for the purposes of such management and control of the canals but for no other purposes.

2. The department of transportation shall deliver to the authority all books, policies, procedures, papers, plans, maps, records, equipment and property of such department pertaining to the functions transferred pursuant to this article.

3. All rules, regulations, acts, determinations, orders and decisions of the commissioner of transportation and of the department of transportation pertaining to the functions transferred pursuant to this article in force at the time of such transfer shall continue in force and effect as rules, regulations, acts, determinations, orders and decisions of the authority and corporation until duly modified or abrogated by such authority and corporation.

4. Any business or other matters undertaken or commenced by the commissioner of transportation or the department of transportation, including executed contracts, permits and other agreements, pertaining to or connected with the functions, powers, obligations and duties transferred pursuant to this article, and in effect on the effective date hereof, shall be conducted and completed by the authority through the corporation in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the commissioner of transportation or the department of transportation.

5. No existing rights or remedies of the state, including the authority, shall be lost, impaired or affected by reason of this article.

6. (a) No action or proceeding pending on the effective date of this article, brought by or against the commissioner of transportation or the department of transportation shall be affected by this article. Any liability arising out of any act or omission occurring prior to the effective date of the transfer of powers and duties authorized herein of the officers, employees or agents of the department of transportation, or any other agency of the state, other than the authority, in the performance of their obligations or duties under the canal law, any other law of the state or any federal law, or pursuant to a contract entered into prior to the effective date of such transfer shall remain a liability of the department of transportation or such other agency of the state and not of the authority.

(b) Notwithstanding any provision to the contrary contained in paragraph (a) of this subdivision, the state shall indemnify and hold harmless the authority and corporation for any and all claims, damages, or liabilities, whether or not caused by negligence, including civil and criminal fines, arising out of or relating to any generation, processing, handling, transportation, storage, treatment, or disposal of solid or hazardous wastes in the canal system by any person or entity other than the authority occurring prior to the effective date of the transfer of powers and duties authorized herein. Such indemnification shall extend to, without limitation, any releases into land, water or air, including but not limited to releases as defined under the federal comprehensive environmental response compensation and liability act of nineteen hundred eighty, occurring or existing prior to the effective date of this section; provided that the authority shall cooperate in the investigation and remediation of hazardous waste and other environmental problems.

Article II – Powers of the Canal Corporation

§ 10. General powers and duties of the corporation relating to canals

The corporation shall:

1. Have general supervision of the canal system and its operating personnel and enforce the faithful administration and observance of the canal law.

2. Appoint and remove all officers and employees in the administration of canal matters in conformity with the provisions of title nine of article two of the public authorities law.

3. Provide for all engineering services required in the improvement, maintenance and repair of the canal system.

4. Cause surveys, maps, plans, specifications and estimates to be made for the improvement, maintenance and repair of the canal system.

5. Cause plans, specifications and estimates covering canal contracts to be prepared.

6. Cause inspections of the canal system to be made annually.

7. Determine the boundaries of the districts of the canal system and change such boundaries when it deems it expedient.

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

9. Prescribe rules and regulations not inconsistent with law relating to the navigation, protection and maintenance of the canal system and enforce such rules and regulations by prescribing fines, penalties or forfeitures not to exceed one hundred dollars for each offense.

9-a. Undertake lock improvements designed to attract tourists to the locks and surrounding communities. Such improvements may include, but not be limited to, comfort stations, information kiosks, picnic tables and grills, docking facilities, lock beautification, campsites, telephone service, and trash collection and removal facilities.

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

11. Compile statistics relating to the canal system and the traffic thereon and collect such other information in regard thereto as it shall deem expedient.

12. Make an annual report to the legislature, covering the calendar year, on the trade and tonnage handled, on the condition of the canals and the work and improvements connected therewith.

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

14. Permit boat owners operating upon the canal system to use state drydocks while making emergency repairs to their vessels.

15. Grant leases and issue revocable permits pursuant to this chapter.

16. Cause to be removed from canal lands any encroachments which in its judgment are detrimental.

17. Cause to be acquired lands necessary for canal purposes and cause to be abandoned such canal lands as are no longer necessary or useful for canal purposes. The commissioner of environmental conservation shall be given notice of any lands located within the Adirondack park which are no longer necessary or useful for canal purposes and which are to be abandoned, and shall be given sixty days within which to request the transfer of such lands. Such lands for which such a request has been made shall be transferred to the department of environmental conservation.

18. Accept available federal aid money for the construction, reconstruction, improvement, restoration, repair, operation, maintenance or rehabilitation of any section, appurtenances or facility of the Barge canal system.

19. Investigate all matters relating to the administration and operation of the canal system and its personnel.

20. Either absolutely, or on such conditions as it prescribes, remit fines imposed, if in its judgment such action is expedient.

21. Administer, operate and maintain the state-owned hydroelectric power plants on the Mohawk river at Crescent and Vischer Ferry.

22. When an emergency arises endangering life or the canal system, seize any lands, equipment or supplies necessary to avert such damage.

23. Prepare an inventory sufficient for planning purposes which includes at least: (a) a general description of all state-owned property which comprises the canal system, and where appropriate other state-owned property contiguous to the canal system, specifying present use and facilities for public use, including but not limited to parks and recreation facilities; (b) a description of significant freshwater wetlands and lands which possess significance for wildlife management, recreation or natural resource protection purposes within the canal system; and (c) significant municipal and privately owned facilities which serve users of the canal system. Such inventory shall be provided to the commission no later than July thirty-first, nineteen hundred ninety-three.

24. Prepare on an annual basis a detailed five-year capital plan for the maintenance and improvement of canal infrastructure. Such plan shall set system-wide goals and objectives for capital spending and, commencing January first, nineteen hundred ninety-five, describe the compatibility of such plan to the canal recreationway plan approved pursuant to section one hundred thirty-eight-c of this chapter. Such plan shall include but not be limited to such capital project categories as locks, canal bridges, channels, shorelines, dams, guard gates, and other structures necessary for safe and successful operation of the canal system. The plan shall also include a detailed schedule of all capital projects which the authority intends to undertake within the next five years and shall provide the following information for each such capital project: (a) a description of the project; (b) an indication of the category into which the project has been classified in the capital plan; (c) the estimated total cost of the project and expenditures by year for such project; (d) the actual disbursements by project for the prior year; and (e) the estimated dates of project initiation and completion. The plan shall also include a statement of the mix of financing methods to be used by the authority for financing the capital plan. The capital plan shall be submitted to the governor, the temporary president of the senate and the speaker of the assembly on the first day of January of each year commencing in nineteen hundred ninety-three.

25. Prepare, in consultation with the department of environmental conservation: (a) a survey of canal lands in the Adirondack park; and (b) a study of canal lands in the Adirondack park subject to permits, including the identification of any structures or activities that are not allowed by law or by such permits. Such survey and study shall be completed and submitted to the commission no later than January first, nineteen hundred ninety-four.

26. Perform such other acts as in its judgment constitute a duty required to efficiently administer the canal system.

§ 11. Adopt-a-trail program

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

(a) coordinating the services of volunteers and/or volunteer organizations (i) to reduce the amount of litter and debris on sections of the canalway trail; and (ii) to enhance the appearance and maintenance of the canalway trail through activities that may include, but not be limited to, brush clearing, lawn maintenance, tree trimming, plantings, installation, repair and/or replacement of benches, kiosks, picnic tables and shelters; and (iii) to enhance recreational opportunities; and

(b) providing and installing signs identifying those volunteers and/or volunteer organizations adopting particular sections of the canalway trail.

2. Notwithstanding any inconsistent provision of law, the corporation, authority, and commission, including any members, officers or employees thereof, shall not be liable for damages suffered by any persons and/or organizations resulting from any actions or activities of such volunteers and/or volunteer organizations.

Article III – Canal Engineering

§ 20. [Repealed]

§ 21. Preparation contract, plans and estimates

The corporation shall make surveys and prepare plans and specifications for work in connection with the improvement, maintenance or repair of the canal system to be performed under contract. It shall ascertain with all practical accuracy the quantity and quality of all materials to be used and all other items of work to be included in the contract and shall make a detailed estimate of the cost of the same. The quantities contained in such estimate shall be used in determining the cost of the work according to the different proposals received.

§ 22. Supervision of contracts

The corporation shall provide for field supervision over improvement, maintenance or repair work on the canal system that is done under contract. The corporation shall assign such engineers, inspectors and other engineering employees as may be necessary for control over the execution of the work embraced in the contract. Such corporation shall cause the preparation and approval of the es-

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

§ 23. Record of measurements

The corporation shall require every engineer employed on canal engineering to enter in permanent field books a complete record of all surveys, field measurements and construction notes. These books shall be filed in the corporation and shall be available for public inspection under such conditions as the corporation may establish.

§ 24. Making and recording maps

There shall be kept on file in the office of the corporation complete maps of every canal now or hereafter to be built on which the boundaries of every parcel of land to which the state shall have a separate title shall be designated and the names of the former owner and date of each title entered. All such maps heretofore approved by the commissioner of transportation or the corporation, or certified by such commissioner, corporation or by the state engineer or hereafter approved by the corporation to be correct, shall be presumptive evidence of the truth of the facts therein stated and of the ownership by the state of the lands therein described. Every such map when completed shall be approved and certified to as correct by the corporation. The original of said map shall be filed in the office of the corporation and copies thereof duly signed and certified as aforesaid shall be filed in the office of the department of state. Any such maps filed in the office of the clerk of a county in which such lands are located or in the office in such county where conveyances are required by law to be recorded shall constitute evidence to all persons of the state's title to and ownership in said lands. A transcript of such maps certified as correct by the officer with whom such map or maps shall be filed, shall be received as presumptive evidence of the state's title to the canal lands as of the date designated on such maps in all judicial or legal proceedings.

§ 25. Making and recording of "Blue Line" maps

The commissioner of transportation shall cause the preparation of maps of the Erie, Oswego, Champlain and the Cayuga and Seneca canals as they existed prior to and independent of lands appropriated for barge canal purposes and of all lands belonging to the state adjacent thereto or connected therewith, and there shall be designated on such maps the boundaries of the lands to which the state holds title, and so far as possible the names of the owners of the adjoining lands. Every map when completed shall be approved and certified to as correct by the commissioner of transportation and be certified to as correct by the chief engineer. The original of said map shall be filed in the office of the [fig 1] corporation and copies thereof, duly signed and certified as aforesaid, shall be filed in the office of the department of state. Each of said maps so filed shall be regarded as an original copy. A blue or white print copy of such map or portion of such map or maps as related or applies to any particular county of the state shall be transmitted to and filed in the office of the clerk of such county, or in the office in such county wherein conveyances are required by law to be re-

corded and such filing shall constitute a notice to all persons of the state's title to and ownership of said lands. A transcript of such maps certified as correct by the officer with whom such map or maps shall be filed shall be received as presumptive evidence of the state's title to the canal lands as of the date designated on such maps in all judicial or legal proceedings.

Article IV – Canal Contracts

§ 30. Contracts for improvement, maintenance or repair of the canal system

Upon the completion and final approval of the plans and specifications for the improvement, maintenance or repair to the canal system, contracts therefor shall be executed as provided herein.

1. Advertising for proposals. The corporation shall advertise for proposals in accordance with plans and specifications prepared by it for such improvement, maintenance or repair of the canal system as the corporation deems it expedient to have performed by contract. The advertisement shall be limited to a brief description of the work proposed to be done, with an announcement stating where the maps, plans and specifications may be seen, the terms and conditions under which the proposals will be received, the time and place where the same will be opened, the amount of the draft or certified check to accompany the proposal, and such other matters as the corporation may deem advisable to include therein. Such advertisement shall be published at least once in each week for two successive weeks in a newspaper published at the county seat of the county in which such canal work is to be performed and in such other newspapers as the corporation may designate. If no newspaper is published at such county seat, then the publication of the advertisement shall be in such newspaper or newspapers within the county as the corporation may select. If no newspaper is published in the county, the publication of the advertisement shall be in such newspaper or newspapers in an adjoining county as may be selected by the corporation. Failure of such newspaper, published in such county or adjoining county, to publish such advertisement as provided in this subdivision or as directed by the corporation shall not invalidate the publication of advertisement for proposals provided such advertisement is published in another newspaper or trade publication, which will be most likely to give adequate notice to contractors of the work contemplated and of the invitation to submit proposals therefor, at least once in each week for any two successive weeks preceding the date on which proposals described in such advertisement are to be received and opened.

2. Proposals. Each proposal shall specify the correct gross sum for which the work will be performed and shall also include the amount to be charged for each item specified on the proposal estimate sheet. The corporation may prescribe and furnish forms for the submission of such proposals and may prescribe the manner of submitting the same which shall not be inconsistent herewith. Accompanying each proposal there shall be a certified check or bank cashier's check for the amount of the bid deposit, to be fixed by the corporation and specified in the advertisement for proposals. The checks of the two low bidders shall be deposited by the corporation in a special account. Provided, however, that if prior to or upon receipt of said checks by the corporation a bidder who is one of the two low bidders shall have duly filed a bond as hereinafter provided, the corporation shall forthwith return to said bidder his aforesaid check without depositing the same. If alternate proposals are taken, the checks of the two low bidders of all alternate proposals shall be deposited. All checks other than those of the two low bidders shall be returned promptly by the corporation. Notwithstanding the provisions of any general or special law, the money represented by the checks of the two low bidders shall be paid from the special account when the contractor has duly executed and

delivered to the corporation the contract and the bond or bonds required by law for the performance of the work of a public improvement for the state of New York, or upon the rejection of all bids. The low bidder, in the discretion of the corporation, and the second low bidder, as a matter of right, may at any time after the opening of the respective proposals, file with the corporation a bond, the principal amount of which shall at least equal the amount of the respective bidder's check, theretofore deposited with his proposal, in the form prescribed by the corporation, with sufficient sureties, to be approved by the corporation, conditioned that the said bidder will execute a contract and furnish such performance or other bonds as may be required by law in accordance with the terms of the bidder's said proposal. If a bidder complies with the aforesaid provisions, the corporation shall forthwith return the money represented by the check of such bidder.

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

3. Award of contract. The contract for the improvement, maintenance or repair of any part of the canal system shall be awarded to the lowest responsible bidder, as will best promote the public interest. No contract shall be awarded to a bidder other than the lowest responsible bidder without the written approval of the comptroller. The lowest bid shall be deemed to be that which specifically states the lowest gross sum for which the entire work will be performed, including all the items specified in the estimate therefor. The lowest bid shall be determined by the corporation on the basis of the gross sum for which the entire work will be performed, arrived at by a correct computation of all the items specified in the estimate therefor at the unit prices contained in the bid.

4. Rejection of proposals. The corporation may reject any or all proposals and may advertise for new proposals as provided in this section, if, in its opinion, the best interest of the state and the corporation will thereby be promoted.

5. Form of contract. The corporation shall prescribe the form of contract and may include therein such matters the corporation may deem advantageous to the state and the corporation.

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

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

(a) Ten per centum shall be retained from each progress payment or estimate until the contract work is fifty per centum completed, after which no further moneys shall be retained from any progress payments or estimates paid thereafter, and when the entire contract work has been completed

and accepted, the corporation shall, pending the payment of the final estimate, pay not to exceed fifty per centum of the amount of the retained percentage.

(b) Whenever in the judgment of the corporation the withholding of the retained percentage on account of the closing of the working season would be an injustice to the contractor, the corporation may, provided the district engineer certifies that the essential items in the contract have been completed in accordance with the terms of the contract and the provisions of this chapter, direct the district engineer to include in the final account such uncompleted items and pay therefor at the item prices in the contract upon the contractor depositing with the corporation securities equal to double the value of such uncompleted work. The deposit may be used by the corporation to complete the uncompleted portion of the contract and shall be returned to the contractor if it completes the uncompleted portion within a specified number of working days after it has been notified to proceed with the work.

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

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

(e) No such certificate authorizing or approving the first partial payment or any final payment to a foreign contractor shall be made unless such contractor shall furnish satisfactory proof that all taxes due the commissioner of taxation and finance by such contractor under the provisions of or pursuant to a law enacted pursuant to the authority of article nine, nine-A, twelve-A, twenty-one, twenty-two, twenty-eight, twenty-nine or thirty of the tax law have been paid. The certificate of the commissioner of taxation and finance to the effect that all such taxes have been paid shall be, for purpose of this paragraph, conclusive proof of the payment of such taxes. The term "foreign contractor" as used in this subdivision means, in the case of an individual, a person who is not a resident of this state, in the case of a partnership, one having one or more partners not a resident of this state, and in the case of a corporation, one not organized under the laws of this state.

8. Contingencies and extra work. Whenever the corporation determines that from any unforeseen cause the terms of any contract should be altered to provide for contingencies or extra work, it may, if funds are available for payment of the cost thereof, issue an order on contract therefor to the contractor, a copy of which shall be filed with the director of the budget and the state comptroller. The estimated expenditure pursuant to the order on contract shall not increase the total amount of the primary contract until the estimated expenditure shall have been approved by the corporation and a duplicate of such approval shall have been filed with the comptroller. No such extra work shall be commenced or undertaken until the corporation has issued an order on contract as herein provided.

When such order on contract provides for similar items of work or materials which increase or decrease the itemized quantity provided for in the primary contract, the price to be paid therefor shall not exceed the unit bid price in the primary contract for such items. Agreed prices for new items of

work or materials may be incorporated in the order on contract as the corporation may deem them to be just and fair and beneficial to the state, including the corporation.

Whenever the corporation also determines that in the cases herein provided it is impracticable for it to ascertain in advance the just and fair prices to be paid by the state for new items of work or materials, the order on contract therefor may provide for performance of the work and the furnishing of the materials and equipment, in which event the contractor shall keep and shall make available at all times to the corporation such accounting records, data and procedure as may be required by the corporation.

§ 31. Patented materials or articles

In the improvement, maintenance, or repair of the canal system, no patented material or article or any other material or article shall be specified, contracted for, or purchased, except under such circumstances that there can be fair and reasonable opportunity for competition, the conditions to secure which, shall be prescribed by the [fig 1] corporation.

§ 32. Performance of contracts

The performance of every contract for the improvement, maintenance or repair of the canal system shall be under the supervision and control of the corporation, and it shall be its duty to see that every such contract is performed in accordance with the provisions of the contract and with the plans and specifications forming a part thereof. If the corporation shall determine that the work upon any contract for the improvement, maintenance or repair of the canal system is not being performed according to the contract or for the best interest of the state, including the corporation, the execution of the work by the contractor may be temporarily suspended by the corporation, who may then proceed with the work under its own direction in such manner as will accord with the contract specifications and be for the best interest of the state including the corporation[,] [n1]; or it may terminate the contractor's employment under the contract while it is in progress, and thereupon, proceed with the work, in affirmance of the contract, by contract negotiated or publicly let, by the use of its own forces, by calling upon the surety to complete the work in accordance with the plans and specifications or by a combination of any such methods; or it may cancel the contract and readvertise and relet the work as provided in section thirty of this article. Any excess in the cost of completing the contract beyond the price for which it was originally awarded shall be charged to and paid by the contractor failing to perform the work or by such contractor's surety. Where the estimate for the completion of a cancelled contract is in excess of the balance of the amount originally set aside by the state including the corporation, to provide for the improvement, maintenance or repair of the canal system, or a part thereof, together with any amount otherwise provided, the corporation is authorized to set aside from any funds available for the improvement, maintenance or repair of the canal system, or a part thereof, an additional sum equal to such excess and to pay such excess in the first instance, pending recovery of excess cost from the defaulting contractor and surety, as provided in this section. Every contract for the improvement, maintenance or repair of the canal system, or a part thereof, shall reserve to the corporation the right to suspend or cancel the contract as above provided, and to complete the work thereunder by contract negotiated or publicly let or by the use of its own forces, or affirm the contract and thereupon to complete the work thereunder according to any of the methods above provided as the corporation may determine.

[n1] The bracketed punctuation was inadvertently added by the Legislature.

§ 33. Acceptance of work

Upon the completion of the improvement, maintenance or repair of any part of the canal system under a contract let, as provided in this article, the [fig 1] corporation shall cause the same to be inspected, and upon the filing in [fig 2] the office of the corporation of a certificate stating that the work has been well and faithfully performed, in accordance with the terms of the contract, and all legal modifications thereof, the work shall be deemed accepted and certificates for final payment on the contract executed.

§ 34. Exemption of materials or equipment from execution

All materials or equipment furnished or partly procured on a defaulted contract with the corporation, shall be exempt from execution, but the corporation shall pay the moneys due for such material or equipment to any judgment creditor of the contractor under whose execution such materials or equipment might otherwise have been sold, on production to it of due proof that such execution would have so attached, and such payments shall be valid payments on the contract.

§ 35. Certain federal aid improvements

This article shall not impair nor affect provisions of chapter six hundred eighty-eight of the laws of nineteen hundred thirty-four which authorize and direct compliance with the federal laws, rules, regulations and conditions which govern contracts and expenditures for the canal improvements authorized or prosecuted by or under such chapter, with financial aid from the federal government; and this article shall apply to such improvements and to contracts therefor only in so far as it is consistent with such provisions.

Article V – Acquisition of Property for the Canal System

§ 40. Acquisition of property

1. The acquisition of property necessary for purposes of the improvement, use, maintenance, control, management or repair of the canal system, shall be pursuant to the provisions of the eminent domain procedure law by the corporation or by the commissioner of transportation at the request of the corporation.

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

3. If the corporation shall determine, prior to the filing of such copy of the map in the office of the county clerk or register as aforesaid, that changes, alterations or modifications of such map as filed in the main office of the corporation should be made, the corporation shall, subject to the provisions of article two of the eminent domain procedure law, if applicable, direct the preparation of an amended map, either by preparing a new map or by making changes on the original tracing of such map, with a notation indicating such changes. On the approval of such amended map by the corporation, it shall be filed in the main office of the corporation in the same manner as the original map was filed, and the amended map shall thereupon in all respects and for all purposes supersede the map previously filed.

4. If the corporation shall determine, prior to the filing of such copy of the map in the office of the county clerk or register as aforesaid, that such map should be withdrawn, the corporation shall file a certificate of withdrawal in the offices of the corporation and department of law. Upon the filing of such certificate of withdrawal, the map to which it refers shall be canceled and all rights thereunder shall cease and terminate.

5. The commissioner of transportation or the corporation as the case may be, shall deliver to the attorney general a copy of such acquisition map whereupon it shall be the duty of the attorney general to advise and certify to the commissioner of transportation or the corporation the names of the owners of the property, easements, interests or rights described in the said acquisition map, including the owners of any right, title or interest therein pursuant to the requirements of section four hundred three of the eminent domain procedure law.

6. If, at or after the vesting of title to such property in the people of the state of New York as provided for in the eminent domain procedure law, the commissioner of transportation or the corporation as the case may be shall deem it necessary to cause the removal of an owner or other occupant from such property it may cause such owner or other occupant to be removed therefrom by proceeding in accordance with section four hundred five of the eminent domain procedure law. The proceedings shall be brought in the name of the commissioner of transportation or the corporation as agent of the state. If any person proceeded against shall contest the petition by an answer, the attorney general shall be notified, and he thereafter shall represent the petitioner in the proceedings. No execution shall issue for costs, if any awarded against the state, the commissioner of transportation or the corporation, but they shall be part of the costs of the acquisition and be paid in like manner. Proceedings may be brought separately against one or more of the owners or other occupants of a property, or one proceeding may be brought against all or several of the owners or other occupants of any or all property within the territorial jurisdiction of the same justice or judge; and judgment shall be given for immediate removal of persons defaulting in appearance or in answering, or withdrawing their answers, if any, without awaiting the trial or decision of issues raised by contestants, if any.

7. Upon making any agreement provided for in section three hundred four of the eminent domain procedure law, the commissioner of transportation or the corporation as the case may be shall deliver to the comptroller such agreement and a certificate stating the amount due such owner or owners thereunder on account of such appropriation of his or their property and the amounts so fixed

shall be paid pursuant to all relevant provisions of the public authorities law, the eminent domain procedure law and the state finance law.

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

9. The corporation shall establish and may from time to time amend rules and regulations authorizing the payment of actual reasonable and necessary moving expenses of occupants of property acquired pursuant to this section; of actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not exceeding an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the corporation; and actual reasonable expenses in searching for a replacement business or farm; or in hardship cases for the advance payment of such expenses and losses. For the purposes of making payment of such expenses and losses only the term "business" means any lawful activity conducted primarily for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted. Such rules and regulations may further define the terms used in this subdivision. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of residential property may elect to accept a moving expense allowance, plus a dislocation allowance, determined in accordance with a schedule prepared by the corporation and made a part of such rules and regulations. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of commercial property who relocates or discontinues his business or farm operation may elect to accept a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than two thousand five hundred dollars nor more than ten thousand dollars. In the case of a business, no such fixed relocation payment shall be made unless the corporation finds and determines that the business cannot be relocated without a substantial loss of its existing patronage, and that the business is not part of a commercial enterprise having at least one other establishment, which is not being acquired by the state or the United States, which is engaged in the same or similar business. In the case of a business which is to be discontinued but for which the findings and determinations set forth above cannot be made, the corporation may prepare an estimate of what the actual reasonable and necessary moving expenses, exclusive of any storage charges, would be if the business were to be relocated and enter into an agreed settlement with the owner of such business for an amount not to exceed such estimate in lieu of such actual reasonable and necessary moving expenses. Application for payment under this subdivision shall be made to the corporation upon forms prescribed by it and shall be accompanied by such information and evidence as the corporation may require. Upon approval of such application, the corporation shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section. As used in this subdivision the term "commercial property" shall include property owned by an individual, family, partnership,

corporation, association or a nonprofit organization and includes a farm operation. As used in this subdivision the term "business" means any lawful activity, except a farm operation, conducted primarily for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing or marketing of products, commodities, or any other personal property; for the sale of services to the public; or by a nonprofit organization.

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

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

(b) Any penalty costs, incurred by the owner of property acquired by the state, including the corporation, for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering such property.

In the event that there shall be a final judgment by a court of competent jurisdiction that the commissioner of transportation or the corporation as the case may be, was not legally authorized to acquire property, or a portion of such property, pursuant to this section; or the commissioner or the corporation denies that there was any taking of property, makes no offer to settle the value of the claim for such property and there shall be a final judgment by a court of competent jurisdiction that the commissioner or the corporation did in fact take such property; or the procedure to acquire such property is abandoned by the commissioner or the corporation; authorization is hereby given for the reimbursement to the person or other entity entitled thereto, as determined by the commissioner or the corporation, of an amount, separately computed and stated, for reasonable costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees, actually incurred by such person or other entity because of the acquisition procedure.

Application for either of such reimbursements shall be made to the corporation upon forms prescribed by it and shall be accompanied by such information and evidence as the corporation may require. Upon approval of such application, the corporation shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of funds available for this purpose.

11. Authorization is hereby given to the corporation to make supplemental relocation payments, separately computed and stated, to displaced owners and tenants of residential property acquired pursuant to this section who are entitled thereto, as determined by such corporation. The corporation may establish and from time to time amend rules and regulations providing for such supplemental relocation payments. Such rules and regulations may further define the terms used in this subdivision. In the case of property acquired pursuant to this section which is improved by a dwelling actually owned and occupied by the displaced owner for not less than one hundred eighty days immediately prior to initiation of negotiations for the acquisition of such property, such payment to such owner shall not exceed fifteen thousand dollars. Such payment shall be the amount, if any, which, when added to the acquisition payment equals the average price, established by the corporation on a class, group or individual basis, required to obtain a comparable replacement dwelling that is de-

cent, safe and sanitary to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the private market, but in no event shall such payment exceed the difference between acquisition payment and the actual purchase price of the replacement dwelling. Such payment shall include an amount which will compensate such displaced owner for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired pursuant to this section was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remaining term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located. Any such mortgage interest differential payment shall, notwithstanding the provisions of section twenty-six-b of the general construction law, be in lieu of and in full satisfaction of the requirements of such section. Such payment shall include reasonable expenses incurred by such displaced owner for evidence of title, recording fees and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses. Such payment shall be made only to a displaced owner who purchases and occupies a replacement dwelling which is decent, safe and sanitary within one year subsequent to the date on which he is required to move from the dwelling acquired pursuant to this section or the date on which he receives from the state final payment of all costs of the acquired dwelling, whichever occurs later, except advance payment of such amount may be made in hardship cases. In the case of property acquired pursuant to this section from which an individual or family, not otherwise eligible to receive a payment pursuant to the above provisions of this subdivision, is displaced from any dwelling thereon which has been actually and lawfully occupied by such individual or family for not less than ninety days immediately prior to the initiation of negotiations for the acquisition of such property, such payment to such individual or family shall not exceed four thousand dollars. Such payment shall be the amount which is necessary to enable such individual or family to lease or rent for a period not to exceed four years, a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities and reasonably accessible to his place of employment, but shall not exceed four thousand dollars, or to make the down payment, including reasonable expenses incurred by such individual or family for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses, on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities, but shall not exceed four thousand dollars, except if such amount exceeds two thousand dollars, such person must equally match any such amount in excess of two thousand dollars, in making the down payment. Such payments may be made in installments as determined by the corporation. Application for payment under this subdivision shall be made to the corporation upon forms prescribed by such corporation and shall be accompanied by such information and evidence as the corporation may require. Upon approval of such application, the corporation shall deliver a copy thereof to the comptroller, together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of funds available for such purpose.

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

13. If the work of improvement, maintenance, control, management or repair of the canal system causes damage to property not acquired as above provided, the state shall be liable therefor, but this provision shall not be deemed to create any liability not already existing by statute. Claims for such damage may be adjusted by the corporation, if the amounts thereof can be agreed upon with the persons making such claims, and any amount so agreed upon shall be paid as a part of the cost of such improvement, maintenance, control, management or repair as prescribed by this section. If the amount of any such claim is not agreed upon, such claim may be presented pursuant to the eminent domain procedure law to the court of claims which is hereby authorized to hear such claim and determine if the amount of such claim or any part thereof is a legal claim against the state, and, if it so determines, to make an award and enter judgment thereon against the state, provided, however, that such claim is filed with the court of claims within three years after the accrual of such claim.

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

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

16. Notwithstanding the provisions of any general, special or local law, the corporation or the commissioner of transportation at the request of the corporation, his or its officers, agents or contractors when engaged on work connected with the canal system, as described in subdivision one of this section, may, pursuant to the provisions of the eminent domain procedure law, enter upon any property for the purpose of making surveys, test pits, test borings, or other investigations and also for temporary occupancy during construction. Claims for any damage caused by such entry, work or occupation not exceeding two thousand five hundred dollars may be adjusted by agreement by the corporation or the commissioner of transportation at the request of the corporation with the owner of the property affected as determined by him or such corporation by reasonable investigation without appropriating such property. Upon making any such adjustment and agreement, the corporation or the

commissioner of transportation shall deliver to the comptroller such agreement and a certificate stating the amount due such owner and the amount so fixed shall be paid out of the funds available for such purpose.

17. If the corporation shall determine subsequent to the acquisition of a temporary easement right in property and subsequent to the filing of a description and map of such property in the office of the county clerk or register, as aforesaid, that the purposes for which such easement right was acquired have been accomplished and that the use and occupancy of said property for canal purposes are no longer necessary, and that, therefore, the term of such easement should be further limited, or if the appropriation of such easement was for an indefinite period, that such period should be fixed and determined, or that the period of such easement has by its terms expired, the corporation shall make its certificate that the use and occupancy of such property for canal purposes are no longer necessary, that the property in which such easement right was acquired is surrendered back to the affected owner of said property and that such easement right is thereupon terminated, released and extinguished. The corporation shall cause a copy of such certificate to be filed in the office of the department of state. Upon the filing of such certificate in the office of the department of state all rights acquired by the state in such property shall cease and determine. The corporation shall cause a copy of such certificate together with notice of the filing thereof in the office of the department of state to be mailed to the owner or owners of the property affected, as certified by the attorney general, if the place of residence of such owner or owners is known or can be ascertained by a reasonable effort. A further copy of such certificate and notice of filing shall be filed in the office of the recording officer of each county wherein the property affected is situated. On the filing of such certificate and notice with such officer it shall be the duty of such officer to record same in the books used for recording deeds in the office of such officer.

18. Notwithstanding any other provision of this section, the corporation shall have the power to acquire by grant or purchase, in the name of the people of the state of New York, any property which it deems necessary for any of the purposes provided for in this section and may also acquire for such purposes from the Palisades interstate park commission, in the name of the people of the state of New York, such lands and such easements, licenses, permits and other rights over lands as the said commission is authorized to grant, sell, exchange or convey. When the acquisition by appropriation, grant or purchase of property deemed necessary for canal purposes would result in substantial consequential damages to the owner's remaining property, due to loss of access, severance or control of access, the corporation, for and on behalf of the people of the state of New York, may acquire by purchase or grant all or any portion of such remaining property. Payment therefor, if any, shall be made in the manner prescribed in this section for the payment of adjusted appropriation claims, provided, however, that no real property shall be so acquired unless the title thereto shall be approved by the attorney general.

§ 41. Acquisition of cemeteries

Whenever in the judgment of the corporation, it is necessary for the purposes of improving, maintaining or repairing the canal system, to appropriate any property occupied by graves, burial places, cemeteries or other places of interment of human remains, the corporation may acquire such property in the manner and by the method prescribed by this article. It shall cause the removal of all such remains to any other cemetery or burial place, whether private or public, as the board of trus-

tees or governing body of such burial place or burial ground shall designate. All removals and transportation of such human remains shall be done in accordance with the provisions of the public health law. Whenever any person or persons legally entitled to direct as to the disposition of any human remains exhumed or to be exhumed from any cemetery, burial place or graves as herein provided, desires to remove the same for reinterment to any burial plot or cemetery not within the same county from which such remains were exhumed, such person or persons so entitled to designate such other burial place or plot shall be permitted to remove such exhumed remains from such county subject to the written consent of the corporation and provisions of the public health law, but no portion of the expense of such transportation or burial in another county shall be borne by the state or the corporation.

§ 42. Removal of encroachments

The corporation is authorized to cause to be removed from canal property any building, part of a building or structure erected, placed, maintained or otherwise occupying such canal property, if, in its opinion, the removal is necessary for the improvement, use, maintenance, control, management, repair or operation of the canal system. It shall be the duty of any person owning or maintaining such a building, part of a building or structure to remove the same within thirty days from the service by the corporation upon said person of a notice ordering its removal. Upon the failure of the person so ordered to remove the building, part of a building or structure, the corporation may, without liability on the part of the state or the corporation, take whatever action it may deem necessary to cause the removal. Service of the order of removal must be personal if the person to be served can be found within the state. If the corporation shall not be able to serve such notice or cause the same to be served on the said person within the state after making a reasonable effort so to do, service may be made by attaching such notice to the said building, part of a building or structure.

§ 43. Exchange of property

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

In all such cases, the property so to be exchanged shall first be declared abandoned by official order of the corporation which order shall set forth the benefits to be obtained by such exchange. In such abandonment it shall be unnecessary to conform to the provisions for abandonment made in section fifty-one of this chapter. The agreement and the title to the property to be acquired shall be subject to the approval of the attorney-general. Upon the approval of title by the attorney-general, the corporation is authorized and empowered to execute in the name of the people of the state of New York, a quit-claim deed to effectuate such exchange, which shall be subject to the approval of the attorney-general. The deed so executed, before becoming effective, shall be recorded in the office of the secretary of state. Compensation on account of excess value if any, of the lands so acquired shall

be adjusted and paid in the manner provided by section forty of this article, as in the case of property taken by appropriation.

§ 44. When applied

The provisions of this chapter shall not affect any proceeding or appropriation now pending for the acquisition of any property for the purposes of the canal system of the state of New York, and any such proceeding or appropriation shall be continued to termination pursuant to the statute under which such proceeding or appropriation was instituted.

Article VI – Abandonment of Canal Lands

§ 50. Authority to abandon canal lands

1. Authority is hereby conferred upon the corporation to abandon any portion of barge canal lands, barge canal terminal lands, or old canal lands and appertaining structures constituting the canal system prior to the barge canal improvement, which have or may become no longer necessary or useful as a part of the barge canal system, as an aid to navigation thereon, or for barge canal terminal purposes. This authority, however, shall not include the abandonment of a barge canal terminal unless such terminal has been by a special act of the legislature previously determined to have become no longer necessary or useful as a part of the barge canal system, as an aid to navigation thereon, or for barge canal terminal purposes.

2. Abandonments authorized pursuant to this section shall be subject to the provisions of subdivision seventeen of section ten of this chapter.

§ 51. Method of abandonment

Prior to the exercising of such authority of abandonment, however, the corporation shall cause a notice of any proposed abandonment to be transmitted to the commission and to be published once each week for three successive weeks in a newspaper published in the county wherein such lands are located, except that such publication shall appear in a newspaper published in the municipality or locality wherein such lands are located when there is a newspaper published in such municipality or locality. Such notice shall describe the lands proposed to be abandoned with sufficient certainty to identify them and invite interested parties to file written statements either supporting or opposing the proposed abandonment. Upon the expiration of the period of publishing said notice, when it is the case that the assessment for such lands proposed for abandonment is equal to or greater than fifty thousand dollars, the corporation shall hold a hearing at which evidence or further information may be submitted. A record shall be made of all evidence submitted at such hearing. If no hearing shall appear to the corporation to be warranted or subsequent to such hearing, should one be held, the corporation may in its discretion declare such lands abandoned for the purposes of the canal system. The corporation shall thereupon issue an official order abandoning the lands for canal purposes together with a map and description of the lands abandoned and dispose of any portion of canal lands so abandoned. Any money realized from the sale of such land shall be deposited into the canal fund.

§ 52. When applied

Notwithstanding the provisions of any existing general or special acts, the procedure in abandonment of canal lands shall hereafter be in accordance with the provisions set forth in this chapter.

§ 53. Sale of abandoned lands for railroad bridges

Whenever any canal lands, as defined in article one of this chapter, are required in connection with any railroad bridge which has been or which is to be constructed, reconstructed or raised by or for a railroad corporation over that portion of the barge canal, which has been or which will be improved by the use of moneys allotted or to be allotted to the state by the federal government in accordance with chapter six hundred eighty-eight of the laws of nineteen hundred thirty-four, the corporation may issue an official order abandoning the lands for canal purposes. Upon a written request by the railroad corporation, and notwithstanding the provisions of any general or special law, the corporation is authorized to grant and convey such land to said railroad corporation for and on behalf of the people of the state of New York for the purposes mentioned and for a nominal or other consideration and upon such terms and conditions which he shall deem to be beneficial to the state. Such instrument of grant and conveyance shall become effective when it is recorded in the office of the secretary of state. Any moneys realized from the sale of such land shall be deposited into the canal fund.

§ 54. Abandonment and sale of hydropower easements; agreements with hydropower developers

1. Notwithstanding subdivision two of section three or section fifty of the public lands law or section fifty, fifty-one or fifty-two of this article, upon request of a person licensed under Part I of the Federal Power Act (16 USC § 791a-823a) to develop and operate a hydropower project at a site on the barge canal system, the corporation may adopt an order abandoning a hydropower easement in barge canal system lands and waters which are within the boundaries of such federally licensed project, upon finding the property rights under such easement to be no longer necessary or useful as a part of the barge canal system, as an aid to navigation thereon, or for barge canal terminal purposes. Upon adoption of such order, and with the approval of the governor, the corporation may sell and convey such easement at private sale to such licensed developer. Such hydropower easements shall be sold for a price to be determined by the corporation taking into consideration the value of obligations to be assumed by such licensed developer, the value of the rights granted to such developer to use canal system lands, waters and facilities for hydropower project purposes and any other appropriate factors.

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

(a) The easement shall convey only those rights necessary and convenient for the development and generation of hydropower pursuant to the provisions of the applicable federal hydropower license and only within the boundaries of the hydropower project as licensed.

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

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

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

3. The corporation may also enter into agreements with such a licensed developer regarding the division of maintenance responsibility for structures, facilities or other property which serve both hydropower generation and barge canal system purposes and regarding other matters concerning joint operation at the site. Such agreements may provide for the payment to the corporation of reasonable compensation for services rendered by the corporation which assist or otherwise further the development of hydropower on the barge canal system. In addition, the corporation, subject to the approval of the director of the budget, may enter into a written agreement with a licensed developer or operator at any site concerning the sharing of costs for a major capital improvement or improvements at such site. Should the contract for such improvement or improvements be let and awarded by the corporation, the state comptroller is authorized to receive and accept from the developer or operator, the sum or sums specified in such agreement and to disburse the same along with state funds appropriated for the purpose of such capital improvement or improvements.

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

Article VI-A – Leasing of Canal Lands

§ 55. Authority to lease land

1. The corporation is hereby authorized, after review and comment by the commission as to consistency with the canal recreationway plan approved pursuant to section one hundred thirty-eight-c of this chapter and section three hundred eighty-two of the public authorities law, to enter into leases of canal lands, canal terminals, and canal terminal lands which are consistent with the canal recreationway plan. Such review and comment shall be provided within the time period set forth in the procedures of the commission established pursuant to section one hundred thirty-eight-b of this chapter which shall be no more than sixty days.

2. Lands to be leased shall be determined by the corporation to have no essential purpose for navigation.

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

4. The corporation shall consider fully completed applications for leases of canal lands, canal terminals and canal terminal lands in such form and manner as the corporation shall prescribe.

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

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

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

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

§ 56. Conditions and terms of leases

Leases for canal lands, canal terminals and canal terminal lands shall include:

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

2. requirements that the lessee take no actions or construct no improvements that will interfere with navigation, except that if the corporation determines that any potential adverse interference with navigation can be reasonably mitigated, the corporation shall include in the lease such requirements as may be necessary to effectuate mitigation of impediments to navigation;

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

4. provisions requiring that payments on the lease shall be paid to the corporation;

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

6. provisions providing a right of entry for commission and corporation members and personnel and equipment for canal purposes; and

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

§ 57. Special conditions for leases entered prior to approval of canal recreationway plan

1. In the period between the effective date of this section and the completion of the canal recreationway plan, the commission shall review and comment on proposed leases with respect to the consistency of such leases with the provisions of this article. Where local zoning laws and zoning ordinances are in effect on lands proposed to be leased or on lands adjacent to those lands proposed to be leased, during such period the commission shall also review and comment on proposed leases with respect to the compatibility of such leases, to the extent practicable, with the requirements of such local zoning laws and zoning ordinances.

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

Article VII – Bridges and Highways

§ 60. Alteration of county roads or town highways

Whenever the commissioner of transportation shall deem it necessary to discontinue or alter any part of a county road or town highway because of its interference with the proper location or construction of any work on the canal system either of improvement [improvement] , [n1]maintance [maintenance] , [n2] or repair he shall direct such discontinuance or alteration to be made and file in the office of the clerk of the county or town in which such road or highway is situate, an accurate description of the part of such road or highway so discontinued and of the one laid out anew. From the time of filing such description such road or highway shall be considered so altered. The use of such old road or highway shall not be discontinued until the new road or highway is declared open for public use by the commissioner of transportation, and a certificate to such effect filed in the office of the clerk of the county or town in which said road or highway is located. Every alteration made on any public road located upon the canal system before the first day of January, nineteen hundred and thirty-nine shall be deemed valid in law from the time of such alteration.

FOOTNOTES:

[n1] Bracketed language inserted by Publisher.

[n2] Bracketed language inserted by publisher.

§ 61. Farm and road bridges

The commissioner of transportation is authorized and required to maintain until April first, nineteen hundred fifty-four, at public expense farm, road and street bridges over the canal system, in all places where such bridges were constructed prior to the twentieth day of April, eighteen hundred thirty-nine, if, in his opinion, the public convenience requires that they should be continued, whether heretofore maintained at the expense of the state or of the counties, towns, villages and cities where they are situate, provided, however, that commencing on the first day of April, nineteen hundred fifty-four, and continuing thereafter, the maintenance, repair, improvement, replacement or closing of any such bridge over any section of the canal heretofore abandoned or which may hereafter be abandoned shall be governed by the provisions of the highway law, except that any such bridges situate in a city shall be maintained, repaired, improved, replaced or closed in the same manner and subject to the same provisions of law as apply to other streets and bridges in such city.

§ 62. Maintenance by state of certain bridges over the canal system

All highway or pedestrian, lift or movable bridges over the canal system other than highway bridges connecting parts of a state highway heretofore constructed as a part of the barge canal improvement shall be reconstructed, improved, maintained and repaired at the expense of the state, if in the opinion of the commissioner of transportation, the public convenience requires such bridges to be maintained where no alternate crossing has been provided. In the event the commissioner of transportation determines that any such bridge is no longer required for the convenience of the public, he shall have power to close, remove or relocate such bridge. The commissioner of transportation shall have the supervision and direction of such reconstruction, improvement, maintenance, repair, closing, removing or relocation. All bridges over the canal system other than lift, movable, pedestrian or state highway bridges heretofore constructed as part of the barge canal improvement shall be reconstructed, improved, maintained and repaired at the expense of the state under the supervision and direction of the commissioner of transportation, if, in his opinion, the public convenience requires that each such bridge shall be continued as a bridge for highway traffic. In the event the commissioner of transportation is requested by any municipality to reconstruct or improve any such bridge, he is hereby empowered to do so, provided, however, that prior to such reconstruction or improvement the municipality enters into a written agreement that such bridge thereafter shall become a part of the highway system or systems which it may connect and the maintenance, repair, improvement, replacement or closing of any such bridge shall be governed by the provisions of the highway law, except that any such bridges situate in a city shall be maintained, repaired, improved, replaced or closed in the same manner and subject to the provisions of any special law which may apply or to the same provisions of law as apply to other streets and bridges in such city or in the case of such bridges situate in a village, such bridges shall be maintained, repaired, improved, replaced or closed in the same manner and subject to the same provisions of law as apply to other streets and bridges in such village. Any bridge over the New York state canal system or abandoned part thereof which joins parts of a state highway shall be under the jurisdiction of the commissioner of transportation and deemed to be part of the state highway system and such bridges shall be constructed, reconstructed, improved, maintained, repaired, closed or relocated pursuant to the provisions of the highway law and the cost of such work shall be paid from moneys available for construction, reconstruction, improvement, maintenance or repair of state highways.

§ 63. Maintenance by state of alteration to certain highway bridges not state owned

When in the canalization of a natural waterway to form a part of the canal system it has been or may be necessary to alter an existing highway bridge spanning the canalized portion of the waterway, the maintenance and repair of the additional or new part or parts of such bridge structure which may have been or may be necessary in altering the bridge to meet the requirements of navigation, shall be an obligation of the state. The commissioner of transportation shall have supervision and direction over such maintenance or repairs, the cost of which shall be defrayed from moneys appropriated for the improvement, maintenance and repair of the canal system.

§ 64. Commutation for bridges

The commissioner of transportation may commute with owners and claimants of bridges over any canal, by paying such owner or claimant such sum in lieu of a bridge as may be agreed on between the claimant and the commissioner of transportation. If, in the opinion of the commissioner of

transportation, a bridge should not be rebuilt, and the amount to be paid be not agreed upon, the bridge shall not be built, but the damages sustained by such owner by being deprived of such bridge and which the state under all the circumstances ought of right to pay, shall be ascertained in the same manner as damages for the appropriation of real property, for the use of the canal and paid by the commissioner of transportation, on the approval of the attorney-general. If the damages claimed are for the deprivation of a bridge which the claimant had before constructed or maintained, the circumstance of his being equitably bound to contribute proportionately toward the construction and maintenance of an enlarged bridge shall be taken into consideration and a proper amount of that account shall be set off against any damage to which the claimant might otherwise be entitled.

§ 65. Private road in lieu of farm bridges

If the commissioner of transportation cannot agree with the owner of a farm bridge spanning a canal as to the amount of commutation in any case where he is of the opinion that the state should erect such bridge, and the commissioner of transportation determines that a private road through adjoining lands will sufficiently accommodate such owner, and that the same can be laid out with economy to the state, he may take the necessary action to lay out a private road for the accommodation of the owner, in the manner prescribed by law for laying out private roads and pay to the owner of the lands through which the same is laid out, the damages assessed.

§ 66. Restrictions on the construction of farm and road bridges

A person shall not be entitled to demand a farm bridge across a canal or feeder where the necessity of convenience of such bridge shall have arisen from the division or acquisition of property subsequent to the location of such canal or feeder. A street or road bridge shall not be constructed by the commissioner of transportation over a canal or feeder, except upon such streets or roads as were laid out, worked or used, previously to the construction of the canal or feeder, by which such street or road is obstructed; and when bridges are constructed or reconstructed upon any such streets or roads, the cost to the state shall in no case be more than is required to preserve in a safe and substantial manner the continuity of such streets or roads so as not to unnecessarily impair their usefulness. When a bridge of a more costly nature is desired by the local authorities of a city, town or village within whose corporate limits a bridge is to be built or rebuilt, the commissioner of transportation, on presentation to him by such local authorities of plans and specifications for such bridge and approval thereof by him shall estimate and determine the proportion of the cost, which, in order to preserve the continuity of such streets and roads, the state ought equitably to pay, and file such estimate and determination in his office and a duplicate thereof in the office of the clerk of such city, town or village. If a private road or public highway is laid out by legal authority in such direction as to require the erection of a new bridge over a canal for the accommodation of the road, such bridge shall be so constructed and forever maintained at the expense of the town, village or city in which it shall be situated.

§ 67. Construction of bridges by municipal corporations

The common council of any city may provide by ordinance for the erection of a lift, hoist or swing bridge over a canal at any street in such city, on plans and specifications approved by the commissioner of transportation. If the commissioner of transportation shall consent to such erection

he shall file such consent with the clerk of such common council. Such bridge shall be built, operated and maintained under the supervision and control of the commissioner of transportation, but at the expense of such city or of the property adjudged by the common council to be so benefited.

§ 68. Bridges spanning canal channels

1. When a bridge spanning the Oswego canal or that portion of the Erie canal between the Hudson river and its junction with the Oswego canal, is to be reconstructed, or a new bridge is to be built over such sections of the canal system, such reconstructed or new bridge shall be so built as to provide a clear passageway between the bottom clearance line of the bridge, if of the fixed type, or the bottom clearance line when raised, if of the movable type, and the surface of the water at its highest navigable stage of not less than twenty feet. When a bridge spanning the Champlain canal, the Cayuga and Seneca canals, or that portion of the Erie canal westerly of Three Rivers is to be reconstructed or a new bridge is to be built over such sections of the canal system, such reconstructed or new bridge shall be so built as to provide a clear passageway between the bottom clearance line of the bridge, if of the fixed type, or the bottom clearance line when raised, if of the movable type, and the surface of the water at its highest navigable stage, of not less than fifteen and one-half feet. The commissioner of transportation may, however, if in his judgment the additional cost is not unreasonable, require that such bridges be reconstructed or constructed to provide a clearance of not less than twenty feet or that the substructure of such bridge be so constructed that the superstructure may be raised to provide a clearance of twenty feet without rebuilding the foundation of said substructure.

2. The provisions of subdivision one of this section shall not apply to the reconstruction of the State Street bridge, Seneca Street bridge and the Buffalo Street bridge, all over the Cayuga inlet in the city of Ithaca, county of Tompkins.

§ 69. Damages caused by excessive loads

The commissioner of transportation shall cause, where required, the posting of all bridges under his jurisdiction located on the canal system in conformity with the provisions of the vehicle and traffic law. Upon all such bridges incapable of safely carrying legal loads as prescribed in such law or where the overhead clearance is less than the legal height of fourteen feet, the commissioner of transportation shall have displayed on both ends of such bridge signs stating the safe carrying capacity and legal clearance of such structure, all in accordance with the provisions of section three hundred eighty-five of the vehicle and traffic law. No person shall cause to be transported over such a bridge a vehicle whose load is in excess of that shown upon the posted sign or whose height is in excess of the legal clearance as shown on such posted sign. Any person violating the above provisions shall be subject to the penalties imposed under section three hundred eighty-five of the vehicle and traffic law and in addition thereto shall be liable for all damages to such structure resulting from violation of such law. The commissioner of transportation is hereby authorized and directed to proceed, on behalf of the people of the state, to cause to be recovered, by the attorney-general in an appropriate action in any court of competent jurisdiction, the amount of damages sustained and expenses incurred by the state in consequence of such violation.

§ 69-a. Changes in bridges and highways on or over canals and canal lands

The commissioner of transportation shall notify the corporation as to any changes planned for the bridges and highways on or over canals and canal lands which may have an impact on canal operations.

Article VIII – Canal Navigation

§ 70. Cargo statement

The master of any float shall furnish the corporation or its representative a true statement of the quantity and description of the lading of such float, specifying the place from which it departed and to which it is destined. Any master who refuses to comply with any provision of this section shall forfeit to the people of the state a penalty not to exceed one hundred dollars, which shall be paid into the canal fund.

§ 71. Registry of canal floats

The owner of every commercial float to be navigated on the canal system shall make application to the corporation for a New York state certificate of registry. The application shall be in form prescribed by the corporation and shall contain such information as the corporation may deem essential for full and complete identification of the float and the owner thereof. It shall be signed by the owner if an individual, or by an officer of a company, partnership or corporation if so owned. Upon receipt of an application in proper form, the corporation shall assign a state registry number and issue to the owner a certificate of New York state registry, a copy of which shall be entered in the records of its office.

§ 72. Change of ownership, name or hailing place

Should the ownership, name or hailing place of a float change after state registry, the owner of the float shall make new application in form similar to that required for original registry and upon receipt of such application the corporation shall issue a new state certificate of registry and record the same in its office. The owner or owners of a commercial float found navigating the canal system, the ownership, name or hailing place of which shall have been changed without proper application for re-registry to the corporation, shall, upon due proof thereof be subject to a penalty to the people of the state of New York not to exceed one hundred dollars recoverable by the attorney general in an action in any court of competent jurisdiction.

§ 73. Registered owner to be advised of assessments and penalties

The corporation shall advise the person whose name appears on the latest application for registry on file in its office of any assessments, penalties or other charges levied against a float or its crew for acts or omissions occurring while the float is on the canal system. Should the registered owner fail to make prompt payment of such assessments, penalties or charges, the corporation may refuse clearance to the float and action shall be instigated as provided under section eighty-three of this article.

§ 74. List of registered floats to be prepared

The corporation shall make a list of all floats to which New York state certificates of registry have been issued. This list shall be corrected at least once in each calendar year and a copy of such corrected list shall be filed in the office of each of the district engineers having supervision over portions of the canal system. The list shall be filed in the office of the corporation and shall be available to public inspection within regular office hours.

§ 75. Clearance and ownership

Every commercial float shall have a clearance. Clearances may be obtained at such places along the canal system and at such other points as the corporation may direct. No clearance shall be granted to any commercial float unless the person authorized to issue such clearance has evidence that such float is duly registered in the office of the corporation. Each float shall have a separate clearance and no part of the cargo shall be cleared to a place beyond which the float is cleared. The corporation may, in its discretion, refuse to issue a clearance for a vessel against whose registered owner there is an unpaid penalty involving such vessel for the violation of rules and regulations adopted pursuant to this chapter.

§ 76. Regulations with respect to clearance

No commercial float shall proceed beyond the place to which it is cleared, nor unload any of its cargo, before or after its arrival, at the place from which such articles are cleared, nor proceed beyond such place until the master thereof delivers the clearance of such float or articles to the person designated by the corporation to receive the same, at the place for which they are cleared. If there is no canal official at such place, then to the canal official whose office shall be passed by the float in the order of its voyage, and receive permission from such canal official to proceed to the place to which it is cleared.

§ 77. Copy of clearance

The corporation, or its representative issuing a clearance or with whom a clearance is filed, shall, when requested, furnish a copy thereof, with any additional cargo entered thereupon and the several indorsements, if any, which copy shall have the same validity and effect as the original clearance of which it is a copy.

§ 78. Assignment of berths for loading or unloading

The corporation or its representative may assign berths to all floats while loading or unloading at any landing place upon a canal and determine disputes concerning same. The corporation, shall, as to any of the locks, terminals or mooring places of the canal system used by floats, regulate and station such floats for the best interest of navigation. The corporation may determine how far and in what instances masters and other persons having charge of any float shall accommodate each other in their respective anchorages. If any master or other person having control of any float within the limits of such waters shall neglect or refuse to obey the directions of the corporation, or its representative, in any such matters within its authority, or shall resist or oppose the corporation in the execu-

tion of the said duties, such person shall be liable to a penalty not to exceed one hundred dollars, recoverable by the corporation in any court of competent jurisdiction, and payable into the canal fund.

§ 79. Floating elevators

Any person owning or leasing, in whole or in part, any floating elevator used for loading grain, coal, sand, or other material, shall, upon application to and in the discretion of the corporation, be assigned a place for and permitted to keep said floating elevator in the waters of the canal system of this state, at such point as may be most convenient for and for such period of time as may be necessary for the transaction of the business of loading or unloading grain, coal, sand, or other material, shipped or to be shipped on the canals; provided, however, that such floating elevator shall cause no obstruction to the free and uninterrupted use of the canal system by floats navigating thereon. While such elevators are in operation, they shall be equipped with such device or devices as the corporation may determine to prevent the material being loaded or unloaded from such float, from falling into such waters.

§ 80. Supplying deficiencies of water

Whenever the navigation of any part of the canal system is endangered by reason of a deficiency of water, the corporation shall, without delay, supply such deficiency. For that purpose it shall resume the temporary use of all the surplus water leased, licensed or withdrawn under revocable permit from the part of the canal system where such deficiency exists. If there still be a deficiency of water, it may enter upon and use all lands, streams and waters which, in its judgment, may be necessary or proper to be used to procure a temporary supply of water for such part of the canal system. The corporation may enter into an agreement with the owner or owners of any property used for such temporary purpose under this section covering the amount of damage sustained. Such agreement when approved by the attorney-general shall become an obligation of the corporation and paid from moneys available therefor. In case no agreement is consummated the amount of damages sustained may be determined as provided in section one hundred twenty of this chapter. No damages shall be allowed in any case for resuming the use of any surplus water which has been withdrawn under lease, license or revocable permit.

§ 81. Deposit of refuse in navigable waters

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

§ 82. Seizure of obstruction

The corporation may cause to be seized and removed any object, article, float or sunken thing found within the limits of the canal system not under the care or charge of any person. It shall sell or offer for sale all seized objects, articles, floats or sunken things either before or after their removal, as it deems essential for maintenance of the canal system. The sale shall be at public auction after giving ten days' written notice of such proposed sale conspicuously posted at two public places in the city or town where such object, article, float or sunken thing is found unless before the time of such sale the owner thereof appears and claims same and pays to the corporation the cost and expense which has been incurred by it in connection with the seizure, removal and proposed sale. The owner thereof shall be liable for the cost and expense of such seizure, removal and sale of the said object, article, float or sunken thing which cost and expense may be recovered by the attorney-general in an appropriate action or proceeding brought in the name of the people of the state in any court of competent jurisdiction. The avails of such sale shall be accounted for by the corporation to the department of taxation and finance which may on the application of the owner and upon due proof of ownership pay over such proceeds to him after deducting all costs, expenses and reasonable charges of the seizure, removal and sale thereof. Whenever in the opinion of the corporation the navigation or operation of any part of the canal system is interrupted or endangered, the corporation may cause to be cut up, destroyed or otherwise removed any object, article, float or sunken thing in or partly in the waters of the canal system which may, in its judgment, be causing such interruption or damage. The corporation may enter into an agreement with the owner or owners of any property so cut up, destroyed, or otherwise removed, covering the amount of damage sustained. Such agreement when approved by the attorney-general shall become an obligation of the corporation and paid from moneys available therefor. In case no agreement is consummated, the amount of damages sustained may be determined as provided in section one hundred twenty of this chapter.

§ 83. Liability of float for penalty, detention and sale thereof

Every penalty and forfeiture prescribed by this chapter against the owner, master or other person having charge of any float, when incurred, shall be chargeable on such float, and an action for the recovery thereof may be brought against any person in the possession or having charge thereof at the time when it is commenced; and any court or judicial officer issuing the process for the commencement of such an action, may, by a clause to be inserted therein, direct the officer executing the same, to detain such float or its appurtenances until action is determined or until adequate security is given for the payment of any judgment recoverable. If such security be given, or the defendant in the action prevail, such court or officer shall order the boat or other float and property detained to be released. If no such security be given and a judgment be recovered for such penalty or forfeiture, and not immediately paid, an execution shall be issued under which the property so detained may be sold in like manner as if the judgment had been obtained against the owner thereof.

§ 84. Damage caused by termination of canal navigation

No part of the canal system of the state which was improved pursuant to chapter seven hundred ten of the laws of nineteen hundred seven and the acts supplemental thereto and amendatory thereof, shall be abandoned or navigation thereof permanently closed, nor shall the state cede or transfer ownership, jurisdiction or control thereof to the United States pursuant to authority conferred by constitutional amendment, until the expiration of one year after the corporation shall have been authorized and empowered by law to cause a notice of intention to take such action to be pub-

lished once in each month during such year in at least one newspaper published in each county adjacent to the part of such canal system affected by such notice. Each person, who, at the time of the first publication of such notice, is the owner of a commercial float registered pursuant to the provisions of this chapter, which, at the close of navigation in such year, shall have been actually engaged in the navigation of the part of such canal system so abandoned, closed, ceded or transferred, or so relinquished to the jurisdiction or control of the United States, may present a claim for damages against the state including the corporation to a court of competent jurisdiction, which court shall hear and determine the liability of the corporation therefor; and, if the court shall find that such person has suffered or sustained damages by reason of such abandonment, closing, ceding, transfer, or relinquishment which the corporation, in right and justice, or in law or equity, is obligated to pay, such damages shall constitute a valid and legal claim against the corporation, and the corporation shall be deemed liable therefor, and the court may make an award to such person and render a judgment in his favor against the corporation in such sums as it shall find to be just and equitable. It is declared to be the purpose of this section to encourage and induce the construction of boats for use upon such canal system and their operation thereon and to protect from loss, financial investments made in such construction and operation caused by an abrupt, permanent termination of navigation, or the creation of conditions, which would result in the impairment, limitation or destruction of navigation of such canal system by such floats.

§ 85. Rules and regulations

The corporation shall prescribe and enforce rules and regulations, not inconsistent with law, governing navigation on the canals and for the use of the terminals connected with the canals and for the use of all other property of the corporation under the corporation's control and maintained as a part of the canal system. The corporation shall provide rules and regulations for the government of all employees under its control, engaged in the improvement, repair and maintenance of the canals. It shall cause such rules and regulations to be printed and a copy filed in the office of the department of state and a sufficient number distributed to the various district engineers and other field officers to be kept in their respective offices for public inspection.

§ 86. [Renumbered]

Article IX – Canal Accounts

§ 90. Record of operating expenses

The corporation shall keep an accurate account of all moneys appropriated by the legislature for the improvement, maintenance, repair and operation of the canal system and shall cause to be prepared and filed in the office of the corporation on or about January first of each year, a statement showing all such moneys appropriated and how expended during the preceding fiscal year. The corporation shall keep an accurate account of the recoveries made in all actions brought by it or at its direction, for the recovery of penalties or damages under authority of this chapter and of the cost and expenses thereof and pay into the canal fund the amount of all such recoveries and account for the same with the department of audit and control.

§ 91. Tonnage statistics

The corporation shall collect and compile accurate records of the tonnage transported on the canals during each season of navigation. Such data, together with all other necessary information relative to canal transportation shall be arranged in convenient form and furnished to those interested. The corporation shall publish from time to time such data and information as, in its opinion, will promote and encourage commerce on the canals.

§ 92. Annual report

The corporation shall during the month of January make a report to the legislature covering the activities of the corporation with respect to the canal system for the preceding calendar year ending December thirty-first, including therein details as to the tonnage transported upon the canals of the state, the condition of the canals, and the work and improvements connected therewith; the several amounts of moneys appropriated and expended during the preceding fiscal year and submit recommendations of such measures in relation to the canals as, in its judgment, the public interest requires.

Article X - Permits

§ 100. Granting revocable permits

The corporation is hereby authorized, in its discretion, to issue revocable permits granting certain limited privileges therein, whenever the same can be done without detriment to canal navigation or damage to the banks or other structures thereof. It shall prescribe the terms and conditions by which such revocable permits may be issued for the temporary use of canal lands or structures and for the diversion of canal waters for sanitary, farm purposes, or industrial use. It may also issue permits, as it shall deem to be advantageous to the corporation, to any person, firm or corporation, to cut, gather and haul away ice from the canals. Whenever any space and facilities are available at any canal terminal and when no detriment or injury to canal traffic or delay in handling same would result, the corporation may issue a revocable permit for the temporary and restricted use or occupancy, of such canal terminal and the facilities thereof, pursuant to the rules and regulations which it may prescribe. All permits heretofore granted by the corporation and not canceled, are hereby legalized and confirmed and made effectual and valid in accordance with the terms and conditions in said permit as fully as if this chapter had been in force on the date of issuance of such permit. No liability of any kind shall attach to or rest upon the state, including the corporation, for any damage on account of the granting or revocation of any permit. Existing permit holders within the Adirondack park in compliance with the terms of permits which have been properly issued pursuant to law shall continue to be afforded permits at least until the first day of June, nineteen hundred ninety-four, unless such permit holders fail to apply for permit renewal within six months of the expiration of such existing or former permit or permits, or by the first day of August, nineteen hundred ninety-three, whichever is later; provided, however, that no additional development right or rights may be included in any permit renewed prior to the first day of June, nineteen hundred ninety-five. Any revenue realized from the issuance of such permits shall be deposited into the canal fund.

§ 101. Railroads operating over canals

The corporation shall have a general supervisory power over so much of any railroad as passes over any canal or feeder belonging to the state or approaches within ten rods thereof, so far as may be necessary to preserve the free and perfect use of such canals or feeders, or for making any repairs, improvements or alterations thereupon. No railroad corporation shall construct its railroad over or at any place within ten rods of any canal or feeder belonging to the state, unless it submits to the corporation a map, plan and profile of such canal or feeder and of the route designated for its railroad, exhibiting distinctly and accurately the relation of each to the other at all the places within the limits of ten rods thereof, and obtains the written permission of the corporation for the construction of such railroad, with such conditions, directions and instructions as in its judgment the free and perfect use of any such canal or feeder may require.

Whenever any street railroad shall cross over any bridge spanning a canal, or canal feeder, the company owning, maintaining and operating the same, shall be deemed liable for and shall pay all damages that may occur or arise, either to the state or to persons, by reason of its laying and maintaining its tracks or rail over, upon and across any such bridge, or by reason of the operation of its cars over the same; and any such company shall, upon demand of the corporation, make any repairs to such structure to insure the continued safety thereof, as shall have been rendered necessary by reason of such use of said structure by said company. Any company maintaining or operating a street railroad over, upon and across any such bridge shall indemnify the state including the corporation against any and all loss, damages or claims for damages for injuries to persons or property of passengers which shall be incurred by or made against such state by reason of the operation of such railroad over any such bridge, and the [or] [n1] corporation may, in its discretion, require any company so maintaining or operating a street railroad to furnish a bond, with sureties to be approved by it to indemnify the state including the corporation from all such loss, damage or claim. All such permits heretofore or hereafter granted shall be revocable whenever the free and perfect use of any such canal or feeder may so require, or if such railroad company shall fail to make any such repairs when required by the corporation. The railroad company using or occupying any bridge over the same shall, within a reasonable time after the service upon it, by the corporation of a written notice of such revocation, or to make such repairs, remove at its own cost and expense, its railroad from such bridge and from the limits of ten rods of said canal or feeder.

FOOTNOTES:

[n1] The bracketed word was inadvertently added by the Legislature.

§ 102. Pipe lines crossing canals

No pipe line shall be constructed upon or across any of the canals of this state, except by the consent of and in a manner and upon the terms prescribed by the corporation, unless constructed upon a fixed bridge across such canal and with the consent of the person, firm or corporation for whose benefit such bridge is constructed and maintained, or upon such a bridge over the canal, at the crossing of a public highway, or street, with the consent of the public officers having the supervision thereof, or of the municipal authorities of any village or city within whose limits such bridge may be, nor shall the pipes of any such corporation be laid through, on or along the banks of any of the canals of this state, unless such pipes shall be encased so as to prevent leakage, in such manner as shall be approved by the corporation.

§ 103. Tolls for lock and lift bridge passage by vessels and use of locks and lift bridges

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

2. The use of locks and lift bridges by pleasure and residential vessels shall not interfere with the use of locks and lift bridges by public vessels. Pleasure, residential and public vessels shall have the same meaning as defined in the navigation law.

3. Revenues realized from the imposition of lock and lift bridge tolls shall be deposited in the canal fund.

§ 104. Use of dry docks for repairs

The corporation may grant permission to owners of vessels operating upon the canals to use the state dry docks to the extent space is not required for the needs of canal maintenance vessels, and the corporation shall collect from such owners equitable charges for the use thereof. All sums collected for such use shall be paid into the canal fund.

Article XI – Canal Employees

§ 110. Canal officers not to be interested in floats, contracts, or hydraulic works

No public officer or employee connected with the care or management of the canal system shall be interested in any hydraulic work dependent upon the canals for a supply of water or in any commercial float navigating the canals, or directly or indirectly in any contract on the canals as a contractor, surety or otherwise in his own name or in the name of any other person or either directly or indirectly derives any benefit from an expenditure upon the canal system beyond his established compensation. If any officer or employee shall, at any time while holding such office or employment, be or become so interested or derive any such benefit, he shall forfeit his office or position and be discharged therefrom, and any contract in contravention hereof shall be void.

§ 111. Ineligibility to appointment on the canals

No person owning any hydraulic works dependent upon the canals for their supply of water, or employed in or connected with any such works, or engaged in transporting property upon the canals or owning or otherwise interested in boats navigating the canals, shall be employed upon the canals.

§ 112. Exemption of canal officers from arrest in civil actions

Neither the corporation, nor any officer or responsible employee in the corporation in charge of canal structures or forces thereof, or other public officer employed upon or in charge of the canal system or part thereof shall be liable to arrest or to be held to bail in any civil action for any act done or omitted to be done by it in the exercise of its official duties, nor be subject to military duty while actually engaged in their respective employments upon the canal system while the same is navigable.

§ 113. Delivery of property on discharge of employees

Every person employed upon the canal system and occupying any house, office, building, or land belonging thereto, who is discharged from his employment or otherwise separated from the service, and the spouse and family of every such person, shall deliver to the corporation or a person designated by it, the possession of the premises so occupied and of all books, papers, matters or other articles and things belonging to the canal system acquired by virtue of such employment, within seven days after notice is served for that purpose by the corporation. In case of a refusal or neglect to make such delivery, any court of competent jurisdiction in the county where such premises are situated, may, on application, issue a warrant ordering any peace officer, when acting pursuant to his special duties, or police officer, with such assistance as may be necessary, to enter, in the daytime, upon the premises so occupied and remove therefrom all persons found in possession thereof, and to take into his custody all books, papers, articles and things there found belonging to the canal system, and deliver the same to the corporation or to some person designated by it, and such officer shall execute such warrant accordingly.

§ 114. Functions, powers or duties imposed upon officers or employees by statutory name

Whenever a function, power or duty is imposed upon the corporation, and an officer or employee, or a group or class thereof is designated in this chapter by a statutory or specific title or name to exercise such function or power or perform such duty, the exercise or performance thereof shall be deemed to be imposed upon the officer or employee in such corporation who shall be assigned thereto by such corporation, with the same force and effect, and such corporation may make such assignment as though no statutory or specific title or name had been used in this chapter to designate the particular officer or employee or group or class thereof charged with the exercise of such function or power, or the performance of such duty.

§ 115. [Renumbered]

Article XII - Damages

§ 120. Claims for damage generally

There shall be allowed and paid to every person sustaining damages from the canals or from their use or management, or resulting or arising from the neglect or conduct of any officer of the state or the corporation having charge thereof, or resulting or arising from any accident, or other matter or thing connected with the canals, the amount of such damages to be ascertained and determined by the proper action or proceedings before the court of claims, but no judgment shall be awarded by such court for such damages in any case unless the facts provided therein make out a case which would create a legal liability against the state or the corporation, were the same established in evidence in a court of justice against an individual or corporation; but the corporation may make settlement of any such claim in any case where the amount thereof does not exceed the sum of five hundred dollars but no settlement shall be effective against the state including the corporation until the same has been approved by the attorney-general; provided that the provisions of this section shall not extend to claims arising from damages resulting from the navigation of canals, and further provided that the provisions herein relating to damages resulting from navigation of the canals shall control notwithstanding any contrary or inconsistent provisions of any other law, general or special. The corporation shall not pay any damages awarded, or the amount of any commutations agreed on for the appropriation of land or water, or for the erection of a farm bridge, until a satisfactory abstract of title and certificate of search as to encumbrances is furnished, showing the person demanding such damages or commutations to be legally entitled thereto, which abstract and search shall be filed in the office of the corporation.

§ 121. Adjustment of claims of owners of private dams

Whenever the state including the corporation in the course of the construction of the improved canals in the rivers or waterways of the state, for the purpose of obtaining a sufficient depth or supply of water for canal purposes, has utilized private dams theretofore lawfully constructed or maintained, in such a manner as to constitute the same an essential part or portion of the improved canals, the corporation may compromise, settle and adjust the claims and demands of the owners of any such dams on such terms and conditions, including the payment to the owners of any such dams of such sums of money as to it may seem just and proper, and, by contract or otherwise, make proper provision with respect to the ownership of and for the maintenance and upkeep of any such dams, provided, however, that it shall not sell, transfer or convey to any such owner any right, title or interest in or to the use of any part or portion of the water impounded by such dams.

Article XIII - Miscellaneous

§ 130. Operation of hydro-electric plants at Crescent and Vischer Ferry

The corporation shall have charge of the hydro-electric plants constructed pursuant to chapter five hundred thirty-two of the laws of nineteen hundred twenty-two for the development and generation into electric energy of water power available at the structures known as the Crescent and Vischer Ferry dams located on the canalized Mohawk river between the city of Schenectady and the village of Waterford, and shall exercise the same powers over such structures as it has over other structures on the canal system. The said structures shall be maintained and operated as a part of the canal system.

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

§ 131. Emergency repairs

When, in the opinion of the corporation, an emergency exists endangering the canal system the corporation may seize any lands, equipment, materials or supplies necessary to avert such damage or to restore the banks or other property which may be threatened or have been damaged. It may subsequently return or otherwise dispose of such lands, equipment, materials or supplies so seized which may be no longer required in such manner and upon such terms as in its judgment will be for the best interest of the state including the corporation. It may enter into an agreement with the owner or owners of any property seized for such emergency repairs under this section covering the amount of damages sustained. Such agreement, when approved by the attorney-general, shall become an obligation of the corporation and paid from moneys available therefor. In case no agreement is consummated, the amount of damages sustained may be determined as provided in section one hundred twenty of this chapter.

§ 132. Investigate matters relating to the canal system; immunity of witnesses

1. The corporation may, whenever the corporation shall deem it necessary, to effectively accomplish the purposes of this chapter, investigate any or all matters and transactions connected with or relating to the canal system. The corporation shall hear and take proofs in regard to any matter pending before it or which it is authorized to examine or investigate. It shall have power to investigate into the official conduct of any subordinate officer or employee and shall have the power to issue subpoenas for and require the attendance of witnesses and the production of all books and papers relating to any matter under inquiry. All such subpoenas shall be issued under the hand and seal of the corporation. A subpoena issued under this section shall be regulated by the civil practice law and rules. The testimony of witnesses in any such proceedings shall be under oath and the state officer instituting the proceedings shall have power to administer oaths. A witness may have counsel and his examination by such counsel shall be reduced in writing as part of his deposition.

2. In any investigation under this article, the corporation may confer immunity in accordance with the provisions of section 50.20 of the criminal procedure law.

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

§ 133. Impose penalties and power to remit

The corporation may, in its discretion, remit either absolutely, or on such conditions as it shall prescribe, any forfeiture incurred by a violation of any provision of this chapter, or any of the rules and regulations established by it, on the written petition of the person liable for the forfeiture, with due proof of the facts on which the application for the remission is founded, which petition and

proof and the order thereon shall be filed and preserved in the office of the department of audit and control.

§ 134. Actions for penalties

All actions for penalties and forfeitures imposed in this chapter, or for damages, on behalf of the state including the corporation, shall be prosecuted in the name of the corporation, by the corporation, unless otherwise specifically provided. All money recovered in such actions shall be accounted for and paid into the canal fund. The imposition or recovery of any such penalty or forfeiture shall not be a bar to recovery of any damages resulting to the corporation or any person, because of such violation.

§ 135. [Renumbered]

§ 136. [Renumbered]

Article XIII-A – Canal Recreationway Commission

§ 138-a. Canal recreationway commission

1. There is hereby established a canal recreationway commission (hereinafter referred to as the "commission") consisting of the following members:

a. the chairman of the authority, the commissioner of transportation, the commissioner of the office of parks, recreation and historic preservation and the commissioner of environmental conservation, or their representatives;

b. ten individuals involved in canal use, development, preservation or enhancement and local governments from counties adjacent to or intersected by the canal system appointed by the governor of whom three shall be appointed at the recommendation of the temporary president of the senate and three shall be appointed at the recommendation of the speaker of the assembly. In appointing such members, the governor shall ensure geographic representation from each of the canal sections encompassing the canal system, including at least one representative from counties in which the Erie, Champlain, Cayuga-Seneca, and Oswego canals are located. In addition, individuals appointed to the commission shall be broadly representative of the following areas of interest: preservation of the environment, the operation of tour boats on the canal, the operation of marinas on the canal, recreational trail users, hunting and fishing, tourism promotion agencies as defined in section one hundred sixty-two of the economic development law, historic preservation, the commercial farming industry and the commercial shipping industry, provided that with respect to appointment of an individual representative of the commercial farming industry or commercial shipping industry, such an individual may reside outside of a county adjacent to or intersected by the canal system if such person holds an ownership interest or senior managerial position in a commercial farming firm or commercial shipping firm, respectively, which regularly uses the canal system in furtherance of its business; and

c. the commissioner of economic development and the secretary of state, or their representatives, and a member from each of the regional planning boards, as established by articles five-G and twelve-B of the general municipal law, whose region is intersected by the canal shall be ex-officio,

non-voting members of the commission and shall provide technical expertise and advice to the commission as necessary.

2. The chairperson of the commission shall be the chairman of the authority. The members of the commission may elect a secretary and other necessary officers to serve for such a period as the members shall decide.

3. Members of the commission, except commissioners of a state agency, chairs of public authorities, the secretary of state, and representatives of regional planning boards shall serve for a term of four years and may be reappointed; however, of those members appointed initially, three such members, one appointed by the governor, one appointed by the temporary president of the senate and one appointed by the speaker of the assembly shall be appointed for terms of two years, and three such members, one appointed by the governor, one appointed by the temporary president of the senate and one appointed by the speaker of the assembly shall be appointed for terms of three years.

4. Any member, except a member who is a state official, after notice and an opportunity to be heard, may be removed by the governor for neglect of duty or misfeasance in office. Any member, except a member who is a state official, who fails to attend three consecutive meetings of the commission, unless excused by formal vote of the commission, shall be deemed to have vacated his or her position.

5. Any vacancy in the commission shall be filled for the unexpired term in the same manner as the original appointment.

6. A majority of the voting members of the commission then in office, at least five of whom are not appointed pursuant to paragraph a of subdivision one of this section, shall constitute a quorum for the transaction of any business or the exercise of any power or function of the commission. An act, determination or decision of the majority of the members present and entitled to vote during the presence of a quorum shall be held to be the act, determination or decision of the commission.

7. The commission shall meet at least quarterly at the call of its chairperson. Special meetings may be called by its chairperson and shall be called by the chairperson at the request of a majority of the members of the commission then in office.

8. Members of the commission shall not receive compensation for their services as members, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

§ 138-b. Functions, powers and duties

The commission shall:

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

2. Solicit input from counties intersecting or bordering the canal system and incorporate it to the greatest degree practicable in the development of the plan. In order to facilitate such incorporation commission members representing each of the regional planning boards shall request from and provide assistance to each county it represents in the preparation of a county canal plan. Multi-county canal plans may be requested by the regional planning board representative, as deemed appropriate, in lieu of individual county canal plans. In a region where a regional planning board does not exist, the commission shall solicit county canal plans from each of the chief executive officers of those counties outside the jurisdiction of a regional planning board. The commission shall prescribe uniform guidelines concerning the format of plans to be used by the regional planning board representatives to assist counties in the preparation of county canal plans. The regional planning board representative shall encourage the development of county canal plans that reflect participation by diverse local interests by seeking advice, to the extent possible, from individuals and organizations from such counties with an interest in recreation, hunting and fishing, the environment, canal related tourism businesses, historic preservation and commercial development along the canal. In order to be considered in the formulation of the plan, county canal plans must be submitted to the commission not later than the first day of June, nineteen hundred ninety-three.

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

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

5. Advise and assist the corporation in carrying out its duties and obligations related to the canal in the following manner:

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

b. establish criteria and procedures for the review by the commission for consistency with the canal recreationway plan of abandonments of canal lands, canal terminals and canal terminal lands, and leases of canal lands, canal terminals, and canal terminal lands proposed by the corporation pursuant to article six-A of this chapter; provided, however, that where local zoning laws and zoning ordinances are in effect on lands proposed to be leased or on lands adjacent to those lands proposed to be leased such review shall include, to the extent practicable, the consideration of the compatibility of such leases with the requirements of such local zoning laws and zoning ordinances; and provided further that the commission may determine that certain categories of leases do not require review;

c. submit to the corporation, the director of the budget and the chairpersons of the senate finance committee and the assembly ways and means committee, on the first day of October, nineteen hundred ninety-two, and on or before the first day of August in each year thereafter, a budget request for the operations of the commission. Such request shall include provisions for staff services and other administrative assistance as deemed necessary by the commission to perform its functions and meet its responsibilities during the next calendar year. The corporation shall provide staff services

to the commission and such other administrative assistance as may be necessary for the commission to carry out its functions, powers and duties;

d. submit to the corporation, the director of the budget and the chairpersons of the senate finance committee and the assembly ways and means committee, on the first day of October, nineteen hundred ninety-two, and on or before the first day of August in each year thereafter, a budget request for the expenditure of funds available from the canal fund, for the purposes established by section ninety-two-u of the state finance law. Submissions made during the initial years shall give funding priority for expenditures related to the development and/or promotion of the canal system;

e. undertake a comprehensive study of alternative waterway and canal toll and fee structures, including but not limited to, a comparative analysis of other existing waterway and canal systems, the impact of various toll and fee structures on recreational use, tourism, and commercial activity; and the revenue implications for each of these alternatives. The commission shall make recommendations to the authority by the first day of April, nineteen hundred ninety-three, on appropriate tolls and fees to be charged for the use of the canal system and shall provide an update on the implementation of such recommendations by the first day of April, nineteen hundred ninety-five; and

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

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

a. the commission shall create a temporary committee which shall include the commissioner of the department of economic development and the commissioner of the office of parks, recreation and historic preservation or their representatives and others with appropriate expertise to identify opportunities for achieving the economic development potential of the recreationway and to make recommendations for specific implementation of these opportunities, including recommendations for marketing and promotion designed to attract tourists.

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

7. Report on or before March thirty-first of each year commencing nineteen hundred ninety-four to the corporation, the governor, the temporary president of the senate and the speaker of the assembly on the activities of the commission with respect to the functions, powers and duties established in this section.

§ 138-c. Canal recreationway plan

1. The commission shall, in accordance with the provisions of section one hundred thirty-eight-b of this article, formulate a statewide canal recreationway plan for the canal system that is based upon the inventory prepared pursuant to subdivision twenty-three of section ten of this chapter and

that is consistent with the land use concepts contained in the state land acquisition plan prepared pursuant to section 49-0207 of the environmental conservation law and in the statewide comprehensive outdoor recreation plan prepared pursuant to section 3.15 of the parks, recreation and historic preservation law. The plan shall include, but not be limited to:

- a. criteria for uses of the canal system which will effectuate the goal and objective of developing the canal into a recreationway system;
- b. provisions for fostering a canal system characterized by clusters of development connected by stretches of undeveloped open space in areas between cities, villages and hamlets which will be conducive to the preservation of waterfowl, fish and wildlife habitats;
- c. provisions for the consideration of environmental resources, including lands which possess significance for wildlife management, recreation or natural resource protection purposes and significant freshwater wetlands;
- d. provisions which protect the public interest in such lands and waters for purposes of commerce, navigation, fishing, hunting, bathing, recreation and access to the lands and waters of the state, and otherwise encourage increased public access to the canal through the establishment of parks, scenic by ways and recreational trails on the canal system. Such provisions shall ensure the public safety;
- e. provisions to protect agricultural uses of canal land and waters;
- f. provisions for appropriate development of businesses in appropriate locations which will support outdoor recreation activities;
- g. provisions which give guidance to the authority with respect to managing water levels in reservoirs to provide water to the canal system and retain water for recreational purposes; [fig 1]
- h. provisions to protect commercial shipping interests on the canal system [fig 1] ; and
- i. provisions for the consideration of historic buildings, sites and districts.

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

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

b. In the event that the corporation finds that the plan cannot be approved in its entirety, it may approve such portions of the plan as it deems appropriate, and shall recommend changes to the remaining portions of the plan to the commission. The commission shall then have three months in which to consider the recommendations of the corporation and submit a revised plan or portions thereof to the corporation.

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

Article XIV – Saving Clause; Laws Repealed

§ 140. Saving clause

1. The provisions of this chapter or the repeal of any statute thereby, shall not affect or impair any act done or right accrued or acquired, or any liability, penalty, forfeiture or punishment incurred or defense accrued, or established prior to its enactment. If any clause, sentence, paragraph or part of this chapter shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or part thereof, directly involved in the controversy in which such judgment shall have been rendered.

2. Any work or proceeding initiated under any existing law pertaining to canal matters shall be conducted legally to its termination and conclusion in the manner, subject to the provisions of and in accordance with the procedure prescribed by such law. It is the intent that upon the enactment of this chapter into law all work or proceedings undertaken thereafter relating to canal matters shall be administered under the authority and provisions contained in this chapter.

§ 141. Laws repealed

Chapter thirteen of the laws of nineteen hundred and nine, entitled "An act relating to canals, constituting chapter five of the consolidated laws," and all acts amendatory thereof and supplemental thereto, and chapter sixty, laws of nineteen hundred and thirty-eight, relating to revocable permits, chapter six hundred fifty-five, laws of nineteen hundred and thirty-four relating to terminal facilities and storage, chapter three hundred thirty-eight, laws of nineteen hundred thirty-four, relating to disposition of terminals, are hereby repealed, but the repeal of such acts shall not revive any act or acts repealed by them; and no act or privilege heretofore granted or acquired and no limitation, restriction, reservation or obligation heretofore imposed by or under the provisions of this or any of the acts hereby repealed, shall be impaired, invalidated or otherwise affected by such repeal.

§ 142. When to take effect

This act shall take effect immediately.