S T A T E O F N E W Y O R K

S. 6609--B A. 9709--C

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

January 19, 2010

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

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

AN ACT Intentionally omitted (Part A); Intentionally omitted (Part B); to amend the environmental conservation law, in relation to the diesel emissions reduction act (Part C); Intentionally omitted (Part D); to amend chapter 279 of the laws of 1998 amending the transportation law relating to enabling the commissioner of transportation to establish a single audit pilot program, in relation to extending such provisions (Part E); Intentionally omitted (Part F); Intentionally omitted (Part G); Intentionally omitted (Part H); Intentionally omitted (Part I); Intentionally omitted (Part J); to amend the vehicle and traffic law, in relation to the mailing of suspension and revocation orders (Part K); Intentionally omitted (Part L); to amend chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to New York state higher education matching grant program for independent colleges, in relation to the effectiveness thereof (Part M); to amend the New York state urban development corporation act, in relation to creating a small business revolving loan fund (Part N); Intentionally omitted (Part O); to amend chapter 393 of the laws of 1994 amending the New York state urban development corporation act relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part P); Intentionally omitted (Part Q); Intentionally omitted (Part R); Intentionally omitted (Part S); to amend the agriculture and markets law, the general municipal law, the administrative code of the city of New

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

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York and chapter 115 of the laws of 1894 relating to the better protection of lost and strayed animals and for securing the rights of owners thereof, in relation to animal population control; to amend the state finance law, in relation to the animal population control fund; and to repeal certain provisions of the agriculture and markets law relating to animal population control (Part T); Intentionally omitted (Part U); to authorize the department of health to finance certain activities with revenues generated from an assessment on cable television companies (Part V); Intentionally omitted (Part W); Intentionally omitted (Part X); to amend the executive law, in relation to the community services block grant program and to amend chapter 728 of the laws of 1982 and chapter 710 of the laws of 1983 amending the executive law relating to the community services block grant program, in relation to extending such program for one year (Part Y); Intentionally omitted (Part Z); Intentionally omitted (Part AA); to authorize and direct the New York State energy research and development authority to make a payment to the general fund of up to $913,000 (Part BB); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration and policy and planning programs from assessments on gas and electric corporations (Part CC); to amend the environmental conservation law and the state finance law, in relation to waste tire management and recycling fees (Part DD); Intentionally omitted (Part EE); Intentionally omitted (Part FF); Intentionally omitted (Part GG); Intentionally omitted (Part HH); to amend the vehicle and traffic law and the public officers law, in relation to establishing a bus rapid transit demonstration program to restrict the use of bus lanes by means of bus lane photo devices; and providing for the repeal of such provisions upon expiration thereof (Part II); to amend the public authorities law, in relation to the purposes and powers of the Genesee Valley Regional Market Authority (Part JJ); Intentionally omitted (Part KK); relating to shared service initiatives of the division of the lottery and the racing and wagering board (Part LL); to amend the economic development law and the tax law, in relation to creating the excelsior jobs program (Part MM); to amend the public authorities law, in relation to the amount of bonds, notes or other obligations issued by the metropolitan transportation authority, the Triborough bridge and tunnel authority and the New York city transit authority (Part NN); and to amend the legislative law, in relation to critical transportation choices for the state (Part OO)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2010-2011 state fiscal year. Each component is wholly contained within a Part identified as Parts A through OO. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Intentionally omitted.

PART B

Intentionally omitted.

PART C

Section 1. Subdivisions 5, 6 and 7 of section 19-0323 of the environmental conservation law are renumbered subdivisions 6, 7 and 8 and a new subdivision 5 is added to read as follows:

5. IN ADDITION TO ANY WAIVER WHICH MAY BE ISSUED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION, THE DEPARTMENT SHALL ISSUE A WAIVER TO A STATE AGENCY, A STATE OR REGIONAL PUBLIC AUTHORITY, OR A PERSON OPERATING ANY DIESEL-POWERED HEAVY DUTY VEHICLE ON BEHALF OF A STATE AGENCY, STATE OR REGIONAL PUBLIC AUTHORITY, UPON A REQUEST IN A FORM ACCEPTABLE TO THE DEPARTMENT FOR A WAIVER FROM THE PROVISIONS OF SUBDIVISION THREE OF THIS SECTION FOR A VEHICLE ENGINE PROVIDED THAT SUCH VEHICLE ENGINE WILL CEASE TO BE USED IN THE STATE ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN. ANY WAIVER ISSUED PURSUANT TO THIS SUBDIVISION SHALL EXPIRE WHEN A STATE AGENCY, A STATE OR REGIONAL PUBLIC AUTHORITY, OR A PERSON OPERATING ANY DIESEL-POWERED HEAVY DUTY VEHICLE ON BEHALF OF A STATE AGENCY, STATE OR REGIONAL PUBLIC AUTHORITY CEASES TO USE THE ENGINE IN THE STATE BUT NOT LATER THAN DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN.

S 2. This act shall take effect immediately.

PART D

Intentionally omitted.

PART E

Section 1. Section 2 of chapter 279 of the laws of 1998, amending the transportation law relating to enabling the commissioner of transportation to establish a single audit pilot program, as amended by section 1 of part A of chapter 59 of the laws of 2009, is amended to read as follows:

S 2. This act shall take effect on December 31, 1998, except that the commissioner of transportation is immediately authorized to promulgate rules and regulations necessary for the implementation of this act and shall expire December 31, [2010] 2011 when upon such date the provisions of this act shall be deemed repealed.

S 2. This act shall take effect immediately.

PART F

Intentionally omitted.

PART G

Intentionally omitted.

PART H

Intentionally omitted.

PART I

Intentionally omitted.

PART J

Intentionally omitted.

PART K

Section 1. Section 214 of the vehicle and traffic law, as amended by chapter 568 of the laws of 1994, is amended to read as follows:

S 214. Proof of mailing of notice or order. The production of a copy of a notice or order issued by the department, together with an electronically-generated record of entry of such order or notice upon the appropriate driver's license or registration file of the department and an affidavit by an employee designated by the commissioner as having responsibility for the issuance of such order or notice issued by the department setting forth the procedure for the issuance and the mailing of such notice or order AT THE ADDRESS OF SUCH PERSON ON FILE WITH THE DEPARTMENT OR AT THE CURRENT ADDRESS PROVIDED BY THE UNITED STATES POSTAL SERVICE shall be presumptive evidence that such notice of suspension, revocation or order was produced and mailed in accordance with such procedures. The foregoing procedure shall not preclude the use of an affidavit of service by mail, a certificate of mailing or proof of certified or registered mail as proof of mailing of any such order or notice.

S 2. Paragraph (b) of subdivision 3 of section 226 of the vehicle and traffic law, as added by chapter 607 of the laws of 1993, is amended to read as follows:

(b) Failure to answer or appear in accordance with the requirements of this section and any regulations promulgated hereunder shall be deemed an admission to the violation as charged, and an appropriate order may be entered in the department's records, and a fine consistent with the provisions of this chapter and regulations of the commissioner may be imposed by the commissioner or person designated by the commissioner. Prior to entry of an order and imposition of a fine, the commissioner shall notify such person by mail at the address of such person on file with the department OR AT THE CURRENT ADDRESS PROVIDED BY THE UNITED STATES POSTAL SERVICE in accordance with section two hundred fourteen of this chapter: (i) of the violation charged; (ii) of the impending entry of such order and fine; (iii) that such order and fine may be filed as a judgment with the county clerk of the county in which the operator or registrant is located; and (iv) that entry of such order and imposition of such fine may be avoided by entering a plea or making an appearance within thirty days of the sending of such notice. In no case shall such an order and fine be entered and imposed more than two years after the date of the alleged violation. Upon application in such manner and form as the commissioner shall prescribe an order and fine shall be vacated upon the ground of excusable default.

S 3. Paragraph b of subdivision 4 of section 227 of the vehicle and traffic law, as amended by chapter 221 of the laws of 1985, such subdivision as renumbered by chapter 288 of the laws of 1989, is amended to read as follows:

b. Unpaid fines may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action, and provided that no appeal is pending, the commissioner may file with the county clerk of the county in which the person resides a final order of the commissioner containing the amount of the fine or fines. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to execution issued against property upon judgments of a court of record. No such civil action shall be commenced nor shall such final order be filed until at least thirty days after the department has posted by ordinary mail to the person at the address of such person on file with the department OR AT THE CURRENT ADDRESS PROVIDED BY THE UNITED STATES POSTAL SERVICE notice of the amount of such fine or fines and that such fine or fines are due and owing.

S 4. Subdivision 6 of section 318 of the vehicle and traffic law is amended to read as follows:

6. Notice of revocation pursuant to this section may be given to the owner of a vehicle registered in this state or to a driver licensed in this state, by mailing the same to such owner or licensee at the address contained in the certificate of registration for the vehicle owned by such person or to the address contained [in] ON his OR HER driving license OR TO THE CURRENT ADDRESS PROVIDED BY THE UNITED STATES POSTAL SERVICE.

S 5. Subdivision 7 of section 510 of the vehicle and traffic law, as amended by chapter 606 of the laws of 1993, is amended to read as follows:

7. Miscellaneous provisions. Except as expressly provided, a court conviction shall not be necessary to sustain a revocation or suspension. Revocation or suspension hereunder shall be deemed an administrative act reviewable by the supreme court as such. Notice of revocation or suspension, as well as any required notice of hearing, where the holder is not present, may be given by mailing the same in writing to him OR HER at the address contained in his OR HER license [or], certificate of registration OR AT THE CURRENT ADDRESS PROVIDED BY THE UNITED STATES POSTAL SERVICE, as the case may be. Proof of such mailing by certified mail to the holder shall be presumptive evidence of the holder's receipt and actual knowledge of such notice. Attendance of witnesses may be compelled by subpoena. Failure of the holder or any other person possessing the license card or number plates, to deliver the same to the suspending or revoking officer is a misdemeanor. Suspending or revoking officers shall place such license cards and number plates in the custody of the commissioner except where the commissioner shall otherwise direct. If any person shall fail to deliver a license card or number plates as provided herein, any police officer, bridge and tunnel officer of the Triborough bridge and tunnel authority, or agent of the commissioner having knowledge of such facts shall have the power to secure possession thereof and return the same to the commissioner, and the commissioner may forthwith direct any police officer, bridge and tunnel officer of the Triborough bridge and tunnel authority, acting pursuant to his OR HER special duties, or agent of the commissioner to secure possession thereof and to return the same to the commissioner. Failure of the holder or of any person possessing the license card or number plates to deliver to any police officer, bridge and tunnel officer of the Triborough bridge and tunnel authority, or agent of the commissioner who requests the same pursuant to this subdivision shall be a misdemea-

nor. Notice of revocation or suspension of any license or registration shall be transmitted forthwith by the commissioner [of motor vehicles] to the chief of police of the city or prosecuting officer of the locality in which the person whose license or registration so revoked or suspended resides. In case any license or registration shall expire before the end of any period for which it has been revoked or suspended, and before it shall have been restored as provided in this chapter, then and in that event any renewal thereof may be withheld until the end of such period of suspension or until restoration, as the case may be.

The revocation of a learner's permit shall automatically cancel the application for a license of the holder of such permit.

No suspension or revocation of a license or registration shall be made because of a judgment of conviction if the suspending or revoking officer is satisfied that the magistrate who pronounced the judgment failed to comply with subdivision one of section eighteen hundred seven of this chapter. In case a suspension or revocation has been made and the commissioner is satisfied that there was such failure, [he] THE COMMISSIONER shall restore the license or registration or both as the case may be.

S 6. This act shall take effect immediately.

PART L

Intentionally omitted.

PART M

Section 1. Paragraph (a) of subdivision 1 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education capital matching grant program for independent colleges, as added by section 1 of part D of chapter 63 of the laws of 2005, is amended to read as follows:

(a) The New York state higher education capital matching grant board is hereby created to have and exercise the powers, duties and prerogatives provided by the provisions of this section and any other provision of law. The board shall remain in existence during the period of the New York state higher education capital matching grant program from the effective date of this section through March 31, [2010] 2011, or the date on which the last of the funds available for grants under this section shall have been disbursed, whichever is earlier; provided, however, that the termination of the existence of the board shall not effect the power and authority of the dormitory authority to perform its obligations with respect to any bonds, notes, or other indebtedness issued or incurred pursuant to authority granted in this section.

S 2. Paragraph (h) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to New York state higher education matching grant program for independent colleges, as added by section 1 of part D of chapter 63 of the laws of 2005, is amended to read as follows:

(h) If a college [does] DID not apply for a POTENTIAL grant by March 31, 2009, funds associated with such potential grant shall be awarded, on a competitive basis, to other colleges, ACCORDING TO THE PRIORITIES SET FORTH BELOW. Colleges shall be eligible to apply for unutilized grants. IN SUCH CASES, THE FOLLOWING PRIORITIES SHALL APPLY: FIRST,

PRIORITY SHALL BE GIVEN TO OTHERWISE ELIGIBLE COLLEGES THAT EITHER WERE, OR WOULD HAVE BEEN, DEEMED INELIGIBLE FOR THE PROGRAM PRIOR TO MARCH 31, 2009, DUE TO MISSED DEADLINES, INSUFFICIENT MATCHING FUNDS, LACK OF ACCREDITATION OR OTHER DISQUALIFYING REASONS; AND SECOND, AFTER THE BOARD HAS ACTED UPON ALL SUCH FIRST-PRIORITY APPLICATIONS FOR UNUSED FUNDS, IF ANY SUCH FUNDS REMAIN, THOSE FUNDS SHALL BE AVAILABLE FOR DISTRIBUTION TO ELIGIBLE COLLEGES THAT ARE LOCATED WITHIN THE SAME REGENTS OF THE STATE OF NEW YORK REGION FOR WHICH SUCH FUNDS WERE ORIGINALLY ALLOCATED. The dormitory authority shall develop a request for proposals and application process, in consultation with the board, for such grants and shall develop criteria, subject to review by the board, for the awarding of such grants. Such criteria shall incorporate the matching criteria contained in paragraph (c) of this subdivision, and the application criteria set forth in paragraph (e) of this subdivision. The dormitory authority shall require all applications in response to the request for proposals to be submitted by September 1, [2009] 2010, and the board shall act on each application for such matching grants by November 1, [2009] 2010.

S 3. Subclause (A) of clause (ii) of paragraph (j) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to New York state higher education matching grant program for independent colleges, as added by section 1 of part D of chapter 63 of the laws of 2005, is amended to read as follows:

(A) Notwithstanding the provision of any general or special law to the contrary, and subject to the provisions of chapter 59 of the laws of 2000 and to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in providing such higher education capital matching grants, the director of the budget is authorized in any state fiscal year commencing April 1, 2005 or any state fiscal year thereafter for a period ending on March 31, [2010] 2011, to enter into one or more service contracts, none of which shall exceed 30 years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

S 4. Paragraph (b) of subdivision 7 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to New York state higher education matching grant program for independent colleges, as added by section 1 of part D of chapter 63 of the laws of 2005, is amended to read as follows:

(b) Any eligible institution receiving a grant pursuant to this article shall report to the dormitory authority no later than June 1, [2008] 2011, on the use of funding received and its programmatic and economic impact. The dormitory authority shall submit a report no later than November 1, [2008] 2011 to the board, the governor, the director of the budget, the temporary president of the senate, and the speaker of the assembly on the aggregate impact of the higher education capital matching grant program. Such report shall provide information on the progress and economic impact of [each] SUCH project.

S 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART N

Section 1. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 16-t to read as follows:

S 16-T. SMALL BUSINESS REVOLVING LOAN FUND. 1. THE SMALL BUSINESS REVOLVING LOAN FUND PROGRAM IS HEREBY CREATED. THE CORPORATION IS AUTHORIZED, WITHIN AVAILABLE APPROPRIATIONS, TO PROVIDE LOW INTEREST LOANS TO COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS, IN ORDER TO PROVIDE FUNDING FOR THOSE LENDING ORGANIZATIONS' LOANS TO SMALL BUSINESSES, LOCATED WITHIN NEW YORK STATE, THAT GENERATE ECONOMIC GROWTH AND JOB CREATION WITHIN NEW YORK STATE BUT THAT ARE UNABLE TO OBTAIN ADEQUATE CREDIT OR ADEQUATE TERMS FOR SUCH CREDIT. IF IN THE DISCRETION OF THE CORPORATION THE USE OF A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION IS NOT PRACTICABLE BASED UPON THE APPLICATION OF RULES AND REGULATIONS DEVELOPED BY THE CORPORATION, INCLUDING, BUT NOT LIMITED TO, ASSESSMENTS OF GEOGRAPHIC AND ADMINISTRATIVE CAPACITY, THEN THE CORPORATION IS AUTHORIZED, WITHIN AVAILABLE APPROPRIATIONS, TO PROVIDE LOW INTEREST LOANS TO THE FOLLOWING OTHER LOCAL COMMUNITY BASED LENDING ORGANIZATIONS: SMALL BUSINESS LENDING CONSORTIA, CERTIFIED DEVELOPMENT COMPANIES, PROVIDERS OF UNITED STATES DEPARTMENT OF AGRICULTURE BUSINESS AND INDUSTRIAL GUARANTEED LOANS, UNITED STATES SMALL BUSINESS ADMINISTRATION LOAN PROVIDERS, CREDIT UNIONS AND COMMUNITY BANKS. AS USED IN THIS SECTION "SMALL BUSINESS" MEANS A BUSINESS THAT IS RESIDENT IN NEW YORK STATE, INDEPENDENTLY OWNED AND OPERATED, NOT DOMINANT IN ITS FIELD, AND EMPLOYS ONE HUNDRED OR FEWER PERSONS.

2. IN ORDER FOR A LENDING ORGANIZATION TO BE ELIGIBLE TO RECEIVE PROGRAM FUNDS, IT MUST HAVE ESTABLISHED SUFFICIENT EXPERTISE TO ANALYZE SMALL BUSINESS APPLICATIONS FOR PROGRAM LOANS, EVALUATE THE CREDITWORTHINESS OF SMALL BUSINESSES, AND REGULARLY MONITOR PROGRAM LOANS. THE LENDING ORGANIZATION SHALL REVIEW EVERY PROGRAM LOAN APPLICATION IN ORDER TO DETERMINE, AMONG OTHER THINGS, THE FEASIBILITY OF THE PROPOSED USE OF THE REQUESTED FINANCING BY THE SMALL BUSINESS APPLICANT, THE LIKELIHOOD OF REPAYMENT AND THE POTENTIAL THAT THE LOAN WILL GENERATE ECONOMIC DEVELOPMENT AND JOBS WITHIN NEW YORK STATE. THE CORPORATION SHALL IDENTIFY ELIGIBLE LENDING ORGANIZATIONS THROUGH ONE OR MORE COMPETITIVE STATEWIDE OR LOCAL SOLICITATIONS.

3. PROGRAM LOANS TO SMALL BUSINESSES SHALL BE TARGETED AND MARKETED TO MINORITY AND WOMEN-OWNED ENTERPRISES AND OTHER SMALL BUSINESSES THAT ARE HAVING DIFFICULTY ACCESSING TRADITIONAL CREDIT MARKETS. PROGRAM LOANS TO SMALL BUSINESSES SHALL BE USED FOR THE CREATION AND RETENTION OF JOBS, AS DEFINED BY THE CORPORATION, INCLUDING: (A) WORKING CAPITAL; (B) THE ACQUISITION AND/OR IMPROVEMENT OF REAL PROPERTY; (C) THE ACQUISITION OF MACHINERY AND EQUIPMENT, PROPERTY OR IMPROVEMENT; OR (D) THE REFINANCING OF DEBT OBLIGATIONS. THERE SHALL BE TWO CATEGORIES OF LOANS TO SMALL BUSINESSES: A MICRO LOAN THAT SHALL HAVE A PRINCIPAL AMOUNT THAT IS LESS THAN TWENTY-FIVE THOUSAND DOLLARS AND A REGULAR LOAN THAT SHALL HAVE A PRINCIPAL AMOUNT NOT LESS THAN TWENTY-FIVE THOUSAND DOLLARS. PRIOR TO RECEIVING PROGRAM FUNDS, THE LENDING ORGANIZATION MUST CERTIFY TO THE CORPORATION THAT SUCH LOAN COMPLIES WITH THIS SECTION AND RULES AND REGULATIONS PROMULGATED FOR THE PROGRAM AND THAT THE LENDING ORGANIZATION HAS PERFORMED ITS OBLIGATIONS PURSUANT TO AND IS IN COMPLIANCE WITH THIS SECTION, THE PROGRAM RULES AND REGULATIONS AND ALL AGREEMENTS ENTERED INTO BETWEEN THE CORPORATION AND THE LENDING ORGANIZATION. THE PROGRAM FUNDS AMOUNT USED BY THE LENDING ORGANIZATION TO FUND A PROGRAM APPLICANT LOAN SHALL NOT BE MORE THAN FIFTY PERCENT OF THE PRINCIPAL AMOUNT OF SUCH LOAN. THE PROGRAM FUNDS AMOUNT USED BY THE LENDING

ORGANIZATION TO FUND A PROGRAM APPLICANT LOAN SHALL NOT BE GREATER THAN ONE HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS.

4. PROGRAM FUNDS SHALL NOT BE USED FOR: (A) PROJECTS THAT WOULD RESULT IN THE RELOCATION OF ANY BUSINESS OPERATION FROM ONE MUNICIPALITY WITHIN THE STATE TO ANOTHER, EXCEPT UNDER ONE OF THE FOLLOWING CONDITIONS: (I) WHEN A BUSINESS IS RELOCATING WITHIN A MUNICIPALITY WITH A POPULATION OF AT LEAST ONE MILLION WHERE THE GOVERNING BODY OF SUCH MUNICIPALITY APPROVES SUCH RELOCATION; OR (II) THE LENDING ORGANIZATION NOTIFIES EACH MUNICIPALITY FROM WHICH SUCH BUSINESS OPERATION WILL BE RELOCATED AND EACH MUNICIPALITY AGREES TO SUCH RELOCATION; (B) PROJECTS OF NEWSPAPERS, BROADCASTING OR OTHER NEWS MEDIA; MEDICAL FACILITIES, LIBRARIES, COMMUNITY OR CIVIC CENTERS; OR PUBLIC INFRASTRUCTURE IMPROVEMENTS; AND (C) PROVIDING FUNDS, DIRECTLY OR INDIRECTLY, FOR PAYMENT, DISTRIBUTION, OR AS A LOAN, TO OWNERS, MEMBERS, PARTNERS OR SHAREHOLDERS OF THE APPLICANT BUSINESS, EXCEPT AS ORDINARY INCOME FOR SERVICES RENDERED.

5. WITH RESPECT TO ITS PROGRAM LOANS, THE LENDING ORGANIZATION MAY CHARGE APPLICATION, COMMITMENT AND LOAN GUARANTEE FEES PURSUANT TO A SCHEDULE OF FEES ADOPTED BY THE LENDING ORGANIZATION AND APPROVED BY THE CORPORATION.

6. PROGRAM FUNDS SHALL BE DISBURSED TO A LENDING ORGANIZATION BY THE CORPORATION IN THE FORM OF A LOAN TO THE LENDING ORGANIZATION. THE TERM OF THE LOAN SHALL COMMENCE UPON DISBURSEMENT OF THE PROGRAM FUNDS BY THE CORPORATION TO THE LENDING ORGANIZATION. THE LOAN SHALL CARRY A LOW INTEREST RATE DETERMINED BY THE CORPORATION BASED ON THEN PREVAILING INTEREST RATES AND THE CIRCUMSTANCES OF THE LENDING ORGANIZATION. NOTWITHSTANDING THE PERFORMANCE OF THE LOANS MADE BY THE LENDING ORGANIZATION USING PROGRAM FUNDS, THE LENDING ORGANIZATION SHALL REMAIN LIABLE TO THE CORPORATION WITH RESPECT TO ANY UNPAID AMOUNTS DUE FROM THE LENDING ORGANIZATION PURSUANT TO THE TERMS OF THE CORPORATION'S LOANS TO THE LENDING ORGANIZATION. IN ADDITION, A PORTION OF PROGRAM FUNDS MAY BE DISBURSED TO A LENDING ORGANIZATION IN THE FORM OF A GRANT OR FORGIVABLE LOAN, PROVIDED THOSE FUNDS ARE USED BY THE LENDING ORGANIZATION FOR ADMINISTRATIVE EXPENSES ASSOCIATED WITH THE FUND, LOAN-LOSS RESERVES, OR OTHER ELIGIBLE EXPENSES AS DETERMINED BY THE CORPORATION.

7. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION, THE CORPORATION SHALL PROVIDE AT LEAST FIVE HUNDRED THOUSAND DOLLARS IN PROGRAM FUNDS PURSUANT TO THIS SECTION TO LENDING ORGANIZATIONS FOR THE PURPOSE OF MAKING LOANS TO SMALL BUSINESS LOCATED IN NIAGARA COUNTY.

8. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION, THE CORPORATION SHALL PROVIDE AT LEAST FIVE HUNDRED THOUSAND DOLLARS IN PROGRAM FUNDS PURSUANT TO THIS SECTION TO LENDING ORGANIZATIONS FOR THE PURPOSE OF MAKING LOANS TO SMALL BUSINESS LOCATED IN ST. LAWRENCE COUNTY.

9. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION, THE CORPORATION SHALL PROVIDE AT LEAST FIVE HUNDRED THOUSAND DOLLARS IN PROGRAM FUNDS PURSUANT TO THIS SECTION TO LENDING ORGANIZATIONS FOR THE PURPOSE OF MAKING LOANS TO SMALL BUSINESS LOCATED IN ERIE COUNTY.

10. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION, THE CORPORATION SHALL PROVIDE AT LEAST FIVE HUNDRED THOUSAND DOLLARS IN PROGRAM FUNDS PURSUANT TO THIS SECTION TO LENDING ORGANIZATIONS FOR THE PURPOSE OF MAKING LOANS TO SMALL BUSINESS LOCATED IN JEFFERSON COUNTY.

11. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE CORPORATION MAY ESTABLISH A PROGRAM FUND FOR PROGRAM USE AND PAY INTO SUCH FUND ANY FUNDS AVAILABLE TO THE CORPORATION FROM ANY SOURCE THAT ARE ELIGIBLE FOR PROGRAM USE, INCLUDING MONEYS APPROPRIATED BY THE STATE.

12. WITH RESPECT TO A LENDING ORGANIZATION PROGRAM LOAN APPLICANTS, NO PERSON WHO IS A MEMBER OF THE BOARD OR OTHER GOVERNING BODY, OFFICER, EMPLOYEE, OR MEMBER OF A LOAN COMMITTEE, OR A FAMILY MEMBER OF ANY SUCH LENDING ORGANIZATION SHALL PARTICIPATE IN ANY DECISION ON SUCH APPLICATION IF SUCH PERSON IS A PARTY TO OR HAS A FINANCIAL OR PERSONAL INTEREST IN SUCH LOAN. ANY PERSON WHO CANNOT PARTICIPATE IN A LOAN APPLICATION DECISION FOR SUCH REASONS SHALL NOT BE COUNTED AS A MEMBER OF THE LOAN COMMITTEE, BOARD OR OTHER GOVERNING BODY FOR PURPOSES OF DETERMINING THE NUMBER OF MEMBERS REQUIRED FOR APPROVAL OF SUCH APPLICATION.

13. THE LENDING ORGANIZATION SHALL SUBMIT TO THE CORPORATION ANNUAL REPORTS STATING: THE NUMBER OF PROGRAM LOANS MADE; THE AMOUNT OF PROGRAM FUNDING USED FOR LOANS; THE USE OF LOAN PROCEEDS BY THE BORROWER; THE NUMBER OF JOBS CREATED OR RETAINED; A DESCRIPTION OF THE ECONOMIC DEVELOPMENT GENERATED; THE STATUS OF EACH OUTSTANDING PROGRAM LOAN; AND SUCH OTHER INFORMATION AS THE CORPORATION MAY REQUIRE.

14. THE CORPORATION MAY CONDUCT AUDITS OF THE LENDING ORGANIZATION IN ORDER TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS SECTION, ANY REGULATIONS PROMULGATED WITH RESPECT THERETO AND AGREEMENTS BETWEEN THE LENDING ORGANIZATION AND THE CORPORATION OF ALL ASPECTS OF THE USE OF PROGRAM FUNDS AND PROGRAM LOAN TRANSACTIONS. IN THE EVENT THAT THE CORPORATION FINDS SUBSTANTIVE NONCOMPLIANCE, THE CORPORATION MAY TERMINATE THE LENDING ORGANIZATION'S PARTICIPATION IN THE PROGRAM.

15. UPON TERMINATION OF A LENDING ORGANIZATION'S PARTICIPATION IN THE PROGRAM, THE LENDING ORGANIZATION SHALL RETURN TO THE CORPORATION, PROMPTLY AFTER ITS DEMAND THEREFOR, ALL PROGRAM FUND PROCEEDS HELD BY THE LENDING ORGANIZATION; AND PROVIDE TO THE CORPORATION, PROMPTLY AFTER ITS DEMAND THEREFOR, AN ACCOUNTING OF ALL PROGRAM FUNDS RECEIVED BY THE LENDING ORGANIZATION, INCLUDING ALL CURRENTLY OUTSTANDING LOANS THAT WERE MADE USING PROGRAM FUNDS. NOTWITHSTANDING SUCH TERMINATION, THE LENDING ORGANIZATION SHALL REMAIN LIABLE TO THE CORPORATION WITH RESPECT TO ANY UNPAID AMOUNTS DUE FROM THE LENDING ORGANIZATION PURSUANT TO THE TERMS OF THE CORPORATION'S LOANS TO THE LENDING ORGANIZATION.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART O

Intentionally omitted.

PART P

Section 1. Section 2 of chapter 393 of the laws of 1994, amending the New York state urban development corporation act relating to the powers of the New York state urban development corporation to make loans, as amended by section 1 of part X of chapter 59 of the laws of 2009, is amended to read as follows:

S 2. This act shall take effect immediately provided, however, that section one of this act shall expire on July 1, [2010] 2011, at which time the provisions of subdivision 26 of section 5 of the New York state urban development corporation act shall be deemed repealed; provided, however, that neither the expiration nor the repeal of such subdivision as provided for herein shall be deemed to affect or impair in any manner any loan made pursuant to the authority of such subdivision prior to such expiration and repeal.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART Q

Intentionally omitted.

PART R

Intentionally omitted.

PART S

Intentionally omitted.

PART T

Section 1. Section 107 of the agriculture and markets law, as added by chapter 220 of the laws of 1978, subdivision 1 as amended by chapter 473 of the laws of 1995, subdivision 3 as amended by chapter 619 of the laws of 1987 and subdivision 5 as added by chapter 530 of the laws of 1997, is amended to read as follows:

S 107. Application. 1. This article shall apply to all areas of the state except any city having a population of over two million [except that the provisions in this article relating to the animal population control program shall be applicable to the entire state].

2. In the event that any dog owned by a resident of any city having a population of over two million or by a non-resident of this state is harbored within this state outside of any such city, THE LICENSING MUNICIPALITY IN WHICH SUCH ANIMAL IS HARBORED MAY EXEMPT such dog [shall be exempt] from the identification and licensing provisions of this article for a period of thirty days provided such dog is licensed pursuant to the provisions of law of the area of residence.

3. This article shall not apply to any dog confined to the premises of any public or private hospital devoted solely to the treatment of sick animals, or confined for the purposes of research to the premises of any college or other educational or research institution.

4. This article shall not apply to any dog confined to the premises of any person, firm or corporation engaged in the business of breeding or raising dogs for profit and licensed as a class A dealer under the Federal Laboratory Animal Welfare Act[, provided that such person, firm or corporation has obtained a certificate of exemption. Application for such certificate shall be made annually to the commissioner and shall be accompanied by a fee of one hundred dollars].

5. Nothing contained in this article shall prevent a municipality from adopting its own program for the control of dangerous dogs; provided, however, that no such program shall be less stringent than this article, and no such program shall regulate such dogs in a manner that is specific as to breed. Notwithstanding the provisions of subdivision one of this section, this subdivision and [section one hundred twenty-one] SECTIONS ONE HUNDRED TWENTY-THREE, ONE HUNDRED TWENTY-THREE-A AND ONE HUNDRED TWENTY-THREE-B of this article shall apply to all municipalities including cities of two million or more.

6. NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT A COUNTY FROM ADMINISTERING A DOG LICENSING PROGRAM FOR THE MUNICIPALITIES WITHIN ITS JURISDICTION.

S 2. Subdivision 14 of section 108 of the agriculture and markets law is REPEALED.

S 3. Subdivisions 3, 11, 12 and 16 of section 108 of the agriculture and markets law, as added by chapter 220 of the laws of 1978, are amended to read as follows:

3. "Clerk" means the clerk of any COUNTY, town, city or village where licenses are validated or issued pursuant to this article.

11. "Identification tag" means a tag ISSUED BY THE LICENSING MUNICIPALITY which sets forth an [official] identification number [as required by the provisions], TOGETHER WITH THE NAME of [this article] THE MUNICIPALITY, THE STATE OF NEW YORK, CONTACT INFORMATION, INCLUDING TELEPHONE NUMBER, FOR THE MUNICIPALITY AND SUCH OTHER INFORMATION AS THE LICENSING MUNICIPALITY DEEMS APPROPRIATE.

12. "Identified dog" means any dog carrying an identification tag as provided in section one hundred [twelve] ELEVEN of this article.

16. "Owner of record" means the person in whose name any dog was last licensed pursuant to [either subdivision one or subdivision two of section one hundred nine of] this article, except that if any license is issued on application of a person under eighteen years of age, the owner of record shall be deemed to be the parent or guardian of such person. If it cannot be determined in whose name any dog was last licensed or if the owner of record has filed a statement pursuant to the provisions of section one hundred [thirteen] TWELVE of this article, the owner shall be deemed to be the owner of record of such dog, except that if the owner is under eighteen years of age, the owner of record shall be deemed to be the parent or guardian of such person.

S 4. Section 109 of the agriculture and markets law, as added by chapter 220 of the laws of 1978, subdivision 1 as amended by chapter 645 of the laws of 1988, paragraph (a) of subdivision 1 as amended by chapter 86 of the laws of 2006, paragraph (b) of subdivision 1 as amended by chapter 562 of the laws of 1995, paragraphs (f) and (h) of subdivision 1 and paragraphs (f) and (h) of subdivision 2 as amended by chapter 39 of the laws of 2002, paragraph (c) of subdivision 2 as amended by chapter 180 of the laws of 2002, and subdivision 3 as amended by chapter 269 of the laws of 2005, is amended to read as follows:

S 109. Licensing of dogs REQUIRED; rabies vaccination [requirement] REQUIRED. 1. [Licensing of dogs.] (a) The owner of any dog reaching the age of four months shall immediately make application for a dog license. No license shall be required for any dog which is under the age of four months and which is not at large, OR THAT IS RESIDING IN A POUND OR SHELTER MAINTAINED BY OR UNDER CONTRACT OR AGREEMENT WITH THE STATE OR ANY COUNTY, CITY, TOWN OR VILLAGE, DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY OR DULY INCORPORATED DOG PROTECTIVE ASSOCIATION. Except as otherwise provided in this subdivision, a license shall be issued or renewed for a period of AT LEAST one year, provided[, that at the option of the governing board of the municipality, a license may be issued or renewed for a period of one, two or three years, and provided further], that no license shall be issued for a period expiring after the last day of the eleventh month following the expiration date of the current rabies certificate for the dog being licensed. All licenses shall expire on the last day of the last month of the period for which they are issued. In the event an applicant for a license presents, in lieu of a rabies certificate, a statement certified by a licensed veterinarian, as provided in subdivision [three] TWO of this section, a license shall be issued or renewed for a period of one year from the date of said statement. Any municipality[, authorized to issue licenses pursuant to this article, which has a population not exceeding two thousand five hundred]

may[, upon the approval of and pursuant to rules and regulations promulgated by the commissioner,] establish a common renewal date for all such licenses. A license issued by a municipality that has established a common renewal date shall expire no later than the common renewal date prior to the expiration date of the rabies certificate for the dog being licensed.

(b) Application for a dog license shall be made to the clerk of the town [or], city, OR COUNTY or, in the counties of Nassau and Westchester, incorporated village in which the dog is harbored or to the village clerk of those villages in the county of Rockland with a population of fifteen thousand or more which have elected to accept applications pursuant to the provisions of this paragraph or to the village clerk of the village of Newark in the county of Wayne upon the election of the village of Newark pursuant to the provisions of this paragraph. Provided, however, that in the counties of Nassau and Westchester, the board of trustees of any incorporated village may by resolution provide that applications for licenses shall no longer be made to the village clerk, but to the clerk of the town in which the village is situated. [If such resolution is approved by the town board of the town in which the village is situated, such resolution shall become effective not less than six months after a certified copy of such resolution of the village board and of the resolution of approval of the town board shall have been filed with the commissioner.] Provided further, however, that in the county of Rockland, the board of trustees of any incorporated village with a population of fifteen thousand or more may by resolution provide that application for licenses shall be made to the village clerk. Provided further, however, that in the county of Wayne, the board of trustees of the village of Newark may by resolution provide that application for licenses shall be made to the village clerk. [If such resolution is approved by the town or towns in which the village is located, it shall become effective not less than six months after a certified copy of such approved resolution shall have been filed with the commissioner.] The governing body of any town or city or, in the counties of Nassau and Westchester, incorporated village or in the county of Rockland, those villages with a population of fifteen thousand or more which have so elected to accept applications or in the county of Wayne, the village of Newark if such village has so elected to accept applications may, on resolution of such body, authorize that such application be made to one or more named dog control officers of any such town, city or village. The issuance of any license by any such officer shall be under the control and supervision of the clerk. In the case of a seized dog being redeemed or a dog being otherwise obtained from a county animal shelter or pound, such application may be made to the county dog control officer in charge of such facility [provided such officer has been authorized by the commissioner to accept such applications]. In the case of a dog being redeemed or a dog being adopted from a shelter or pound established, maintained or contracted for, pursuant to section one hundred [fifteen] FOURTEEN of this article, such application may be made to the manager of such facility, provided such manager has been authorized by the [commissioner] MUNICIPALITY IN WHICH THE PROSPECTIVE OWNER RESIDES to accept such application. Such authorization shall be requested by the governing body of the pound or shelter and the granting or denial of such authorization shall be in the discretion of the [commissioner] MUNICIPALITY IN WHICH THE PROSPECTIVE OWNER RESIDES.

(c) The application shall state the sex, actual or approximate age, breed, color, and [official] MUNICIPAL identification number of the dog,

and other identification marks, if any, and the name, address, telephone number, county and town, city or village of residence of the owner. MUNICIPALITIES MAY ALSO REQUIRE ADDITIONAL INFORMATION ON SUCH APPLICATION AS DEEMED APPROPRIATE.

(d) The application shall be accompanied by the license fee prescribed by section one hundred ten of this article and a certificate of rabies vaccination or statement in lieu thereof, as required by subdivision [three] TWO of this section. In the case of a spayed or neutered dog, every application shall also be accompanied by a certificate signed by a licensed veterinarian or an affidavit signed by the owner, showing that the dog has been spayed or neutered, provided such certificate or affidavit shall not be required if the same is already on file with the clerk or authorized dog control officer. In lieu of the spay or neuter certificate an owner may present a statement certified by a licensed veterinarian stating that he has examined the dog and found that because of old age or other reason, the life of the dog would be endangered by spaying or neutering. In such case, the license fee for the dog shall be the same as for a spayed or neutered dog as set forth in [paragraph (a) of] subdivision one of section one hundred ten of this article.

(e) Upon validation by the clerk, authorized dog control officer or authorized pound or shelter manager, the application shall become a license for the dog described therein. [Once an application has been validated, no refund therefor shall be made.]

(f) The clerk, authorized dog control officer or authorized pound or shelter manager shall: (i) provide a copy of the license to the owner; (ii) [send, by the fifth day of the month following the month of license issuance, a copy] RETAIN A RECORD OF THE LICENSE THAT SHALL BE MADE AVAILABLE UPON REQUEST TO THE COMMISSIONER FOR PURPOSES of [the license, or a report of the information contained therein, to the commissioner; and (iii) retain a record of the license in the manner prescribed by the commissioner] RABIES AND OTHER ANIMAL DISEASE CONTROL EFFORTS AND ACTIONS. In addition, the authorized pound or shelter manager shall send, within forty-eight hours of validation, a copy of the license to the licensing municipality within which the dog is to be harbored.

(g) No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog.

(h) Notwithstanding the provisions of any general, special or local law, or any rule or regulation to the contrary, the clerk, authorized dog control officer or authorized pound or shelter manager in municipalities having a population of less than one hundred thousand shall [send to the commissioner a copy of the validated license, or a report of the information therein, by the fifth day of the month following the month of license issuance. In addition, the authorized dog control officer or authorized pound or shelter manager in such municipalities shall,] within five business days after the license has been validated, send a copy of the validated license to the licensing municipality in which the dog is to be harbored.

2. [Purebred license. (a) The owner of one or more purebred dogs registered by a recognized registry association may annually make an application for a purebred license, in lieu of or in addition to the individual licenses required by subdivision one of this section. A purebred license shall be valid for a period of one year beginning with the first day of the month following the date of issuance and shall be renewable annually thereafter prior to the expiration date.

(b) Such application shall be made to the person specified in paragraph (b) of subdivision one of this section.

(c) The application shall state the name, address and telephone number of the owner; the county and city, town or village where such dogs are harbored; the sex, breed, registry name and number of each purebred registered dog over the age of four months which is harbored on the premises; and the sex and breed of each purebred dog over the age of four months which is harbored on the premises and which is eligible for registration. The application shall also include a statement by the owner that all purebred dogs over the age of four months which are harbored on the premises have been listed.

(d) The application shall be accompanied by the license fee prescribed by section one hundred ten of this article and a certificate of rabies vaccination or statement in lieu thereof, as required by subdivision three of this section.

(e) Upon receipt of the foregoing items, the clerk or authorized dog control officer shall assign a license number, which shall be reserved for the sole use of the named owner, and shall issue a purebred license. Once a purebred license has been issued, no refund therefor shall be made.

(f) The clerk, authorized dog control officer or authorized pound or shelter manager shall: (i) provide a copy of the purebred license to the owner; (ii) send, by the fifth day of the month following the month of license issuance, a copy of the purebred license, or a report of the information contained therein, to the commissioner; and (iii) retain a record of the purebred license in the manner prescribed by the commissioner. In addition, the authorized dog control officer or authorized pound or shelter manager shall send, within forty-eight hours of validation, a copy of the license to the licensing municipality within which the dog is to be harbored.

(g) No purebred license shall be transferable. Upon change of ownership of any dog licensed under a purebred license, such dog shall become subject to the licensing provisions of subdivision one of this section, except when the new owner holds a valid purebred license.

(h) Notwithstanding the provisions of any general, special or local law, or any rule or regulation to the contrary, the clerk, authorized dog control officer or authorized pound or shelter manager in municipalities having a population of less than one hundred thousand shall send to the commissioner a copy of the validated license, or a report of the information contained therein, by the fifth day of the month following the month of license issuance. In addition, the authorized dog control officer or authorized pound or shelter manager in such municipalities shall, within five business days after the license has been validated, send a copy of the validated license to the licensing municipality within which the dog is to be harbored.

3. The clerk, authorized dog control officer or authorized pound or shelter manager, at the time of issuing any license pursuant to this article, shall require the applicant to present a statement certified by a licensed veterinarian showing that the dog or dogs have been vaccinated to prevent rabies or, in lieu thereof, a statement certified by a licensed veterinarian stating that because of old age or other reason, the life of the dog or dogs would be endangered by the administration of vaccine. The clerk, authorized dog control officer or authorized pound or shelter manager shall make or cause to be made from such statement a record of such information as may be required by the commissioner and shall file such record with a copy of the license.]

THE CLERK, AUTHORIZED DOG CONTROL OFFICER OR AUTHORIZED POUND OR SHELTER MANAGER, AT THE TIME OF ISSUING ANY LICENSE PURSUANT TO THIS ARTICLE, SHALL REQUIRE THE APPLICANT TO PRESENT A STATEMENT CERTIFIED BY A LICENSED VETERINARIAN SHOWING THAT THE DOG OR DOGS HAVE BEEN VACCINATED TO PREVENT RABIES OR, IN LIEU THEREOF, A STATEMENT CERTIFIED BY A LICENSED VETERINARIAN STATING THAT BECAUSE OF OLD AGE OR ANOTHER REASON, THE LIFE OF THE DOG OR DOGS WOULD BE ENDANGERED BY THE ADMINISTRATION OF VACCINE. THE CLERK, AUTHORIZED DOG CONTROL OFFICER OR AUTHORIZED POUND OR SHELTER MANAGER SHALL MAKE OR CAUSE TO BE MADE FROM SUCH STATEMENT A RECORD OF SUCH INFORMATION AND SHALL FILE SUCH RECORD WITH A COPY OF THE LICENSE. SUCH RECORDS SHALL BE MADE AVAILABLE TO THE COMMISSIONER UPON REQUEST FOR RABIES AND OTHER ANIMAL DISEASE CONTROL EFFORTS.

3. MUNICIPALITIES MAY PROVIDE FOR THE ESTABLISHMENT AND ISSUANCE OF PUREBRED LICENSES AND, IN THE EVENT THEY DO SO, SHALL PROVIDE FOR THE ASSESSMENT OF A SURCHARGE OF AT LEAST THREE DOLLARS FOR THE PURPOSES OF CARRYING OUT ANIMAL POPULATION CONTROL EFFORTS AS PROVIDED IN SECTION ONE HUNDRED SEVENTEEN-A OF THIS ARTICLE.

S 5. Section 110 of the agriculture and markets law is REPEALED and a new section 110 is added to read as follows:

S 110. LICENSE FEES. 1. THE LICENSE FEE FOR DOG LICENSES ISSUED PURSUANT TO SUBDIVISION ONE OF SECTION ONE HUNDRED NINE OF THIS ARTICLE SHALL BE DETERMINED BY THE MUNICIPALITY ISSUING THE LICENSE, PROVIDED THAT THE TOTAL FEE FOR AN UNSPAYED OR UNNEUTERED DOG SHALL BE AT LEAST FIVE DOLLARS MORE THAN THE TOTAL FEE FOR A SPAYED OR NEUTERED DOG. ALL REVENUE DERIVED FROM SUCH FEES SHALL BE THE SOLE PROPERTY OF THE MUNICIPALITY SETTING THE SAME AND SHALL BE USED ONLY FOR CONTROLLING DOGS AND ENFORCING THIS ARTICLE AND ANY RULE, REGULATION, OR LOCAL LAW OR ORDINANCE ADOPTED PURSUANT THERETO, INCLUDING SUBSIDIZING THE SPAYING OR NEUTERING OF DOGS AND ANY FACILITY AS AUTHORIZED UNDER SECTION ONE HUNDRED SIXTEEN OF THIS ARTICLE USED THEREFOR, AND SUBSIDIZING PUBLIC HUMANE EDUCATION PROGRAMS IN RESPONSIBLE DOG OWNERSHIP.

2. MUNICIPALITIES MAY EXEMPT FROM THEIR LICENSING FEES ANY GUIDE DOG, HEARING DOG, SERVICE DOG, WAR DOG, WORKING SEARCH DOG, DETECTION DOG, POLICE WORK DOG OR THERAPY DOG. EACH COPY OF ANY LICENSE FOR SUCH DOGS SHALL BE CONSPICUOUSLY MARKED "GUIDE DOG", "HEARING DOG", "SERVICE DOG", "WORKING SEARCH DOG", "WAR DOG", "DETECTION DOG", "POLICE WORK DOG", OR "THERAPY DOG", AS MAY BE APPROPRIATE, BY THE CLERK OR AUTHORIZED DOG CONTROL OFFICER.

3. IN ADDITION TO THE FEE CHARGED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, ALL MUNICIPALITIES ISSUING DOG LICENSES PURSUANT TO THIS ARTICLE ARE REQUIRED TO PROVIDE FOR THE ASSESSMENT OF AN ADDITIONAL SURCHARGE OF AT LEAST ONE DOLLAR FOR ALTERED DOGS AND AT LEAST THREE DOLLARS FOR UNALTERED DOGS FOR THE PURPOSES OF CARRYING OUT ANIMAL POPULATION CONTROL EFFORTS AS PROVIDED IN SECTION ONE HUNDRED SEVENTEEN-A OF THIS ARTICLE.

4. IN ADDITION TO THE FEE CHARGED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, ANY MUNICIPALITY ISSUING DOG LICENSES PURSUANT TO THIS ARTICLE IS HEREBY AUTHORIZED TO PROVIDE FOR THE ASSESSMENT OF ADDITIONAL SURCHARGES FOR THE PURPOSE OF:

(A) RECOVERING COSTS ASSOCIATED WITH ENUMERATION CONDUCTED PURSUANT TO SUBDIVISION SIX OF SECTION ONE HUNDRED THIRTEEN OF THIS ARTICLE SHOULD A DOG BE IDENTIFIED AS UNLICENSED DURING SUCH ENUMERATION. SUCH ADDITIONAL FEE SHALL BE THE PROPERTY OF THE LICENSING MUNICIPALITY AND SHALL BE USED TO PAY THE EXPENSES INCURRED BY THE MUNICIPALITY IN CONDUCTING THE ENUMERATION. IN THE EVENT THE ADDITIONAL FEES COLLECTED EXCEED THE EXPENSES INCURRED BY THE MUNICIPALITY IN CONDUCTING AN ENUMERATION IN

ANY YEAR, SUCH EXCESS FEES MAY BE USED BY THE MUNICIPALITY FOR ENFORCING THIS ARTICLE AND FOR SPAYING OR NEUTERING ANIMALS; AND

(B) OFFSETTING COSTS ASSOCIATED WITH THE PROVISION AND REPLACEMENT OF IDENTIFICATION TAGS PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS ARTICLE.

S 6. Section 111 of the agriculture and markets law is REPEALED and section 112 of such law, as added by chapter 220 of the laws of 1978, subdivisions 1 and 5 as amended by chapter 645 of the laws of 1988, subdivision 7 as amended by chapter 494 of the laws of 2002 and subdivision 8 as added by chapter 169 of the laws of 1994, is renumbered section 111 and amended to read as follows:

S 111. Identification of dogs. 1. Each dog licensed pursuant to subdivision one of section one hundred nine of this article shall be assigned, at the time the dog is first licensed, a [permanent official] MUNICIPAL identification number. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dog at all times, provided that a [dog] MUNICIPALITY MAY EXEMPT DOGS participating in a dog show [shall be exempt from this requirement] during such participation.

2. [The official identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.

3. At the time a dog is first licensed, one identification tag shall be furnished to the owner at no charge. Any replacement tag shall be obtained by the owner at his expense at a fee and in a manner prescribed by the commissioner.

4.] No tag carrying an [official] identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.

[5. The holder of] 3. A MUNICIPALITY OFFERING a purebred license may [procure] PROVIDE A LICENSEE, at his OR HER expense, any number of tags imprinted with the same number as the purebred license. One such tag shall be affixed to the collar of each dog harbored pursuant to the purebred license at all times, provided that [a dog] MUNICIPALITIES MAY EXEMPT DOGS participating in a dog show [shall be exempt from this requirement] during such participation. Such a tag shall be affixed only to the collar of a dog owned by the holder of the purebred license and harbored on his premises.

[6. The shape, size and form of imprints on identification tags and purebred license tags shall be prescribed by the commissioner, and any tag bearing an imprint other than that prescribed shall not constitute valid identification for the purposes of this article.

7. The applicant for] 4. A MUNICIPALITY OFFERING a license for any guide dog, service dog, hearing dog or detection dog may [procure] ISSUE a special tag for identifying such dog[. This special], PROVIDED THAT SUCH tag shall be in addition to the identification tag required by subdivision one of this section. The [commissioner shall] MUNICIPALITY MAY prescribe the shape, size, color, and form of imprint of the tag which shall be a different color and shape than the [official] STANDARD identification tag. Upon application, the commissioner shall furnish such tags without payment of a fee.

[8. Fees received by the department pursuant to this section shall be deposited in an account within the miscellaneous special revenue fund.]

S 7. Section 113 of the agriculture and markets law, as amended by chapter 57 of the laws of 1981, is renumbered section 112 and amended to read as follows:

S 112. Change of ownership; lost or stolen dog. 1. In the event of a change in the ownership of any dog which has been [assigned an official identification number] LICENSED PURSUANT TO THIS ARTICLE or in the address of the owner of record of any such dog, the owner of record shall, within ten days of such change, file with the [commissioner] MUNICIPALITY IN WHICH THE DOG IS LICENSED a written report of such change. Such owner of record shall be liable for any violation of this article until such filing is made or until the dog is licensed in the name of the new owner.

2. If any dog which has been [assigned an official identification number] LICENSED PURSUANT TO THIS ARTICLE is lost or stolen, the owner of record shall, within ten days of the discovery of such loss or theft file with the [commissioner] MUNICIPALITY IN WHICH THE DOG IS LICENSED a written report of such loss or theft. In the case of a loss or theft, the owner of record of any such dog shall not be liable for any violation of this article committed after such report is filed.

3. In the case of a dog's death, the owner of record shall so notify the [commissioner] MUNICIPALITY IN WHICH THE DOG IS LICENSED either prior to renewal of licensure or upon the time of such renewal as set forth [in subdivision one of section one hundred nine of this chapter. Until such time that the commissioner files such information with] BY the [central registry of official identification numbers, said number shall not be reassigned. Failure to notify] MUNICIPALITY IN WHICH THE the [commissioner of the death of a dog as so required herein shall constitute a violation and the owner of record shall be held liable] DOG IS LICENSED.

S 8. Section 114 of the agriculture and markets law, as added by chapter 220 of the laws of 1978, subdivisions 2 and 4 as amended by chapter 714 of the laws of 1980, subdivision 4 as separately amended and subdivision 5 as amended by chapter 843 of the laws of 1980 and subdivision 7 as amended by chapter 180 of the laws of 2002, is renumbered section 113 and amended to read as follows:

S 113. Dog control officers. 1. Each town and city, and each village in which licenses are issued, shall appoint, and any other village and any county may appoint, one or more dog control officers for the purpose of assisting, within the appointing municipality, with the control of dogs and the enforcement of this article [and rules and regulations promulgated pursuant thereto].

2. In lieu of or in addition to the appointment of a dog control officer or officers, any town or city, or any village in which licenses are issued shall, and any other village and any county may, contract for dog control officer services with any other municipality or with any incorporated humane society or similar incorporated dog protective association, or shall appoint, jointly with one or more other municipalities, one or more dog control officers having jurisdiction in each of the cooperating municipalities.

3. [The commissioner may appoint as many state dog control officers as he deems necessary to supervise the provisions of this article and any rules and regulations adopted pursuant thereto.

4.] Every dog control officer shall have the power to issue an appearance ticket pursuant to section 150.20 of the criminal procedure law, to serve a summons and to serve and execute any other order or process in the execution of the provisions of this article. In addition, any dog

control officer or any peace officer, when acting pursuant to his special duties, or police officer, who is authorized by a municipality to assist in the enforcement of this article may serve any process, including an appearance ticket, a uniform appearance ticket and a uniform appearance ticket and simplified information, related to any proceeding, whether criminal or civil in nature undertaken in accord with the provisions of this article or any local law or ordinance promulgated pursuant thereto.

[5] 4. Every dog control officer, peace officer, when acting pursuant to his special duties or police officer shall promptly make and maintain a complete record of any seizure and subsequent disposition of any dog. Such record shall include, but not be limited to, a description of the dog, the date and hour of seizure, the official identification number of such dog, if any, the location where seized, the reason for seizure, and the owner's name and address, if known.

[6] 5. Every dog control officer shall file and maintain[, in the manner prescribed by the commissioner,] such records [as may be required by this article or rules and regulations promulgated pursuant thereto] FOR NOT LESS THAN THREE YEARS FOLLOWING THE CREATION OF SUCH RECORD, and shall make such reports AVAILABLE to the commissioner [as may be required thereby] UPON REQUEST.

[7] 6. The governing body of any municipality in which licenses are issued, may, either individually or in cooperation with other municipal entities, require its dog control officer or animal control officer or any other authorized agent to ascertain and list the names of all persons in the municipality owning or harboring dogs, or in lieu thereof, such municipality may contract to have the same done.

S 9. Sections 115 and 116 of the agriculture and markets law are renumbered sections 114 and 115.

S 10. Section 117 of the agriculture and markets law is renumbered section 116.

S 11. Section 117-a of the agriculture and markets law, as added by chapter 473 of the laws of 1995, subdivisions 1, 2-a, 4 and 7 as amended by chapter 205 of the laws of 2000, subdivision 2, the opening paragraph of subdivision 2-a and paragraph (c) of subdivision 3 as amended by chapter 534 of the laws of 2005, is amended to read as follows:

S 117-a. Animal population control program. 1. [The department shall establish and implement an animal population control program. The purpose of this program shall be to reduce the population of unwanted and stray dogs and cats thereby reducing potential threats to public health and safety posed by the large population of these animals. This program shall seek to accomplish its purpose by encouraging residents of New York state who are the owners of dogs and cats to have them spayed or neutered by providing low-cost spaying and neutering services to such owners meeting the criteria enumerated in subdivision two of this section. The department shall use its best efforts to encourage every adoption facility that qualifies for participation in the low-cost spay-neuter program to do so to the maximum possible extent.] THE COMMISSIONER SHALL SUBMIT A REQUEST FOR PROPOSALS FROM NOT-FOR-PROFIT ENTITIES AS DESCRIBED HEREIN FOR THE PURPOSE OF ADMINISTERING A STATE ANIMAL POPULATION CONTROL PROGRAM. THE ENTITY CHOSEN TO ADMINISTER SUCH PROGRAM SHALL ENTER INTO A CONTRACT WITH THE STATE FOR A TERM OF FIVE YEARS, WHICH MAY BE RENEWED SUBJECT TO THE APPROVAL OF THE COMMISSIONER. THE PURPOSE OF THIS PROGRAM SHALL BE TO REDUCE THE POPULATION OF UNWANTED AND STRAY DOGS AND CATS THEREBY REDUCING INCIDENCE OF EUTHANASIA AND POTENTIAL THREATS TO PUBLIC HEALTH AND SAFETY POSED BY THE LARGE POPU-

LATION OF THESE ANIMALS. THIS PROGRAM SHALL SEEK TO ACCOMPLISH ITS PURPOSE BY ENCOURAGING RESIDENTS OF NEW YORK STATE WHO ARE THE OWNERS OF DOGS AND CATS TO HAVE THEM SPAYED OR NEUTERED BY PROVIDING LOW-COST SPAYING AND NEUTERING SERVICES TO SUCH OWNERS MEETING THE CRITERIA ENUMERATED IN SUBDIVISION THREE OF THIS SECTION. FOR PURPOSES OF THIS SECTION, "LOW-COST" SHALL MEAN SUBSTANTIALLY LESS THAN THE AVERAGE COST IN A PARTICULAR REGION OF THE STATE FOR SPAYING OR NEUTERING SERVICES, INCLUDING ANY AND ALL ANCILLARY CHANGES FOR SERVICES, INCLUDING BUT NOT LIMITED TO, PRESURGICAL EXAMINATIONS, TESTS AND IMMUNIZATIONS, AND OTHER SERVICES RELATED TO THE SPAY OR NEUTER PROCEDURE. ALL VETERINARY SERVICES PROVIDED PURSUANT TO THIS SECTION MUST BE PERFORMED BY A VETERINARIAN LICENSED IN THIS STATE.

2. ELIGIBLE NOT-FOR-PROFIT ENTITIES SHALL CONSIST OF DULY INCORPORATED SOCIETIES FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETIES, DULY INCORPORATED ANIMAL PROTECTIVE ASSOCIATIONS, OR DULY INCORPORATED NON-PROFIT CORPORATIONS THAT HAVE RECEIVED DESIGNATION AS 501(C)(3) ENTITIES BY THE INTERNAL REVENUE SERVICE AND WHICH ENTITIES ARE OPERATING AS ANIMAL RESCUE ORGANIZATIONS, ANIMAL ADOPTION ORGANIZATIONS, SPAY/NEUTER CLINICS, OR OTHER ENTITIES WHOSE CORE MISSION PREDOMINANTLY INCLUDES STATEWIDE EFFORTS TO MANAGE THE COMPANION ANIMAL POPULATION IN NEW YORK STATE. IN AWARDING THE CONTRACT, THE COMMISSIONER MUST CONSIDER THE FOLLOWING CRITERIA WITH RESPECT TO EACH APPLICANT: ITS EXPERIENCE IN PROVIDING LOW-COST SPAY-NEUTER SERVICES, THE SCOPE OF SERVICES IT PROVIDES, THE LENGTH OF TIME IT HAS BEEN OPERATING, ITS FINANCIAL HISTORY, ITS DEMONSTRATED ABILITY TO WORK WITH OUTSIDE ORGANIZATIONS AND COMMUNITY GROUPS, AND THE PROPOSED COST OF ADMINISTERING AND PROMOTING THE PROGRAM. IN CHOOSING SUCH ENTITY, THE COMMISSIONER MAY ESTABLISH OTHER CRITERIA FOR MAKING HIS OR HER SELECTION IN CONSULTATION WITH VETERINARIANS, REPRESENTATIVES FROM ANIMAL ADVOCACY AND WELFARE ORGANIZATIONS, AND MUNICIPALITIES. THE SELECTION OF THE ADMINISTRATIVE ENTITY OVERSEEING THE STATE ANIMAL POPULATION CONTROL FUND MUST BE COMPLETED NO LATER THAN DECEMBER THIRTY-FIRST, TWO THOUSAND TEN.

(A) THE ADMINISTRATIVE ENTITY CHOSEN BY THE COMMISSIONER SHALL REVIEW PLANS SUBMITTED FOR APPROVAL AND FUNDING OF LOW-COST SPAY-NEUTER PROGRAMS AND AWARD GRANTS FOR THE ANIMAL POPULATION CONTROL FUND FOR IMPLEMENTATION OF SUCH PLANS. IN REVIEWING THE PLANS, THE ENTITY SHALL CONSIDER THE FOLLOWING CRITERIA: THE METHOD OF PROVIDING LOW-COST SPAY-NEUTER SERVICES, INCLUDING AN ANTICIPATED FEE SCHEDULE FOR SUCH SERVICES, THE SIZE AND NEED OF THE POPULATION SERVED, THE PLAN FOR OUTREACH AND PROMOTION OF SUCH SERVICES, EXPERIENCE IN PROVIDING LOW-COST SPAY-NEUTER SERVICES AND COST-EFFECTIVENESS OF THE OVERALL PLAN. IN AWARDING GRANTS, THE ENTITY SHALL USE BEST EFFORTS TO PROVIDE STATEWIDE DISTRIBUTION OF FUNDING.

(B) (I) UPON APPROVING A PLAN SUBMITTED PURSUANT TO THIS SECTION, THE ADMINISTRATIVE ENTITY SHALL AWARD A GRANT FOR THE CREATION AND IMPLEMENTATION OF SUCH PLAN.

(II) UPON APPROVING A PLAN SUBMITTED FOR APPROVAL AND FUNDING OF ALL OTHER SPAY-NEUTER PROGRAMS, THE ADMINISTRATIVE ENTITY SHALL AWARD GRANTS FOR THE ONGOING ADMINISTRATION OF LOW-COST SPAY-NEUTER SERVICES. PAYMENTS AGAINST SUCH GRANTS SHALL BE ADVANCED QUARTERLY. ANY REMAINING FUNDS AT THE END OF THE GRANT PERIOD SHALL BE REMITTED TO THE ANIMAL POPULATION CONTROL FUND.

(III) ANY GRANTS MADE PURSUANT TO THIS SECTION MAY BE DISCONTINUED IF IT IS FOUND BY THE ADMINISTRATIVE ENTITY THAT FUNDS PREVIOUSLY DISBURSED WERE NOT USED FOR THEIR INTENDED PURPOSE OR THAT SERVICES PERFORMED WERE

NOT PROVIDED ACCORDING TO THE TERMS AND CONDITIONS AS THE ADMINISTRATIVE ENTITY SHALL PROVIDE.

(C) AN ADMINISTRATIVE ENTITY SELECTED PURSUANT TO THIS SECTION SHALL USE PROCEEDS FROM THE ANIMAL POPULATION CONTROL FUND TO PAY FOR REASONABLE EXPENSES INCURRED IN OPERATING THE LOW-COST SPAY-NEUTER PROGRAM, BUT IS HEREBY AUTHORIZED TO SOLICIT FUNDS FROM OTHER PUBLIC AND PRIVATE SOURCES.

(D) SUCH ADMINISTRATIVE ENTITY SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY, AND THE COMMISSIONER. SUCH REPORT SHALL INCLUDE BUT NOT BE LIMITED TO THE BALANCE OF THE FUND, ANNUAL EXPENDITURES, ANNUAL INCOME, THE NUMBER OF ENTITIES RECEIVING FUNDING AND THE AMOUNT RECEIVED BY EACH ENTITY, THE TOTAL NUMBER AND TYPE OF LOW-COST SPAY-NEUTER SERVICES PROVIDED BY EACH ENTITY, THE METHOD OF PROVIDING SUCH SERVICES BY EACH ENTITY, THE EXPENDITURE MADE FOR PROMOTING THE FUND AND DESCRIPTION OF MARKETING EFFORTS, AND RECOMMENDATIONS REGARDING THE IMPLEMENTATION AND FINANCIAL VIABILITY OF THE FUND.

(E) THE ADMINISTRATIVE ENTITY SHALL PERFORM SUCH OTHER TASKS AS MAY BE REASONABLE AND NECESSARY FOR THE ADMINISTRATION OF SUCH FUND.

(F) IF THE ADMINISTRATIVE ENTITY CANNOT PERFORM ITS OBLIGATIONS PURSUANT TO ITS CONTRACT, OR IF IT IS DETERMINED BY THE COMMISSIONER THAT IT IS NOT PERFORMING ITS OBLIGATIONS IN A SATISFACTORY MANNER, THE COMMISSIONER MAY CANCEL SUCH CONTRACT AND ISSUE ANOTHER REQUEST FOR PROPOSALS FROM OTHER ENTITIES TO ADMINISTER THE PROGRAM.

3. In order to be eligible to participate in the animal population control program, and therefore, be entitled to the low-cost spay/neuter services provided for herein, an owner of a dog or cat shall be a resident of New York state and shall submit proof to [a veterinarian participating in the program] THE ENTITY PROVIDING SUCH SERVICES as follows:

(a) in the form of an adoption agreement that their dog or cat was adopted from a pound, shelter MAINTAINED BY OR UNDER CONTRACT OR AGREEMENT WITH THE STATE OR ANY COUNTY, CITY, TOWN, OR VILLAGE, duly incorporated society for the prevention of cruelty to animals, DULY INCORPORATED humane society or DULY INCORPORATED dog or cat protective association; or

(b) proof of participation in at least one of the following:

(i) the food stamp program authorized pursuant to 7 U.S.C. 2011, et seq.;

(ii) the supplemental security income for the aged, blind and disabled program authorized pursuant to 42 U.S.C. 1381 et seq.;

(iii) the low income housing assistance program authorized pursuant to 42 U.S.C. 1437(f);

(iv) the Family Assistance program authorized pursuant to title ten of article five of the social services law;

(v) the Safety Net Assistance program authorized pursuant to title three of article five of the social services law;

(vi) the program of Medical Assistance authorized pursuant to title eleven of article five of the social services law; or

(vii) [the food assistance program authorized pursuant to subdivision ten of section ninety-five of the social services law;] OTHER SIMILAR PROGRAMS IDENTIFIED BY THE ADMINISTRATIVE ENTITY AND APPROVED BY THE COMMISSIONER; and

(c) in any city, town, village, or county which has enacted a local law or ordinance requiring spay/neuter of all dogs and cats prior to adoption from shelters, pounds, duly incorporated societies for the

prevention of cruelty to animals, humane societies and duly incorporated dog or cat protective associations within such city, town, village or county, eligibility for participation in the animal population control program shall be determined based solely on the provisions of paragraph (b) of this subdivision.

[2-a.] 4. Notwithstanding the provisions of paragraph (a) of subdivision [two] THREE of this section, no resident, otherwise qualified pursuant to such paragraph, shall be entitled to participate in the low cost spay/neuter program implemented by this section if the animal to be spayed or neutered:

(a) was imported or caused to be imported from outside the state;

(b) was adopted from an otherwise qualifying pound, shelter, duly incorporated society for the prevention of cruelty to animals, DULY INCORPORATED humane society or DULY INCORPORATED dog or cat protective association which included the cost of a spaying or neutering procedure in the cost of the adoption[;

(c) was spayed or neutered by an otherwise eligible veterinarian who is employed by otherwise qualifying pounds, shelters, duly incorporated societies for the prevention of cruelty to animals, humane societies or dog or cat protective associations except to the extent that they shall have performed spay/neuter procedures in excess of the number of such procedures done upon animals adopted from such facility during nineteen hundred ninety-four; or

(d) was adopted from any facility that as a condition of adoption, required or encouraged the utilization of a specific veterinarian or veterinary facility to perform such spay or neuter procedure. The establishment of such conditions by a facility shall constitute grounds for the disqualification of such facility to participate in the program. Nothing contained in this section shall be construed as precluding a facility from informing a person adopting an animal of the identity of those participating veterinarians in the vicinity of such facility in addition to providing them with the voucher provided under this section and any accompanying materials.

3. Any person submitting a dog or cat for spaying or neutering pursuant to the provisions of this section shall:

(a) Furnish any licensed veterinarian of this state participating in the program with proof that the owner meets the eligibility criteria pursuant to the provisions of subdivisions two and two-a of this section;

(b) Sign a consent form certifying that the person is the owner of the dog or cat or is authorized by the owner to present the dog or cat for the procedure;

(c) Pay a fee of thirty dollars to the veterinarian participating in the program if such dog or cat was adopted from a duly incorporated pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society or duly incorporated dog or cat protective association, or pay a fee of twenty dollars to the veterinarian participating in the program if such person participates in any of the programs enumerated in paragraph (b) of subdivision two of this section. When eligibility to participate in the animal population control program is based upon participation in a program enumerated in paragraph (b) of subdivision two of this section, the department shall issue vouchers to dog and cat owners upon provision of requisite proof required under paragraph (b) of subdivision two of this section and in accordance with any rules and regulations promulgated by the commissioner.

4. (a) Any licensed veterinarian of this state including, but not limited to, licensed veterinarians working at municipal facilities which provide dog and cat spaying and neutering services, other than with respect to animals who would not be eligible pursuant to subdivision two-a of this section may participate in the program upon filing with the commissioner an application therefor, on forms prescribed by the commissioner, which application shall certify, in addition to any other information requested by the commissioner, an animal sterilization fee schedule listing the fees charged for spaying and neutering in the normal course of business and for the presurgical immunization of dogs against distemper, hepatitis, leptospirosis, parvovirus and rabies, or if deemed necessary for the presurgical immunization of cats against feline panleukopenia, calici, pneumonitis, rhinotracheitis and rabies, as the case may be on the first day of January two thousand one and the first day of January each third year thereafter and the number of spay/neuter procedures done by such facility during such period. Additionally, such licensed veterinarian shall certify that the fees charged for procedures and vaccinations for which reimbursement is sought are equal to or less than the lowest fees charged to a private client for such procedures during the previous year. The veterinarian shall also provide the name of the veterinarian, animal hospital, veterinary clinic or other entity to which such reimbursement is to be made. These fees may vary with the animal's weight, sex and species. The commissioner may, however, disqualify from participation in the program any veterinarian whose fees are deemed unreasonable. Nothing contained in this subdivision shall limit the right of the state education department to undertake such actions as it may deem necessary to enforce the provisions of article one hundred thirty-five of the education law.

(b) Licensed veterinarians of this state participating in the program shall provide, if deemed necessary, for the presurgical immunization of dogs against distemper, hepatitis, leptospirosis, parvovirus and rabies, or if deemed necessary, for the presurgical immunization of cats against feline panleukopenia, calici, pneumonitis, rhinotracheitis and rabies, as the case may be. Charges for such services to the owner or person submitting the dog or cat for spaying or neutering shall be no more than fifty percent of the amount certified pursuant to paragraph (a) of this subdivision. In addition to other reimbursement to which a licensed veterinarian may be entitled under this section, a veterinarian may seek reimbursement for expenses incurred as a direct result of extraordinary circumstances which occurred during the course of a spay/neuter procedure up to an amount approved by the department which shall not exceed twenty percent of such veterinarian's fee for performing such procedure.

(c) The state comptroller upon the submission of vouchers by the commissioner shall, to the extent that monies are available from the animal population control fund, reimburse participating veterinarians for eighty percent of the balance of the fee charged pursuant to paragraph (a) of this subdivision, and after deducting that portion of the fee already paid to the veterinarian by those persons participating in the program pursuant to paragraph (c) of subdivision three of this section, for each animal spaying and neutering procedure administered after the submission to the commissioner of an animal sterilization certificate, prescribed by the commissioner, signed by the veterinarian and the owner of the animal or person authorized by the owner, for each spaying and neutering procedure performed in conjunction with the animal population control program. Notwithstanding the foregoing provisions, the state comptroller shall not reimburse veterinarians for any voucher

which shall have been issued by the commissioner more than one year prior to the date upon which it is submitted to the commissioner unless the commissioner shall indicate good cause for the payment of such voucher. If the moneys are not immediately available from such fund, the commissioner shall give priority to approving reimbursement to participating veterinarians from counties from which the amount of fees deposited in such fund, after taking into consideration the administrative expenses to which the department is entitled, exceeds the money paid out to participating veterinarians in such counties. The participating veterinarian shall submit to the commissioner within sixty days of each animal spaying and neutering procedure an animal sterilization certificate for the purposes of reimbursement. Notwithstanding the provisions of this paragraph, the commissioner shall not approve reimbursement to municipal facilities, not-for-profit organizations, pounds, shelters, duly incorporated societies for the prevention of cruelty to animals, humane societies or dog or cat protective associations except to the extent that they shall have performed spay/neuter procedures in excess of the number of such procedures done by it during nineteen hundred ninety-four.

5. The commissioner may solicit and accept funds from any public or private source to help carry out the provisions of this section.

6. All fees collected pursuant to this section and paragraph c of subdivision four of section one hundred ten of this article shall be deposited in a miscellaneous special revenue fund known as the animal population control fund. An amount not to exceed fifteen percent of the balance of the fund at the beginning of each fiscal year, following appropriation by the legislature and allocation by the director of the budget, shall be available for the purposes of implementation and promotion of the program. Such promotion shall include educating the public about the benefits associated with spaying and neutering. The remaining monies shall be used exclusively for the reimbursement to participating veterinarians pursuant to paragraph (b) of subdivision four of this section.

7. The commissioner shall, in consultation with such professional organizations as the commissioner deems appropriate, develop a list of veterinarians approved by the commissioner to participate in the low-cost spay/neuter program who provide care, including, but not limited to, spay/neuter procedures, to dogs and cats. Any otherwise qualifying pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society, or dog or cat protective association shall distribute such list of approved veterinarians to persons adopting a dog or a cat as a precondition to reimbursement under the low-cost spay/neuter program established in this section. In addition to such distribution, such pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society or dog or cat protective association shall not discriminate against any veterinarian on such list or directly or indirectly require, direct or recommend the utilization or non-utilization of any such veterinarian for any procedure for which reimbursement is to be sought under this program. Such discrimination may, in the discretion of the commissioner, constitute grounds for the revocation of the right of such facility to participate in the program].

5. ANY COUNTY IS HEREBY AUTHORIZED TO ESTABLISH AND IMPLEMENT AN ANIMAL POPULATION CONTROL PROGRAM WITHIN ITS JURISDICTION. ANY COUNTY CREATING ITS OWN PROGRAM MAY SUBMIT A PLAN TO THE ADMINISTRATIVE ENTITY FOR SUCH PROGRAM FOR APPROVAL AND TO RECEIVE FUNDING FROM THE ANIMAL

POPULATION CONTROL PROGRAM. SUCH PLAN SHALL INCLUDE BUT NOT BE LIMITED TO THE CRITERIA DESCRIBED IN PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION.

6. ANY COUNTY WHICH HAS CREATED ITS OWN PROGRAM, WHICH HAS BEEN APPROVED BY THE ADMINISTRATIVE ENTITY PURSUANT TO THIS SECTION, MAY RECEIVE THE FUNDS COLLECTED BY THE MUNICIPALITIES WITHIN THE COUNTY PURSUANT TO SUBDIVISION THREE OF SECTION ONE HUNDRED TEN OF THIS ARTICLE FOR THE SOLE PURPOSE OF ADMINISTERING SUCH PROGRAM. SUCH COUNTY PROGRAM SHALL BE SUBJECT TO THIS ARTICLE AND THE TERMS AND CONDITIONS OF THE ANIMAL POPULATION CONTROL PROGRAM, AS MAY BE AMENDED FROM TIME TO TIME.

7. ANY MUNICIPALITY WITHIN A COUNTY THAT DOES NOT HAVE ITS OWN PROGRAM APPROVED BY THE ADMINISTRATIVE ENTITY PURSUANT TO SUBDIVISION TWO OF THIS SECTION MUST SUBMIT THE FUNDS COLLECTED PURSUANT TO SUBDIVISION THREE OF SECTION ONE HUNDRED TEN OF THIS ARTICLE TO THE ANIMAL POPULATION CONTROL FUND PURSUANT TO SECTION NINETY-SEVEN-XX OF THE STATE FINANCE LAW.

8. IN THE ABSENCE OF A COUNTY ANIMAL POPULATION CONTROL PROGRAM, ENTITIES DESCRIBED BELOW WITHIN SUCH COUNTY MAY, PURSUANT TO SUBDIVISION TWO OF THIS SECTION, APPLY FOR FUNDS FROM THE ANIMAL POPULATION CONTROL FUND DESCRIBED IN SECTION NINETY-SEVEN-XX OF THE STATE FINANCE LAW FOR THE SOLE PURPOSE OF PROVIDING LOW-COST SPAY AND NEUTER SERVICES IN THEIR SERVICE AREA. IN THE EVENT THAT THE SERVICE AREA OF AN ENTITY ENCOMPASSES TWO OR MORE COUNTIES, SUCH ENTITY MAY APPLY AND RECEIVE FUNDING FROM THE ANIMAL POPULATION CONTROL FUND TO SERVE SUCH PORTION OF THEIR SERVICE AREA THAT IS NOT COVERED BY AN EXISTING COUNTY ANIMAL POPULATION CONTROL PROGRAM. SUCH ENTITIES SHALL INCLUDE POUNDS, DULY INCORPORATED SOCIETIES FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETIES, DULY INCORPORATED ANIMAL PROTECTIVE ASSOCIATIONS AND DULY INCORPORATED NONPROFIT CORPORATIONS THAT HAVE RECEIVED DESIGNATION AS A 501(C)(3) ORGANIZATION BY THE INTERNAL REVENUE SERVICE, WHICH ENTITIES ARE OPERATING AS ANIMAL RESCUE OR ADOPTION ORGANIZATIONS. ANY SUCH ENTITY MUST ALSO BE IN GOOD STANDING WITH THE CHARITIES BUREAU OF THE OFFICE OF THE ATTORNEY GENERAL AND WITH THE SECRETARY OF STATE.

9. THE ADMINISTRATIVE ENTITY SHALL ESTABLISH REPORTING REQUIREMENTS FOR ANY ENTITY AWARDED FUNDING THROUGH THE ANIMAL POPULATION CONTROL PROGRAM, AND ANY OTHER PROTOCOLS NECESSARY TO ENSURE APPROPRIATE AND EFFECTIVE USE OF MONIES DISBURSED PURSUANT TO THIS SECTION.

S 12. Section 118 of the agriculture and markets law is renumbered section 117 and subdivisions 1, 4, 5 and 7, subdivision 1 as amended by chapter 843 of the laws of 1980, paragraphs (c) and (d) of subdivision 1 as added by chapter 530 of the laws of 1997 and the closing paragraph of subdivision 1 as amended by chapter 392 of the laws of 2004, subdivisions 4 and 5 as added by chapter 220 of the laws of 1978, and subdivision 7 as amended by chapter 645 of the laws of 1988, are amended to read as follows:

1. Any dog control officer or peace officer, acting pursuant to his special duties, or police officer in the employ of or under contract to a municipality shall seize:

(a) any dog which is not identified and which is not on the owner's premises; [and]

(b) any dog which is not licensed, whether on or off the owner's premises[.];

(c) any licensed dog which is not in the control of its owner or custodian or not on the premises of the dog's owner or custodian, if there is probable cause to believe the dog is [a] dangerous [dog.]; AND

(d) any dog which poses an immediate threat to the public safety.

Promptly upon seizure the dog control officer shall commence a proceeding as provided for in subdivision two of section [one hundred twenty-one] ONE HUNDRED TWENTY-THREE of this article.

4. Each dog which is not identified, whether or not licensed, shall be held for a period of five days from the day seized during which period the dog may be redeemed by its owner, provided that such owner produces proof that the dog has been licensed and has been identified pursuant to the provisions of this article and further provided that the owner pays the following impoundment fees:

(a) NOT LESS THAN ten dollars for the first impoundment of any dog owned by that person;

(b) NOT LESS THAN twenty dollars for the first twenty-four hours or part thereof and three dollars for each additional twenty-four hours or part thereof for the second impoundment, within one year of the first impoundment, of any dog owned by that person; or

(c) NOT LESS THAN thirty dollars for the first twenty-four hours or part thereof and three dollars for each additional twenty-four hours or part thereof for the third and subsequent impoundments, within one year of the first impoundment, of any dog owned by that person.

The impoundment fees set forth in paragraphs (a), (b) and (c) of this subdivision notwithstanding, any municipality may set by local law or ordinance such fees in any amount.

5. All impoundment fees shall be the property of the municipality to which they are paid and shall be used only for controlling dogs and enforcing this article and any rule, regulation, or local law or ordinance adopted pursuant thereto, including subsidizing the spaying or neutering of dogs and any facility as authorized under section [one hundred seventeen] ONE HUNDRED SIXTEEN of this article used therefor, and subsidizing public humane education programs in responsible dog ownership.

7. An owner shall forfeit title to any dog unredeemed at the expiration of the appropriate redemption period, and the dog shall then be made available for adoption or euthanized subject to the provisions of subdivisions two-a, two-b, two-c, two-d, and two-e of section three hundred seventy-four of this chapter. [Provided that no dog in the custody of a pound or shelter shall be delivered for adoption unless it has been licensed pursuant to the provisions of this article prior to its release from the custody of a pound or shelter.] Any municipality may by local law or ordinance establish additional conditions for adoption including the requirement that adopted dogs shall be spayed or neutered before or after release from custody upon such terms and conditions as the municipality may establish.

S 13. Subdivision 7 of section 117 of the agriculture and markets law, as amended by chapter 479 of the laws of 2009, such section as renumbered by section twelve of this act, is amended to read as follows:

7. An owner shall forfeit title to any dog unredeemed at the expiration of the appropriate redemption period, and the dog shall then be made available for adoption or euthanized subject to subdivisions six, eight and nine of this section and subject to the provisions of section three hundred seventy-four of this chapter. [Provided that no dog in the custody of a pound or shelter shall be delivered for adoption unless it has been licensed pursuant to the provisions of this article prior to its release from the custody of a pound or shelter.] Any municipality may by local law or ordinance establish additional conditions for adoption including the requirement that adopted dogs shall be spayed or

neutered before or after release from custody upon such terms and conditions as the municipality may establish.

S 14. Section 119 of the agriculture and markets law, as added by chapter 220 of the laws of 1978, paragraph (c) of subdivision 1 as amended by chapter 404 of the laws of 1986, paragraph (g) of subdivision 1 as amended and paragraph (h) of subdivision 1 as added by chapter 263 of the laws of 2000, subdivision 2 as amended by chapter 221 of the laws of 1978, subdivision 3 as added and subdivision 4 as renumbered by chapter 714 of the laws of 1980, subdivisions 5 and 6 as added by chapter 473 of the laws of 1995, paragraphs (a) and (b) of subdivision 5 as amended by chapter 534 of the laws of 2005 and subdivision 7 as added by chapter 494 of the laws of 2002, is renumbered section 118 and amended to read as follows:

S 118. Violations. 1. It shall be a violation, punishable as provided in subdivision two of this section, for:

(a) any owner to fail to license any dog;

(b) any owner to fail to have any dog identified as required by this article;

(c) any person to knowingly affix to any dog any false or improper identification tag, special identification tag for identifying guide, service or hearing dogs or purebred license tag;

[(f)] (D) any owner or custodian of any dog to fail to confine, restrain or present such dog for any lawful purpose pursuant to this article;

[(g)] (E) any person to furnish any false or misleading information on any form required to be filed with any municipality [or the commissioner] pursuant to the provisions of this article or rules and regulations promulgated pursuant thereto;

[(h)] (F) the owner or custodian of any dog to fail to exercise due diligence in handling his or her dog if the handling results in harm to another dog that is a guide, hearing or service dog[.];

(G) ANY OWNER OF A DOG TO FAIL TO NOTIFY THE MUNICIPALITY IN WHICH HIS OR HER DOG IS LICENSED OF ANY CHANGE OF OWNERSHIP OR ADDRESS AS REQUIRED BY SECTION ONE HUNDRED TWELVE OF THIS ARTICLE.

2. It shall be the duty of the dog control officer of any municipality to bring an action against any person who has committed within such municipality any violation set forth in subdivision one of this section. Any municipality may elect either to prosecute such action as a violation under the penal law or to commence an action to recover a civil penalty.

A violation of this section shall be punishable, subject to such an election, either:

(a) where prosecuted pursuant to the penal law, by a fine of not [more] LESS than twenty-five dollars, except that (i) where the person was found to have violated this section or former article seven of this chapter within the preceding five years, the fine may be not [more] LESS than fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, it shall be punishable by a fine of not [more] LESS than one hundred dollars or imprisonment for not more than fifteen days, or both; or

(b) where prosecuted as an action to recover a civil penalty, by a civil penalty of not [more] LESS than twenty-five dollars, except that (i) when the person was found to have violated this section or [former] THIS article [seven of this chapter] within the preceding five years, the civil penalty may be not [more] LESS than fifty dollars, and (ii) where the person was found to have committed two or more such violations

within the preceding five years, the civil penalty may be not [more] LESS than one hundred dollars.

3. A defendant charged with a violation of any provision of this article or any local law or ordinance promulgated pursuant thereto may [himself] plead guilty to the charge in open court. He OR SHE may also submit to the magistrate having jurisdiction, in person, by duly authorized agent, or by registered mail, a statement (a) that he OR SHE waives arraignment in open court and the aid of counsel, (b) that he OR SHE pleads guilty to the offense charged, (c) that he OR SHE elects and requests that the charge be disposed of and the fine or penalty fixed by the court, (d) of any explanation that he OR SHE desires to make concerning the offense charged, and (e) that he OR SHE makes all statements under penalty of perjury. Thereupon the magistrate may proceed as though the defendant had been convicted upon a plea of guilty in open court, provided however, that any imposition of fine or penalty hereunder shall be deemed tentative until such fine or penalty shall have been paid and discharged in full. If upon receipt of the aforesaid statement the magistrate shall deny the same, he OR SHE shall thereupon notify the defendant of this fact, and that he OR SHE is required to appear before the said magistrate at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.

4. [Any person who shall violate any other provision of this article or rules and regulations promulgated pursuant thereto shall be subject to the penalty provisions of sections thirty-nine and forty of this chapter, but not section forty-one of this chapter. Such violations shall include, but not be limited to, the following:

(a) failure of any owner of record to notify the commissioner of any change of ownership or address as required by section one hundred thirteen of this article;

(b) failure of any person to perform any other duty or carry out any other requirement imposed pursuant to the provisions of this article or the rules and regulations promulgated pursuant thereto. Each day that failure continues shall constitute a separate violation.

5. For the purpose of participating in the "animal population control program" established under section one hundred seventeen-a of this article, it shall be a violation punishable as provided in subdivision six of this section, for:

(a) any person to falsify proof of adoption from a pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society or dog or cat protective association or to falsify proof of participation in any of the programs enumerated in paragraph (b) of subdivision two of section one hundred seventeen-a of this article;

(b) any person to furnish any licensed veterinarian of this state with inaccurate information concerning his or her residency or the ownership of an animal or such person's authority to submit an animal for a spaying or neutering procedure pursuant to section one hundred seventeen-a of this article or to knowingly furnish the department or any licensed veterinarian of this state with inaccurate information concerning his or her participation in any of the programs enumerated in paragraph (b) of subdivision two of section one hundred seventeen-a of this article;

(c) any licensed veterinarian to furnish the commissioner with false information concerning an animal sterilization fee schedule or an animal sterilization certificate submitted pursuant to subdivision four of section one hundred seventeen-a of this article.

6. Any person or veterinarian who violates the provisions of subdivision five of this section or any rule or regulation promulgated by the commissioner to carry out the provisions of section one hundred seventeen-a of this article shall be subject to a fine of not more than two hundred fifty dollars where prosecuted pursuant to the penal law, or where prosecuted as an action to recover a civil penalty of not more than two hundred fifty dollars.

7.] Any person who intentionally refuses, withholds, or denies a person, because [they are] HE OR SHE IS accompanied by an on-duty police work dog, working search, war, or detection dog as defined in section one hundred eight of this article, any accommodations, facilities, or privileges thereof shall be subject to a civil penalty of up to two hundred dollars for the first violation and up to four hundred dollars for each subsequent violation.

5. ANY PERSON WHO FOR THE PURPOSE OF PARTICIPATING IN THE ANIMAL POPULATION CONTROL PROGRAM SHALL FALSIFY PROOF OF ADOPTION FROM A POUND, SHELTER, DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY OR DULY INCORPORATED DOG OR CAT PROTECTIVE ASSOCIATION OR WHO SHALL FURNISH ANY LICENSED VETERINARIAN OF THIS STATE WITH INACCURATE INFORMATION CONCERNING HIS OR HER RESIDENCY OR THE OWNERSHIP OF AN ANIMAL OR SUCH PERSON'S AUTHORITY TO SUBMIT AN ANIMAL FOR A SPAYING OR NEUTERING PROCEDURE PURSUANT TO SECTION ONE HUNDRED SEVENTEEN-A OF THIS ARTICLE, AND ANY VETERINARIAN WHO SHALL FURNISH FALSE INFORMATION CONCERNING ANIMAL STERILIZATION FEES SHALL BE GUILTY OF A VIOLATION PUNISHABLE BY A FINE OF NOT LESS THAN TWO HUNDRED FIFTY DOLLARS WHERE PROSECUTED PURSUANT TO THE PENAL LAW, OR WHERE PROSECUTED AS AN ACTION TO RECOVER A CIVIL PENALTY OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS.

S 15. Section 120 of the agriculture and markets law, as added by chapter 220 of the laws of 1978, is renumbered section 119 and amended to read as follows:

S 119. Disposition of fines. Notwithstanding any other provision of law, all moneys collected as fines or penalties by any municipality as a result of any prosecution for violations of the provisions of this article or any local law or ordinance and all bail forfeitures by persons charged with such violations shall be the property of the municipality and shall be paid to the financial officer of such municipality. Such moneys shall be used only for controlling dogs and enforcing this article and any rule, regulation, or local law or ordinance adopted pursuant thereto, including subsidizing the spaying or neutering of dogs and any facility as authorized under section [one hundred seventeen] ONE HUNDRED SIXTEEN of this article used therefor, and subsidizing public humane education programs in responsible dog ownership.

S 16. Section 122 of the agriculture and markets law is renumbered section 120.

S 17. Section 123 of the agriculture and markets law is renumbered section 121.

S 18. Section 121 of the agriculture and markets law is renumbered section 123, and subdivisions 1 and 2, as amended by chapter 392 of the laws of 2004, are amended to read as follows:

1. Any person who witnesses an attack or threatened attack, or in the case of a minor, an adult acting on behalf of such minor, may make a complaint of an attack or threatened attack upon a person, companion animal AS DEFINED IN SECTION THREE HUNDRED FIFTY OF THIS CHAPTER, farm animal as defined in [subdivision twenty-four of] SUCH section [one hundred eight of this article] THREE HUNDRED FIFTY, or a domestic animal

as defined in subdivision seven of section one hundred eight of this article to a dog control officer or police officer of the appropriate municipality. Such officer shall immediately inform the complainant of his OR HER right to commence a proceeding as provided in subdivision two of this section and, if there is reason to believe the dog is a dangerous dog, the officer shall forthwith commence such proceeding himself OR HERSELF.

2. Any person who witnesses an attack or threatened attack, or in the case of a minor, an adult acting on behalf of such minor, may, and any dog control officer or police officer as provided in subdivision one of this section shall, make a complaint under oath or affirmation to any municipal judge or justice of such attack or threatened attack. Thereupon, the judge or justice shall immediately determine if there is probable cause to believe the dog is a dangerous dog and, if so, shall issue an order to any dog control officer, peace officer, acting pursuant to his OR HER special duties, or police officer directing such officer to immediately seize such dog and hold the same pending judicial determination as provided in this section. Whether or not the judge or justice finds there is probable cause for such seizure, he OR SHE shall, within five days and upon written notice of not less than two days to the owner of the dog, hold a hearing on the complaint. The petitioner shall have the burden at such hearing to prove the dog is a "dangerous dog" by clear and convincing evidence. If satisfied that the dog is a dangerous dog, the judge or justice shall then order neutering or spaying of the dog, microchipping of the dog and one or more of the following as deemed appropriate under the circumstances and as deemed necessary for the protection of the public:

(a) evaluation of the dog by a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert in the field and completion of training or other treatment as deemed appropriate by such expert. The owner of the dog shall be responsible for all costs associated with evaluations and training ordered under this section;

(b) secure, humane confinement of the dog for a period of time and in a manner deemed appropriate by the court but in all instances in a manner designed to: (1) prevent escape of the dog, (2) protect the public from unauthorized contact with the dog, and (3) to protect the dog from the elements pursuant to section three hundred fifty-three-b of this chapter. Such confinement shall not include lengthy periods of tying or chaining;

(c) restraint of the dog on a leash by an adult of at least twenty-one years of age whenever the dog is on public premises;

(d) muzzling the dog whenever it is on public premises in a manner that will prevent it from biting any person or animal, but that shall not injure the dog or interfere with its vision or respiration; or

(e) maintenance of a liability insurance policy in an amount determined by the court, but in no event in excess of one hundred thousand dollars for personal injury or death resulting from an attack by such dangerous dog.

S 19. Section 121-a of the agriculture and markets law is renumbered section 123-a.

S 20. Section 121-b of the agriculture and markets law is renumbered section 123-b.

S 21. Section 124 of the agriculture and markets law is renumbered section 122 and subdivision 1 of such section, as amended by chapter 714 of the laws of 1980, is amended to read as follows:

1. Any municipality may enact a local law or ordinance upon the keeping or running at large of dogs and the seizure thereof, provided no municipality shall vary, modify, enlarge or restrict the provisions of this article relating to [identification, licensing,] rabies vaccination and euthanization.

S 21-a. Section 125 of the agriculture and markets law is REPEALED.

S 22. Section 126 of the agriculture and markets law, as added by chapter 220 of the laws of 1978, is renumbered section 124 and amended to read as follows:

S 124. [Duties and powers] POWERS of commissioner. [1. The commissioner shall:

(a) supervise the enforcement of this article;

(b) maintain a central registry of official identification numbers;

(c) prescribe the form of all notices, reports and other papers and documents required by this article and the rules and regulations promulgated pursuant thereto; and

(d) prescribe the manner in which all reports required by this article and the rules or regulations promulgated thereto are to be filed and maintained, and all licenses issued or validated; and

(e) furnish all forms and other supplies, including identification tags and preprinted license applications, necessary for the implementation and enforcement of this article and the rules and regulations promulgated pursuant thereto; and

(f) supply, for identification purposes, names and addresses of owners of record of identified dogs immediately upon request; and

(g) furnish such information and assistance to dog control officers as he deems necessary for enforcement purposes.

2.] The commissioner is hereby authorized to:

(a) promulgate, after public hearing, such rules and regulations as are necessary to supplement and give full effect to the provisions of SECTIONS ONE HUNDRED THIRTEEN, ONE HUNDRED FOURTEEN AND ONE HUNDRED SEVENTEEN OF this article; and

(b) exercise all other powers and functions as are necessary to carry out the duties and purposes set forth in SECTIONS ONE HUNDRED THIRTEEN, ONE HUNDRED FOURTEEN AND ONE HUNDRED SEVENTEEN OF this article.

S 23. Subdivision 5 of section 373 of the agriculture and markets law, as amended by chapter 674 of the laws of 1980, is amended to read as follows:

5. Nothing herein contained shall restrict the rights and powers derived from section one hundred [eighteen] SEVENTEEN of this chapter relating to seizure of unlicensed dogs and the disposition to be made of animals so seized or taken, nor those derived from any other general or special law relating to the seizure or other taking of dogs and other animals by a society for the prevention of cruelty to animals.

S 24. Subparagraph 2 of paragraph b of subdivision 6 of section 373 of the agriculture and markets law, as amended by chapter 256 of the laws of 1997, is amended to read as follows:

(2) If the court orders the posting of a security, the security shall be posted with the clerk of the court within five business days of the hearing provided for in subparagraph one of this paragraph. The court may order the immediate forfeiture of the seized animal to the impounding organization if the person ordered to post the security fails to do so. Any animal forfeited shall be made available for adoption or euthanized subject to subdivision seven-a of section one hundred [eighteen] SEVENTEEN of this chapter or section three hundred seventy-four of this article.

S 25. Paragraph (d) of subdivision 2 of section 209-cc of the general municipal law, as amended by chapter 392 of the laws of 2004, is amended to read as follows:

(d) the term "dangerous dog" means a dog found dangerous pursuant to the provisions of section one hundred [twenty-one] TWENTY-THREE of the agriculture and markets law.

S 26. Section 97-xx of the state finance law, as added by chapter 473 of the laws of 1995, is amended to read as follows:

S 97-xx. Animal population control fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a fund to be known as the "animal population control fund".

2. Such fund shall consist of all moneys collected pursuant to [paragraph c of] subdivision [four] THREE of section one hundred ten of the agriculture and markets law, [subdivision five of] AND section one hundred seventeen-a of the agriculture and markets law, [and section three-a of chapter one hundred fifteen of the laws of eighteen hundred ninety-four,] and all other moneys credited or transferred thereto from any other fund or source pursuant to law.

3. Moneys of the fund shall be expended for the purposes of carrying out the provisions of section one hundred seventeen-a of the agriculture and markets law. Moneys shall be paid out of the fund on the audit and warrant of the state comptroller [on vouchers approved by the commissioner of agriculture and markets] PURSUANT TO SUBDIVISION FOUR OF THIS SECTION. Any interest received by the comptroller on moneys on deposit in the animal population control fund shall be retained in and become part of such fund.

4. THE COMPTROLLER SHALL DISPERSE THE FULL BALANCE OF FUNDS ACCRUED PURSUANT TO SUBDIVISION TWO OF THIS SECTION TO THE ADMINISTERING ENTITY SELECTED PURSUANT TO SUBDIVISION ONE OF SECTION ONE HUNDRED SEVENTEEN-A OF THE AGRICULTURE AND MARKETS LAW ON A QUARTERLY BASIS FOR THE PURPOSES OF ADMINISTERING THE ANIMAL POPULATION CONTROL PROGRAM ESTABLISHED PURSUANT TO SUCH SECTION.

S 27. The administrative code of the city of New York is amended by adding a new section 17-811 to read as follows:

S 17-811 ANIMAL POPULATION CONTROL PROGRAM. THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS TO ESTABLISH AND IMPLEMENT AN ANIMAL POPULATION CONTROL PROGRAM WITHIN ONE HUNDRED EIGHTY DAYS FROM THE EFFECTIVE DATE OF THIS SECTION. THE PURPOSE OF THIS PROGRAM SHALL BE TO REDUCE THE POPULATION OF UNWANTED STRAY DOGS AND CATS THEREBY REDUCING POTENTIAL THREATS TO PUBLIC HEALTH AND SAFETY AND REDUCING THE COSTS OF CARING FOR THESE ANIMALS. THIS PROGRAM SHALL SEEK TO ACCOMPLISH ITS PURPOSE BY ENCOURAGING RESIDENTS OF THE CITY OF NEW YORK WHO ARE THE OWNERS OF DOGS AND CATS TO HAVE THEM SPAYED OR NEUTERED BY PROVIDING NO OR LOW-COST SPAYING AND NEUTERING SERVICES TO SUCH OWNERS. THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS NECESSARY TO ESTABLISH AN ANIMAL POPULATION CONTROL PROGRAM INCLUDING, BUT NOT LIMITED, TO CREATING CLINICS OR MOBILE UNITS WHERE SUCH SERVICES SHALL BE PERFORMED AND ESTABLISHING CRITERIA FOR PET OWNER ELIGIBILITY TO USE SUCH SERVICES. INDICIA OF ELIGIBILITY FOR PET OWNERS SEEKING NO OR LOW-COST SPAY AND NEUTER SERVICES SHALL INCLUDE BUT NOT BE LIMITED TO ANY CRITERIA DEEMED ACCEPTABLE BY THE AGENCIES PERFORMING THE SERVICES. THE COMMISSIONER MAY SOLICIT AND ACCEPT FUNDS FROM THE ANIMAL POPULATION CONTROL FUND ESTABLISHED PURSUANT TO SECTION 17-812 OF THIS CHAPTER AND ANY OTHER PUBLIC OR PRIVATE SOURCE TO HELP CARRY OUT THE PROVISIONS OF THIS SECTION.

S 28. The administrative code of the city of New York is amended by adding a new section 17-812 to read as follows:

S 17-812 ANIMAL POPULATION CONTROL FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE CITY COMPTROLLER AND COMMISSIONER OF FINANCE A FUND TO BE KNOWN AS THE "ANIMAL POPULATION CONTROL FUND" WHICH SHALL BE USED BY THE DEPARTMENT TO SUBSIDIZE THE CITY'S ANIMAL POPULATION CONTROL PROGRAM AS ESTABLISHED BY SECTION 17-811 OF THIS CHAPTER.

2. SUCH FUND SHALL CONSIST OF ALL MONEYS COLLECTED FROM THE ANIMAL POPULATION CONTROL PROGRAM ESTABLISHED PURSUANT TO SECTION 17-811 OF THIS CHAPTER AND SECTION THREE-A OF CHAPTER ONE HUNDRED FIFTEEN OF THE LAWS OF EIGHTEEN HUNDRED NINETY-FOUR, AND ALL OTHER MONEYS CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

3. MONEYS OF THE FUND SHALL BE MADE AVAILABLE TO THE DEPARTMENT AND SHALL BE EXPENDED FOR THE PURPOSES OF CARRYING OUT ANIMAL POPULATION CONTROL PROGRAMS PURSUANT TO THE PROVISIONS OF SECTION 17-811 OF THIS CHAPTER. MONEYS SHALL BE PAID OUT OF THE FUND ON THE AUDIT AND WARRANT OF THE CITY COMPTROLLER AND APPROVED BY THE COMMISSIONER. ANY INTEREST RECEIVED BY THE CITY COMPTROLLER ON MONEYS ON DEPOSIT IN THE ANIMAL POPULATION CONTROL FUND SHALL BE RETAINED IN AND BECOME PART OF SUCH FUND.

S 29. Section 3-a of chapter 115 of the laws of 1894 relating to the better protection of lost and strayed animals and for securing the rights of owners thereof, as amended by chapter 180 of the laws of 2002, is amended to read as follows:

S 3-a. In addition to the fee charged pursuant to sections one and two of this chapter, any person applying for a dog license shall pay a fee of three dollars, OR SUCH GREATER AMOUNT AS DETERMINED BY THE CITY COUNCIL OR THE BOARD OF HEALTH IN THE CODE OF SUCH CITY, for any dog four months of age or older which has not been spayed or neutered unless an owner presents with the license application a statement certified by a licensed veterinarian stating that he or she has examined the dog and found that because of old age or other reasons, the life of the dog would be endangered by spaying or neutering. All fees collected pursuant to the provisions of this section shall be forwarded to the [state] CITY comptroller for deposit in the animal population control fund created pursuant to section [97-xx of the state finance law and section 117-a of the agriculture and markets law] 17-812 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

S 30. Any unspent moneys collected in prior fiscal years attributable to dog licensing fees in cities having a population of two million or more and collected and deposited in the New York state animal population control fund pursuant to section 97-xx of the state finance law shall be transferred to and retained in the animal population control fund created pursuant to section 17-812 of the administrative code of the city of New York as added by section twenty-eight of this act.

S 31. Any funds in the state animal population control fund described in section 97-xx of the state finance law as of the effective date of this act that were derived from cities having a population of two million or more shall be transferred to the animal population control fund as described in section 17-812 of the administrative code of the city of New York as added by section twenty-eight of this act, to the extent practicable.

S 32. Section 9 of chapter 115 of the laws of 1894 relating to the better protection of lost and strayed animals, and for securing the rights of owners thereof, as amended by chapter 473 of the laws of 1995, is amended to read as follows:

S 9. Any person or persons, who shall hinder or molest or interfere with any officer or agent of said society in the performance of any duty enjoined by this act, or who shall use a license tag on a dog for which it was not issued, shall be deemed guilty of a misdemeanor. Any person who owns or harbors a dog without complying with the provisions of this act shall be deemed guilty of disorderly conduct, and upon conviction thereof before any magistrate shall be fined for such offense any sum not exceeding ten dollars, and in default of payment of such fine may be committed to prison by such magistrate until the same be paid, but such imprisonment shall not exceed ten days. Any person who for the purpose of participating in the "animal population control program" shall falsify proof of adoption from a pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society or dog or cat protective association or who shall furnish any licensed veterinarian of this state with inaccurate information concerning his or her residency or the ownership of an animal or such person's authority to submit an animal for a spaying or neutering procedure ESTABLISHED pursuant to section [117-a of the agriculture and markets law] 17-812 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK and any veterinarian who shall furnish [the commissioner with] false information concerning an animal sterilization fee schedule or an animal sterilization certificate [submitted pursuant to subdivision 4 of section 117-a of the agriculture and markets law] shall be guilty of a violation punishable by a fine of not more than two hundred fifty dollars where prosecuted pursuant to the penal law, or where prosecuted as an action to recover a civil penalty of not more than two hundred fifty dollars.

S 33. This act shall take effect January 1, 2011; provided, however that if chapter 479 of the laws of 2009 is not in effect on such date then section thirteen of this act shall take effect on the same date and in the same manner as such chapter takes effect.

PART U

Intentionally omitted.

PART V

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

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART W

Intentionally omitted.

PART X

Intentionally omitted.

PART Y

Section 1. Section 159-i of the executive law, as amended by section 4 of part R of chapter 59 of the laws of 2009, is amended to read as follows:

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

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

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

S 2. Section 5 of chapter 728 of the laws of 1982, amending the executive law relating to community services block grant programs, as amended by section 6 of part R of chapter 59 of the laws of 2009, is amended to read as follows:

S 5. This act shall take effect immediately provided, however, that section four hereof shall take effect October 1, 1982 and provided further, however, that the provisions of sections two, three and four of this act shall be in full force and effect only until September 30, 1983 and section one of this act shall be in full force and effect until September 30, [2010] 2011, provided, however, that the distribution of funds pursuant to section 159-i of the executive law shall be limited to the federal fiscal year expressly set forth in such section.

S 3. Section 7 of chapter 710 of the laws of 1983, amending the executive law relating to community services block grant programs, as amended by section 7 of part R of chapter 59 of the laws of 2009, is amended to read as follows:

S 7. This act shall take effect September 30, 1983 and shall be in full force and effect only until September 30, [2010] 2011 at which time the amendments and additions made pursuant to the provisions of this act shall be deemed to be repealed, provided, however, that the distribution of funds pursuant to section 159-i of the executive law shall be limited to the federal fiscal year expressly set forth in such section.

S 4. This act shall take effect immediately; provided, however, that the amendments to section 159-i of the executive law made by section one of this act shall not affect the expiration of such section as provided in section 5 of chapter 728 of the laws of 1982, as amended, and section

7 of chapter 710 of the laws of 1983, as amended, and shall be deemed to expire therewith.

PART Z

Intentionally omitted.

PART AA

Intentionally omitted.

PART BB

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

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART CC

Section 1. Expenditures of moneys appropriated in a chapter of the laws of 2010 to the energy research and development authority, under the research, development and demonstration program, from the special revenue funds - other/state operations, miscellaneous special revenue fund-339, energy research and planning account, and special revenue funds - other/aid to localities, miscellaneous special revenue fund - 339, energy research and planning account shall be subject to the provisions of this section. Notwithstanding the provisions of subdivision 4-a of section 18-a of the public service law, all moneys committed or expended shall be reimbursed by assessment against gas corporations and electric corporations as defined in section 2 of the public service law, and the total amount which may be charged to any gas corporation and any electric corporation shall not exceed one cent per one thousand cubic feet of gas sold and .010 cent per kilowatt-hour of electricity sold by such corporations in their intrastate utility operations in calendar year 2008. Such amounts shall be excluded from the general assessment provisions of subdivision 2 of section 18-a of the public service law, but shall be billed and paid in the manner set forth in such subdivision and upon receipt shall be paid to the state comptroller for deposit in the state treasury for credit to the miscellaneous special revenue fund. The director of the budget shall not issue a certificate of approval with respect to the commitment and expenditure of moneys hereby appropriated until the chair of such authority shall have submitted, and the director of the budget shall have approved, a comprehensive financial plan encompassing all moneys available to and all anticipated commitments and expenditures by such authority from any source for the operations of such authority. Copies of the approved comprehensive financial plan shall be immediately submitted by the director of the budget to the chairs and secretaries of the legislative fiscal committees.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART DD

Section 1. Subdivisions 1 and 2 of section 27-1905 of the environmental conservation law, subdivision 1 as amended by section 1 of part E1 of chapter 63 of the laws of 2003 and subdivision 2 as amended by chapter 200 of the laws of 2008, are amended to read as follows:

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

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

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

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

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

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

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

S 2. Subdivisions 2, 3 and 5 of section 27-1907 of the environmental conservation law, as added by section 3 of part V1 of chapter 62 of the laws of 2003, are amended to read as follows:

2. The owner or operator of a noncompliant waste tire stockpile shall, at the department's request, submit to and/or cooperate with any and all remedial measures necessary for the abatement of noncompliant waste tire stockpiles with funds from the waste [tire] management and [recycling] CLEANUP fund pursuant to section ninety-two-bb of the state finance law.

3. No later than two years from the effective date of this title, the department shall publish requests for proposals to seek contractors to prepare whole and mechanically processed waste tires situated at noncompliant waste tire stockpiles for arrangement in accordance with fire safety requirements and for removal for appropriate processing, recycling or beneficial use. Disposal will be considered only as a last option. The expenses of remedial and fire safety activities at a noncompliant waste tire stockpile shall be paid by the person or persons who owned, operated or maintained the noncompliant waste tire stockpile, or from the waste [tire] management and [recycling] CLEANUP fund and shall be a debt recoverable by the state from all persons who owned, operated or maintained the noncompliant waste tire stockpile, and a lien and charge may be placed on the premises upon which the noncompliant waste tire stockpile is maintained and upon any real or personal property, equipment, vehicles, and inventory controlled by such person or persons. Moneys recovered shall be paid to the waste [tire] management and [recy-

cling] CLEANUP fund established pursuant to section ninety-two-bb of the state finance law.

5. The department shall make all reasonable efforts to recover the full amount of any funds expended from the waste [tire] management and [recycling] CLEANUP fund for abatement or remediation through litigation or cooperative agreements. Any and all moneys recovered, repaid or reimbursed pursuant to this section shall be deposited with the comptroller and credited to such fund.

S 3. Subdivision 2 of section 27-1911 of the environmental conservation law, as added by section 3 of part V1 of chapter 62 of the laws of 2003, is amended to read as follows:

2. No moneys from the waste [tire] management and [recycling] CLEANUP fund shall be used to dispose of waste tires in a landfill unless the department has determined that it is not feasible to convert the waste tires to a beneficial use. Department-approved beneficial uses of scrap-tire-derived material for leachate collection systems, or gas collection systems in the construction or operation of a landfill are not considered disposal.

S 4. Subdivisions 1, 2 and 4, the opening paragraph of subdivision 3 and paragraph (a) of subdivision 6 of section 27-1913 of the environmental conservation law, subdivisions 1, 2 and 4 as amended by section 2 of part E1 of chapter 63 of the laws of 2003, the opening paragraph of subdivision 3 as amended by section 1 of part E of chapter 686 of the laws of 2003 and paragraph (a) of subdivision 6 as added by chapter 200 of the laws of 2008, are amended to read as follows:

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

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

(a) recapped or resold tires;

(b) mail-order sales; or

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

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

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

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

Until March thirty-first, two thousand [eleven] FOURTEEN, each tire service maintaining a place of business in this state shall make a return to the department of taxation and finance on a quarterly basis, with the return for December, January, and February being due on or before the immediately following March thirty-first; the return for March, April, and May being due on or before the immediately following June thirtieth; the return for June, July, and August being due on or before the immediately following September thirtieth; and the return for September, October, and November being due on or before the immediately following December thirty-first.

4. All waste tire management and recycling fees collected by the department of taxation and finance shall be transferred to the waste [tire] management and [recycling] CLEANUP fund pursuant to section ninety-two-bb of the state finance law.

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

S 5. The opening paragraph and subdivision 1 of section 27-1915 of the environmental conservation law, as added by section 3 of part V1 of chapter 62 of the laws of 2003, are amended to read as follows:

[Funds from the waste] WASTE tire management and recycling FEES SHALL BE DEPOSITED IN THE WASTE MANAGEMENT AND CLEANUP fund established in section ninety-two-bb of the state finance law, AND shall be made AVAILABLE for the following purposes:

1. costs of the department for the following:

(a) first-year costs:

(i) enumeration and assessment of noncompliant waste tire stockpiles; and

(ii) aerial reconnaissance to locate, survey and characterize sites environmentally, for remote sensing, special analysis and scanning;

(b) abatement of noncompliant waste tire stockpiles; and

(c) administration AND ENFORCEMENT of THE requirements of this [section] ARTICLE, EXCLUSIVE OF TITLES THIRTEEN AND FOURTEEN.

S 6. Section 92-bb of the state finance law, as added by section 4 of part V1 of chapter 62 of the laws of 2003, is amended to read as follows:

S 92-bb. Waste [tire] management and [recycling] CLEANUP fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of the department of taxation and finance a special fund to be known as the "waste [tire] management and [recycling] CLEANUP fund".

2. The waste [tire] management and [recycling] CLEANUP fund shall consist of all revenue collected from waste tire management and recycling fees pursuant to section 27-1913 of the environmental conservation law and any cost recoveries or other revenues collected pursuant to title nineteen of article twenty-seven of the environmental conservation law, AND ANY OTHER MONIES DEPOSITED INTO THE FUND PURSUANT TO LAW.

3. Moneys of the fund, following appropriation by the legislature, shall be used for execution of waste tire management and recycling pursuant to title nineteen of article twenty-seven of the environmental conservation law, and expended for the purposes as set forth in section 27-1915 of the environmental conservation law.

S 7. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART EE

Intentionally omitted.

PART FF

Intentionally omitted.

PART GG

Intentionally omitted.

PART HH

Intentionally omitted.

PART II

Section 1. Subdivision 1 of section 235 of the vehicle and traffic law, as separately amended by sections 1 of chapters 20, 21, 22 and 383 of the laws of 2009, is amended to read as follows:

1. Notwithstanding any inconsistent provision of any general, special or local law or administrative code to the contrary, in any city which heretofore or hereafter is authorized to establish an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations, or to adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, or to adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision], or to adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, OR TO ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION, such tribunal and the rules and regulations pertaining thereto shall be constituted in substantial conformance with the following sections.

S 1-a. Section 235 of the vehicle and traffic law, as separately amended by sections 2 of chapters 20, 21, 22 and 383 of the laws of 2009, is amended to read as follows:

S 235. Jurisdiction. Notwithstanding any inconsistent provision of any general, special or local law or administrative code to the contrary, in any city which heretofore or hereafter is authorized to establish an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations, or to adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, or to adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with [section] SECTIONS eleven

hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this section], or to adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, OR TO ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION, such tribunal and the rules and regulations pertaining thereto shall be constituted in substantial conformance with the following sections.

S 1-b. Section 235 of the vehicle and traffic law, as separately amended by sections 3 of chapters 20, 21, 22 and 383 of the laws of 2009, is amended to read as follows:

S 235. Jurisdiction. Notwithstanding any inconsistent provision of any general, special or local law or administrative code to the contrary, in any city which heretofore or hereafter is authorized to establish an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations, or to adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this section], or to adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, OR TO ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION, such tribunal and the rules and regulations pertaining thereto shall be constituted in substantial conformance with the following sections.

S 1-c. Section 235 of the vehicle and traffic law, as separately amended by chapter 715 of the laws of 1972 and chapter 379 of the laws of 1992, is amended to read as follows:

S 235. Jurisdiction. Notwithstanding any inconsistent provision of any general, special or local law or administrative code to the contrary, in any city which heretofore or hereafter is authorized to establish an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations, or to adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, OR TO ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION, such tribunal and the rules and regulations pertaining thereto shall be constituted in substantial conformance with the following sections.

S 2. Subdivision 1 of section 236 of the vehicle and traffic law, as separately amended by sections 4 of chapters 20, 21, 22 and 383 of the laws of 2009, is amended to read as follows:

1. Creation. In any city as hereinbefore or hereafter authorized such tribunal when created shall be known as the parking violations bureau and shall have jurisdiction of traffic infractions which constitute a parking violation and, where authorized by local law adopted pursuant to subdivision (a) of section eleven hundred eleven-a of this chapter or [subdivision] SUBDIVISIONS (a) of [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision], shall adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with such section eleven hundred eleven-a or such [section] SECTIONS eleven hundred eleven-b as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision] and shall adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty AND SHALL ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION. Such tribunal, except in a city with a population of one million or more, shall also have jurisdiction of abandoned vehicle violations. For the purposes of this article, a parking violation is the violation of any law, rule or regulation providing for or regulating the parking, stopping or standing of a vehicle. In addition for purposes of this article, "commissioner" shall mean and include the commissioner of traffic of the city or an official possessing authority as such a commissioner.

S 2-a. Subdivision 1 of section 236 of the vehicle and traffic law, as separately amended by sections 5 of chapters 20, 21, 22 and 383 of the laws of 2009, is amended to read as follows:

1. Creation. In any city as hereinbefore or hereafter authorized such tribunal when created shall be known as the parking violations bureau and shall have jurisdiction of traffic infractions which constitute a parking violation and, where authorized by local law adopted pursuant to [subdivision] SUBDIVISIONS (a) of [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision], shall adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with such [section] SECTIONS eleven hundred eleven-b as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision]; AND SHALL ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION. For the purposes of this article, a parking violation is the violation of any law, rule or regulation providing for or regulating the parking, stopping or standing of a vehicle. In addition for purposes of this article, "commissioner" shall mean and include the commissioner of traffic of the city or an official possessing authority as such a commissioner.

S 2-b. Subdivision 1 of section 236 of the vehicle and traffic law, as added by chapter 715 of the laws of 1972, is amended to read as follows:

1. Creation. In any city as hereinbefore or hereafter authorized such tribunal when created shall be known as the parking violations bureau and shall have jurisdiction of traffic infractions which constitute a parking violation AND SHALL ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION. For the purposes of this article, a parking violation is the violation of any law, rule or regulation providing for or regulating the parking, stopping or standing of a vehicle. In addition for purposes of this article, "commissioner" shall mean and include the commissioner of traffic of the city or an official possessing authority as such a commissioner.

S 3. Subdivision 11 of section 237 of the vehicle and traffic law, as added by chapter 379 of the laws of 1992, is amended and a new subdivision 12 is added to read as follows:

11. To adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty[.];

12. TO ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION.

S 4. Paragraph f of subdivision 1 of section 239 of the vehicle and traffic law, as separately amended by sections 8 of chapters 20, 21, 22 and 383 of the laws of 2009, is amended to read as follows:

f. "Notice of violation" means a notice of violation as defined in subdivision nine of section two hundred thirty-seven of this article, but shall not be deemed to include a notice of liability issued pursuant to authorization set forth in section eleven hundred eleven-a of this chapter or [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this paragraph], and shall not be deemed to include a notice of liability issued pursuant to section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty AND SHALL NOT BE DEEMED TO INCLUDE A NOTICE OF LIABILITY ISSUED PURSUANT TO SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER.

S 4-a. Paragraph f of subdivision 1 of section 239 of the vehicle and traffic law, as separately amended by sections 9 of chapters 20, 21, 22 and 383 of the laws of 2009, is amended to read as follows:

f. "Notice of violation" means a notice of violation as defined in subdivision nine of section two hundred thirty-seven of this article but shall not be deemed to include a notice of liability issued pursuant to authorization set forth in [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this paragraph] AND SHALL NOT BE DEEMED TO INCLUDE A NOTICE OF LIABILITY ISSUED PURSUANT TO SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER.

S 4-b. Paragraph f of subdivision 1 of section 239 of the vehicle and traffic law, as added by chapter 180 of the laws of 1980, is amended to read as follows:

f. "Notice of violation" means a notice of violation as defined in subdivision nine of section two hundred thirty-seven of this article AND

SHALL NOT BE DEEMED TO INCLUDE A NOTICE OF LIABILITY ISSUED PURSUANT TO SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER.

S 5. Subdivisions 1 and 1-a of section 240 of the vehicle and traffic law, as separately amended by sections 10 of chapters 20, 21, 22 and 383 of the laws of 2009, are amended to read as follows:

1. Notice of hearing. Whenever a person charged with a parking violation enters a plea of not guilty or a person alleged to be liable in accordance with section eleven hundred eleven-a of this chapter or [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY TWO of the laws of two thousand nine [which amended this paragraph subdivision], for a violation of subdivision (d) of section eleven hundred eleven of this chapter contests such allegation, or a person alleged to be liable in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, OR A PERSON ALLEGED TO BE LIABLE IN ACCORDANCE WITH THE PROVISIONS OF SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION CONTESTS SUCH ALLEGATION, the bureau shall advise such person personally by such form of first class mail as the director may direct of the date on which he or she must appear to answer the charge at a hearing. The form and content of such notice of hearing shall be prescribed by the director, and shall contain a warning to advise the person so pleading or contesting that failure to appear on the date designated, or on any subsequent adjourned date, shall be deemed an admission of liability, and that a default judgment may be entered thereon.

1-a. Fines and penalties. Whenever a plea of not guilty has been entered, or the bureau has been notified that an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision] or an allegation of liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty OR AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER, is being contested, by a person in a timely fashion and a hearing upon the merits has been demanded, but has not yet been held, the bureau shall not issue any notice of fine or penalty to that person prior to the date of the hearing.

S 5-a. Subdivisions 1 and 1-a of section 240 of the vehicle and traffic law, as separately amended by sections 11 of chapters 20, 21, 22 and 383 of the laws of 2009, are amended to read as follows:

1. Notice of hearing. Whenever a person charged with a parking violation enters a plea of not guilty or a person alleged to be liable in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision] for a violation of subdivision (d) of section eleven hundred eleven of this chapter, OR A PERSON ALLEGED TO BE LIABLE IN ACCORDANCE WITH THE PROVISIONS OF SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION contests such allegation, the bureau shall

advise such person personally by such form of first class mail as the director may direct of the date on which he or she must appear to answer the charge at a hearing. The form and content of such notice of hearing shall be prescribed by the director, and shall contain a warning to advise the person so pleading or contesting that failure to appear on the date designated, or on any subsequent adjourned date, shall be deemed an admission of liability, and that a default judgment may be entered thereon.

1-a. Fines and penalties. Whenever a plea of not guilty has been entered, or the bureau has been notified that an allegation of liability in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter, as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision], OR AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER is being contested, by a person in a timely fashion and a hearing upon the merits has been demanded, but has not yet been held, the bureau shall not issue any notice of fine or penalty to that person prior to the date of the hearing.

S 5-b. Subdivisions 1 and 1-a of section 240 of the vehicle and traffic law, subdivision 1 as added by chapter 715 of the laws of 1972, and subdivision 1-a as added by chapter 365 of the laws of 1978, are amended to read as follows:

1. Notice of hearing. Whenever a person charged with a parking violation enters a plea of not guilty OR A PERSON ALLEGED TO BE LIABLE IN ACCORDANCE WITH THE PROVISIONS OF SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION, CONTESTS SUCH ALLEGATION, the bureau shall advise such person personally by such form of first class mail as the director may direct of the date on which he OR SHE must appear to answer the charge at a hearing. The form and content of such notice of hearing shall be prescribed by the director, and shall contain a warning to advise the person so pleading that failure to appear on the date designated, or on any subsequent adjourned date, shall be deemed an admission of liability, and that a default judgment may be entered thereon.

1-a. Fines and penalties. Whenever a plea of not guilty has been entered, OR THE BUREAU HAS BEEN NOTIFIED THAT AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER IS BEING CONTESTED, by a person in a timely fashion and a hearing upon the merits has been demanded, but has not yet been held, the bureau shall not issue any notice of fine or penalty to that person prior to the date of the hearing.

S 6. Paragraphs a and g of subdivision 2 of section 240 of the vehicle and traffic law, as separately amended by sections 10 of chapters 20, 21, 22 and 383 of the laws of 2009, are amended to read as follows:

a. Every hearing for the adjudication of a charge of parking violation or an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this paragraph] or an allegation of liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty OR AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER, shall be held before a hearing

examiner in accordance with rules and regulations promulgated by the bureau.

g. A record shall be made of a hearing on a plea of not guilty or of a hearing at which liability in accordance with section eleven hundred eleven-a of this chapter or in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this paragraph] is contested or of a hearing at which liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty is contested OR OF A HEARING AT WHICH LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER IS CONTESTED. Recording devices may be used for the making of the record.

S 6-a. Paragraphs a and g of subdivision 2 of section 240 of the vehicle and traffic law, as separately amended by sections 11 of chapters 20, 21, 22 and 383 of the laws of 2009, are amended to read as follows:

a. Every hearing for the adjudication of a charge of parking violation or an allegation of liability in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter, as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this paragraph] OR AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER, shall be held before a hearing examiner in accordance with rules and regulations promulgated by the bureau.

g. A record shall be made of a hearing on a plea of not guilty or of a hearing at which liability in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter, as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this paragraph] OR OF A HEARING AT WHICH LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER IS CONTESTED. Recording devices may be used for the making of the record.

S 6-b. Paragraphs a and g of subdivision 2 of section 240 of the vehicle and traffic law, as added by chapter 715 of the laws of 1972, are amended to read as follows:

a. Every hearing for the adjudication of a charge of parking violation OR AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER shall be held before a hearing examiner in accordance with rules and regulations promulgated by the bureau.

g. A record shall be made of a hearing on a plea of not guilty OR OF A HEARING AT WHICH LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER IS CONTESTED. Recording devices may be used for the making of the record.

S 7. Subdivisions 1 and 2 of section 241 of the vehicle and traffic law, as separately amended by sections 12 of chapters 20, 21, 22 and 383 of the laws of 2009, are amended to read as follows:

1. The hearing examiner shall make a determination on the charges, either sustaining or dismissing them. Where the hearing examiner determines that the charges have been sustained he or she may examine either the prior parking violations record or the record of liabilities incurred in accordance with section eleven hundred eleven-a of this chapter or in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand

nine [which amended this subdivision] or the record of liabilities incurred in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty of the person charged, OR THE RECORD OF LIABILITIES INCURRED IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER, as applicable prior to rendering a final determination. Final determinations sustaining or dismissing charges shall be entered on a final determination roll maintained by the bureau together with records showing payment and nonpayment of penalties.

2. Where an operator or owner fails to enter a plea to a charge of a parking violation or contest an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision] or fails to contest an allegation of liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, OR FAILS TO CONTEST AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER or fails to appear on a designated hearing date or subsequent adjourned date or fails after a hearing to comply with the determination of a hearing examiner, as prescribed by this article or by rule or regulation of the bureau, such failure to plead or contest, appear or comply shall be deemed, for all purposes, an admission of liability and shall be grounds for rendering and entering a default judgment in an amount provided by the rules and regulations of the bureau. However, after the expiration of the original date prescribed for entering a plea and before a default judgment may be rendered, in such case the bureau shall pursuant to the applicable provisions of law notify such operator or owner, by such form of first class mail as the commission may direct; (1) of the violation charged, or liability in accordance with section eleven hundred eleven-a of this chapter or in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision] alleged or liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty alleged OR LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER, (2) of the impending default judgment, (3) that such judgment will be entered in the Civil Court of the city in which the bureau has been established, or other court of civil jurisdiction or any other place provided for the entry of civil judgments within the state of New York, and (4) that a default may be avoided by entering a plea or contesting an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision] or contesting an allegation of liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty OR CONTESTING AN

ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER, as appropriate, or making an appearance within thirty days of the sending of such notice. Pleas entered and allegations contested within that period shall be in the manner prescribed in the notice and not subject to additional penalty or fee. Such notice of impending default judgment shall not be required prior to the rendering and entry thereof in the case of operators or owners who are non-residents of the state of New York. In no case shall a default judgment be rendered or, where required, a notice of impending default judgment be sent, more than two years after the expiration of the time prescribed for entering a plea or contesting an allegation. When a person has demanded a hearing, no fine or penalty shall be imposed for any reason, prior to the holding of the hearing. If the hearing examiner shall make a determination on the charges, sustaining them, he OR SHE shall impose no greater penalty or fine than those upon which the person was originally charged.

S 7-a. Subdivisions 1 and 2 of section 241 of the vehicle and traffic law, as separately amended by sections 13 of chapters 20, 21, 22 and 383 of the laws of 2009, are amended to read as follows:

1. The hearing examiner shall make a determination on the charges, either sustaining or dismissing them. Where the hearing examiner determines that the charges have been sustained he or she may examine either the prior parking violations record or the record of liabilities incurred in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision] of the person charged, OR THE RECORD OF LIABILITIES INCURRED IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER, as applicable prior to rendering a final determination. Final determinations sustaining or dismissing charges shall be entered on a final determination roll maintained by the bureau together with records showing payment and nonpayment of penalties.

2. Where an operator or owner fails to enter a plea to a charge of a parking violation or contest an allegation of liability in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision] OR FAILS TO CONTEST AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER, or fails to appear on a designated hearing date or subsequent adjourned date or fails after a hearing to comply with the determination of a hearing examiner, as prescribed by this article or by rule or regulation of the bureau, such failure to plead, contest, appear or comply shall be deemed, for all purposes, an admission of liability and shall be grounds for rendering and entering a default judgment in an amount provided by the rules and regulations of the bureau. However, after the expiration of the original date prescribed for entering a plea and before a default judgment may be rendered, in such case the bureau shall pursuant to the applicable provisions of law notify such operator or owner, by such form of first class mail as the commission may direct; (1) of the violation charged, or liability in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter, as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision], OR LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER alleged, (2) of the impending default judgment, (3) that such judgment will be

entered in the Civil Court of the city in which the bureau has been established, or other court of civil jurisdiction or any other place provided for the entry of civil judgments within the state of New York, and (4) that a default may be avoided by entering a plea or contesting an allegation of liability in accordance with [section] SECTIONS eleven hundred eleven-b of this chapter as added by [section] SECTIONS sixteen of [the chapter] CHAPTERS TWENTY, TWENTY-ONE, AND TWENTY-TWO of the laws of two thousand nine [which amended this subdivision], OR CONTESTING AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER as appropriate, or making an appearance within thirty days of the sending of such notice. Pleas entered and allegations contested within that period shall be in the manner prescribed in the notice and not subject to additional penalty or fee. Such notice of impending default judgment shall not be required prior to the rendering and entry thereof in the case of operators or owners who are non-residents of the state of New York. In no case shall a default judgment be rendered or, where required, a notice of impending default judgment be sent, more than two years after the expiration of the time prescribed for entering a plea or contesting an allegation. When a person has demanded a hearing, no fine or penalty shall be imposed for any reason, prior to the holding of the hearing. If the hearing examiner shall make a determination on the charges, sustaining them, he or she shall impose no greater penalty or fine than those upon which the person was originally charged.

S 7-b. Subdivisions 1 and 2 of section 241 of the vehicle and traffic law, subdivision 1 as added by chapter 715 of the laws of 1972 and subdivision 2 as amended by chapter 365 of the laws of 1978, are amended to read as follows:

1. The hearing examiner shall make a determination on the charges, either sustaining or dismissing them. Where the hearing examiner determines that the charges have been sustained he OR SHE may examine the prior parking violations record of the person charged, OR THE RECORD OF LIABILITIES INCURRED IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER, AS APPLICABLE, prior to rendering a final determination. Final determinations sustaining or dismissing charges shall be entered on a final determination roll maintained by the bureau together with records showing payment and nonpayment of penalties.

2. Where an operator or owner fails to enter a plea to a charge of a parking violation, OR FAILS TO CONTEST AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER, or fails to appear on a designated hearing date or subsequent adjourned date or fails after a hearing to comply with the determination of a hearing examiner, as prescribed by this article or by rule or regulation of the bureau, such failure to plead, appear or comply shall be deemed, for all purposes, an admission of liability and shall be grounds for rendering and entering a default judgment in an amount provided by the rules and regulations of the bureau. However, after the expiration of the original date prescribed for entering a plea and before a default judgment may be rendered, in such case the bureau shall pursuant to the applicable provisions of law notify such operator or owner, by such form of first class mail as the commission may direct; (1) of the violation charged OR ALLEGED LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER, (2) of the impending default judgment, (3) that such judgment will be entered in the Civil Court of the city in which the bureau has been established, or other court of civil jurisdiction or any other place provided for the entry of civil judgments within

the state of New York, and (4) that a default may be avoided by entering a plea OR CONTESTING AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER or making an appearance within thirty days of the sending of such notice. Pleas entered within that period shall be in the manner prescribed in the notice and not subject to additional penalty or fee. Such notice of impending default judgment shall not be required prior to the rendering and entry thereof in the case of operators or owners who are non-residents of the state of New York. In no case shall a default judgment be rendered or, where required, a notice of impending default judgment be sent, more than two years after the expiration of the time prescribed for entering a plea. When a person has demanded a hearing, no fine or penalty shall be imposed for any reason, prior to the holding of the hearing. If the hearing examiner shall make a determination on the charges, sustaining them, he OR SHE shall impose no greater penalty or fine than those upon which the person was originally charged.

S 8. Subparagraph (i) of paragraph a of subdivision 5-a of section 401 of the vehicle and traffic law, as separately amended by sections 1 of chapters 19 and 23 and sections 14 of chapters 20, 21, 22 and 383 of the laws of 2009, is amended to read as follows:

(i) If at the time of application for a registration or renewal thereof there is a certification from a court, parking violations bureau, traffic and parking violations agency or administrative tribunal of appropriate jurisdiction or administrative tribunal of appropriate jurisdiction that the registrant or his or her representative failed to appear on the return date or any subsequent adjourned date or failed to comply with the rules and regulations of an administrative tribunal following entry of a final decision in response to a total of three or more summonses or other process in the aggregate, issued within an eighteen month period, charging either that: (i) such motor vehicle was parked, stopped or standing, or that such motor vehicle was operated for hire by the registrant or his or her agent without being licensed as a motor vehicle for hire by the appropriate local authority, in violation of any of the provisions of this chapter or of any law, ordinance, rule or regulation made by a local authority; or (ii) the registrant was liable in accordance with section eleven hundred eleven-a of this chapter or section eleven hundred eleven-b of this chapter for a violation of subdivision (d) of section eleven hundred eleven of this chapter; OR (III) THE REGISTRANT WAS LIABLE IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF A BUS LANE RESTRICTION AS AS DEFINED IN SUCH SECTION, the commissioner or his or her agent shall deny the registration or renewal application until the applicant provides proof from the court, traffic and parking violations agency or administrative tribunal wherein the charges are pending that an appearance or answer has been made or in the case of an administrative tribunal that he or she has complied with the rules and regulations of said tribunal following entry of a final decision. Where an application is denied pursuant to this section, the commissioner may, in his or her discretion, deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision. Such denial shall only remain in effect as long as the summonses

remain unanswered, or in the case of an administrative tribunal, the registrant fails to comply with the rules and regulations following entry of a final decision.

S 8-a. Paragraph a of subdivision 5-a of section 401 of the vehicle and traffic law, as separately amended by sections 2 of chapters 19 and 23 and sections 15 of chapters 20, 21, 22 and 383 of the laws of 2009, is amended to read as follows:

a. If at the time of application for a registration or renewal thereof there is a certification from a court or administrative tribunal of appropriate jurisdiction that the registrant or his or her representative failed to appear on the return date or any subsequent adjourned date or failed to comply with the rules and regulations of an administrative tribunal following entry of a final decision in response to a total of three or more summonses or other process in the aggregate, issued within an eighteen month period, charging either that: (i) such motor vehicle was parked, stopped or standing, or that such motor vehicle was operated for hire by the registrant or his or her agent without being licensed as a motor vehicle for hire by the appropriate local authority, in violation of any of the provisions of this chapter or of any law, ordinance, rule or regulation made by a local authority; or (ii) the registrant was liable in accordance with section eleven hundred eleven-b of this chapter for a violation of subdivision (d) of section eleven hundred eleven of this chapter; OR (III) THE REGISTRANT WAS LIABLE IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION, the commissioner or his or her agent shall deny the registration or renewal application until the applicant provides proof from the court or administrative tribunal wherein the charges are pending that an appearance or answer has been made or in the case of an administrative tribunal that he or she has complied with the rules and regulations of said tribunal following entry of a final decision. Where an application is denied pursuant to this section, the commissioner may, in his or her discretion, deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision. Such denial shall only remain in effect as long as the summonses remain unanswered, or in the case of an administrative tribunal, the registrant fails to comply with the rules and regulations following entry of a final decision.

S 8-b. Paragraph a of subdivision 5-a of section 401 of the vehicle and traffic law, as separately amended by chapters 339 and 592 of the laws of 1987, is amended to read as follows:

a. If at the time of application for a registration or renewal thereof there is a certification from a court or administrative tribunal of appropriate jurisdiction that the registrant or his OR HER representative failed to appear on the return date or any subsequent adjourned date or failed to comply with the rules and regulations of an administrative tribunal following entry of a final decision in response to three or more summonses or other process, issued within an eighteen month period, charging that such motor vehicle was parked, stopped or standing, or that such motor vehicle was operated for hire by the registrant or his OR HER agent without being licensed as a motor vehicle for

hire by the appropriate local authority, in violation of any of the provisions of this chapter or of any law, ordinance, rule or regulation made by a local authority OR THE REGISTRANT WAS LIABLE IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION, the commissioner or his OR HER agent shall deny the registration or renewal application until the applicant provides proof from the court or administrative tribunal wherein the charges are pending that an appearance or answer has been made or in the case of an administrative tribunal that he OR SHE has complied with the rules and regulations of said tribunal following entry of a final decision. Where an application is denied pursuant to this section, the commissioner may, in his OR HER discretion, deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision. Such denial shall only remain in effect as long as the summonses remain unanswered, or in the case of an administrative tribunal, the registrant fails to comply with the rules and regulations following entry of a final decision.

S 9. The vehicle and traffic law is amended by adding a new section 1111-c to read as follows:

S 1111-C. OWNER LIABILITY FOR FAILURE OF OPERATOR TO COMPLY WITH BUS LANE RESTRICTIONS. (A) 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE CITY OF NEW YORK IS HEREBY AUTHORIZED AND EMPOWERED TO ESTABLISH A BUS RAPID TRANSIT DEMONSTRATION PROGRAM IMPOSING MONETARY LIABILITY ON THE OWNER OF A VEHICLE FOR FAILURE OF AN OPERATOR THEREOF TO COMPLY WITH BUS LANE RESTRICTIONS IN SUCH CITY IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. THE NEW YORK CITY DEPARTMENT OF TRANSPORTATION OR APPLICABLE MASS TRANSIT AGENCY, FOR PURPOSES OF THE IMPLEMENTATION OF SUCH PROGRAM, SHALL OPERATE BUS LANE PHOTO DEVICES ONLY WITHIN SUCH BUS RAPID TRANSIT DEMONSTRATION PROGRAM AND ON SELECT BUS SERVICE LANES IN SUCH CITY. SUCH BUS LANE PHOTO DEVICES MAY BE STATIONARY OR MOBILE AND SHALL BE ACTIVATED AT LOCATIONS DETERMINED BY SUCH DEPARTMENT OF TRANSPORTATION AND/OR ON BUSES SELECTED BY SUCH DEPARTMENT OF TRANSPORTATION IN CONSULTATION WITH THE APPLICABLE MASS TRANSIT AGENCY.

2. ANY IMAGE OR IMAGES CAPTURED BY BUS LANE PHOTO DEVICES SHALL BE INADMISSIBLE IN ANY DISCIPLINARY PROCEEDING CONVENED BY THE APPLICABLE MASS TRANSIT AGENCY OR ANY SUBSIDIARY THEREOF AND ANY PROCEEDING INITIATED BY THE DEPARTMENT INVOLVING LICENSURE PRIVILEGES OF BUS OPERATORS. ANY MOBILE BUS LANE PHOTO DEVICE MOUNTED ON A BUS SHALL BE DIRECTED OUTWARDLY FROM SUCH BUS TO CAPTURE IMAGES OF VEHICLES OPERATED IN VIOLATION OF BUS LANE RESTRICTIONS, AND IMAGES PRODUCED BY SUCH DEVICE SHALL NOT BE USED FOR ANY OTHER PURPOSE IN THE ABSENCE OF A COURT ORDER REQUIRING SUCH IMAGES TO BE PRODUCED.

3. THE CITY OF NEW YORK SHALL ADOPT AND ENFORCE MEASURES TO PROTECT THE PRIVACY OF DRIVERS, PASSENGERS, PEDESTRIANS AND CYCLISTS WHOSE IDENTITY AND IDENTIFYING INFORMATION MAY BE CAPTURED BY A BUS LANE PHOTO DEVICE. SUCH MEASURES SHALL INCLUDE:

(I) UTILIZATION OF NECESSARY TECHNOLOGIES TO ENSURE, TO THE EXTENT PRACTICABLE, THAT IMAGES PRODUCED BY SUCH BUS LANE PHOTO DEVICES SHALL NOT INCLUDE IMAGES THAT IDENTIFY THE DRIVER, THE PASSENGERS, OR THE CONTENTS OF THE VEHICLE, PROVIDED, HOWEVER, THAT NO NOTICE OF LIABILITY ISSUED PURSUANT TO THIS SECTION SHALL BE DISMISSED SOLELY BECAUSE AN

IMAGE ALLOWS FOR THE IDENTIFICATION OF THE DRIVER, THE PASSENGERS OR OTHER CONTENTS OF A VEHICLE;

(II) A PROHIBITION ON THE USE OR DISSEMINATION OF VEHICLES' LICENSE PLATE INFORMATION AND OTHER INFORMATION AND IMAGES CAPTURED BY BUS LANE PHOTO DEVICES EXCEPT: (A) AS REQUIRED TO ESTABLISH LIABILITY UNDER THIS SECTION OR COLLECT PAYMENT OF PENALTIES; (B) AS REQUIRED BY COURT ORDER; OR (C) AS OTHERWISE REQUIRED BY LAW;

(III) THE INSTALLATION OF SIGNAGE AT REGULAR INTERVALS WITHIN RESTRICTED BUS LANES STATING THAT BUS LANE PHOTO DEVICES ARE USED TO ENFORCE RESTRICTIONS ON VEHICULAR TRAFFIC IN BUS LANES; AND

(IV) OVERSIGHT PROCEDURES TO ENSURE COMPLIANCE WITH THE AFOREMENTIONED PRIVACY PROTECTION MEASURES.

4. WITHIN THE CITY OF NEW YORK, SUCH BUS LANE PHOTO DEVICES SHALL ONLY BE OPERATED ON DESIGNATED BUS LANES THAT ARE SELECT BUS SERVICE LANES WITHIN THE BUS RAPID TRANSIT DEMONSTRATION PROGRAM AND ONLY DURING WEEKDAYS FROM 7:00 A.M. TO 7:00 P.M.

(B) IF THE CITY OF NEW YORK HAS ESTABLISHED A BUS RAPID TRANSIT DEMONSTRATION PROGRAM PURSUANT TO SUBDIVISION (A) OF THIS SECTION, THE OWNER OF A VEHICLE SHALL BE LIABLE FOR A PENALTY IMPOSED PURSUANT TO THIS SECTION IF SUCH VEHICLE WAS USED OR OPERATED WITH THE PERMISSION OF THE OWNER, EXPRESS OR IMPLIED, IN VIOLATION OF ANY BUS LANE RESTRICTIONS THAT APPLY TO ROUTES WITHIN SUCH DEMONSTRATION PROGRAM, AND SUCH VIOLATION IS EVIDENCED BY INFORMATION OBTAINED FROM A BUS LANE PHOTO DEVICE; PROVIDED HOWEVER THAT NO OWNER OF A VEHICLE SHALL BE LIABLE FOR A PENALTY IMPOSED PURSUANT TO THIS SECTION WHERE THE OPERATOR OF SUCH VEHICLE HAS BEEN CONVICTED OF THE UNDERLYING VIOLATION OF ANY BUS LANE RESTRICTIONS.

(C) FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "OWNER" SHALL HAVE THE MEANING PROVIDED IN ARTICLE TWO-B OF THIS CHAPTER.

2. "BUS LANE PHOTO DEVICE" SHALL MEAN A DEVICE THAT IS CAPABLE OF OPERATING INDEPENDENTLY OF AN ENFORCEMENT OFFICER AND PRODUCES ONE OR MORE IMAGES OF EACH VEHICLE AT THE TIME IT IS IN VIOLATION OF BUS LANE RESTRICTIONS.

3. "BUS LANE RESTRICTIONS" SHALL MEAN RESTRICTIONS ON THE USE OF DESIGNATED TRAFFIC LANES BY VEHICLES OTHER THAN BUSES IMPOSED ON ROUTES WITHIN A BUS RAPID TRANSIT DEMONSTRATION PROGRAM BY LOCAL LAW AND SIGNS ERECTED BY THE DEPARTMENT OF TRANSPORTATION OF A CITY THAT ESTABLISHES SUCH A DEMONSTRATION PROGRAM PURSUANT TO THIS SECTION.

4. "BUS RAPID TRANSIT PHASE I PLAN" SHALL MEAN THE FOLLOWING FIVE BUS RAPID TRANSIT ROUTES AS DESIGNATED BY THE NEW YORK CITY DEPARTMENT OF TRANSPORTATION: FORDHAM ROAD, FIRST/SECOND AVENUE, NOSTRAND AVENUE, THIRTY-FOURTH STREET, HYLAN BOULEVARD, AND AN UNDESIGNATED ROUTE IN THE BOROUGH OF QUEENS NOT TO EXCEED TEN MILES. FOR PURPOSES OF THE FORDHAM ROAD AND FIRST/SECOND AVENUE ROUTES, THE AUTHORIZATION OF THIS PILOT PROGRAM IS LIMITED TO THE DESIGNATED BUS LANES AS MAPPED AND POSTED ON THE OFFICIAL METROPOLITAN TRANSPORTATION AUTHORITY WEBSITE AS OF JUNE SEVENTEENTH, TWO THOUSAND TEN. SUCH DESIGNATED BUS LANES SHALL NOT BE EXTENDED, SHIFTED TO ANOTHER ROADWAY OR ALTERED IN ANY OTHER WAY. PROVIDED, HOWEVER, THAT NOTHING SHALL PROHIBIT THE ALTERATION OR ADDITION OF ANY BUS STOPS WITHIN SUCH MAPPED ROUTES.

5. "SELECT BUS SERVICE LANE" SHALL MEAN A DESIGNATED BUS LANE THAT INCLUDES UPGRADED SIGNAGE, ENHANCED ROAD MARKINGS, AND MINIMUM BUS STOP SPACING, AND MAY INCLUDE OFF-BOARD FARE PAYMENT, TRAFFIC SIGNAL PRIORITY

FOR BUSES, AND ANY OTHER ENHANCEMENT THAT INCREASES BUS SPEED OR RELIABILITY WITHIN THE "BUS RAPID TRANSIT PHASE I" PLAN.

6. "BUS RAPID TRANSIT DEMONSTRATION PROGRAM" SHALL MEAN A PILOT PROGRAM THAT OPERATES EXCLUSIVELY ON SELECT BUS SERVICE LANES WITHIN THE "BUS RAPID TRANSIT PHASE I" PLAN PURSUANT TO THIS SECTION. PROVIDED, HOWEVER, TO UTILIZE A BUS LANE PHOTO DEVICE PURSUANT TO THIS PROGRAM, THE ROADWAY, EXCEPT FOR THE 34TH STREET AND NOSTRAND AVENUE BUS RAPID TRANSIT ROUTES, MUST HAVE AT LEAST TWO LANES OF TRAFFIC IN THE SAME DIRECTION IN ADDITION TO THE SELECT BUS SERVICE LANE.

7. "DESIGNATED BUS LANE" SHALL MEAN AN EXCLUSIVE BUS ONLY TRAFFIC LANE.

(D) A CERTIFICATE, SWORN TO OR AFFIRMED BY A TECHNICIAN EMPLOYED BY THE CITY IN WHICH THE CHARGED VIOLATION OCCURRED, OR A FACSIMILE THEREOF, BASED UPON INSPECTION OF PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES PRODUCED BY A BUS LANE PHOTO DEVICE, SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN. ANY PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES EVIDENCING SUCH A VIOLATION SHALL BE AVAILABLE FOR INSPECTION IN ANY PROCEEDING TO ADJUDICATE THE LIABILITY FOR SUCH VIOLATION PURSUANT TO THIS SECTION.

(E) AN OWNER LIABLE FOR A VIOLATION OF A BUS LANE RESTRICTION IMPOSED ON ANY ROUTE WITHIN A BUS RAPID TRANSIT DEMONSTRATION PROGRAM SHALL BE LIABLE FOR MONETARY PENALTIES IN ACCORDANCE WITH A SCHEDULE OF FINES AND PENALTIES PROMULGATED BY THE PARKING VIOLATIONS BUREAU OF THE CITY OF NEW YORK; PROVIDED, HOWEVER, THAT THE MONETARY PENALTY FOR VIOLATING A BUS LANE RESTRICTION SHALL NOT EXCEED ONE HUNDRED FIFTEEN DOLLARS; PROVIDED, FURTHER, THAT AN OWNER SHALL BE LIABLE FOR AN ADDITIONAL PENALTY NOT TO EXCEED TWENTY-FIVE DOLLARS FOR EACH VIOLATION FOR THE FAILURE TO RESPOND TO A NOTICE OF LIABILITY WITHIN THE PRESCRIBED TIME PERIOD.

(F) AN IMPOSITION OF LIABILITY PURSUANT TO THIS SECTION SHALL NOT BE DEEMED A CONVICTION OF AN OPERATOR AND SHALL NOT BE MADE PART OF THE OPERATING RECORD OF THE PERSON UPON WHOM SUCH LIABILITY IS IMPOSED, NOR SHALL IT BE USED FOR INSURANCE PURPOSES IN THE PROVISION OF MOTOR VEHICLE INSURANCE COVERAGE.

(G) 1. A NOTICE OF LIABILITY SHALL BE SENT BY FIRST CLASS MAIL TO EACH PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF A BUS LANE RESTRICTION. PERSONAL DELIVERY TO THE OWNER SHALL NOT BE REQUIRED. A MANUAL OR AUTOMATIC RECORD OF MAILING PREPARED IN THE ORDINARY COURSE OF BUSINESS SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN.

2. A NOTICE OF LIABILITY SHALL CONTAIN THE NAME AND ADDRESS OF THE PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF A BUS LANE RESTRICTION, THE REGISTRATION NUMBER OF THE VEHICLE INVOLVED IN SUCH VIOLATION, THE LOCATION WHERE SUCH VIOLATION TOOK PLACE INCLUDING THE STREET ADDRESS OR CROSS STREETS, ONE OR MORE IMAGES IDENTIFYING THE VIOLATION, THE DATE AND TIME OF SUCH VIOLATION AND THE IDENTIFICATION NUMBER OF THE BUS LANE PHOTO DEVICE WHICH RECORDED THE VIOLATION OR OTHER DOCUMENT LOCATOR NUMBER.

3. THE NOTICE OF LIABILITY SHALL CONTAIN INFORMATION ADVISING THE PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH HE OR SHE MAY CONTEST THE LIABILITY ALLEGED IN THE NOTICE. SUCH NOTICE OF LIABILITY SHALL ALSO CONTAIN A WARNING TO ADVISE THE PERSONS CHARGED THAT FAILURE TO CONTEST IN THE MANNER AND TIME PROVIDED SHALL BE DEEMED AN ADMISSION OF LIABILITY AND THAT A DEFAULT JUDGMENT MAY BE ENTERED THEREON.

4. THE NOTICE OF LIABILITY SHALL BE PREPARED AND MAILED BY THE AGENCY OR AGENCIES DESIGNATED BY THE CITY OF NEW YORK, OR ANY OTHER ENTITY

AUTHORIZED BY SUCH CITY TO PREPARE AND MAIL SUCH NOTIFICATION OF VIOLATION.

5. ADJUDICATION OF THE LIABILITY IMPOSED UPON OWNERS BY THIS SECTION SHALL BE BY THE NEW YORK CITY PARKING VIOLATIONS BUREAU.

(H) IF AN OWNER OF A VEHICLE RECEIVES A NOTICE OF LIABILITY PURSUANT TO THIS SECTION FOR ANY TIME PERIOD DURING WHICH SUCH VEHICLE WAS REPORTED TO THE POLICE DEPARTMENT AS HAVING BEEN STOLEN, IT SHALL BE A VALID DEFENSE TO AN ALLEGATION OF LIABILITY FOR A VIOLATION OF A BUS LANE RESTRICTION THAT THE VEHICLE HAD BEEN REPORTED TO THE POLICE AS STOLEN PRIOR TO THE TIME THE VIOLATION OCCURRED AND HAD NOT BEEN RECOVERED BY SUCH TIME. FOR PURPOSES OF ASSERTING THE DEFENSE PROVIDED BY THIS SUBDIVISION IT SHALL BE SUFFICIENT THAT A CERTIFIED COPY OF THE POLICE REPORT ON THE STOLEN VEHICLE BE SENT BY FIRST CLASS MAIL TO THE PARKING VIOLATIONS BUREAU OF SUCH CITY.

(I) 1. AN OWNER WHO IS A LESSOR OF A VEHICLE TO WHICH A NOTICE OF LIABILITY WAS ISSUED PURSUANT TO SUBDIVISION (G) OF THIS SECTION SHALL NOT BE LIABLE FOR THE VIOLATION OF A BUS LANE RESTRICTION, PROVIDED THAT:

(I) PRIOR TO THE VIOLATION, THE LESSOR HAS FILED WITH SUCH PARKING VIOLATIONS BUREAU IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWO HUNDRED THIRTY-NINE OF THIS CHAPTER; AND

(II) WITHIN THIRTY-SEVEN DAYS AFTER RECEIVING NOTICE FROM SUCH BUREAU OF THE DATE AND TIME OF A LIABILITY, TOGETHER WITH THE OTHER INFORMATION CONTAINED IN THE ORIGINAL NOTICE OF LIABILITY, THE LESSOR SUBMITS TO SUCH BUREAU THE CORRECT NAME AND ADDRESS OF THE LESSEE OF THE VEHICLE IDENTIFIED IN THE NOTICE OF LIABILITY AT THE TIME OF SUCH VIOLATION, TOGETHER WITH SUCH OTHER ADDITIONAL INFORMATION CONTAINED IN THE RENTAL, LEASE OR OTHER CONTRACT DOCUMENT, AS MAY BE REASONABLY REQUIRED BY SUCH BUREAU PURSUANT TO REGULATIONS THAT MAY BE PROMULGATED FOR SUCH PURPOSE.

2. FAILURE TO COMPLY WITH SUBPARAGRAPH (II) OF PARAGRAPH ONE OF THIS SUBDIVISION SHALL RENDER THE LESSOR LIABLE FOR THE PENALTY PRESCRIBED IN THIS SECTION.

3. WHERE THE LESSOR COMPLIES WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION, THE LESSEE OF SUCH VEHICLE ON THE DATE OF SUCH VIOLATION SHALL BE DEEMED TO BE THE OWNER OF SUCH VEHICLE FOR PURPOSES OF THIS SECTION, SHALL BE SUBJECT TO LIABILITY FOR SUCH VIOLATION PURSUANT TO THIS SECTION AND SHALL BE SENT A NOTICE OF LIABILITY PURSUANT TO SUBDIVISION (G) OF THIS SECTION.

(J) IF THE OWNER LIABLE FOR A VIOLATION OF A BUS LANE RESTRICTION WAS NOT THE OPERATOR OF THE VEHICLE AT THE TIME OF THE VIOLATION, THE OWNER MAY MAINTAIN AN ACTION FOR INDEMNIFICATION AGAINST THE OPERATOR.

(K) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE LIABILITY OF AN OPERATOR OF A VEHICLE FOR ANY VIOLATION OF BUS LANE RESTRICTIONS.

(L) IF THE CITY OF NEW YORK ADOPTS A BUS RAPID TRANSIT DEMONSTRATION PROGRAM PURSUANT TO SUBDIVISION (A) OF THIS SECTION IT SHALL SUBMIT A REPORT ON THE RESULTS OF THE USE OF BUS LANE PHOTO DEVICES TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY BY APRIL FIRST, TWO THOUSAND TWELVE AND EVERY TWO YEARS THEREAFTER. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO:

1. A DESCRIPTION OF THE LOCATIONS AND/OR BUSES WHERE BUS LANE PHOTO DEVICES WERE USED;

2. THE TOTAL NUMBER OF VIOLATIONS RECORDED ON A MONTHLY AND ANNUAL BASIS;

3. THE TOTAL NUMBER OF NOTICES OF LIABILITY ISSUED;

4. THE NUMBER OF FINES AND TOTAL AMOUNT OF FINES PAID AFTER THE FIRST NOTICE OF LIABILITY;

5. THE NUMBER OF VIOLATIONS ADJUDICATED AND RESULTS OF SUCH ADJUDICATIONS INCLUDING BREAKDOWNS OF DISPOSITIONS MADE;

6. THE TOTAL AMOUNT OF REVENUE REALIZED BY SUCH CITY AND ANY PARTICIPATING MASS TRANSIT AGENCY;

7. THE QUALITY OF THE ADJUDICATION PROCESS AND ITS RESULTS;

8. THE TOTAL NUMBER OF CAMERAS BY TYPE OF CAMERA;

9. THE TOTAL COST TO THE CITY AND THE TOTAL COST TO ANY PARTICIPATING MASS TRANSIT AGENCY; AND

10. A DETAILED REPORT ON THE BUS SPEEDS, RELIABILITY, AND RIDERSHIP BEFORE AND AFTER IMPLEMENTATION OF THE BUS RAPID TRANSIT DEMONSTRATION PROGRAM FOR EACH BUS ROUTE, INCLUDING CURRENT STATISTICS.

S 10. The opening paragraph and paragraph (c) of subdivision 1 of section 1809 of the vehicle and traffic law, as separately amended by sections 4 of chapters 19 and 23 and sections 17 of chapters 20, 21, 22 and 383 of the laws of 2009, are amended to read as follows:

Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for an offense under this chapter or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-b of this chapter, OR OTHER THAN AN ADJUDICATION IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION, there shall be levied a crime victim assistance fee and a mandatory surcharge, in addition to any sentence required or permitted by law, in accordance with the following schedule:

(c) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for an offense under this chapter other than a crime pursuant to section eleven hundred ninety-two of this chapter, or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-b of this chapter, or other than an infraction pursuant to article nine of this chapter or other than an adjudication of liability of an owner for a violation of toll collection regulations pursuant to section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty OR OTHER THAN AN ADJUDICATION IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION, there shall be levied a crime victim assistance fee in the amount of five dollars and a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of fifty-five dollars.

S 10-a. Subdivision 1 of section 1809 of the vehicle and traffic law, as separately amended by sections 5 of chapters 19 and 23 and sections 18 of chapters 20, 21, 22 and 383 of the laws of 2009, is amended to read as follows:

1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime under this chapter or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-b of this chapter, OR OTHER THAN AN ADJUDICATION IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of twenty-five dollars.

S 10-b. Subdivision 1 of section 1809 of the vehicle and traffic law, as separately amended by chapter 16 of the laws of 1983 and chapter 62 of the laws of 1989, is amended to read as follows:

1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime under this chapter or a traffic infraction under this chapter other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists, OR OTHER THAN AN ADJUDICATION IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER FOR A VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of seventeen dollars.

S 11. Paragraph a of subdivision 1 of section 1809-e of the vehicle and traffic law, as separately amended by sections 6 of chapters 19 and 23 and sections 19 of chapters 20, 21, 22 and 383 of the laws of 2009, is amended to read as follows:

a. Notwithstanding any other provision of law, whenever proceedings in a court or an administrative tribunal of this state result in a conviction for an offense under this chapter, except a conviction pursuant to section eleven hundred ninety-two of this chapter, or for a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, except a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists, and except an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, and except an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-b of this chapter, AND EXCEPT AN ADJUDICATION IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER OF A VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION, and except an adjudication of liability of an owner for a violation of toll collection regulations pursuant to section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, there shall be

levied in addition to any sentence, penalty or other surcharge required or permitted by law, an additional surcharge of twenty dollars.

S 11-a. Paragraph a of subdivision 1 of section 1809-e of the vehicle and traffic law, as added by section 1 of part EE of chapter 56 of the laws of 2008, is amended to read as follows:

a. Notwithstanding any other provision of law, whenever proceedings in a court or an administrative tribunal of this state result in a conviction for an offense under this chapter, except a conviction pursuant to section eleven hundred ninety-two of this chapter, or for a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, except a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists, and except an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, AND EXCEPT AN ADJUDICATION IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-C OF THIS CHAPTER OF A VIOLATION OF A BUS LANE RESTRICTION AS DEFINED IN SUCH SECTION, and except an adjudication of liability of an owner for a violation of toll collection regulations pursuant to section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, there shall be levied in addition to any sentence, penalty or other surcharge required or permitted by law, an additional surcharge of twenty dollars.

S 12. Subdivision 2 of section 87 of the public officers law is amended by adding a new paragraph (l) to read as follows:

(L) ARE PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES PRODUCED BY A BUS LANE PHOTO DEVICE PREPARED UNDER AUTHORITY OF SECTION ELEVEN HUNDRED ELEVEN-C OF THE VEHICLE AND TRAFFIC LAW.

S 13. The purchase or lease of equipment for the bus rapid transit demonstration program established pursuant to section 1111-c of the vehicle and traffic law shall be subject to the provisions of section 103 of the general municipal law.

S 14. This act shall take effect on the ninetieth day after it shall have become a law and shall expire 5 years after such effective date when upon such date the provisions of this act shall be deemed repealed; and provided that any rules and regulations related to this act shall be promulgated on or before such effective date, provided that:

(a) the amendments to subdivision 1 of section 235 of the vehicle and traffic law made by section one of this act shall be subject to the expiration and reversion of such section pursuant to subdivision (p) of section 406 of chapter 166 of the laws of 1991, as amended, when upon such date the provisions of section one-a of this act shall take effect;

(b) the amendments to section 235 of the vehicle and traffic law made by section one-a of this act shall be subject to the expiration and reversion of such section pursuant to section 17 of chapter 746 of the laws of 1988, as amended, when upon such date the provisions of section one-b of this act shall take effect;

(c) the amendments to section 235 of the vehicle and traffic law made by section one-b of this act shall be subject to the expiration and reversion of such section pursuant to section 18 of chapter 379 of the laws of 1992, as amended, when upon such date the provisions of section one-c of this act shall take effect;

(d) the amendments to subdivision 1 of section 236 of the vehicle and traffic law made by section two of this act shall be subject to the

expiration and reversion of such subdivision pursuant to section 17 of chapter 746 of the laws of 1988, as amended, when upon such date the provisions of section two-a of this act shall take effect;

(e) the amendments to subdivision 1 of section 236 of the vehicle and traffic law made by section two-a of this act shall be subject to the expiration and reversion of such subdivision pursuant to chapters 20, 21, 22 and 383 of the laws of 2009, as amended, when upon such date the provisions of section two-b of this act shall take effect;

(f) the amendments to paragraph f of subdivision 1 of section 239 of the vehicle and traffic law made by section four of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 17 of chapter 746 of the laws of 1988, as amended, when upon such date the provisions of section four-a of this act shall take effect;

(g) the amendments to paragraph f of subdivision 1 of section 239 of the vehicle and traffic law made by section four-a of this act shall be subject to the expiration and reversion of such paragraph pursuant to chapters 20, 21, 22 and 383 of the laws of 2009, as amended, when upon such date the provisions of section four-b of this act shall take effect;

(h) the amendments to subdivisions 1 and 1-a of section 240 of the vehicle and traffic law made by section five of this act shall be subject to the expiration and reversion of such subdivisions pursuant to section 17 of chapter 746 of the laws of 1988, as amended, when upon such date the provisions of section five-a of this act shall take effect;

(i) the amendments to subdivisions 1 and 1-a of section 240 of the vehicle and traffic law made by section five-a of this act shall be subject to the expiration and reversion of such subdivisions pursuant to chapters 20, 21, 22 and 383 of the laws of 2009, as amended, when upon such date the provisions of section five-b of this act shall take effect;

(j) the amendments to paragraphs a and g of subdivision 2 of section 240 of the vehicle and traffic law made by section six of this act shall be subject to the expiration and reversion of such paragraphs pursuant to section 17 of chapter 746 of the laws of 1988, as amended, when upon such date the provisions of section six-a of this act shall take effect;

(k) the amendments to paragraphs a and g of subdivision 2 of section 240 of the vehicle and traffic law made by section six-a of this act shall be subject to the expiration and reversion of such paragraphs pursuant to chapters 20, 21, 22 and 383 of the laws of 2009, as amended, when upon such date the provisions of section six-b of this act shall take effect;

(l) the amendments to subdivisions 1 and 2 of section 241 of the vehicle and traffic law made by section seven of this act shall be subject to the expiration and reversion of such subdivisions pursuant to section 17 of chapter 746 of the laws of 1988, as amended, when upon such date the provisions of section seven-a of this act shall take effect;

(m) the amendments to subdivisions 1 and 2 of section 241 of the vehicle and traffic law made by section seven-a of this act shall be subject to the expiration and reversion of such subdivisions pursuant to chapters 20, 21, 22 and 383 of the laws of 2009, as amended, when upon such date the provisions of section seven-b of this act shall take effect;

(n) the amendments to subparagraph (i) of paragraph a of subdivision 5-a of section 401 of the vehicle and traffic law made by section eight of this act shall be subject to the expiration and reversion of such

subparagraph pursuant to section 17 of chapter 746 of the laws of 1988, as amended, when upon such date the provisions of section eight-a of this act shall take effect;

(o) the amendments to paragraph a of subdivision 5-a of section 401 of the vehicle and traffic law made by section eight-a of this act shall be subject to the expiration and reversion of such paragraph pursuant to chapters 19, 20, 21, 22, 23 and 383 of the laws of 2009, as amended, when upon such date the provisions of section eight-b of this act shall take effect;

(p) the amendments to the opening paragraph and paragraph (c) of subdivision 1 of section 1809 of the vehicle and traffic law made by section ten of this act shall be subject to the expiration and reversion of such paragraphs pursuant to subdivision (p) of section 406 of chapter 166 of the laws of 1991, section 10 of chapter 19 of the laws of 2009, sections 24 of chapters 20 and 383 of the laws of 2009, sections 22 of chapters 21 and 22 of the laws of 2009 and section 9 of chapter 23 of the laws of 2009, as amended, when upon such date the provisions of section ten-a of this act shall take effect;

(q) the amendments to subdivision 1 of section 1809 of the vehicle and traffic law made by section ten-a of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 17 of chapter 746 of the laws of 1988, section 10 of chapter 19 of the laws of 2009, sections 24 of chapters 20 and 383 of the laws of 2009, sections 22 of chapters 21 and 22 of the laws of 2009, section 9 of chapter 23 of the laws of 2009, as amended, when upon such date the provisions of section ten-b of this act shall take effect; and

(r) the amendments to paragraph a of subdivision 1 of section 1809-e of the vehicle and traffic law made by section eleven of this act shall be subject to the expiration and reversion of such paragraph when upon such date the provisions of section eleven-a of this act shall take effect.

PART JJ

Section 1. Section 878 of the public authorities law is amended by adding a new subdivision 6 to read as follows:

6. IN FULFILLING THE AUTHORITY'S MISSION, THE BOARD SHALL WORK COOPERATIVELY AND IN CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE AND MARKETS TO ASSURE THE PROPER DEVELOPMENT OF REGIONAL MARKET FACILITIES IN THE GENESEE VALLEY REGIONAL MARKET DISTRICT. THE BOARD AND THE DEPARTMENT OF AGRICULTURE AND MARKETS SHALL JOINTLY DEVELOP A PLAN FOR THE FUTURE DEVELOPMENT AND VIABILITY OF REGIONAL MARKET FACILITIES IN THE DISTRICT. SUCH PLAN SHALL INCLUDE BOTH SHORT TERM AND LONG TERM GOALS AND OBJECTIVES AS WELL AS ACTUAL AND PROJECTED REVENUES AND EXPENDITURES. SUCH PLAN SHALL ANNUALLY ALLOCATE NO LESS THAN SEVENTY-FIVE PERCENT OF THE AUTHORITY'S AVAILABLE FUNDS FOR THE CREATION, DEVELOPMENT, AND ENHANCEMENT OF REGIONAL MARKET FACILITIES IN THE DISTRICT. FOR PURPOSES OF THIS SUBDIVISION, AVAILABLE FUNDS SHALL MEAN THE NET AMOUNT AVAILABLE AFTER CONTRACTUALLY OBLIGATED EXPENDITURES ARE SUBTRACTED FROM, BUT NOT BE LIMITED TO, CASH, CASH EQUIVALENTS, CERTIFICATES OF DEPOSIT, AND OTHER RECEIVABLES AVAILABLE. THE BOARD AND DEPARTMENT SHALL MEET ANNUALLY PRIOR TO THE CLOSE OF THE AUTHORITY'S FISCAL YEAR TO EVALUATE THE EFFECTIVENESS OF THE USE OF FUNDS FOR THAT FISCAL YEAR, REVIEW THE GOALS AND OBJECTIVES OF THE PLAN, AND PROPERLY PREPARE FOR THE ALLOCATION AND USE OF SUCH FUNDS FOR THE NEXT FISCAL YEAR. THE PLAN SHALL BE UPDATED ANNUALLY TO MAKE APPROPRIATE MODIFICA-

TIONS TO SUCH PLAN FOR THE NEXT FISCAL YEAR. PRIOR TO ANY SUCH FUNDS BEING EXPENDED, BOTH THE BOARD AND THE DEPARTMENT MUST APPROVE SUCH PLAN, ITS GOALS AND OBJECTIVES AS WELL AS THE PROJECTED REVENUES AND PROPOSED ALLOCATIONS.

THE GENESEE VALLEY REGIONAL MARKET AUTHORITY SHALL FURNISH AN ANNUAL REAL ESTATE REPORT DETAILING ALL REAL ESTATE HOLDINGS AND DETAILED PROPERTY INFORMATION, INCLUDING BUT NOT LIMITED TO THE TENANTS, IMPORTANT LEASE TERMS, RENTS, DURATIONS OF LEASES, AS WELL AS COPIES OF EACH LEASE. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE GENESEE VALLEY REGIONAL MARKET AUTHORITY SHALL FURNISH ALL REQUIRED REPORTS, AUDITS, AND REVIEWS, INCLUDING THE ANNUAL REAL ESTATE REPORT, TO ALL PARTIES ENUMERATED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED OF THIS CHAPTER AS WELL AS TO THE DEPARTMENT OF AGRICULTURE AND MARKETS, WITHIN NINETY DAYS AFTER THE END OF ITS FISCAL YEAR.

S 2. Notwithstanding any provision of law to the contrary, the Genesee Valley Regional Market Authority is authorized and directed to make a contribution to the state treasury to the credit of the general fund in the amount of $12,000,000 by December 1, 2010, for the fiscal year commencing April 1, 2010.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART KK

Intentionally omitted.

PART LL

Section 1. The director of the division of the lottery and the chairman of the racing and wagering board, shall, to the greatest extent possible, coordinate and centralize administrative functions, including but not limited to, clerical, payroll, bookkeeping, procurement and human resource functions in an effort to create greater efficiencies and cost savings. The director of the division of the lottery and the chairman of the racing and wagering board shall report on the progress of such shared services initiatives undertaken during the 2010-11 fiscal year, including such savings achieved thereby, as well as the identification of future shared services opportunities, to the governor, the temporary president of the senate, and the speaker of the assembly on or before January 1, 2011.

S 2. This act shall take effect immediately.

PART MM

Section 1. The economic development law is amended by adding a new article 17 to read as follows:

ARTICLE 17

EXCELSIOR JOBS PROGRAM ACT

SECTION 350. SHORT TITLE.
351. STATEMENT OF LEGISLATIVE FINDINGS AND DECLARATION.
352. DEFINITIONS.
353. ELIGIBILITY CRITERIA.
354. APPLICATION AND APPROVAL PROCESS.
355. EXCELSIOR JOBS PROGRAM CREDIT.
356. POWERS AND DUTIES OF THE COMMISSIONER.

357. MAINTENANCE OF RECORDS.
358. REPORTING.
359. CAP ON TAX CREDIT.

S 350. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "EXCELSIOR JOBS PROGRAM ACT".

S 351. STATEMENT OF LEGISLATIVE FINDINGS AND DECLARATION. IT IS HEREBY FOUND AND DECLARED THAT NEW YORK STATE NEEDS, AS A MATTER OF PUBLIC POLICY, TO CREATE COMPETITIVE FINANCIAL INCENTIVES FOR BUSINESSES TO CREATE JOBS AND INVEST IN THE NEW ECONOMY. THE EXCELSIOR JOBS PROGRAM ACT IS CREATED TO SUPPORT THE GROWTH OF THE STATE'S TRADITIONAL ECONOMIC PILLARS INCLUDING THE MANUFACTURING AND FINANCIAL INDUSTRIES AND TO ENSURE THAT NEW YORK EMERGES AS THE LEADER IN THE KNOWLEDGE, TECHNOLOGY AND INNOVATION BASED ECONOMY. THE PROGRAM WILL ENCOURAGE THE EXPANSION IN AND RELOCATION TO NEW YORK OF BUSINESSES IN GROWTH INDUSTRIES SUCH AS CLEAN-TECH, BROADBAND, INFORMATION SYSTEMS, RENEWABLE ENERGY AND BIOTECHNOLOGY.

THIS LEGISLATION CREATES THE EXCELSIOR JOBS PROGRAM, WHICH HAS FOUR COMPONENTS: THE EXCELSIOR JOBS TAX CREDIT, THE EXCELSIOR INVESTMENT TAX CREDIT, THE EXCELSIOR RESEARCH AND DEVELOPMENT TAX CREDIT AND THE EXCELSIOR REAL PROPERTY TAX CREDIT. THESE CREDITS ARE DESIGNED TO PROMOTE BUSINESS EXPANSION IN NEW YORK STATE AND INCREASE JOBS IN THE NEW ECONOMY. AT THE SAME TIME, THE PROGRAM PROTECTS STATE TAXPAYERS' DOLLARS BY ENSURING THAT NEW YORK PROVIDES TAX BENEFITS ONLY TO BUSINESSES THAT HAVE CREATED THE PROMISED JOBS AND MADE THE PROMISED INVESTMENTS.

S 352. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

1. "AGRICULTURE" MEANS BOTH AGRICULTURAL PRODUCTION (ESTABLISHMENTS PERFORMING THE COMPLETE FARM OR RANCH OPERATION, SUCH AS FARM OWNER-OPERATORS, TENANT FARM OPERATORS, AND SHARECROPPERS) AND AGRICULTURAL SUPPORT (ESTABLISHMENTS THAT PERFORM ONE OR MORE ACTIVITIES ASSOCIATED WITH FARM OPERATION, SUCH AS SOIL PREPARATION, PLANTING, HARVESTING, AND MANAGEMENT, ON A CONTRACT OR FEE BASIS).

2. "BACK OFFICE OPERATIONS" MEANS A BUSINESS FUNCTION THAT MAY INCLUDE ONE OR MORE OF THE FOLLOWING ACTIVITIES: CUSTOMER SERVICE, INFORMATION TECHNOLOGY AND DATA PROCESSING, HUMAN RESOURCES, ACCOUNTING AND RELATED ADMINISTRATIVE FUNCTIONS.

3. "BENEFIT-COST RATIO" MEANS THE FOLLOWING CALCULATION: THE NUMERATOR IS THE SUM OF (I) THE VALUE OF ALL REMUNERATION PROJECTED TO BE PAID FOR ALL NET NEW JOBS DURING THE PERIOD OF PARTICIPATION IN THE PROGRAM, AND (II) THE VALUE OF CAPITAL INVESTMENTS TO BE MADE BY THE BUSINESS ENTERPRISE DURING THE PERIOD OF PARTICIPATION IN THE PROGRAM, AND THE DENOMINATOR IS THE AMOUNT OF TOTAL TAX BENEFITS UNDER THIS ARTICLE THAT WILL BE USED AND REFUNDED.

4. "CERTIFICATE OF ELIGIBILITY" MEANS THE DOCUMENT ISSUED BY THE DEPARTMENT TO AN APPLICANT THAT HAS COMPLETED AN APPLICATION TO BE ADMITTED INTO THE EXCELSIOR JOBS PROGRAM AND HAS BEEN ACCEPTED INTO THE PROGRAM BY THE DEPARTMENT. POSSESSION OF A CERTIFICATE OF ELIGIBILITY DOES NOT BY ITSELF GUARANTEE THE ELIGIBILITY TO CLAIM THE TAX CREDIT.

5. "CERTIFICATE OF TAX CREDIT" MEANS THE DOCUMENT ISSUED TO A PARTICIPANT BY THE DEPARTMENT, AFTER THE DEPARTMENT HAS VERIFIED THAT THE PARTICIPANT HAS MET ALL APPLICABLE ELIGIBILITY CRITERIA IN THIS ARTICLE. THE CERTIFICATE SHALL BE ISSUED ANNUALLY IF SUCH CRITERIA ARE SATISFIED AND SHALL SPECIFY THE EXACT AMOUNT OF EACH OF THE TAX CREDIT COMPONENTS UNDER THIS ARTICLE THAT A PARTICIPANT MAY CLAIM, PURSUANT TO SECTION THREE HUNDRED FIFTY-FIVE OF THIS ARTICLE, AND SHALL SPECIFY THE TAXABLE YEAR IN WHICH SUCH CREDIT MAY BE CLAIMED.

6. "DISTRIBUTION CENTER" MEANS A LARGE SCALE FACILITY INVOLVING PROCESSING, REPACKAGING AND/OR MOVEMENT OF FINISHED OR SEMI-FINISHED GOODS TO RETAIL LOCATIONS ACROSS A MULTI-STATE AREA.

7. "FINANCIAL SERVICES DATA CENTERS OR FINANCIAL SERVICES CUSTOMER BACK OFFICE OPERATIONS" MEANS OPERATIONS THAT MANAGE THE DATA OR ACCOUNTS OF EXISTING CUSTOMERS OR PROVIDE PRODUCT OR SERVICE INFORMATION AND SUPPORT TO CUSTOMERS OF FINANCIAL SERVICES COMPANIES, INCLUDING BANKS, OTHER LENDERS, SECURITIES AND COMMODITIES BROKERS AND DEALERS, INVESTMENT BANKS, PORTFOLIO MANAGERS, TRUST OFFICES, AND INSURANCE COMPANIES.

8. "INVESTMENT ZONE" SHALL MEAN AN AREA WITHIN THE STATE THAT HAD BEEN DESIGNATED UNDER PARAGRAPH (I) OF SUBDIVISION (A) AND SUBDIVISION (D) OF SECTION NINE HUNDRED FIFTY-EIGHT OF THE GENERAL MUNICIPAL LAW THAT WAS WHOLLY CONTAINED WITHIN UP TO FOUR DISTINCT AND SEPARATE CONTIGUOUS AREAS AS OF THE DATE IMMEDIATELY PRECEDING THE DATE THE DESIGNATION OF SUCH AREA EXPIRED PURSUANT TO SECTION NINE HUNDRED SIXTY-NINE OF THE GENERAL MUNICIPAL LAW.

9. "MANUFACTURING" MEANS THE PROCESS OF WORKING RAW MATERIALS INTO PRODUCTS SUITABLE FOR USE OR WHICH GIVES NEW SHAPES, NEW QUALITY OR NEW COMBINATIONS TO MATTER WHICH HAS ALREADY GONE THROUGH SOME ARTIFICIAL PROCESS BY THE USE OF MACHINERY, TOOLS, APPLIANCES, OR OTHER SIMILAR EQUIPMENT. "MANUFACTURING" DOES NOT INCLUDE AN OPERATION THAT INVOLVES ONLY THE ASSEMBLY OF COMPONENTS, PROVIDED, HOWEVER, THE ASSEMBLY OF MOTOR VEHICLES OR OTHER HIGH VALUE-ADDED PRODUCTS SHALL BE CONSIDERED MANUFACTURING.

10. "NET NEW JOBS" MEANS JOBS CREATED IN THIS STATE THAT:

(A) ARE NEW TO THE STATE;

(B) HAVE NOT BEEN TRANSFERRED FROM EMPLOYMENT WITH ANOTHER BUSINESS LOCATED IN THIS STATE INCLUDING FROM A RELATED PERSON IN THIS STATE;

(C) ARE EITHER FULL-TIME WAGE-PAYING JOBS OR EQUIVALENT TO A FULL-TIME WAGE-PAYING JOB REQUIRING AT LEAST THIRTY-FIVE HOURS PER WEEK; AND

(D) ARE FILLED FOR MORE THAN SIX MONTHS.

11. "PARTICIPANT" MEANS A BUSINESS ENTITY THAT:

(A) HAS COMPLETED AN APPLICATION PRESCRIBED BY THE DEPARTMENT TO BE ADMITTED INTO THE PROGRAM;

(B) HAS BEEN ISSUED A CERTIFICATE OF ELIGIBILITY BY THE DEPARTMENT;

(C) HAS DEMONSTRATED THAT IT MEETS THE ELIGIBILITY CRITERIA IN SECTION THREE HUNDRED FIFTY-THREE AND SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-FOUR OF THIS ARTICLE; AND

(D) HAS BEEN CERTIFIED AS A PARTICIPANT BY THE COMMISSIONER.

12. "PRELIMINARY SCHEDULE OF BENEFITS" MEANS THE MAXIMUM AGGREGATE AMOUNT OF EACH COMPONENT OF THE TAX CREDIT THAT A PARTICIPANT IN THE EXCELSIOR JOBS PROGRAM IS ELIGIBLE TO RECEIVE PURSUANT TO THIS ARTICLE. THE SCHEDULE SHALL INDICATE THE ANNUAL AMOUNT OF EACH COMPONENT OF THE CREDIT A PARTICIPANT MAY CLAIM IN EACH OF ITS FIVE YEARS OF ELIGIBILITY. THE PRELIMINARY SCHEDULE OF BENEFITS SHALL BE ISSUED BY THE DEPARTMENT WHEN THE DEPARTMENT APPROVES THE APPLICATION FOR ADMISSION INTO THE PROGRAM. THE COMMISSIONER MAY AMEND THAT SCHEDULE, PROVIDED THAT THE COMMISSIONER COMPLIES WITH THE CREDIT CAPS IN SECTION THREE HUNDRED FIFTY-NINE OF THIS ARTICLE.

13. "QUALIFIED INVESTMENT" MEANS AN INVESTMENT IN TANGIBLE PROPERTY (INCLUDING A BUILDING OR A STRUCTURAL COMPONENT OF A BUILDING) OWNED BY A BUSINESS ENTERPRISE WHICH:

(A) IS DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE;

(B) HAS A USEFUL LIFE OF FOUR YEARS OR MORE;

(C) IS ACQUIRED BY PURCHASE AS DEFINED IN SECTION ONE HUNDRED SEVENTY-NINE (D) OF THE INTERNAL REVENUE CODE;
(D) HAS A SITUS IN THIS STATE; AND
(E) IS PLACED IN SERVICE IN THE STATE ON OR AFTER THE DATE THE CERTIFICATE OF ELIGIBILITY IS ISSUED TO THE BUSINESS ENTERPRISE.
14. "REGIONALLY SIGNIFICANT PROJECT" MEANS (A) A MANUFACTURER CREATING AT LEAST FIFTY NET NEW JOBS IN THE STATE AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE; (B) A BUSINESS CREATING AT LEAST TWENTY NET NEW JOBS IN AGRICULTURE IN THE STATE AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE, (C) A FINANCIAL SERVICES FIRM, DISTRIBUTION CENTER, OR BACK OFFICE OPERATION CREATING AT LEAST THREE HUNDRED NET NEW JOBS IN THE STATE AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE, OR (D) A SCIENTIFIC RESEARCH AND DEVELOPMENT FIRM CREATING AT LEAST TWENTY NET NEW JOBS IN THE STATE, AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE. OTHER BUSINESSES CREATING THREE HUNDRED OR MORE NET NEW JOBS IN THE STATE AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE MAY BE CONSIDERED ELIGIBLE AS A REGIONALLY SIGNIFICANT PROJECT BY THE COMMISSIONER AS WELL. THE COMMISSIONER SHALL PROMULGATE REGULATIONS PURSUANT TO SECTION THREE HUNDRED FIFTY-SIX OF THIS ARTICLE TO DETERMINE WHAT CONSTITUTES SIGNIFICANT CAPITAL INVESTMENT FOR EACH OF THE PROJECT CATEGORIES INDICATED IN THIS SUBDIVISION AND WHAT ADDITIONAL CRITERIA A BUSINESS MUST MEET TO BE ELIGIBLE AS A REGIONALLY SIGNIFICANT PROJECT, INCLUDING, BUT NOT LIMITED TO, WHETHER A BUSINESS EXPORTS A SUBSTANTIAL PORTION OF ITS PRODUCTS OR SERVICES OUTSIDE OF THE STATE OR OUTSIDE OF A METROPOLITAN STATISTICAL AREA OR COUNTY WITHIN THE STATE.
15. "RELATED PERSON" MEANS A "RELATED PERSON" PURSUANT TO SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE.
16. "REMUNERATION" MEANS WAGES AND BENEFITS PAID TO AN EMPLOYEE BY A PARTICIPANT IN THE EXCELSIOR JOBS PROGRAM.
17. "RESEARCH AND DEVELOPMENT EXPENDITURES" MEAN THE EXPENSES OF THE BUSINESS ENTERPRISE THAT ARE QUALIFIED RESEARCH EXPENSES UNDER THE FEDERAL RESEARCH AND DEVELOPMENT CREDIT UNDER SECTION FORTY-ONE OF THE INTERNAL REVENUE CODE AND ARE ATTRIBUTABLE TO ACTIVITIES CONDUCTED IN THE STATE. IF THE FEDERAL RESEARCH AND DEVELOPMENT CREDIT HAS EXPIRED, THEN THE RESEARCH AND DEVELOPMENT EXPENDITURES SHALL BE CALCULATED AS IF THE FEDERAL RESEARCH AND DEVELOPMENT CREDIT STRUCTURE AND DEFINITION IN EFFECT IN FEDERAL TAX YEAR TWO THOUSAND NINE WERE STILL IN EFFECT.
18. "SCIENTIFIC RESEARCH AND DEVELOPMENT" MEANS CONDUCTING RESEARCH AND EXPERIMENTAL DEVELOPMENT IN THE PHYSICAL, ENGINEERING, AND LIFE SCIENCES, INCLUDING BUT NOT LIMITED TO AGRICULTURE, ELECTRONICS, ENVIRONMENTAL, BIOLOGY, BOTANY, BIOTECHNOLOGY, COMPUTERS, CHEMISTRY, FOOD, FISHERIES, FORESTS, GEOLOGY, HEALTH, MATHEMATICS, MEDICINE, OCEANOGRAPHY, PHARMACY, PHYSICS, VETERINARY, AND OTHER ALLIED SUBJECTS. FOR THE PURPOSES OF THIS ARTICLE, SCIENTIFIC RESEARCH AND DEVELOPMENT DOES NOT INCLUDE MEDICAL OR VETERINARY LABORATORY TESTING FACILITIES.
19. "SOFTWARE DEVELOPMENT" MEANS THE CREATION OF CODED COMPUTER INSTRUCTIONS AND INCLUDES NEW MEDIA AS DEFINED BY THE COMMISSIONER IN REGULATIONS.
S 353. ELIGIBILITY CRITERIA. 1. TO BE A PARTICIPANT IN THE EXCELSIOR JOBS PROGRAM, A BUSINESS ENTITY SHALL OPERATE IN NEW YORK STATE PREDOMINANTLY:
(A) AS A FINANCIAL SERVICES DATA CENTER OR A FINANCIAL SERVICES BACK OFFICE OPERATION;
(B) IN MANUFACTURING;
(C) IN SOFTWARE DEVELOPMENT AND NEW MEDIA;

(D) IN SCIENTIFIC RESEARCH AND DEVELOPMENT;
(E) IN AGRICULTURE;
(F) IN THE CREATION OR EXPANSION OF BACK OFFICE OPERATIONS IN THE STATE;
(G) IN A DISTRIBUTION CENTER; OR
(H) IN AN INDUSTRY WITH SIGNIFICANT POTENTIAL FOR PRIVATE-SECTOR ECONOMIC GROWTH AND DEVELOPMENT IN THIS STATE AS ESTABLISHED BY THE COMMISSIONER IN REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE. IN PROMULGATING SUCH REGULATIONS THE COMMISSIONER SHALL INCLUDE JOB AND INVESTMENT CRITERIA.

2. FOR THE PURPOSES OF THIS ARTICLE, IN ORDER TO PARTICIPATE IN THE EXCELSIOR JOBS PROGRAM, A BUSINESS ENTITY OPERATING PREDOMINANTLY IN MANUFACTURING MUST CREATE AT LEAST TWENTY-FIVE NET NEW JOBS; A BUSINESS ENTITY OPERATING PREDOMINATELY IN AGRICULTURE MUST CREATE AT LEAST TEN NET NEW JOBS; A BUSINESS ENTITY OPERATING PREDOMINANTLY AS A FINANCIAL SERVICE DATA CENTER OR FINANCIAL SERVICES CUSTOMER BACK OFFICE OPERATION MUST CREATE AT LEAST ONE HUNDRED NET NEW JOBS; A BUSINESS ENTITY OPERATING PREDOMINANTLY IN SCIENTIFIC RESEARCH AND DEVELOPMENT MUST CREATE AT LEAST TEN NET NEW JOBS; A BUSINESS ENTITY OPERATING PREDOMINANTLY IN SOFTWARE DEVELOPMENT MUST CREATE AT LEAST TEN NET NEW JOBS; A BUSINESS ENTITY CREATING OR EXPANDING BACK OFFICE OPERATIONS OR A DISTRIBUTION CENTER IN THE STATE MUST CREATE AT LEAST ONE HUNDRED FIFTY NET NEW JOBS, NOTWITHSTANDING SUBDIVISION FOUR OF THIS SECTION; OR A BUSINESS ENTITY MUST BE A REGIONALLY SIGNIFICANT PROJECT AS DEFINED IN THIS ARTICLE; OR

3. A BUSINESS ENTITY OPERATING PREDOMINANTLY IN ONE OF THE INDUSTRIES REFERENCED IN PARAGRAPHS (A) THROUGH (H) OF SUBDIVISION ONE OF THIS SECTION BUT WHICH DOES NOT MEET THE JOB REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION MUST HAVE AT LEAST FIFTY FULL-TIME JOB EQUIVALENTS AND MUST DEMONSTRATE THAT ITS BENEFIT-COST RATIO IS AT LEAST TEN TO ONE.

4. A NOT-FOR-PROFIT BUSINESS ENTITY, A BUSINESS ENTITY WHOSE PRIMARY FUNCTION IS THE PROVISION OF SERVICES INCLUDING PERSONAL SERVICES, BUSINESS SERVICES, OR THE PROVISION OF UTILITIES, AND A BUSINESS ENTITY ENGAGED PREDOMINANTLY IN THE RETAIL OR ENTERTAINMENT INDUSTRY, AND A COMPANY ENGAGED IN THE GENERATION OR DISTRIBUTION OF ELECTRICITY, THE DISTRIBUTION OF NATURAL GAS, OR THE PRODUCTION OF STEAM ASSOCIATED WITH THE GENERATION OF ELECTRICITY ARE NOT ELIGIBLE TO RECEIVE THE TAX CREDIT DESCRIBED IN THIS ARTICLE.

5. A BUSINESS ENTITY MUST BE IN COMPLIANCE WITH ALL WORKER PROTECTION AND ENVIRONMENTAL LAWS AND REGULATIONS. IN ADDITION, A BUSINESS ENTITY MAY NOT OWE PAST DUE STATE TAXES OR LOCAL PROPERTY TAXES.

S 354. APPLICATION AND APPROVAL PROCESS. 1. A BUSINESS ENTERPRISE MUST SUBMIT A COMPLETED APPLICATION AS PRESCRIBED BY THE COMMISSIONER. AN APPLICATION MAY BE RECOMMENDED BY ENTITIES, INCLUDING BUT NOT LIMITED TO, THOSE CREATED PURSUANT TO SUBDIVISION (E) OF SECTION NINE HUNDRED FIFTY-SEVEN OF THE GENERAL MUNICIPAL LAW.

2. AS PART OF SUCH APPLICATION, EACH BUSINESS ENTERPRISE MUST:

(A) AGREE TO ALLOW THE DEPARTMENT OF TAXATION AND FINANCE TO SHARE ITS TAX INFORMATION WITH THE DEPARTMENT. HOWEVER, ANY INFORMATION SHARED AS A RESULT OF THIS AGREEMENT SHALL NOT BE AVAILABLE FOR DISCLOSURE OR INSPECTION UNDER THE STATE FREEDOM OF INFORMATION LAW.

(B) AGREE TO ALLOW THE DEPARTMENT OF LABOR TO SHARE ITS TAX AND EMPLOYER INFORMATION WITH THE DEPARTMENT. HOWEVER, ANY INFORMATION SHARED AS A RESULT OF THIS AGREEMENT SHALL NOT BE AVAILABLE FOR DISCLOSURE OR INSPECTION UNDER THE STATE FREEDOM OF INFORMATION LAW.

(C) ALLOW THE DEPARTMENT AND ITS AGENTS ACCESS TO ANY AND ALL BOOKS AND RECORDS THE DEPARTMENT MAY REQUIRE TO MONITOR COMPLIANCE.

(D) AGREE TO BE PERMANENTLY DECERTIFIED FROM THE EMPIRE ZONES PROGRAM IF ADMITTED INTO THE EXCELSIOR JOBS PROGRAM, EFFECTIVE FOR THE FIRST TAXABLE YEAR THAT THE BUSINESS ENTERPRISE MAY CLAIM THE EXCELSIOR JOBS PROGRAM CREDIT AND FOR ALL SUBSEQUENT TAXABLE YEARS.

(E) PROVIDE THE FOLLOWING INFORMATION TO THE DEPARTMENT UPON REQUEST:

(I) A PLAN OUTLINING THE SCHEDULE FOR MEETING THE JOB AND INVESTMENT REQUIREMENTS AS SET FORTH IN SUBDIVISIONS TWO AND THREE OF SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE. SUCH PLAN MUST INCLUDE DETAILS ON JOB TITLES AND EXPECTED SALARIES;

(II) THE PRIOR THREE YEARS OF FEDERAL AND STATE INCOME OR FRANCHISE TAX RETURNS, UNEMPLOYMENT INSURANCE QUARTERLY RETURNS, REAL PROPERTY TAX BILLS AND AUDITED FINANCIAL STATEMENTS;

(III) THE AMOUNT AND DESCRIPTION OF PROJECTED QUALIFIED INVESTMENTS FOR WHICH IT PLANS TO CLAIM THE EXCELSIOR INVESTMENT TAX CREDIT;

(IV) AN ESTIMATE OF THE PORTION OF ANY FEDERAL RESEARCH AND DEVELOPMENT TAX CREDITS, ATTRIBUTABLE TO RESEARCH AND DEVELOPMENT ACTIVITIES CONDUCTED IN NEW YORK STATE, THAT IT ANTICIPATES CLAIMING FOR THE YEARS IT EXPECTS TO CLAIM THE EXCELSIOR RESEARCH AND DEVELOPMENT CREDIT; AND

(V) THE EMPLOYER IDENTIFICATION OR SOCIAL SECURITY NUMBERS FOR ALL RELATED PERSONS TO THE APPLICANT, INCLUDING THOSE OF ANY MEMBERS OF A LIMITED LIABILITY COMPANY OR PARTNERS IN A PARTNERSHIP.

(F) PROVIDE A CLEAR AND DETAILED PRESENTATION OF ALL RELATED PERSONS TO THE APPLICANT TO ASSURE THE DEPARTMENT THAT JOBS ARE NOT BEING SHIFTED WITHIN THE STATE.

(G) CERTIFY, UNDER PENALTY OF PERJURY, THAT IT IS IN SUBSTANTIAL COMPLIANCE WITH ALL ENVIRONMENTAL, WORKER PROTECTION, AND LOCAL, STATE, AND FEDERAL TAX LAWS.

3. AFTER REVIEWING A BUSINESS ENTERPRISE'S COMPLETED APPLICATION AND DETERMINING THAT THE BUSINESS ENTERPRISE WILL MEET THE CONDITIONS SET FORTH IN SUBDIVISIONS TWO AND THREE OF SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE, THE DEPARTMENT MAY ADMIT THE APPLICANT INTO THE PROGRAM AND PROVIDE THE APPLICANT WITH A CERTIFICATE OF ELIGIBILITY AND A PRELIMINARY SCHEDULE OF BENEFITS BY YEAR BASED ON THE APPLICANT'S PROJECTIONS AS SET FORTH IN ITS APPLICATION. THIS PRELIMINARY SCHEDULE OF BENEFITS DELINEATES THE MAXIMUM POSSIBLE BENEFITS AN APPLICANT MAY RECEIVE.

4. IN ORDER TO BECOME A PARTICIPANT IN THE PROGRAM, AN APPLICANT MUST SUBMIT EVIDENCE OF ACHIEVING JOB AND INVESTMENT REQUIREMENTS IN SUCH FORM AS THE COMMISSIONER MAY PRESCRIBE. AFTER REVIEWING SUCH EVIDENCE AND FINDING IT SUFFICIENT, THE DEPARTMENT SHALL CERTIFY THE APPLICANT AS A PARTICIPANT AND ISSUE TO THAT PARTICIPANT A CERTIFICATE OF TAX CREDIT FOR ONE TAXABLE YEAR. TO RECEIVE A CERTIFICATE OF TAX CREDIT FOR SUBSEQUENT TAXABLE YEARS, THE PARTICIPANT MUST SUBMIT TO THE DEPARTMENT A PERFORMANCE REPORT. A PARTICIPANT'S INCREASE IN EMPLOYMENT, QUALIFIED INVESTMENT, OR FEDERAL RESEARCH AND DEVELOPMENT TAX CREDIT ATTRIBUTABLE TO RESEARCH AND DEVELOPMENT ACTIVITIES IN NEW YORK STATE ABOVE ITS PROJECTIONS LISTED IN ITS APPLICATION SHALL NOT RESULT IN AN INCREASE IN TAX BENEFITS UNDER THIS ARTICLE. HOWEVER, IF THE PARTICIPANT'S EXPENDITURES ARE LESS THAN THE ESTIMATED AMOUNTS, THE CREDIT SHALL BE LESS THAN THE ESTIMATE.

5. A PARTICIPANT MAY CLAIM TAX BENEFITS COMMENCING IN THE FIRST TAXABLE YEAR THAT THE BUSINESS ENTERPRISE RECEIVES A CERTIFICATE OF TAX CREDIT OR THE FIRST TAXABLE YEAR LISTED ON ITS PRELIMINARY SCHEDULE OF BENEFITS, WHICHEVER IS LATER. A PARTICIPANT MAY CLAIM SUCH BENEFITS FOR THE NEXT FOUR CONSECUTIVE TAXABLE YEARS, PROVIDED THAT THE PARTICIPANT DEMONSTRATES TO THE DEPARTMENT THAT IT CONTINUES TO SATISFY THE ELIGI-

BILITY CRITERIA SPECIFIED IN SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE AND SUBDIVISION TWO OF THIS SECTION IN EACH OF THOSE TAXABLE YEARS.

S 355. EXCELSIOR JOBS PROGRAM CREDIT. 1. EXCELSIOR JOBS TAX CREDIT COMPONENT. A PARTICIPANT IN THE EXCELSIOR JOBS PROGRAM SHALL BE ELIGIBLE TO CLAIM A CREDIT FOR EACH NET NEW JOB IT CREATES IN NEW YORK STATE. THE AMOUNT OF SUCH CREDIT PER JOB SHALL BE EQUAL TO THE SUM OF THE FOLLOWING: FIVE PERCENT OF THE AMOUNT OF REMUNERATION EQUAL TO OR LESS THAN FIFTY THOUSAND DOLLARS; FOUR PERCENT OF THE AMOUNT OF REMUNERATION IN EXCESS OF FIFTY THOUSAND DOLLARS AND EQUAL TO OR LESS THAN SEVENTY-FIVE THOUSAND DOLLARS; AND 1.33 PERCENT OF THE AMOUNT OF REMUNERATION IN EXCESS OF SEVENTY-FIVE THOUSAND DOLLARS. HOWEVER, THE AMOUNT OF THE CREDIT FOR EACH NET NEW JOB SHALL NOT EXCEED FIVE THOUSAND DOLLARS.

2. EXCELSIOR INVESTMENT TAX CREDIT COMPONENT. A PARTICIPANT IN THE EXCELSIOR JOBS PROGRAM SHALL BE ELIGIBLE TO CLAIM A CREDIT ON QUALIFIED INVESTMENTS. THE CREDIT SHALL BE EQUAL TO TWO PERCENT OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF THE QUALIFIED INVESTMENT. A PARTICIPANT MAY NOT CLAIM BOTH THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT AND THE INVESTMENT TAX CREDIT SET FORTH IN SUBDIVISION TWELVE OF SECTION TWO HUNDRED TEN, SUBSECTION (A) OF SECTION SIX HUNDRED SIX, OR SUBSECTION (I) OF SECTION FOURTEEN HUNDRED FIFTY-SIX OF THE TAX LAW FOR THE SAME PROPERTY IN ANY TAXABLE YEAR. IN ADDITION, A TAXPAYER WHO OR WHICH IS QUALIFIED TO CLAIM THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT AND IS ALSO QUALIFIED TO CLAIM THE BROWNFIELD TANGIBLE PROPERTY CREDIT COMPONENT UNDER SECTION TWENTY-ONE OF THE TAX LAW MAY CLAIM EITHER THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT OR SUCH TANGIBLE PROPERTY CREDIT COMPONENT, BUT NOT BOTH WITH REGARD TO A PARTICULAR PIECE OF PROPERTY. A CREDIT MAY NOT BE CLAIMED UNTIL A BUSINESS ENTERPRISE HAS RECEIVED A CERTIFICATE OF TAX CREDIT, PROVIDED THAT QUALIFIED INVESTMENTS MADE ON OR AFTER THE ISSUANCE OF THE CERTIFICATE OF ELIGIBILITY BUT BEFORE THE ISSUANCE OF THE CERTIFICATE OF TAX CREDIT TO THE BUSINESS ENTERPRISE, MAY BE CLAIMED IN THE FIRST TAXABLE YEAR FOR WHICH THE BUSINESS ENTERPRISE IS ALLOWED TO CLAIM THE CREDIT. EXPENSES INCURRED PRIOR TO THE DATE THE CERTIFICATE OF ELIGIBILITY IS ISSUED ARE NOT ELIGIBLE TO BE INCLUDED IN THE CALCULATION OF THE CREDIT.

3. EXCELSIOR RESEARCH AND DEVELOPMENT TAX CREDIT COMPONENT. A PARTICIPANT IN THE EXCELSIOR JOBS PROGRAM SHALL BE ELIGIBLE TO CLAIM A CREDIT EQUAL TO TEN PERCENT OF THE PORTION OF THE PARTICIPANT'S FEDERAL RESEARCH AND DEVELOPMENT TAX CREDIT THAT RELATES TO THE PARTICIPANT'S RESEARCH AND DEVELOPMENT EXPENDITURES IN NEW YORK STATE DURING THE TAXABLE YEAR. IF THE FEDERAL RESEARCH AND DEVELOPMENT CREDIT HAS EXPIRED, THEN THE RESEARCH AND DEVELOPMENT EXPENDITURES RELATING TO THE FEDERAL RESEARCH AND DEVELOPMENT CREDIT SHALL BE CALCULATED AS IF THE FEDERAL RESEARCH AND DEVELOPMENT CREDIT STRUCTURE AND DEFINITION IN EFFECT IN TWO THOUSAND NINE WERE STILL IN EFFECT.

4. EXCELSIOR REAL PROPERTY TAX CREDIT. A PARTICIPANT IN THE EXCELSIOR JOBS PROGRAM WHO EITHER QUALIFIED AS A REGIONALLY SIGNIFICANT PROJECT OR IS LOCATED IN AN INVESTMENT ZONE SHALL BE ELIGIBLE TO CLAIM A CREDIT FOR A PERIOD OF FIVE YEARS. THE CREDIT SHALL BE EQUAL TO FIFTY PERCENT OF THE ELIGIBLE REAL PROPERTY TAXES ON THE REAL PROPERTY COMPRISING THE REGIONALLY SIGNIFICANT PROJECT OR LOCATED IN THE INVESTMENT ZONE THAT WERE ASSESSED AND PAID IN THE YEAR IMMEDIATELY PRIOR TO APPLICATION. IN THE REMAINING YEARS THE CREDIT SHALL BE COMPUTED ACCORDING TO THE FOLLOWING SCHEDULE:

YEAR TWO: FORTY PERCENT OF ELIGIBLE REAL PROPERTY TAXES ON THE REAL PROPERTY COMPRISING THE REGIONALLY SIGNIFICANT PROJECT OR LOCATED IN THE

INVESTMENT ZONE THAT WERE ASSESSED AND PAID IN THE YEAR IMMEDIATELY PRIOR TO APPLICATION;

YEAR THREE: THIRTY PERCENT OF ELIGIBLE REAL PROPERTY TAXES ON THE REAL PROPERTY COMPRISING THE REGIONALLY SIGNIFICANT PROJECT OR LOCATED IN THE INVESTMENT ZONE THAT WERE ASSESSED AND PAID IN THE YEAR IMMEDIATELY PRIOR TO APPLICATION;

YEAR FOUR: TWENTY PERCENT OF ELIGIBLE REAL PROPERTY TAXES ON REAL PROPERTY COMPRISING THE REGIONALLY SIGNIFICANT PROJECT OR LOCATED IN THE INVESTMENT ZONE THAT WERE ASSESSED AND PAID IN THE YEAR IMMEDIATELY PRIOR TO APPLICATION; AND

YEAR FIVE: TEN PERCENT OF ELIGIBLE REAL PROPERTY TAXES ON THE REAL PROPERTY COMPRISING THE REGIONALLY SIGNIFICANT PROJECT OR LOCATED IN THE INVESTMENT ZONE THAT WERE ASSESSED AND PAID IN THE YEAR IMMEDIATELY PRIOR TO APPLICATION.

FOR PURPOSES OF THIS CREDIT, THE TERM "ELIGIBLE REAL PROPERTY TAXES" SHALL HAVE THE SAME MEANING AS IN SUBDIVISION (E) OF SECTION FIFTEEN OF THE TAX LAW, PROVIDED THAT SUCH SUBDIVISION (E) SHALL BE READ AS IF IT SPECIFICALLY REFERENCED THE EXCELSIOR JOBS PROGRAM AND PARTICIPANTS IN THAT PROGRAM.

5. REFUNDABILITY OF CREDITS. THE TAX CREDIT COMPONENTS ESTABLISHED IN THIS SECTION SHALL BE REFUNDABLE AS PROVIDED IN THE TAX LAW. IF A PARTICIPANT FAILS TO SATISFY THE ELIGIBILITY CRITERIA IN ANY ONE YEAR, IT WILL LOSE THE ABILITY TO CLAIM CREDIT FOR THAT YEAR. THE EVENT OF SUCH FAILURE SHALL NOT EXTEND THE ORIGINAL FIVE-YEAR ELIGIBILITY PERIOD.

6. CLAIM OF TAX CREDIT. THE BUSINESS ENTERPRISE SHALL BE ALLOWED TO CLAIM THE CREDIT AS PRESCRIBED IN SECTION THIRTY-ONE OF THE TAX LAW.

S 356. POWERS AND DUTIES OF THE COMMISSIONER. 1. THE COMMISSIONER SHALL PROMULGATE REGULATIONS ESTABLISHING AN APPLICATION PROCESS AND ELIGIBILITY CRITERIA, THAT WILL BE APPLIED CONSISTENT WITH THE PURPOSES OF THIS ARTICLE, SO AS NOT TO EXCEED THE ANNUAL CAP ON TAX CREDITS SET FORTH IN SECTION THREE HUNDRED FIFTY-NINE OF THIS ARTICLE WHICH, NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY IN THE STATE ADMINISTRATIVE PROCEDURE ACT, MAY BE ADOPTED ON AN EMERGENCY BASIS.

2. THE COMMISSIONER SHALL, IN CONSULTATION WITH THE DEPARTMENT OF TAXATION AND FINANCE, DEVELOP A CERTIFICATE OF TAX CREDIT THAT SHALL BE ISSUED BY THE COMMISSIONER TO PARTICIPANTS. PARTICIPANTS MUST INCLUDE THE CERTIFICATE OF TAX CREDIT WITH THEIR TAX RETURN TO RECEIVE ANY TAX BENEFITS UNDER THIS ARTICLE.

3. THE COMMISSIONER SHALL SOLELY DETERMINE THE ELIGIBILITY OF ANY APPLICANT APPLYING FOR ENTRY INTO THE PROGRAM AND SHALL REMOVE ANY PARTICIPANT FROM THE PROGRAM FOR FAILING TO MEET ANY OF THE REQUIREMENTS SET FORTH IN SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-FOUR OF THIS ARTICLE, OR FOR FAILING TO MEET THE MINIMUM JOB OR INVESTMENT REQUIREMENTS SET FORTH IN SUBDIVISIONS TWO AND THREE OF SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE.

S 357. MAINTENANCE OF RECORDS. EACH PARTICIPANT SHALL KEEP ALL RELEVANT RECORDS FOR THEIR DURATION OF PROGRAM PARTICIPATION PLUS THREE YEARS.

S 358. REPORTING. 1. EACH PARTICIPANT MUST SUBMIT A PERFORMANCE REPORT ANNUALLY, IN SUCH FORM AS THE COMMISSIONER MAY REQUIRE, WITHIN THIRTY DAYS OF THE END OF THEIR TAXABLE YEAR.

2. THE COMMISSIONER SHALL PREPARE ON A QUARTERLY BASIS A PROGRAM REPORT FOR POSTING ON THE DEPARTMENT'S WEBSITE. THE FIRST REPORT WILL BE DUE JUNE THIRTIETH, TWO THOUSAND ELEVEN, AND EVERY THREE MONTHS THEREAFTER. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING: NUMBER OF APPLICANTS; NUMBER OF PARTICIPANTS APPROVED; NAMES OF

PARTICIPANTS; TOTAL AMOUNT OF BENEFITS CERTIFIED; BENEFITS RECEIVED PER PARTICIPANT; TOTAL NUMBER OF NET NEW JOBS CREATED; NUMBER OF NET NEW JOBS CREATED PER PARTICIPANT; AGGREGATE NEW INVESTMENT IN THE STATE; NEW INVESTMENT PER PARTICIPANT; AND SUCH OTHER INFORMATION AS THE COMMISSIONER DETERMINES.

S 359. CAP ON TAX CREDIT. THE TOTAL AMOUNT OF TAX CREDITS LISTED ON CERTIFICATES OF TAX CREDIT ISSUED BY THE COMMISSIONER FOR ANY TAXABLE YEAR MAY NOT EXCEED THE LIMITATIONS SET FORTH IN THIS SECTION. ANY AMOUNT OF TAX CREDITS NOT AWARDED FOR A PARTICULAR TAXABLE YEAR MAY NOT BE USED BY THE COMMISSIONER TO AWARD TAX CREDITS IN ANOTHER TAXABLE YEAR.

CREDIT COMPONENTS IN THE AGGREGATE SHALL NOT EXCEED:	WITH RESPECT TO TAXABLE YEARS BEGINNING IN:
$ 50 MILLION	2011
$ 100 MILLION	2012
$ 150 MILLION	2013
$ 200 MILLION	2014
$ 250 MILLION	2015
$ 200 MILLION	2016
$ 150 MILLION	2017
$ 100 MILLION	2018
$ 50 MILLION	2019

TWENTY-FIVE PERCENT OF TAX CREDITS SHALL BE ALLOCATED TO BUSINESSES ACCEPTED INTO THE PROGRAM UNDER SUBDIVISION THREE OF SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE AND SEVENTY-FIVE PERCENT OF TAX CREDITS SHALL BE ALLOCATED TO BUSINESSES ACCEPTED INTO THE PROGRAM UNDER SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE.

PROVIDED, HOWEVER, IF BY SEPTEMBER THIRTIETH OF A CALENDAR YEAR, THE DEPARTMENT HAS NOT ALLOCATED THE FULL AMOUNT OF CREDITS AVAILABLE IN THAT YEAR TO EITHER: (I) BUSINESSES ACCEPTED INTO THE PROGRAM UNDER SUBDIVISION THREE OF SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE OR (II) BUSINESSES ACCEPTED INTO THE PROGRAM UNDER SUBDIVISION TWO OF SECTION THREE HUNDRED FIFTY-THREE OF THIS ARTICLE, THE COMMISSIONER MAY ALLOCATE ANY REMAINING TAX CREDITS TO BUSINESSES REFERENCED IN PARAGRAPHS (I) AND (II) OF THIS SECTION AS NEEDED; PROVIDED, HOWEVER, THAT UNDER NO CIRCUMSTANCES MAY THE STATUTORY CAP BE EXCEEDED.

S 2. The tax law is amended by adding a new section 31 to read as follows:

S 31. EXCELSIOR JOBS PROGRAM CREDIT. (A) GENERAL. A TAXPAYER SUBJECT TO TAX UNDER ARTICLE NINE-A, TWENTY-TWO, THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (G) OF THIS SECTION. THE AMOUNT OF THE CREDIT, ALLOWABLE FOR UP TO FIVE CONSECUTIVE TAXABLE YEARS, IS THE SUM OF THE FOLLOWING FOUR CREDIT COMPONENTS:

(1) THE EXCELSIOR JOBS TAX CREDIT;

(2) THE EXCELSIOR INVESTMENT TAX CREDIT;

(3) THE EXCELSIOR RESEARCH AND DEVELOPMENT TAX CREDIT; AND

(4) THE EXCELSIOR REAL PROPERTY TAX CREDIT.

(B) TO BE ELIGIBLE FOR THE EXCELSIOR JOBS PROGRAM CREDIT, THE TAXPAYER SHALL HAVE BEEN ISSUED A "CERTIFICATE OF TAX CREDIT" BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT PURSUANT TO SUBDIVISION FOUR OF SECTION THREE HUNDRED FIFTY-FOUR OF THE ECONOMIC DEVELOPMENT LAW, WHICH CERTIFICATE SHALL SET FORTH THE AMOUNT OF EACH CREDIT COMPONENT THAT MAY BE CLAIMED

FOR THE TAXABLE YEAR. A TAXPAYER MAY CLAIM SUCH CREDIT FOR FIVE CONSECUTIVE TAXABLE YEARS COMMENCING IN THE FIRST TAXABLE YEAR THAT THE TAXPAYER RECEIVES A CERTIFICATE OF TAX CREDIT OR THE FIRST TAXABLE YEAR LISTED ON ITS PRELIMINARY SCHEDULE OF BENEFITS, WHICHEVER IS LATER. THE TAXPAYER SHALL BE ALLOWED TO CLAIM ONLY THE AMOUNT LISTED ON THE CERTIFICATE OF TAX CREDIT FOR THAT TAXABLE YEAR. SUCH CERTIFICATE SHOULD BE ATTACHED TO THE TAXPAYER'S RETURN. NO COST OR EXPENSE PAID OR INCURRED BY THE TAXPAYER SHALL BE THE BASIS FOR MORE THAN ONE COMPONENT OF THIS CREDIT OR ANY OTHER TAX CREDIT.

(C) ELECTION OF CREDIT. A TAXPAYER WHO OR WHICH IS QUALIFIED TO CLAIM THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT AND IS ALSO QUALIFIED TO CLAIM THE INVESTMENT TAX CREDIT PROVIDED FOR UNDER SUBDIVISION TWELVE OF SECTION TWO HUNDRED TEN, SUBSECTION (A) OF SECTION SIX HUNDRED SIX, OR SUBSECTION (I) OF SECTION FOURTEEN HUNDRED FIFTY-SIX OF THIS CHAPTER, MAY CLAIM EITHER THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT OR THE INVESTMENT TAX CREDIT, BUT NOT BOTH WITH REGARD TO A PARTICULAR PIECE OF PROPERTY. IN ADDITION, A TAXPAYER WHO OR WHICH IS QUALIFIED TO CLAIM THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT AND IS ALSO QUALIFIED TO CLAIM THE BROWNFIELD TANGIBLE PROPERTY CREDIT COMPONENT UNDER SECTION TWENTY-ONE OF THIS ARTICLE, AS ADDED BY CHAPTER ONE OF THE LAWS OF TWO THOUSAND THREE, MAY CLAIM EITHER THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT OR SUCH TANGIBLE PROPERTY CREDIT COMPONENT, BUT NOT BOTH WITH REGARD TO A PARTICULAR PIECE OF PROPERTY. THE ELECTION TO CLAIM THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT, THE INVESTMENT TAX CREDIT OR THE BROWNFIELD TANGIBLE PROPERTY CREDIT COMPONENT, WITH REGARD TO THE SAME PROPERTY, IS IRREVOCABLE.

(D) INFORMATION SHARING. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, EMPLOYEES AND OFFICERS OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE DEPARTMENT SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE:

(1) INFORMATION DERIVED FROM TAX RETURNS OR REPORTS THAT IS RELEVANT TO A TAXPAYER'S ELIGIBILITY TO PARTICIPATE IN THE EXCELSIOR JOBS PROGRAM;

(2) INFORMATION REGARDING THE COMPONENT OR COMPONENTS OF THE CREDIT APPLIED FOR, ALLOWED, OR CLAIMED PURSUANT TO THIS SECTION AND TAXPAYERS WHO ARE APPLYING FOR THE CREDIT OR WHO ARE CLAIMING THE CREDIT; AND

(3) INFORMATION CONTAINED IN OR DERIVED FROM CREDIT CLAIM FORMS SUBMITTED TO THE DEPARTMENT AND APPLICATIONS FOR ADMISSION INTO THE EXCELSIOR JOBS PROGRAM.

OTHER THAN THE INFORMATION REQUIRED TO BE CONTAINED IN THE REPORT ISSUED PURSUANT TO SUBDIVISION (E) OF THIS SECTION, ALL INFORMATION EXCHANGED BETWEEN THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE DEPARTMENT SHALL NOT BE SUBJECT TO DISCLOSURE OR INSPECTION UNDER THE STATE'S FREEDOM OF INFORMATION LAW.

(E) EXCELSIOR JOBS PROGRAM CREDIT REPORT. (1) THE COMMISSIONER MUST PUBLISH AN EXCELSIOR JOBS PROGRAM TAX CREDIT REPORT ANNUALLY BY JUNE THIRTIETH. THE FIRST REPORT MUST BE PUBLISHED BY JUNE THIRTIETH, TWO THOUSAND TWELVE.

(2) THE CREDIT REPORT MUST CONTAIN THE FOLLOWING INFORMATION ABOUT THE EXCELSIOR JOBS PROGRAM TAX CREDIT CLAIMED UNDER THIS CHAPTER DURING THE PREVIOUS CALENDAR YEAR:

(I) THE NAME OF EACH TAXPAYER CLAIMING A CREDIT; PROVIDED HOWEVER, IF THE TAXPAYER CLAIMS A CREDIT BECAUSE THE TAXPAYER IS A MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER IN A SUBCHAPTER S CORPORATION, THE NAME OF EACH LIMITED LIABILITY COMPANY, PARTNERSHIP OR SUBCHAPTER S CORPORATION EARNING ANY OF THE CREDIT

MUST BE INCLUDED IN THE REPORT INSTEAD OF INFORMATION ABOUT THE TAXPAYER CLAIMING THE CREDIT; AND

(II) THE AMOUNT OF EACH CREDIT COMPONENT EARNED BY EACH TAXPAYER; PROVIDED HOWEVER, IF THE TAXPAYER CLAIMS A CREDIT BECAUSE THE TAXPAYER IS A MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER IN A SUBCHAPTER S CORPORATION, THE AMOUNT OF CREDIT EARNED BY EACH ENTITY MUST BE INCLUDED IN THE REPORT INSTEAD OF INFORMATION ABOUT THE TAXPAYER CLAIMING THE CREDIT.

(3) THE CREDIT REPORT MAY ALSO CONTAIN ANY OTHER INFORMATION RECEIVED BY THE COMMISSIONER WITH REGARD TO THE EXCELSIOR JOBS PROGRAM CREDIT THAT THE COMMISSIONER DEEMS TO BE USEFUL IN EVALUATING THE USE OF THE CREDIT. THE INFORMATION INCLUDED IN THE CREDIT REPORT WILL BE BASED ON THE INFORMATION FILED WITH THE DEPARTMENT DURING THE PREVIOUS CALENDAR YEAR, TO THE EXTENT THAT IT IS PRACTICABLE TO USE THAT INFORMATION.

(F) CREDIT RECAPTURE. IF A CERTIFICATE OF ELIGIBILITY OR A CERTIFICATE OF TAX CREDIT ISSUED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT UNDER ARTICLE SEVENTEEN OF THE ECONOMIC DEVELOPMENT LAW IS REVOKED BY SUCH DEPARTMENT, THE AMOUNT OF CREDIT DESCRIBED IN THIS SECTION AND CLAIMED BY THE TAXPAYER PRIOR TO THAT REVOCATION SHALL BE ADDED BACK TO INCOME IN THE TAXABLE YEAR IN WHICH ANY SUCH REVOCATION BECOMES FINAL.

(G) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9-A: SECTION 210: SUBDIVISION 41.

(2) ARTICLE 22: SECTION 606: SUBSECTION (QQ).

(3) ARTICLE 32: SECTION 1456: SUBSECTION (U).

(4) ARTICLE 33: SECTION 1511: SUBDIVISION (Y).

S 3. Section 210 of the tax law is amended by adding a new subdivision 41 to read as follows:

41. EXCELSIOR JOBS PROGRAM CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WILL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

S 4. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

(QQ) EXCELSIOR JOBS PROGRAM CREDIT. (1) A TAXPAYER WILL BE ALLOWED A CREDIT, TO THE EXTENT ALLOWED UNDER SECTION THIRTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST WILL BE PAID THEREON.

S 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxi) to read as follows:

(XXXI) EXCELSIOR JOBS PROGRAM TAX CREDIT UNDER SUBSECTION (QQ)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN OR UNDER SUBDIVISION (U) OF SECTION FOURTEEN HUNDRED FIFTY-SIX

S 6. Section 1456 of the tax law is amended by adding a new subsection (u) to read as follows:

(U) EXCELSIOR JOBS PROGRAM TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER WILL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED BY PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

S 7. Section 1511 of the tax law is amended by adding a new subdivision (y) to read as follows:

(Y) EXCELSIOR JOBS PROGRAM TAX CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER WILL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-ONE OF THIS CHAPTER, AGAINST THE TAXES IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE MINIMUM TAX FIXED BY THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

S 8. This act shall take effect July 1, 2010.

PART NN

Section 1. Subdivision 12 of section 1269 of the public authorities law, as amended by section 1 of part K of chapter 59 of the laws of 2006, is amended to read as follows:

12. The aggregate principal amount of bonds, notes or other obligations issued after the first day of January, nineteen hundred ninety-three by the authority, the Triborough bridge and tunnel authority and the New York city transit authority to fund projects contained in capital program plans approved pursuant to section twelve hundred sixty-nine-b of this article for the period nineteen hundred ninety-two through two thousand [nine] FOURTEEN shall not exceed [twenty-eight] THIRTY-FOUR billion eight hundred seventy-seven million dollars. Such aggregate principal amount of bonds, notes or other obligations or the expenditure thereof shall not be subject to any limitation contained in any other provision of law on the principal amount of bonds, notes or other obligations or the expenditure thereof applicable to the authority, the Triborough bridge and tunnel authority or the New York city

transit authority. The aggregate limitation established by this subdivision shall not include (i) obligations issued to refund, redeem or otherwise repay, including by purchase or tender, obligations theretofore issued either by the issuer of such refunding obligations or by the authority, the New York city transit authority or the Triborough bridge and tunnel authority, (ii) obligations issued to fund any debt service or other reserve funds for such obligations, (iii) obligations issued or incurred to fund the costs of issuance, the payment of amounts required under bond and note facilities, federal or other governmental loans, security or credit arrangements or other agreements related thereto and the payment of other financing and related costs associated with such obligations, (iv) an amount equal to any original issue discount from the principal amount of such obligations or to fund capitalized interest, (v) obligations incurred pursuant to section twelve hundred seven-m of this article, (vi) obligations incurred to fund the acquisition of certain buses for the New York city transit authority as identified in a capital program plan approved pursuant to chapter fifty-three of the laws of nineteen hundred ninety-two, (vii) obligations incurred in connection with the leasing, selling or transferring of equipment, and (viii) bond anticipation notes or other obligations payable solely from the proceeds of other bonds, notes or other obligations which would be included in the aggregate principal amount specified in the first sentence of this subdivision, whether or not additionally secured by revenues of the authority, or any of its subsidiary corporations, New York city transit authority, or any of its subsidiary corporations, or Triborough bridge and tunnel authority.

S 2. This act shall take effect immediately.

PART OO

Section 1. Section 83-a of the legislative law, as added by chapter 141 of the laws of 1994, is amended to read as follows:

S 83-a. Legislative commission on critical transportation choices. 1. (a) The legislature hereby finds and declares that the economic and social well-being of the people of the state are inextricably linked to the quality of the state's transportation services [and further that said transportation services are heavily dependent upon energy sources or fuels of uncertain future supply] AND THAT THE DELIVERY OF THAT SERVICE HAS GROWN INCREASINGLY EXPENSIVE FOR GOVERNMENTAL AGENCIES AT ALL LEVELS AS WELL AS FOR INDIVIDUALS AND FAMILIES IN THE STATE.

(b) Recent surveys of New York's transportation system indicate that portions of said system are badly in need of rehabilitation and improvement and such surveys warn that the transportation infrastructure may begin to deteriorate rapidly unless action is taken quickly to prevent such deterioration. The transportation systems serving the regions of the state CAN BE CHARACTERIZED AS CONTRIBUTING TO OR HAVING FACILITATED SPRAWLING AND INEFFICIENT LAND USE PATTERNS AND AS A RESULT are also subject to severe dislocations or disruptions of fuel supplies in the future, which will affect appreciably the standard of living of all New York residents AND CALL INTO QUESTION THE ABILITY TO SUSTAIN THE SYSTEM IN LIGHT OF RELATIVELY NEW ENERGY AND ENVIRONMENTAL POLICY GOALS.

2. There is hereby created a legislative commission to be known as the legislative commission on critical transportation choices. Such commission shall consist of ten members to be appointed as follows: three members of the senate shall be appointed by the temporary president of the senate; three members of the assembly shall be appointed by the

speaker of the assembly; two members of the senate shall be appointed by the minority leader of the senate; and two members of the assembly shall be appointed by the minority leader of the assembly. From among the members as appointed, a chairman and vice chairman shall be appointed jointly by the temporary president of the senate and the speaker of the assembly. Any vacancy that occurs in the chairmanship, vice chairmanship or other membership of the commission shall be filled in the same manner in which the original appointment was made. No member, officer, or employee of the commission shall be disqualified from holding any other public office or employment, nor shall he forfeit any such office or employment by reason of his appointment hereunder, notwithstanding the provisions of any general, special, or local law, ordinance, or city charter.

3. The commission hereby created shall have the power to: (a) recommend a statewide plan of action to meet critical transportation needs within the state; (b) assess the transportation needs of localities with respect to various modes of moving people and goods and their energy [dependency] EFFICIENCY AND ENVIRONMENTAL SUSTAINABILITY thereof; (c) evaluate probable impact of energy shortages on the ability to sustain the various modes of transportation; (d) identify and study long-term transportation needs under attenuated energy supplies AND NEW ENVIRONMENTAL POLICY OBJECTIVES; (e) assess impact of federal and state regulations on transportation systems; (f) evaluate the impact of public projects on existing transportation networks; (g) [coordinate and cooperate with other states in the planning and development of mutually beneficial and supportive transportation projects and services including highways, bridges, tunnels, railroad facilities and aviation projects; (h)] study and assess the future of commercial and private air service and make recommendations for the preservation and improvement of such service; [(i)] (H) undertake research and develop proposals in connection with the development of ports, free trade zones, transportation hubs and facilities related thereto; [(j)] (I) undertake research and develop proposals in connection with safety and safety related programs in the various transportation modes; [(k)] (J) evaluate the short-term and long-term capital needs and operating assistance requirements of the state's public transit systems; (K) IDENTIFY AND STUDY POTENTIAL REVENUE SOURCES FOR THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND; (l) cooperate with local, state and federal officials in the analysis of possible changes in rules, regulations and laws relating to transportation; [and] (m) assess the relationship between transportation, THE ENVIRONMENT and LONG TERM, SUSTAINABLE economic development; (N) RESEARCH AND EVALUATE PROPOSALS RELATED TO THE FEDERAL, STATE AND LOCAL GOVERNMENT ORGANIZATIONAL ENVIRONMENT WITH RESPECT TO PLANNING, DESIGN AND CONSTRUCTION OF TRANSPORTATION PROGRAMS, PROJECTS AND SERVICES; AND (O) EVALUATE THE TRANSPORTATION SYSTEM IN LIGHT OF THE CURRENT SOCIAL, ECONOMIC AND ENVIRONMENTAL REGULATORY CLIMATE INCLUDING BUT NOT LIMITED TO ENERGY EFFICIENCY, AIR QUALITY, QUALITY COMMUNITIES OR SMART GROWTH OBJECTIVES, ENVIRONMENTAL JUSTICE, SUSTAINABILITY AND COSTS PER HOUSEHOLD.

4. The commission may employ and at pleasure remove such personnel as it may deem necessary for the performance of the commission's functions and fix their compensation within the amount appropriated [therefor] THEREFORE. The commission may hold public and private hearings and otherwise have all of the powers of a legislative committee under this chapter. The members of the commission shall receive no compensation for

their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder.

5. Employees of the commission shall be considered to be employees of the legislature for all purposes.

6. The commission may request and shall receive from any subdivision, department, board, bureau, commission, office, agency or other instrumentality of the state or of any political subdivision thereof, such facilities, assistance and data as it deems necessary or desirable for the proper execution of its powers and duties.

7. The commission is hereby authorized and empowered to make and sign any agreements, and to do and perform any acts that may be necessary, desirable or proper to carry out the purposes and objectives of this section.

S 2. This act shall take effect immediately; provided, however, that the amendments to section 83-a of the legislative law made by section one of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall 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, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

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