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

S. 6258 A. 9058

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

January 17, 2012

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

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

AN ACT to authorize funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2012-2013; to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund; and to amend chapter 60 of the laws of 2011, authorizing funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2011-2012 and amending chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to the effectiveness thereof (Part A); to amend the highway law and the state finance law, in relation to modifying the distribution of certain funds (Part B); to amend the transportation law, in relation to enacting a performance based bus inspection program (Part C); to amend the vehicle and traffic law, in relation to commercial driver's licenses and medical certifications; and to repeal paragraph (f) of subdivision 3 of section 510-a of the vehicle and traffic law, relating to commercial driver's licenses (Part D); to amend the public authorities law, in relation to notes, bonds and other obligations of the metropolitan transportation authority, Triborough bridge and tunnel authority and New York city transit authority (Part E); to amend vehicle and traffic law in relation to establishing an additional retention rate for county clerks acting as an agent of the department of motor vehicles based upon internet transactions (Part F); to amend the transportation law, the vehicle and traffic law, the general municipal law, the environmental conservation law and the executive law, in relation to federal revenue; and repealing section 214 of the transportation law relating thereto (Part G); to amend the environmental conservation law, in relation to the regulation of various fish and wildlife licenses, permits and fees; and

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

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repealing certain provisions of such law relating thereto (Part H); to amend the public service law, in relation to eliminating state regulation of VoIP service in order to facilitate competition and ensure consumers receive the maximum benefit of competition (Part I); to amend the environmental conservation law, in relation to hazardous waste program fees and surcharges (Part J); to amend the state finance law and the public authorities law, in relation to the sewage treatment and drinking water funds and the water pollution control and drinking water revolving funds (Part K); to amend the agriculture and markets law, in relation to seed testing (Part L); to amend the agriculture and markets law, in relation to fees for services (Part M); to amend the agriculture and markets law, in relation to food processing license fees; and to repeal subdivision 4 of section 128-a and subdivision 3 of section 133-a of the agriculture and markets law and section 90-b of the state finance law relating to the commercial feed licensing fund (Part N); 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 O); 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 P); to amend chapter 35 of the laws of 1979, relating to appropriating funds to the New York state urban development corporation for the acquisition and initial planning of convention and exhibition center facilities in New York county, in relation to additional powers of such corporation (Part Q); 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 R); to repeal subdivision 3 of section 16-m of the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part S); to amend the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make grants (Part T); to amend the state finance law, in relation to the excelsior linked deposit act (Part U); to authorize the department of health to finance certain activities with revenues generated from an assessment on cable television companies (Part V); to amend the general business law and the real property law, in relation to increasing the term of licensure and registration from two to four years (Part W); to amend the racing, pari-mutuel wagering and breeding law, in relation to presenting uncashed pari-mutuel vouchers within a prescribed period of time (Part X); to amend the racing, pari-mutuel wagering and breeding law and the public officers law, in relation to employment of officials at harness race meetings (Part Y); to amend the agriculture and markets law, in relation to authorizing the creation of a dairy research and education order (Part Z); and to amend public authorities law, in relation to the recovery of state governmental costs from public authorities and public benefit corporations (Part AA)

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 2012-2013 state fiscal year. Each component is wholly contained within a Part identified as Parts A through AA. 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

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

SCHEDULE

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

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

| State Fiscal Year | Amount |
|---|---|
| 2012-13 | $39,700,000 |

(b) Three hundred four million three hundred thousand dollars ($304,300,000) to counties, cities, towns and villages for reimbursement of eligible costs of local highway and bridge projects pursuant to sections 16 and 16-a of chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of the laws of 1991, as amended. For the purposes of computing allocations to municipalities, the amount distributed pursuant to section 16 of chapter 329 of the laws of 1991 shall be deemed to be $121,520,000. The amount distributed pursuant to section 16-a of chapter 329 of the laws of 1991 shall be deemed to be $182,780,000. Notwithstanding the provisions of any general or special law, the amounts deemed distributed in accordance with section 16 of chapter 329 of the laws of 1991 shall be adjusted so that such amounts will not be less than 83.807 percent of the "funding level" as defined

in subdivision 5 of section 10-c of the highway law for each such municipality. In order to achieve the objectives of section 16 of chapter 329 of the laws of 1991, to the extent necessary, the amounts in excess of 83.807 percent of the funding level to be deemed distributed to each municipality under this subdivision shall be reduced in equal proportion.

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

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

| State Fiscal Year | Amount |
|---|---|
| 2012-13 | $363,097,000 |

S 2. Subdivision (f) of section 16 of chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, as added by section 2 of part A of chapter 60 of the laws of 2011, is amended to read as follows:

(f) For purposes of this section and section 10-c of the highway law, for projects completed on or before March 31, [2012] 2013 local highway and bridge projects may also include the following work types: (1) microsurfacing, (2) paver placed surface treatment, (3) single course surface treatment involving chip seals and oil and stone, and (4) double course surface treatment involving chip seals and oil and stone, however, no reimbursement shall be made for (1) microsurfacing, (2) paver placed surface treatment, (3) single course surface treatment involving chip seals and oil and stone, and (4) double course surface treatment involving chip seals and oil and stone after March 31, [2012] 2013. Reimbursement for projects using these treatments may be made from the proceeds of bonds, notes or other obligations issued by the New York state thruway authority pursuant to section 380 of the public authorities law or otherwise as determined by the director of the budget.

S 3. Subdivision (f) of section 16-a of chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, as added

by section 3 of part A of chapter 60 of the laws of 2011, is amended to read as follows:

(f) For purposes of this section and section 10-c of the highway law, for projects completed on or before March 31, [2012] 2013 local highway and bridge projects may also include the following work types: (1) microsurfacing, (2) paver placed surface treatment, (3) single course surface treatment involving chip seals and oil and stone, and (4) double course surface treatment involving chip seals and oil and stone, however, no reimbursement shall be made for (1) microsurfacing, (2) paver placed surface treatment, (3) single course surface treatment involving chip seals and oil and stone, and (4) double course surface treatment involving chip seals and oil and stone after March 31, [2012] 2013. Reimbursement for projects using these treatments may be made from the proceeds of bonds, notes or other obligations issued by the New York state thruway authority pursuant to section 380 of the public authorities law or otherwise as determined by the director of the budget.

S 4. Subdivision (d) of section 11 of chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, as amended by section 4 of part A of chapter 60 of the laws of 2011, is amended to read as follows:

(d) Any such service contract (i) shall provide that the obligation of the director of the budget or the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provisions in the event the thruway authority assigns or pledges service contract payments as security for its bonds or notes, (ii) shall be deemed executory only to the extent moneys are available and that no liability shall be incurred by the state beyond the moneys available for the purpose, and that such obligation is subject to annual appropriation by the legislature, and (iii) shall provide that no funds shall be made available from the proceeds of bonds or notes issued pursuant to this chapter unless the commissioner of transportation has certified to the chairman of the thruway authority that such funds shall be used exclusively for the purposes authorized by subdivision (a) of this section, and/or construction, reconstruction or improvement of local highways, bridges and/or highway-railroad crossings, including right of way acquisition, preliminary engineering, and construction supervision and inspection, where the service life of the project is at least ten years or for projects completed on or before March 31, [2012] 2013 where the project is: (1) microsurfacing, (2) paver placed surface treatment, (3) single course surface treatment involving chip seals and oil and stone and (4) double course surface treatment involving chip seals and oil and stone, and unless the director of the budget has certified to the chairman of the thruway authority that a spending plan has been submitted by the commissioner of transportation and has been approved by the director of the budget. No reimbursement shall be made for (1) microsurfacing, (2) paver placed surface treatment, (3) single course surface treatment involving chip seals and oil and stone, and (4) double course surface treatment involving chip seals and oil and stone after March 31, [2012] 2013.

S 5. Subdivision (b) of section 16 of chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, as amended by section 5 of part A of chapter 60 of the laws of 2011, is amended to read as follows:

(b) Each county, city, town and village shall certify to the commissioner of transportation that amounts to be reimbursed are for construction, reconstruction or improvement of local highways, bridges and/or highway-railroad crossings, including right of way acquisition, preliminary engineering, and construction supervision and inspection where the service life of the project is at least ten years or for projects completed on or before March 31, [2012] 2013 where the project is: (1) microsurfacing, (2) paver placed surface treatment, (3) single course surface treatment involving chip seals and oil and stone and (4) double course surface treatment involving chip seals and oil and stone. No reimbursement shall be made for (1) microsurfacing, (2) paver placed surface treatment, (3) single course surface treatment involving chip seals and oil and stone, and (4) double course surface treatment involving chip seals and oil and stone after March 31, [2012] 2013. Such certification shall include any such information as may be necessary to maintain the federal tax exempt status of bonds, notes or other obligations issued by the New York state thruway authority pursuant to section 380 of the public authorities law. The commissioner of transportation shall in writing request the municipalities to furnish such information as may be necessary to comply with this section.

S 6. Subdivision (b) of section 16-a of chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, as amended by section 6 of part A of chapter 60 of the laws of 2011, is amended to read as follows:

(b) Each county, city, town and village shall certify to the commissioner of transportation that amounts to be reimbursed are for construction, reconstruction or improvement of local highways, bridges and/or highway-railroad crossings, including right of way acquisition, preliminary engineering, and construction supervision and inspection where the service life of the project is at least ten years or for projects completed on or before March 31, [2012] 2013 where the project is: (1) microsurfacing, (2) paver placed surface treatment, (3) single course surface treatment involving chip seals and oil and stone and (4) double course surface treatment involving chip seals and oil and stone. No reimbursement shall be made for (1) microsurfacing, (2) paver placed surface treatment, (3) single course surface treatment involving chip seals and oil and stone, and (4) double course surface treatment involving chip seals and oil and stone after March 31, [2012] 2013. Such certification shall include any such information as may be necessary to maintain the federal tax exempt status of bonds, notes or other obligations issued by the New York state thruway authority pursuant to section 380 of the public authorities law. The commissioner shall in writing request the municipalities to furnish such information as may be necessary to comply with this section.

S 7. Section 7 of part A of chapter 60 of the laws of 2011, authorizing funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2011-2012 and amending chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, is amended to read as follows:

S 7. This act shall take effect immediately; provided, however, that sections two, three, four, five and six of this act shall expire and be deemed repealed on April 1, [2012] 2013.

S 8. This act shall take effect immediately; provided, however, that the amendments to subdivisions (f) and (b) of section 16 of chapter 329

of the laws of 1991 made by sections two and five of this act, respectively, shall not affect the repeal of such subdivisions and shall be deemed repealed therewith; provided, further, that the amendments to subdivisions (f) and (b) of section 16-a of chapter 329 of the laws of 1991 made by sections three and six of this act, respectively, shall not affect the repeal of such subdivisions and shall be deemed repealed therewith; and provided, further, that the amendments to subdivision (d) of section 11 of chapter 329 of the laws of 1991 made by section four of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.

PART B

Section 1. Section 326 of the highway law, as amended by chapter 1110 of the laws of 1971, is amended to read as follows:

S 326. Penalties, how recovered. All penalties or forfeitures given in this chapter, and not otherwise specially provided for, shall be recovered by the town superintendent, in the name of the town in which the offense shall be committed; and when recovered, shall be applied by them in improving the highways and bridges in such town, except that if the offense occurs on any highway included in the systems defined by section three hundred forty-one of this chapter, such penalties or forfeitures may be recovered by the commissioner of transportation and where so recovered shall be [paid to the state treasurer to the credit of the fund available for the maintenance and repair of state highways] DEPOSITED BY THE COMPTROLLER INTO THE SPECIAL OBLIGATION RESERVE AND PAYMENT ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW.

S 2. Paragraph (a) of subdivision 3 of section 89-b of the state finance law, as amended by section 2 of chapter 165 of the laws of 2008, is amended to read as follows:

(a) The special obligation reserve and payment account shall consist (i) of all moneys required to be deposited in the dedicated highway and bridge trust fund pursuant to the provisions of sections two hundred five, two hundred eighty-nine-e, three hundred one-j, five hundred fifteen and eleven hundred sixty-seven of the tax law, section four hundred one of the vehicle and traffic law, and section thirty-one of chapter fifty-six of the laws of nineteen hundred ninety-three, (ii) all fees, fines or penalties collected by the commissioner of transportation pursuant to section fifty-two, SECTION THREE HUNDRED TWENTY-SIX, and subdivisions five, eight and twelve of section eighty-eight of the highway law, subdivision fifteen of section three hundred eighty-five of the vehicle and traffic law, section two of the chapter of the laws of two thousand three that amended this paragraph, subdivision (d) of section three hundred four-a, paragraph one of subdivision (a) and subdivision (d) of section three hundred five, subdivision six-a of section four hundred fifteen and subdivision (g) of section twenty-one hundred twenty-five of the vehicle and traffic law, section fifteen of this chapter, excepting moneys deposited with the state on account of betterments performed pursuant to subdivision twenty-seven or subdivision thirty-five of section ten of the highway law, (iii) any moneys collected by the department of transportation for services provided pursuant to agreements entered into in accordance with section ninety-nine-r of the general municipal law, and (iv) any other moneys collected therefor or credited or transferred thereto from any other fund, account or source.

S 3. Paragraph (a) of subdivision 3 of section 89-b of the state finance law, as amended by section 3 of chapter 165 of the laws of 2008, is amended to read as follows:

(a) The special obligation reserve and payment account shall consist (i) of all moneys required to be deposited in the dedicated highway and bridge trust fund pursuant to the provisions of sections two hundred eighty-nine-e, three hundred one-j, five hundred fifteen and eleven hundred sixty-seven of the tax law, section four hundred one of the vehicle and traffic law, and section thirty-one of chapter fifty-six of the laws of nineteen hundred ninety-three, (ii) all fees, fines or penalties collected by the commissioner of transportation pursuant to section fifty-two, SECTION THREE HUNDRED TWENTY-SIX, and subdivisions five, eight and twelve of section eighty-eight of the highway law, subdivision fifteen of section three hundred eighty-five of the vehicle and traffic law, section fifteen of this chapter, excepting moneys deposited with the state on account of betterments performed pursuant to subdivision twenty-seven or subdivision thirty-five of section ten of the highway law, (iii) any moneys collected by the department of transportation for services provided pursuant to agreements entered into in accordance with section ninety-nine-r of the general municipal law, and (iv) any other moneys collected therefor or credited or transferred thereto from any other fund, account or source.

S 4. This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after April 1, 2012; and provided, however, that the amendments to paragraph (a) of subdivision 3 of section 89-b of the state finance law made by section two of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 13 of part U-1 of chapter 62 of the laws of 2003, as amended, when upon such date the provisions of section three of this act shall take effect.

PART C

Section 1. Subdivision 3 of section 140 of the transportation law, as added by chapter 635 of the laws of 1983, is amended to read as follows:

3. No motor vehicle [carrying] DESIGNED TO CARRY passengers, as described in subdivision two of this section, shall be operated within the state unless it carries prominently displayed thereon the name of the operator and certificate evidencing an inspection in accordance with the rules and regulations of the commissioner [within a period of six months last preceding]. The commissioner may, by order, rule or regulation, exempt from the requirements of this subdivision, vehicles which are not operated exclusively in transportation services for which inspection is required, provided that written evidence of the names otherwise subject to prominent display and such a certificate of inspection are at all times carried within such vehicles to be made available for examination upon proper demand, while the vehicles are operated in such 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, 2012.

PART D

Section 1. Subdivision 1 of section 502 of the vehicle and traffic law, as amended by section 2 of part CC of chapter 58 of the laws of 2011, is amended to read as follows:

1. Application for license. Application for a driver's license shall be made to the commissioner. The fee prescribed by law may be submitted with such application. The applicant shall furnish such proof of identity, age, and fitness as may be required by the commissioner. The commissioner may also provide that the application procedure shall include the taking of a photo image or images of the applicant in accordance with rules and regulations prescribed by the commissioner. In addition, the commissioner also shall require that the applicant provide his or her social security number and provide space on the application so that the applicant may register in the New York state organ and tissue donor registry under section forty-three hundred ten of the public health law. In addition, an applicant for a commercial driver's license who will operate a commercial motor vehicle in interstate commerce shall certify that such applicant meets the requirements to operate a commercial motor vehicle, as set forth in public law 99-570, title XII, and title 49 of the code of federal regulations, and all regulations promulgated by the United States secretary of transportation under the hazardous materials transportation act. In addition, an applicant for a commercial driver's license shall submit a medical certificate at such intervals as required by the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations relating to medical certification and in a manner prescribed by the commissioner. For purposes of this section and sections five hundred three [and], five hundred ten-a, AND FIVE HUNDRED TEN-AA of this title, the [term] TERMS "medical certificate" AND "MEDICAL CERTIFICATION" shall mean a form substantially in compliance with the form set forth in Part 391.43(h) of title 49 of the code of federal regulations. Upon a determination that the holder of a commercial driver's license has made any false statement, with respect to the application for such license, the commissioner shall revoke such license.

S 2. Paragraph (b) of subdivision 1 of section 503 of the vehicle and traffic law, as amended by section 3 of part CC of chapter 58 of the laws of 2011, is amended to read as follows:

(b) An application for a license shall be valid for a period of time specified by regulation of the commissioner not to exceed five years. A learner's permit shall be valid from its issuance until the expiration of the application for a driver's license for which it was issued. Provided, however, that [if the medical certificate submitted in accordance with the requirements of the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations by an applicant for a commercial driver's license expires, any] A learner's permit [that may have been] issued by the commissioner in connection with [the] AN application FOR A COMMERCIAL DRIVER'S LICENSE shall be [suspended] CANCELLED UPON: (I) THE EXPIRATION OF THE HOLDER'S MEDICAL CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION REQUIRED BY THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS; (II) THE HOLDER'S FAILURE TO SUBMIT SUCH MEDICAL CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION WHEN REQUIRED TO DO SO BY THE COMMISSIONER; OR (III) THE RECEIPT BY THE COMMISSIONER OF INFORMATION FROM THE ISSUING MEDICAL EXAMINER OR THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION THAT A MEDICAL CERTIFICATION OR MEDICAL VARIANCE WAS ISSUED IN ERROR.

S 3. Paragraph (f) of subdivision 3 of section 510-a of the vehicle and traffic law is REPEALED.

S 4. The vehicle and traffic law is amended by adding a new section 510-aa to read as follows:

S 510-AA. DOWNGRADE OF COMMERCIAL DRIVER'S LICENSES. A COMMERCIAL DRIVER'S LICENSE SHALL BE DOWNGRADED TO A NON-COMMERCIAL DRIVER'S LICENSE BY THE COMMISSIONER UPON THE EXPIRATION OF THE HOLDER'S MEDICAL CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION REQUIRED BY THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS, OR UPON THE HOLDER'S FAILURE TO SUBMIT SUCH MEDICAL CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION WHEN REQUIRED TO DO SO BY THE COMMISSIONER. A COMMERCIAL DRIVER'S LICENSE SHALL ALSO BE DOWNGRADED TO A NON-COMMERCIAL DRIVER'S LICENSE BY THE COMMISSIONER UPON RECEIPT OF INFORMATION FROM THE ISSUING MEDICAL EXAMINER OR THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION THAT A MEDICAL CERTIFICATION OR MEDICAL VARIANCE WAS ISSUED IN ERROR. SUCH DOWNGRADE SHALL BE TERMINATED, AND THE COMMERCIAL DRIVER'S LICENSE RESTORED, UPON: (1) THE HOLDER'S SUBMISSION OF THE REQUIRED VALID MEDICAL EXAMINER'S CERTIFICATE OR MEDICAL VARIANCE DOCUMENTATION; OR (2) THE HOLDER'S SELF-CERTIFICATION SPECIFYING THE TYPE OF COMMERCIAL MOTOR VEHICLE OPERATION HE OR SHE ENGAGES, OR EXPECTS TO ENGAGE IN, AND THAT THE HOLDER IS THEREFORE NOT SUBJECT TO THE PHYSICAL QUALIFICATION REQUIREMENTS OF THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS.

S 5. Section 509 of the vehicle and traffic law is amended by adding a new subdivision 7-a to read as follows:

7-A. NO PERSON SHALL OPERATE A COMMERCIAL MOTOR VEHICLE UNLESS MEDICALLY CERTIFIED IN ACCORDANCE WITH THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS.

S 6. This act shall take effect immediately; provided, however, that if sections 2 and 3 of part CC of chapter 58 of the laws of 2011 shall not have taken effect on or before such date then sections one and two of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2011 takes effect; provided further, however, that section five of this act shall take effect on the sixtieth day after it shall have become a law.

## PART E

Section 1. Subdivision 12 of section 1269 of the public authorities law, as amended by section 1 of part NN of chapter 59 of the laws of 2010, 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] TITLE for the period nineteen hundred ninety-two through two thousand fourteen shall not exceed [thirty-four] FORTY-ONE 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 F

Section 1. Section 205 of the vehicle and traffic law is amended by adding a new subdivision 3-a to read as follows:

3-A. IN ADDITION TO THE FEES RETAINED PURSUANT TO SUBDIVISION THREE OF THIS SECTION, EACH COUNTY CLERK ACTING AS THE AGENT OF THE COMMISSIONER PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL RETAIN FOUR PERCENT OF "ENHANCED INTERNET AND ELECTRONIC PARTNER REVENUE" COLLECTED BY THE COMMISSIONER. FOR THE PURPOSES OF THIS SUBDIVISION, "ENHANCED INTERNET AND ELECTRONIC PARTNER REVENUE" SHALL MEAN THE AMOUNT OF GROSS RECEIPTS ATTRIBUTABLE TO ALL TRANSACTIONS CONDUCTED ON THE INTERNET BY RESIDENTS OF SUCH COUNTY AND BY DESIGNATED PARTNERS OF THE DEPARTMENT ON BEHALF OF SUCH RESIDENTS FOR THE CURRENT CALENDAR YEAR THAT EXCEEDS THE AMOUNT OF SUCH REVENUE COLLECTED BY THE COMMISSIONER DURING CALENDAR YEAR TWO THOUSAND ELEVEN. THE COMMISSIONER SHALL CERTIFY THE AMOUNTS TO BE RETAINED BY EACH COUNTY CLERK PURSUANT TO THIS SUBDIVISION. PROVIDED, HOWEVER, THAT IF THE AGGREGATE AMOUNT OF FEES RETAINED BY COUNTY CLERKS PURSUANT TO THIS SUBDIVISION IN CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN COMBINED EXCEEDS EIGHTY-EIGHT MILLION FIVE HUNDRED THOUSAND DOLLARS, THEN THE PERCENTAGE OF FEES TO BE RETAINED THEREAFTER SHALL BE REDUCED TO A PERCENTAGE THAT, IF APPLIED TO THE FEES COLLECTED DURING CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN COMBINED, WOULD HAVE RESULTED IN AN AGGREGATE RETENTION OF EIGHTY-EIGHT MILLION FIVE HUNDRED THOUSAND DOLLARS OR 2.5 PERCENT OF ENHANCED INTERNET AND ELECTRONIC PARTNER REVENUE, WHICHEVER IS HIGHER. IF THE AGGREGATE AMOUNT OF FEES RETAINED BY COUNTY CLERKS PURSUANT TO THIS SUBDIVISION IN CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN COMBINED IS LESS THAN EIGHTY-EIGHT MILLION FIVE HUNDRED THOUSAND DOLLARS, THEN THE PERCENTAGE OF FEES TO BE RETAINED THEREAFTER SHALL BE INCREASED TO A PERCENTAGE THAT, IF APPLIED TO THE FEES COLLECTED DURING CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN COMBINED, WOULD HAVE RESULTED IN AN AGGREGATE RETENTION OF EIGHTY-EIGHT MILLION

FIVE HUNDRED THOUSAND DOLLARS, OR SIX PERCENT OF ENHANCED INTERNET AND ELECTRONIC PARTNER REVENUE, WHICHEVER IS LESS. ON AND AFTER APRIL FIRST, TWO THOUSAND SIXTEEN, THE PERCENT OF ENHANCED INTERNET AND ELECTRONIC PARTNER REVENUE TO BE RETAINED BY COUNTY CLERKS SHALL BE THE AVERAGE OF THE ANNUAL PERCENTAGES THAT WERE IN EFFECT BETWEEN APRIL FIRST, TWO THOUSAND TWELVE AND MARCH THIRTY-FIRST, TWO THOUSAND SIXTEEN.

S 2. This act shall take effect April 1, 2012.

PART G

Section 1. Subdivision 1 of section 140 of the transportation law, as added by chapter 635 of the laws of 1983, is amended to read as follows:

1. Every [common and contract] FOR HIRE AND PRIVATE carrier of passenger by motor vehicle INVOLVED IN INTERSTATE, INTRASTATE, OR INTERNATIONAL COMMERCE DOMICILED IN NEW YORK shall furnish and provide with respect thereto such service and facilities as shall be safe and adequate. Any such carrier shall give immediate notice to the commissioner of every accident to which it shall, in the course of its operations, have been a party.

S 2. Subparagraph (ii) of paragraph a of subdivision 2 of section 140 of the transportation law, as amended by chapter 602 of the laws of 1985, is amended to read as follows:

(ii) All MOTOR CARRIERS, EMPLOYEES AND motor vehicles [operated pursuant to or requiring a certificate or permit for the transportation of passengers or property from the interstate commerce commission or the commissioner] THAT TRANSPORT PROPERTY OR PASSENGERS IN INTRASTATE, INTERSTATE, OR INTERNATIONAL COMMERCE.

S 3. Paragraphs b and c of subdivision 2 of section 140 of the transportation law, paragraph b as amended by chapter 173 of the laws of 1990 and paragraph c as amended by chapter 602 of the laws of 1985, are amended to read as follows:

b. [In addition to those vehicles operated pursuant to or requiring a certificate or a permit for the transportation of property from the interstate commerce commission or the commissioner as set forth in subparagraph (ii) of paragraph a of this subdivision, the commissioner shall have the power to adopt rules and regulations governing the safety of operation of other motor vehicles operated for the commercial transportation of property.

c.] The department shall have the power to examine vehicles, facilities and records subject to the provisions of this subdivision, at any time and place where they are found, to ascertain whether such rules and regulations are being obeyed. The rules and regulations of the commissioner shall provide for the inspection of all such vehicles, FACILITIES AND RECORDS SUBJECT TO THE PROVISIONS OF THIS SUBDIVISION, at such periods and at such manner as the commissioner may direct, and, when adopted, shall have the full force and effect of law.

S 3-a. Paragraph d of subdivision 2 of section 140 of the transportation law is relettered paragraph c and subparagraph (i) of such paragraph, as added by chapter 173 of the laws of 1990, is amended to read as follows:

(i) No MOTOR CARRIER, EMPLOYEE OR motor vehicle [operated pursuant to or requiring a certificate or a permit for the transportation of property from the interstate commerce commission or the commissioner and no motor vehicle operated for the commercial transportation of property] THAT TRANSPORTS PROPERTY OR PASSENGERS IN INTRASTATE, INTERSTATE, OR INTERNATIONAL COMMERCE shall [be operated] OPERATE in this state unless

[it] SUCH MOTOR CARRIER, EMPLOYEE OR MOTOR VEHICLE is in compliance with the department's safety rules and regulations.

S 4. Subdivisions 4 and 5 of section 140 of the transportation law, subdivision 4 as added by chapter 635 of the laws of 1983 and subdivision 5 as amended by chapter 731 of the laws of 1988, are amended to read as follows:

4. Each motor vehicle engaged in the interstate OR INTERNATIONAL transportation of passengers operated within the state shall be subject to subdivision three of this section as to the display of the name of the operator thereof, and of such certificate of inspection as to the safety of its appliances, equipment and mechanical operation, as the commissioner may, by rules and regulations require. In respect to such motor vehicle, the commissioner may, in lieu of a certificate of the commissioner, authorize the display of a certificate of inspection issued within a period of [six] TWELVE months last preceding, by a regulatory body of another state, or a province of Canada, having safety standards determined by the commissioner not to be substantially lower than those prescribed by the commissioner. The rules and regulations to be adopted under this subdivision shall insofar as practicable be uniform and the provisions of the vehicle and traffic law so far as applicable and not in conflict with the provisions of this subdivision, shall continue to apply to all such motor vehicles.

5. No motor vehicle with a seating capacity of more than eleven passengers manufactured after December thirty-first, nineteen hundred seventy-five, used in the business of transporting school children for hire or used for the transportation of school children, owned and/or operated by school districts or by any public or private school shall be operated within the state, unless each seat, other than the driver's seat, on such vehicle is equipped with a padded back at least twenty-eight inches in height of a type and specification approved by the commissioner. Any person who operates a motor vehicle in violation of the requirement for such seat backs shall be guilty of a violation, punishable by a fine not exceeding one hundred dollars. The provisions of this subdivision shall not apply to any bus used for the transportation of pupils, teachers and other persons acting in a supervisory capacity to and from school activities and which bus does not receive or discharge passengers on or along the public highways on regularly scheduled routes and which is being operated pursuant to [a permit or certificate of public convenience and necessity] FOR-HIRE OPERATING AUTHORITY issued by the commissioner or by the [interstate commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION. School buses manufactured or assembled prior to April first, nineteen hundred seventy-seven may not be used to transport pupils, teachers and other persons acting in a supervisory capacity to and from school activities.

S 5. The closing paragraph of section 151 of the transportation law, as added by chapter 635 of the laws of 1983, is amended to read as follows:

For the purposes of this article, the term "sedan" or "sedans" as used herein shall include private passenger automobiles [larger than a conventional sedan and commonly known as a limousine], but shall not include [vans or buses] VEHICLES WITH A SEATING CAPACITY OF ELEVEN PERSONS OR MORE INCLUDING THE DRIVER.

S 6. Section 210 of the transportation law, as amended by chapter 488 of the laws of 1979, is amended to read as follows:

S 210. Application of this article. The term "motor truck" as used in this article shall be deemed to mean and include any motor vehicle held

and used for the transportation of goods, wares and merchandise for hire or for a business purpose, [including such motor vehicles commonly known as an auto truck or light delivery car] PURSUANT TO THE RULES AND REGULATIONS OF THE COMMISSIONER. The term "motor bus" as used in this article shall be deemed to mean and include any motor vehicle held and used for the transportation of passengers for hire OR FOR A BUSINESS PURPOSE, PURSUANT TO THE RULES AND REGULATIONS OF THE COMMISSIONER.

S 7. Section 211 of the transportation law, as amended by chapter 475 of the laws of 1996, is amended to read as follows:

S 211. General provisions. No driver of a motor truck or motor bus shall drive such vehicle or be on duty for any period of time in excess of that authorized pursuant to regulation of the commissioner. The commissioner is hereby authorized to promulgate rules and regulations governing the hours of service of drivers of motor trucks and motor buses. Such rules and regulations shall be no less protective of public safety than the rules and regulations promulgated by the federal government with respect to hours of labor of operation of motor trucks and motor buses, provided, however, that with regard to drivers of motor buses [operated exclusively in a town or county or] operated by a public transportation authority operating exclusively within its jurisdictional area, the rules and regulations of the commissioner shall provide that no driver of such motor buses shall drive more than twelve hours following eight consecutive hours off duty and no driver of such motor buses shall drive for any period after having been on duty for fifteen hours following eight consecutive hours off duty and every driver of such motor buses shall have at least twenty-four consecutive hours off duty in every period of seven consecutive days and in no event shall such a driver be on duty for more than seventy-five hours in any period of seven consecutive days.

S 8. Section 212 of the transportation law, as added by chapter 342 of the laws of 1974, subdivision a as amended by chapter 843 of the laws of 1980, is amended to read as follows:

S 212. Records. [a.] Every driver of a motor truck or motor bus shall keep and carry on the vehicle records showing the day and hour when and the place where he went and was released from duty, whether in this state or outside of this state. The commissioner shall prescribe the form of such records and may require such other information to be shown thereon as he shall deem advisable to insure the proper enforcement of this article. Such records shall be exhibited to the commissioner, his representatives, or to any peace officer, acting pursuant to his special duties or police officer who shall demand to see the same and shall be held available for further inspection for a period of sixty days within the state of New York in an office designated by the owner. Failure to produce such records upon demand shall be presumptive evidence of a violation of this article relating to keeping such records. In any prosecution for the violation of any of the provisions of this article such records shall be prima facie evidence of the truth of the contents thereof.

[b. The provisions of this article with reference to the carrying of records on the vehicle shall not apply to the operation of a motor bus or motor buses operated on fixed schedules, but this shall not relieve any corporation, company, association, joint-stock association, partnership or person engaged in the operation of a motor bus or motor buses on fixed schedules from the necessity of keeping such records and having them available in an office within the state of New York.]

S 9. Section 214 of the transportation law is REPEALED.

S 10. Paragraph (a) of subdivision 1 of section 14-f of the transportation law, as added by chapter 963 of the laws of 1981, subparagraphs 7 and 8 as amended and subparagraphs 9, 10 and 11 as added by chapter 186 of the laws of 1987, subparagraph 9 as amended by chapter 180 and subparagraph 12 as amended by chapter 190 of the laws of 1989 and the second undesignated paragraph as amended by chapter 402 of the laws of 1993, is amended to read as follows:

(a) Have the power to make rules and regulations governing transportation of hazardous materials, which shall mean a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce, by all modes AS DEFINED BY THE RULES AND REGULATIONS OF THE DEPARTMENT. [For purposes of this section, the term "hazardous materials" shall include the following:

(1) "Irritating material" which shall mean a liquid or solid substance which upon contact with fire or when exposed to air gives off dangerous or intensely irritating fumes such as benzylcyande, chloracetophenone, diphenylaminechlorarsine, and diphenyl chlorarsine, but not including any poisonous material, Class A;

(2) "Poison A" which shall mean those poisonous gases or liquids of such nature that a small amount of the gas, liquid or vapor of the liquid, when in contact with air is dangerous to life. This class includes the following: bromacetone, cyanogen, cyanogen chloride containing less than 0.9 percent water, diphosgene, ethyldichlorarsine, hydrocyanic acid, methyldichlorarsine, nitrogen peroxide (tetroxide), phosgene (diphosgene), nitrogen tetroxide - nitric oxide mixtures containing up to 33.2 percent weight nitric oxide;

(3) "Poison B" which shall mean those substances, liquid or solid (including pastes and semi-solids), other than Class A poisons or irritating materials, which are known to be so toxic as to be a hazard to health;

(4) "Corrosive materials" which shall mean those acids, alkaline caustic liquids and other corrosive liquids or solids which when in contact with living tissue, will cause severe damage of such tissue by chemical action; or in the case of leakage, will materially damage or destroy other freight by chemical action; or are liable to cause fire when in contact with organic matter or with certain chemicals that cause visible destruction or irreversible alteration in human skin tissue at the site of contact;

(5) "Oxidizing materials" which shall mean those substances such as a chlorate, permanganate, peroxide, or a nitrate, that yields oxygen readily to stimulate the combustion of organic matter;

(6) "Flammable solids" which shall mean any solid material, other than one designated an explosive, as further defined in this section, which under conditions incident to transportation, cause fires through friction, through absorption of moisture, through spontaneous chemical changes, or as a result of retained heat from the manufacturing or processing. Included in this class are spontaneously combustible and water-reactive materials;

(7) "Flammable liquids" which shall mean any liquid, except any liquid meeting the definition of subparagraph nine, ten or eleven of this paragraph, which gives off flammable vapors below a temperature of one hundred degrees Fahrenheit;

(8) "Radioactive materials" which shall mean irradiated nuclear reactor fuel and the waste by-products of reprocessed irradiated nuclear reactor fuel and any other material or combination of materials that spontaneously emits ionizing radiation which the commissioner of trans-

portation determines by regulation to present significant potential threat to public health and safety;

(9) "Liquefied compressed gas" which shall mean a gas liquefied through compression and under charged pressure is partially liquid at a temperature of seventy degrees Fahrenheit;

(9) "Regulated medical waste" which shall be defined as provided in subdivision one of section 27-1501 of the environmental conservation law.

(10) "Cryogenic liquid" which shall mean a refrigerated liquefied gas having a boiling point colder than minus one hundred thirty degrees Fahrenheit (minus ninety degrees centigrade) at one atmosphere absolute;

(11) "Flammable compressed gas" which shall mean any material or mixture having in the container an absolute pressure exceeding forty p.s.i. at seventy degrees Fahrenheit, or, regardless of the pressure at seventy degrees Fahrenheit, having an absolute pressure exceeding one hundred four p.s.i. at one hundred thirty degrees Fahrenheit, or any liquid flammable material having a vapor pressure exceeding forty p.s.i. absolute at one hundred degrees Fahrenheit as determined by ASTM test D-323, if any one of the following occurs:

(i) either a mixture of thirteen percent or less, (by volume) with air forms a flammable mixture or the flammable range with air is wider than twelve percent regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure;

(ii) using the bureau of explosives, association of American railroads flame projection apparatus, the flame projects more than eighteen inches beyond the ignition source with valve open fully, or, the flame flashes back and burns at the valve with any degree of valve opening;

(iii) using the bureau of explosives, association of American railroads open drum apparatus, there is any significant propagation of flame away from the ignition source;

(iv) using the bureau of explosives, association of American railroads close drum apparatus, there is any explosion of the vapor-air mixture in the drum; and

(12) Other identical or similar substances which shall from time to time be identified by the commissioner of transportation by rules and regulations promulgated pursuant to this section as being hazardous materials, provided, however, that this section shall not apply to the regular military or naval forces of the United States; nor to the duly authorized militia of any state or territory thereof; nor to the police or fire departments of this state, or of its counties, cities, towns, villages, agencies or instrumentalities, providing the same are acting within their official capacity and in the performance of their duties.

Such rules and regulations shall be no less protective of public safety than the rules and regulations promulgated by the federal government with respect to the transportation of hazardous materials. The regulations shall set forth the criteria for identifying and listing, and a list of hazardous materials subject to this section as may be amended by the commissioner of transportation from time to time in a manner consistent with the state administrative procedure act and consistent with this section. Such regulations shall include specifications for marking and placarding of vehicles transporting hazardous materials as will be applied pursuant to paragraph (a) of subdivision three of this section. The regulations promulgated hereunder shall include notice that a violation of the rules and regulations is subject to a fine or a period of imprisonment, and the rules and regulations shall set forth the penalty provisions contained in subdivision four of this section.

Provided, however, that all local laws or ordinances, except those of cities having a population of one million or more, regulating the transportation of flammable liquids in trucks, trailers or semi-trailers, are hereby superseded and without force and hereafter no such local law or ordinance shall be adopted to regulate or control the equipment or means of transporting flammable liquids in trucks, trailers or semi-trailers.

For the purposes of this section, a "vehicle" shall mean every device in which property may be transported upon a highway, stationary rails or tracks, or on the navigable waterways of the state.]

S 11. Subdivision 3 of section 14-g of the transportation law, as amended by chapter 921 of the laws of 1983, is amended to read as follows:

3. For the purposes of this section, the term "intercity bus passenger service" shall mean transportation provided to the public on a regular and continuing basis by a person, firm, or corporation authorized to transport passengers in interstate commerce by the [interstate commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION or in intrastate commerce by the state department of transportation that is primarily intended to satisfy longer distance travel demand between cities, and villages and unincorporated urban places that have a population of two thousand five hundred or more. Such term does not include services that are primarily local or commuter oriented in nature.

S 12. Subdivisions 1-a, 1-b and 2 of section 18 of the transportation law, as amended by chapter 199 of the laws of 1987, are amended to read as follows:

1-a. The department of transportation is hereby designated the official state agency to receive all notifications from the [federal interstate commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION or any other federal or state agency in regard to discontinuance of service or railroad property abandonment proceedings, including notification of applications from railroad companies for any such purposes.

1-b. The department of transportation shall promptly inform in writing all interested state agencies, transportation authorities, and every county, city, town and village in which such property is located and the appropriate entity designated by the governor pursuant to title IV of the federal intergovernmental cooperation act of nineteen hundred sixty-eight and the federal office of management and budget circular A-98 of (a) the issuance of any certificate from the [federal interstate commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION or other federal or state agency authorizing discontinuance of railroad service or abandonment of railroad transportation property, (b) approval of discontinuance of service or a determination of abandonment of railroad transportation property pursuant to this section, and (c) the receipt of an application to release a preferential acquisition right to railroad transportation property pursuant to this section.

2. For the purposes of this section, property shall be deemed to be abandoned for railroad transportation purposes (a) when, where required by law, a certificate of abandonment of the railroad line situate thereon has been issued by the [interstate commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION and/or any other federal or state agency having jurisdiction thereof; or (b) when such a certificate of abandonment is not so required and the use of such property for railroad transportation purposes has been discontinued with the intent not to resume. Intent not to resume may be inferred from circumstances. Non-use of the property for railroad transportation purposes for two consecutive years shall create a presumption of abandonment. When use of such property

for railroad transportation purposes has been discontinued and upon request of the property owner or his own motion, the commissioner shall undertake an investigation thereof, which may include consultation with the [interstate commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION, and shall render a determination as to whether or not (a) the property owner has definite plans for the use of such property for purposes ordinarily associated with the safe and normal operation of a railroad or associated transportation purposes; (b) such property continues to be suitable for such railroad transportation purposes; and (c) such property is necessary, either presently or in the future, for such railroad transportation purposes. Such property shall be deemed to be abandoned for railroad transportation purposes if the commissioner shall determine that (a) the property owner has no definite plans for the use of such property for purposes ordinarily associated with the safe and normal operation of a railroad or associated transportation purposes; or (b) such property is no longer suitable for such railroad transportation purposes; and (c) such property is not necessary, either presently or in the future, for such railroad transportation purposes. The commissioner shall render such determination within ninety days after the commencement of such investigation and such determination shall be conclusive except that if the property is determined not to be so abandoned such determination shall not preclude the undertaking of a subsequent investigation concerning the same property. Sales of abandoned railroad transportation property for continued or resumed rail transportation use may be exempted at the commissioner's discretion from the preferential right of acquisition. This section shall not apply to the subsequent resale of property lawfully acquired subject to the provisions of this section as then applicable, except when the subsequent sale involves property previously exempted from this section by the commissioner.

S 13. Section 98 of the transportation law, as added by chapter 267 of the laws of 1970, is amended to read as follows:

S 98. Tariff schedules; publication. Every common carrier shall file with the commissioner and shall print and keep open to public inspection schedules showing the rates, fares and charges for the transportation of passengers and property within the state between each point upon its route and all other points thereon; and between each point upon its route and all points upon every route leased, operated or controlled by it; and between each point on its route or upon any route leased, operated or controlled by it and all points upon the route of any other common carrier, whenever a through route and joint rate shall have been established or ordered between any two such points. If no joint rate over a through route has been established, the several carriers in such through route shall file, print and keep open to public inspection, as aforesaid, the separately established rates, fares and charges applied to the through transportation. The schedules printed as aforesaid shall plainly state the places between which property and passengers will be carried, and shall also contain the classification of passengers or property in force, and shall also state separately all terminal charges, storage charges, icing charges, and all other charges which the commissioner may require to be stated, all privileges or facilities granted or allowed, and any rules or regulations which may in anywise change, affect or determine any part, or the aggregate of, such aforesaid rates, fares and charges, or the value of the service rendered to the passenger, shipper or consignee. Such schedules shall be plainly printed in large type, and a copy thereof shall be kept by every such carrier read-

ily accessible to and for convenient inspection by the public in every station or office of such carrier where passengers or property are respectively received for transportation, when such station or office is in charge of an agent, and in every station or office of such carrier where passenger tickets for transportation or tickets covering sleeping or parlor car or other train accommodation are sold or bills of lading or receipts for property are issued. All or any of such schedules kept as aforesaid shall be immediately produced by such carrier for inspection upon the demand of any person. A notice printed in bold type and stating that such schedules are on file with the agent and open to inspection by any person and that the agent will assist any such person to determine from such schedules any transportation rates or fares or rules or regulations which are in force shall be kept posted by the carrier in two public and conspicuous places in every such station or office. The form of every such schedule shall be prescribed by the commissioner and shall conform in the case of railroad company as nearly as may be to the form of schedule required by the [interstate commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION under the act of congress entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven and the acts amendatory thereof and supplementary thereto. The commissioner shall have power, from time to time, in his discretion, to determine and prescribe by order such changes in the form of such schedules as may be found expedient, and to modify the requirements of this section in respect to publishing, posting and filing of schedules either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

S 14. Section 126 of the transportation law, as added by chapter 267 of the laws of 1970, is amended to read as follows:

S 126. Uniform system of accounts; access to accounts; forfeitures. The commissioner may, whenever he deems advisable, establish a system of accounts to be used by common carriers which are subject to his supervision, or may classify the said carriers and prescribe a system of accounts for each class, and may prescribe the manner in which such accounts shall be kept. He may also in his discretion prescribe the forms of accounts, records and memoranda to be kept by such carriers, including the accounts, records and memoranda of the movement of traffic as well as the receipts and expenditures of moneys. Notice of alterations by the commissioner in the required method or form of keeping a system of accounts shall be given to such persons or carriers by the commissioner at least six months before the same are to take effect. The system of accounts established by the commissioner and the forms of accounts, records and memoranda prescribed by him as provided above shall conform in the case of railroad companies as nearly as may be to those from time to time established and prescribed by the [interstate commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION under the provisions of the act of congress entitled "An act to regulate commerce" approved February fourth, eighteen hundred eighty-seven, and the acts amendatory thereof or supplementary thereto. The commissioner shall at all times have access to all accounts, records and memoranda kept by common carriers and may designate any officers or employees of the department who shall thereupon have authority under the order of the commissioner to inspect and examine any and all accounts, records and memoranda kept by such carriers. The commissioner may, after hearing, prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited. At any such hearing the burden of

proof shall be on the common carrier to establish the correctness of the accounts in which such outlays and receipts have been entered, and the commissioner may suspend a charge or credit pending submission of proof by such carrier. Where the commissioner has prescribed the forms of accounts, records and memoranda to be kept by such carriers it shall be unlawful for them to keep any other accounts, records or memoranda than those so prescribed, or those prescribed by or under authority of the United States.

S 15. Section 134 of the transportation law, as added by chapter 267 of the laws of 1970, is amended to read as follows:

S 134. Duties of commissioner as to interstate traffic. The commissioner may investigate interstate freight or passenger rates or interstate freight or passenger service on railroads within the state, and when such rates are, in the opinion of the commissioner, excessive or discriminatory or are levied or laid in violation of the act of congress entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the acts amendatory thereof and supplementary thereto, or in conflict with the rulings, orders or regulations of the [interstate commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION, the commissioner may apply by petition to the [interstate commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION for relief or may present to the [interstate commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION all facts coming to his knowledge, as to violations of the rulings, orders, or regulations of that commission or as to violations of the said act to regulate commerce or acts amendatory thereof or supplementary thereto.

S 16. The opening paragraph of section 432 of the transportation law, as amended by chapter 385 of the laws of 1994 and as further amended by section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

The level of railroad participation in the program for the period nineteen hundred eighty-seven through nineteen hundred ninety-one shall depend on the estimated tax abatement as computed by the commissioner of taxation and finance pursuant to either subdivision (c) of section four hundred eighty-nine-j or subdivision (c) of section four hundred eighty-nine-hh of the real property tax law. The nature of railroad participation in the program, as set forth below, shall be based on the railroad's economic or exemption factor under title two-A and title two-B of article four of the real property tax law, as applicable, and the railroad's size classification as determined by the [interstate commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION, based on railroad system gross revenues. Regardless of the level of their participation, all railroads shall annually certify to the commissioner that to the best of their knowledge and belief such railroads are in substantial compliance with the terms and conditions of any contracts they may have with the department.

S 17. The opening paragraph of subdivision 1 of section 1690 of the vehicle and traffic law, as amended by chapter 420 of the laws of 2001, is amended to read as follows:

Notwithstanding any other provision of law, where the trial of a traffic or parking infraction is authorized or required to be tried before the Nassau county district court, and such traffic and parking infraction does not constitute a misdemeanor, felony, violation of subdivision one of section eleven hundred ninety-two, subdivision five of section eleven hundred ninety-two, section three hundred ninety-seven-a, or subdivision (g) of section eleven hundred eighty of this chapter, or a

violation of paragraph (b) of subdivision four of section fourteen-f or clause (b) of subparagraph (iii) of paragraph [d] C of subdivision two of section one hundred forty of the transportation law, or any offense that is part of the same criminal transaction, as that term is defined in subdivision two of section 40.10 of the criminal procedure law, as such a misdemeanor, felony, violation of subdivision one of section eleven hundred ninety-two, subdivision two of section eleven hundred ninety-two, section three hundred ninety-seven-a or subdivision (g) of section eleven hundred eighty of this chapter, or a violation of paragraph (b) of subdivision four of section fourteen-f or clause (b) of subparagraph (iii) of paragraph d of subdivision two of section one hundred forty of the transportation law, the administrative judge of the county in which the trial court is located, may assign judicial hearing officers to conduct such a trial. Such judicial hearing officers shall be village court justices or retired judges either of which shall have at least two years of experience conducting trials of traffic and parking violations cases and shall be admitted to practice law in this state. Where such assignment is made, the judicial hearing officer shall entertain the case in the same manner as a court and shall:

S 18. Subdivision 2 of section 371 of the general municipal law, as amended by chapter 19 of the laws of 2009, is amended to read as follows:

2. The Nassau county traffic and parking violations agency, as established, may be authorized to assist the Nassau county district court in the disposition and administration of infractions of traffic and parking laws, ordinances, rules and regulations and the liability of owners for violations of subdivision (d) of section eleven hundred eleven of the vehicle and traffic law in accordance with section eleven hundred eleven-b of such law, except that such agency shall not have jurisdiction over (a) the traffic infraction defined under subdivision one of section eleven hundred ninety-two of the vehicle and traffic law; (b) the traffic infraction defined under subdivision five of section eleven hundred ninety-two of the vehicle and traffic law; (c) the violation defined under paragraph (b) of subdivision four of section fourteen-f of the transportation law and the violation defined under clause (b) of subparagraph (iii) of paragraph [d] C of subdivision two of section one hundred forty of the transportation law; (d) the traffic infraction defined under section three hundred ninety-seven-a of the vehicle and traffic law and the traffic infraction defined under subdivision (g) of section eleven hundred eighty of the vehicle and traffic law; (e) any misdemeanor or felony; or (f) any offense that is part of the same criminal transaction, as that term is defined in subdivision two of section 40.10 of the criminal procedure law, as a violation of subdivision one of section eleven hundred ninety-two of the vehicle and traffic law, a violation of subdivision five of section eleven hundred ninety-two of the vehicle and traffic law, a violation of paragraph (b) of subdivision four of section fourteen-f of the transportation law, a violation of clause (b) of subparagraph (iii) of paragraph d of subdivision two of section one hundred forty of the transportation law, a violation of section three hundred ninety-seven-a of the vehicle and traffic law, a violation of subdivision (g) of section eleven hundred eighty of the vehicle and traffic law or any misdemeanor or felony.

S 19. Subdivision 1 of section 27-1321 of the environmental conservation law, as added by chapter 915 of the laws of 1983, is amended to read as follows:

1. Notwithstanding any other provision of law to the contrary, any person who is, by professional training or experience and attainment, qualified to analyze and interpret matters pertaining to the treatment, storage, disposal, or transport of hazardous materials or hazardous wastes, and who voluntarily and without expectation of monetary compensation provides assistance or advice in mitigating the effects of an accidental or threatened discharge of any hazardous materials or hazardous wastes, or in preventing, cleaning up, or disposing of any such discharge, shall not be subject to a penalty or to civil liability for damages or injuries alleged to have been sustained by any person or entity by reason of an act or omission in the giving of such assistance or advice. For the purposes of this section, the term "hazardous materials" shall have the same meaning [given] AS that term [in subdivision one of] IS DEFINED IN REGULATIONS PROMULGATED BY THE COMMISSIONER OF TRANSPORTATION PURSUANT TO section fourteen-f of the transportation law, and the term "hazardous wastes" shall mean those wastes identified or listed pursuant to section 27-0903 of this article and any rules and regulations promulgated thereunder.

S 20. Subdivision 1 of section 156-a of the executive law, as amended by section 1 of part D of chapter 1 of the laws of 2004, is amended to read as follows:

1. The state fire administrator shall[, in his or her discretion, consult with the fire fighting and code enforcement personnel standards and education commission established pursuant to section one hundred fifty-nine-a of this article, to] establish a specialized hazardous materials emergency response training program for individuals responsible for providing emergency response recovery following incidents involving hazardous materials as SUCH TERM IS defined in [accordance with] REGULATIONS PROMULGATED BY THE COMMISSIONER OF TRANSPORTATION PURSUANT TO section fourteen-f of the transportation law. The state fire administrator shall inform all fire companies, municipal corporations and districts, including agencies and departments thereof and all firefighters, both paid and volunteer, and related officers and employees and police officers of the implementation and availability of the hazardous materials emergency response training program and shall, subject to the availability of an appropriation, conduct such training with sufficient frequency to assure adequate response to incidents involving hazardous materials and protection of responders in all geographic areas of the state.

S 21. This act shall take effect immediately; provided, however that the amendments to subdivision 2 of section 371 of the general municipal law, made by section eighteen of this act shall not affect the expiration of such section and shall be deemed to expire therewith.

## PART H

Section 1. Subdivisions 1 and 2 of section 11-0515 of the environmental conservation law, as amended by chapter 528 of the laws of 1986, are amended to read as follows:

1. The department may issue to any person a license revocable at its pleasure to collect or possess fish, wildlife, shellfish, crustacea, OR aquatic insects[, birds' nests or eggs] for propagation, banding, scientific or exhibition purposes. The department in its discretion may require an applicant to pay a license fee of ten dollars, [to submit written testimonials from two well-known persons] and to file a bond of two hundred dollars to be approved by the department that he OR SHE will

not violate any provisions of this article. Each licensee shall file with the department [on or before February 1] a report [of his operations during the preceding calendar year] CONTAINING SUCH INFORMATION AS THE DEPARTMENT MAY REQUIRE. Such license shall be [effective until revoked] IN FORCE FOR ONE YEAR ONLY AND SHALL NOT BE TRANSFERABLE.

2. The department may also issue a license revocable at its pleasure to possess and sell protected fish, wildlife, shellfish, crustacea or aquatic insects for propagation, scientific or exhibition purposes. The department in its discretion may require a license fee of ten dollars. Such license shall be in force for one year only and shall not be transferable. Each licensee shall [make] FILE WITH THE DEPARTMENT a report [of his or her operations at the expiration of the license] CONTAINING SUCH INFORMATION AS THE DEPARTMENT MAY REQUIRE. Fish, wildlife, shellfish, crustacea or aquatic insects lawfully possessed under this section may be sold at any time by the licensee for propagation, scientific or exhibition purposes only.

S 2. Subdivision 1 of section 11-0521 of the environmental conservation law, as amended by chapter 600 of the laws of 1993, is amended to read as follows:

1. The department may direct any environmental conservation officer, or issue a permit to any person, to take any wildlife at any time whenever it becomes a nuisance, destructive to public or private property or a threat to public health or welfare, provided, however, that where such wildlife is a bear, no such permit shall be issued except upon proof of damage to such property or threat to public health or safety presented to the department. Upon presentation of such proof, the department may issue a permit authorizing the use of trained tracking dogs pursuant to section 11-0928 of this article, and, if the department has determined that no other alternative is feasible, a separate permit to take the bear. Wildlife so taken shall be disposed of as the department may direct. ANY PERSON, AGENCY, CORPORATION OR MUNICIPALITY WHO OBTAINS A MIGRATORY BIRD DEPREDATION PERMIT OR ORDER ISSUED BY THE FEDERAL DEPARTMENT OF THE INTERIOR PURSUANT TO 50 C.F.R. 13 AND 50 C.F.R. 21, AS MAY BE AMENDED FROM TIME TO TIME, SHALL NOT BE REQUIRED TO OBTAIN A PERMIT FROM THE DEPARTMENT TO CONDUCT THE AUTHORIZED ACTIVITIES.

S 3. Subdivisions 6 and 9 of section 11-0523 of the environmental conservation law, subdivision 6 as added by chapter 911 of the laws of 1990 and subdivision 9 as amended by chapter 114 of the laws of 1981, are amended to read as follows:

6. Raccoons, MUSKRATS, coyotes or fox injuring private property may be taken by the owner, occupant or lessee thereof, or an employee or family member of such owner, occupant or lessee, at any time in any manner.

9. Varying hares, cottontail rabbits, skunks, black, grey and fox squirrels, raccoons, MUSKRATS, opossums or weasels taken pursuant to this section in the closed season or in a manner not permitted by section 11-0901 shall be immediately buried or cremated. No person shall possess or traffic in such skunks or raccoons or the pelts thereof or in such varying hares or cottontail rabbits or the flesh thereof.

S 4. Subdivision 4 of section 11-0524 of the environmental conservation law, as added by chapter 265 of the laws of 2002, is amended to read as follows:

4. The fee for a nuisance wildlife control operator license shall be fifty dollars paid annually to be deposited in the conservation fund established pursuant to section eighty-three of the state finance law, PROVIDED, HOWEVER, THAT A MUNICIPALITY SHALL NOT BE SUBJECT TO THIS FEE.

S 5. Subdivisions 3 and 4 of section 11-0927 of the environmental conservation law, are amended to read as follows:

3. Wild game shall not be taken by shooting or otherwise killed in the course of a field trial. Other game on which a field trial may be held as provided in this section may be taken by shooting in the course of a field trial, except a field trial held on a licensed dog training area, provided a license for such shooting has been procured from the department. Game so taken shall be immediately [tagged for identification with seals, to be supplied to the licensee] IDENTIFIED ON FORMS PROVIDED by the department [at the price of five cents each, and such seals shall not be removed] until the game is finally prepared for consumption.

4. Game so [tagged] IDENTIFIED may be possessed, transported, bought and sold at any time, without limitation by section 11-0917.

S 6. Subdivision 2 of section 11-0931 of the environmental conservation law, as amended by chapter 483 of the laws of 2010, is amended to read as follows:

2. No firearm or crossbow except a pistol or revolver shall be carried or possessed in or on a motor vehicle unless it is unloaded, for a firearm in both the chamber and the magazine, except that a loaded firearm which may be legally used for taking migratory game birds may be carried or possessed in a motorboat while being legally used in hunting migratory game birds, and no person except a law enforcement officer in the performance of his official duties shall, while in or on a motor vehicle, use a jacklight, spotlight or other artificial light upon lands inhabited by deer if he is in possession or is accompanied by a person who is in possession, at the time of such use, of a longbow, crossbow or a firearm of any kind except a pistol or revolver, unless such longbow is unstrung or such firearm or crossbow is taken down or securely fastened in a case or locked in the trunk of the vehicle. For purposes of this subdivision, motor vehicle shall mean every vehicle or other device operated by any power other than muscle power, and which shall include but not be limited to automobiles, trucks, motorcycles, tractors, trailers and motorboats, snowmobiles and snowtravelers, whether operated on or off public highways. Notwithstanding the provisions of this subdivision, the department may issue a permit to any person who is non-ambulatory, except with the use of a mechanized aid, to possess a loaded firearm in or on a motor vehicle as defined in this section, subject to such restrictions as the department may deem necessary in the interest of public safety[, and for a fee of five dollars]. Nothing in this section permits the possession of a pistol or a revolver contrary to the penal law.

S 7. Subdivision 2 of section 11-0931 of the environmental conservation law, as amended by section 50 of part F of chapter 82 of the laws of 2002, is amended to read as follows:

2. No firearm except a pistol or revolver shall be carried or possessed in or on a motor vehicle unless it is unloaded in both the chamber and the magazine, except that a loaded firearm which may be legally used for taking migratory game birds may be carried or possessed in a motorboat while being legally used in hunting migratory game birds, and no person except a law enforcement officer in the performance of his official duties shall, while in or on a motor vehicle, use a jacklight, spotlight or other artificial light upon lands inhabited by deer if he is in possession or is accompanied by a person who is in possession, at the time of such use, of a longbow, crossbow or a firearm of any kind except a pistol or revolver, unless such longbow is unstrung or such firearm is taken down or securely fastened in a case or locked in the

trunk of the vehicle. For purposes of this subdivision, motor vehicle shall mean every vehicle or other device operated by any power other than muscle power, and which shall include but not be limited to automobiles, trucks, motorcycles, tractors, trailers and motorboats, snowmobiles and snowtravelers, whether operated on or off public highways. Notwithstanding the provisions of this subdivision, the department may issue a permit to any person who is non-ambulatory, except with the use of a mechanized aid, to possess a loaded firearm in or on a motor vehicle as defined in this section, subject to such restrictions as the department may deem necessary in the interest of public safety[, and for a fee of five dollars]. Nothing in this section permits the possession of a pistol or a revolver contrary to the penal law.

S 8. Section 11-1003 of the environmental conservation law, as amended by section 51 of part F of chapter 82 of the laws of 2002, is amended to read as follows:

S 11-1003. Falconry license.

Any resident of this state may be issued a falconry license. The department shall prescribe and furnish forms for application for such license. The fee for the license shall be [twenty] FORTY dollars. Falconry licenses shall expire on December 31 every [second] FIFTH year and shall be renewable at the discretion of the department. A falconry license shall authorize the licensee to obtain, buy, sell, barter, possess and train raptors for falconry and to engage in falconry, provided that no game shall be taken or killed except during an open season therefor, and further provided that such licensee shall also possess a license pursuant to this chapter which authorizes the holder to hunt wildlife. Any non-resident, who legally possesses a raptor where he or she resides and who may legally engage in falconry where he or she resides, may engage in falconry in New York without a falconry license provided he or she possesses a valid non-resident hunting license.

S 9. Section 11-1721 of the environmental conservation law, subdivision 2 as amended by chapter 528 of the laws of 1986, is amended to read as follows:

S 11-1721. [Tagging] IDENTIFICATION of carcasses and parts thereof.

1. The provisions of this section apply to carcasses and parts thereof of

a. domestic game killed on the premises of the holder of a domestic game bird breeder's license PURSUANT TO SECTION 11-1901 OF THIS ARTICLE, domestic game animal breeder's license PURSUANT TO SECTION 11-1905 OF THIS ARTICLE or shooting preserve license PURSUANT TO SECTION 11-1903 OF THIS ARTICLE;

b. [domestic game raised outside the state on the premises of a holder of a certificate under section 11-1715, subdivision 1;

c. foreign game imported from outside the United States;

d. wild deer (other than white-tailed deer), moose, elk, caribou and antelope, coming from outside the state, imported pursuant to section 11-1711;

e.] bear possessed under license pursuant to section 11-0515 or outside the state under a license similar in principle and killed for food purposes[, and bought and sold for such purpose under permit from the department pursuant to section 11-1713];

[f.] C. trout, black bass, lake trout, landlocked salmon, muskellunge, pike, pickerel and walleye taken from fishing preserve waters licensed pursuant to section 11-1913.

2. All such [game] CARCASSES AND PARTS shall be [tagged] IDENTIFIED with a [tag or seal, which shall be supplied] FORM PROVIDED by the department [for a fee of five cents for each tag or seal. The tag or seal shall be affixed to each game bird, and in the case of foreign game shall be affixed to the breast skin, and to the flesh of each quarter and loin of other game, and shall remain so affixed until the game is finally prepared for consumption. Trout, black bass, lake trout, landlocked salmon, muskellunge, pike, pickerel and walleye taken from fishing preserve waters licensed pursuant to section 11-1913 shall be tagged as prescribed by the department, with a seal, which shall be supplied by the department for a fee of five cents for each seal].

3. [Domestic game killed in this state] CARCASSES AND PARTS shall not be possessed unless [tagged] ACCOMPANIED BY A FORM PROVIDED BY THE DEPARTMENT as required by this section. [Foreign game imported from outside the United States and domestic and wild game coming from outside the state shall be tagged before it is brought into the state or immediately upon its receipt within this state by the consignee.

4. No person shall counterfeit any seal or tag issued by the department. No person shall attach such a tag to game which is not game described in subdivision 1, nor attach to any game described in subdivision 1 a tag or seal other than the tag or seal prescribed by the department for the tagging of such game.]

S 10. Section 11-1723 of the environmental conservation law is amended to read as follows:

S 11-1723. Sale of game and trout; transportation within the state.

1. a. Except as provided in paragraph b, game and trout required by section 11-1721 to be [tagged, when so tagged] IDENTIFIED, may be possessed, bought and sold, and subject to section 11-1725 may be transported within and from within to without the state by any means.

b. No domestic duck, goose, brant or swan killed by shooting shall be bought or sold unless marked [by having had the hind toe of the right foot removed as provided in subdivision 5 of section 11-1901] IN ACCORDANCE WITH REQUIREMENTS SET FORTH IN RULES AND REGULATIONS ESTABLISHED BY THE DEPARTMENT OF THE INTERIOR PURSUANT TO 50 C.F.R. 21 AS MAY BE AMENDED FROM TIME TO TIME.

2. No person shall sell or offer for sale any such game or trout unless it is so [tagged] IDENTIFIED.

S 11. Section 11-1725 of the environmental conservation law is amended to read as follows:

S 11-1725. Shipment by carriers.

1. Carriers may receive, and may transport, within and from within to without the state, carcasses and parts thereof of game, described in subdivision 1 of section 11-1721[, tagged] AND IDENTIFIED as provided in that section, when they are also labeled as provided in this section.

2. a. When received in this state by a carrier, or transported within or from within to without the state by a carrier, every shipment of game required by section 11-1721 to be [tagged] IDENTIFIED, shall also have attached a card or label with the following data plainly printed or written thereon: names and addresses of consignor and consignee, number and kind of carcasses or parts thereof[, and that the same is (as the case may be) domestic game, imported foreign game, or game imported under permit (in the case of game imported pursuant to section 11-1711 or 11-1713)].

b. If the consignor is the person who holds the game breeder's license or shooting preserve license[, or the certificate under section 11-1715, or the permit under section 11-1711 or 11-1713,] by authority of which

such game (other than imported foreign game) is saleable, or if the game is imported foreign game shipped by a licensed game dealer, the card or label shall also state the name and address of the holder of such license, [certificate or permit] and the number of the license[, certificate or permit].

3. No carrier or employee thereof shall, while engaged in such business, transport as owner any fish or game not lawfully saleable. No carrier or employee thereof shall knowingly receive or possess any fish or game, whether packed or unpacked, for shipment for any person, unless (a) if it is game or trout described in section 11-1721, it is [tagged] IDENTIFIED as required by that section, and (b) in any case, it bears the tag, card, IDENTIFICATION or label required by this section or by sections 11-0911, 11-0917, 11-1319 or 11-1913.

S 12. Subdivisions 1, 5 and 8 of section 11-1901 of the environmental conservation law, paragraphs a and b of subdivision 1 as amended by chapter 528 of the laws of 1986, are amended to read as follows:

1. The department may, in its discretion, issue to an owner or lessee of wholly enclosed lands, or an entire island, a domestic game bird breeder's license permitting him to possess and propagate such species of domestic game birds as, in its opinion, he has facilities for propagating on the licensed premises. The license shall expire on March 31 [in each] EVERY FIFTH year. The department shall prescribe and furnish forms for application for such license. Applicants shall pay to the department, and the department shall be entitled to receive, fees according to the type of license so issued as follows:

a. Class A license, [fifty] TWO HUNDRED dollars. This license shall allow the holder thereof to purchase, possess, propagate, transport and sell domestic game birds, dead or alive, and their eggs.

b. Class B license, [ten] FORTY dollars. This license shall allow the holder thereof to purchase, possess and propagate domestic game birds for his own use. Birds may be killed for food or released to the wild for restocking. No live birds or their eggs or carcasses may be sold, exchanged or given away.

5. Each such domestic duck, goose, brant and swan [before attaining the age of four weeks] shall be marked [by having the hind toe of the right foot removed, and no such duck, goose, brant or swan, over four weeks of age, may be possessed or sold without such mark] IN ACCORDANCE WITH REQUIREMENTS SET FORTH IN RULES AND REGULATIONS ESTABLISHED BY THE DEPARTMENT OF THE INTERIOR PURSUANT TO 50 C.F.R. 21 AS MAY BE AMENDED FROM TIME TO TIME. [Birds so marked, which have escaped, may be recaptured by the licensee. Other such domestic game birds which have escaped may be recaptured by the licensee provided they are marked as prescribed in the rules and regulations of the department. Escaped birds may be recaptured only on the premises of the licensee. However, removal of the hind toe of the right foot shall not be required for captive geese, brant and swans, which were adult birds on March 1, 1967 and previously had been marked with a V-shaped mark on the web of one foot.]

8. [a. The department shall supply tags, for which the licensee shall pay a fee of five cents each, which shall be affixed to the carcass of a domestic game bird and remain so affixed until the bird is finally prepared for consumption. No domestic game bird so killed shall be possessed without such tag, and only an authorized person shall have in his possession such tags.

b. Notwithstanding any provision in this section to the contrary, no untagged carcass may be removed from the premises except carcasses which are removed for the purpose of processing. When transporting untagged

carcasses for such processing, the bearer must have a statement signed by the licensee stating the number of carcasses being transported and the name and address of the processor. The bearer must also have in his possession tags equal in number to the carcasses transported. The processor or bearer, after picking and dressing the carcasses, shall affix the tags, furnished by the licensee, to each carcass.

c. The licensee shall keep records of the number of tags used, and no tags shall be removed from the licensed premises except as provided in this subdivision. If a game bird breeder's license is not renewed on its expiration date, all unused tags and inventory shall be returned to the nearest regional office of the department not later than ten days after the expiration date of the license. There shall be no refund of money for such returned tags, which shall be immediately invalidated.

d. The tagging required by this subdivision shall constitute compliance with the tagging requirements of section 11-1721. Carcasses of domestic game birds, tagged as provided in this subdivision, may be possessed, bought, sold, offered for sale and transported, to the extent permitted by sections 11-1719 and 11-1723.] DOMESTIC GAME BIRD CARCASSES AND PARTS SHALL BE IDENTIFIED AS REQUIRED BY SECTION 11-1721 OF THIS ARTICLE.

S 13. Subdivisions 2, 4 and 6 of section 11-1903 of the environmental conservation law are REPEALED and subdivisions 1, 3, 7, and 10, paragraph c of subdivision 1 as amended by chapter 528 of the laws of 1986, subdivision 3 as amended by chapter 465 of the laws of 1976, and paragraph d of subdivision 7 as amended by chapter 37 of the laws of 1978, are amended to read as follows:

1. The department may, in its discretion, issue to an owner or lessee of wholly enclosed lands or an entire island a shooting preserve license permitting him OR HER to purchase, possess, rear and transport, and to release and take by shooting therein, domestic game birds legally possessed or acquired. No birds may be held for propagation after [March 31] APRIL 15 unless the owner or lessee also has a domestic game bird breeder's license as provided for in section 11-1901. In the case of leased lands, the applicant shall furnish with his OR HER application evidence of a written lease executed by each lessor covering the premises to be licensed. The license shall expire on [March 31 in each] APRIL 15 EVERY FIFTH year. The department shall prescribe and furnish forms for application for such license. Applicants shall pay, and the department shall be entitled to receive, fees according to the type of license issued as follows:

a. Class A license, [fifty] TWO HUNDRED dollars [for the first one hundred acres and five dollars for each additional one hundred acres or portion thereof comprising the premises described in the application]. This license shall allow the holder thereof to operate a commercial CLUB OR MEMBERSHIP shooting preserve WITH A MINIMUM OF ONE HUNDRED ACRES and charge a daily fee for hunting or charge a fee for each bird killed or a combination thereof. Birds may be killed by the licensee for his OR HER own use and may be sold dead or alive.

b. [Class B license, twenty-five dollars for the first one hundred acres and two dollars and fifty cents for each additional one hundred acres or portion thereof comprising the premises described in the application. This license shall allow the holder thereof to operate a nonprofit shooting preserve or a nonprofit club or membership shooting preserve with use limited to members and guests. Birds may be killed by the licensee for his own use but no live birds, or their eggs, or

carcasses may be sold unless the licensee holds a Class A game bird breeder's license.

c.] Class [C] B license, [fifteen] SIXTY dollars [for the first one hundred acres and two dollars for each additional one hundred acres or portion thereof comprising the premises described in the application]. This license shall allow the holder thereof to operate a shooting preserve with use restricted to the licensee, his OR HER family and invitees, provided no fees are charged for the privilege of hunting or for birds shot. Birds may be killed by the licensee for his OR HER own use but no live birds, or their eggs, or carcasses may be sold unless the licensee holds a Class A game bird breeder's license.

3. The department may revoke the license of any licensee convicted of a violation of this section, and no license shall be issued to him OR HER for the ensuing two years. The licensee, unless he OR SHE shall waive such right, shall have an opportunity to be heard. Notice of hearing shall be given by mailing the same in writing to the licensee at the address contained in his OR HER license. Attendance of witnesses may be compelled by subpoena. Revocation shall be deemed an administrative act reviewable by the supreme court as such.

7. Domestic game birds may not be killed, by shooting, on the premises specified in the application for the license, except under the following conditions:

a. [Birds must be at least fourteen weeks of age before liberation. Ducks, geese, brant and swans shall be marked by having had the hind toe of the right foot removed, except as provided in subdivision 5 of section 11-1901, and no such duck, goose, brant or swan, over four weeks of age, may be possessed, sold or killed by shooting without such mark. Birds so marked, which have escaped, may be recaptured by the licensee. Other such domestic game birds which have escaped may be recaptured by the licensee provided they are marked as prescribed in the rules and regulations of the department. Escaped birds may be recaptured only on the premises of the licensee.

b. Before any shooting of domestic game birds may be done on a licensed shooting preserve the licensee must advise the department in writing of the numbers of each species of domestic game birds reared, purchased or otherwise acquired for liberation, and request and receive in writing a shooting authorization which shall state the numbers of each species of game bird that may be taken by shooting. The number of birds authorized to be taken by shooting shall not be less than eighty per cent of the number liberated.

Shooting authorization shall be based on the actual number of birds on hand or on contract at the time of application for such authorization. If birds are purchased, the applicant shall submit one copy of the contract agreement signed by the purchaser and seller on forms furnished by the department. The contract shall state the name, address and license number of the party from whom purchased as well as the numbers of birds purchased and the dates of delivery.

c.] Ducks, geese, brant and swans liberated under this section may be taken only under rules and regulations made by the department OR ADOPTED BY THE FEDERAL DEPARTMENT OF THE INTERIOR.

[d] B. On the premises described in the application for the license, the licensee may kill domestic game birds by shooting from September 1 through [March 31] APRIL 15 and in any manner, other than by shooting, at any time, or any person may take domestic game birds by shooting from September 1 through [March 31] APRIL 15 with the consent of the licensee. [When an investigation made by the department in the month of March

of any year reveals that during the current shooting preserve season reasonable opportunities were not afforded to harvest domestic game birds in any area or areas of the state because of abnormal weather conditions, the department shall have power to extend by order the shooting preserve season in such area or areas for a period not to exceed 15 days.]

10. a. [The department shall supply tags, for which the licensee shall pay a fee of five cents each, which shall be affixed to the carcass] CARCASSES AND PARTS of [a] domestic game [bird and remain so affixed until the bird is finally prepared for consumption] BIRDS SHALL BE ACCOMPANIED BY A FORM PROVIDED BY THE DEPARTMENT PURSUANT TO SECTION 11-1721 OF THIS ARTICLE. No domestic game birds so killed shall be possessed OR TRANSPORTED without such [tag] FORM. Only an authorized person as provided in the rules and regulations of the department shall have in his OR HER possession such [tags] FORM.

b. [Notwithstanding any provision in this section to the contrary, no untagged carcass may be removed from the premises except carcasses which are removed for processing. When transporting untagged carcasses for processing, the bearer must have a statement signed by the licensee stating the number of carcasses transported and the name and address of the processor. The bearer must also have in his possession tags equal in number to the carcasses transported. The processor or bearer, after picking and dressing the carcasses, shall affix the tags, furnished by the licensee, to each carcass.

c. The licensee shall keep records of the number of tags used. If a shooting preserve license is not renewed on its expiration date, all unused tags on inventory shall be returned to the nearest regional office of the department not later than ten days after the expiration date of the license. There shall be no refund of money for such returned tags, which shall be immediately invalidated.

d. The tagging required by this subdivision shall constitute compliance with the tagging requirements of section 11-1721. Carcasses of domestic game birds, tagged as provided in this subdivision, may be possessed and transported by all licensees under this section, and they may be bought, sold and offered for sale to the extent permitted by sections 11-1719 and 11-1723, except that no domestic duck, goose, brant or swan shall be bought, sold or killed by shooting unless marked as provided in subdivision 7 of this section] DOMESTIC GAME BIRD CARCASSES AND PARTS SHALL BE IDENTIFIED AS REQUIRED BY SECTION 11-1721 OF THIS ARTICLE.

S 14. Subdivisions 1 and 6 of section 11-1905 of the environmental conservation law, the opening paragraph of subdivision 1 as amended by chapter 41 of the laws of 1973, paragraphs a and b of subdivision 1 as amended by chapter 528 of the laws of 1986, are amended to read as follows:

1. The department may, in its discretion, issue to an owner or lessee of wholly enclosed lands or an entire island a domestic game animal breeder's license permitting him to possess and propagate domestic game animals provided such animals are confined and cared for according to specifications and regulations which the department, by order, shall adopt. The license shall expire on March 31 [of each] EVERY FIFTH year. The department shall prescribe and furnish forms for application for such license. Applicants shall pay, and the department shall be entitled to receive, fees in accordance with the type of license issued.

a. Class A license, [fifty] TWO HUNDRED dollars. This license shall allow the holder thereof to purchase, possess, propagate, transport and sell domestic game animals dead or alive.

b. Class B license, [ten] FORTY dollars. This license shall allow the holder thereof to purchase, possess and propagate domestic game animals for his own use. No animals may be sold, exchanged or given away except that portions of the carcass may be given away provided they are packaged and the package bears the name and license number of the licensee.

6. [a. The department shall supply tags for Class A licenses, for which the licensees shall pay five cents each, which shall be affixed to each quarter and loin of each carcass of domestic game animals killed by Class A licensees and remain so affixed until the game is finally prepared for consumption. No domestic game animal so killed, nor any portion of the carcass thereof, shall be possessed without such tag, and no person shall sell such quarter or loin without such tag attached.

b. The tagging required by this subdivision shall constitute compliance with the tagging requirements of section 11-1721. Loins or quarters of domestic game animals, killed by Class A licensees and tagged as provided in this subdivision, may be possessed, bought, sold and offered for sale, and transported as provided in section 11-1723 and may be sold and offered for sale by the holder of a Class A license under this section without the game dealer's license provided for in section 11-1719.] DOMESTIC GAME ANIMAL CARCASSES AND PARTS SHALL BE IDENTIFIED AS REQUIRED BY SECTION 11-1721 OF THIS ARTICLE.

S 15. Section 11-1907 of the environmental conservation law is amended by adding a new subdivision 3 to read as follows:

3. ON OR AFTER APRIL FIRST, TWO THOUSAND TWELVE, THE DEPARTMENT SHALL NOT ISSUE ANY NEW LICENSES PURSUANT TO THIS SECTION.

S 16. Subparagraph 4 of paragraph b of subdivision 2 and subdivision 6 of section 11-1913 of the environmental conservation law, paragraph a of subdivision 6 as amended by chapter 528 of the laws of 1986, are amended to read as follows:

(4) specify the manner of [tagging] IDENTIFICATION OF fish taken from the licensed waters, and

6. a. All trout, black bass, lake trout, landlocked salmon, muskellunge, pike, pickerel and walleye taken from the licensed fishing preserve waters, shall be immediately [tagged] IDENTIFIED ON FORMS PROVIDED BY THE DEPARTMENT as prescribed in the license or by order of the department. [Such tags shall be furnished by the department and sold to the licensee at the cost of five cents per tag.]

b. The [tag so affixed] IDENTIFICATION FORM shall [not be removed from] ACCOMPANY the fish until the same is finally prepared for consumption.

c. No fish, required to be [tagged] IDENTIFIED as specified in paragraph a of this subdivision, taken pursuant to this section shall be possessed off the premises of the fishing preserve without such [tag] IDENTIFICATION FORM, and no person shall sell such fish without such [tag attached, except for scientific, exhibition or stocking purposes] IDENTIFICATION FORM.

d. Fish taken from such fishing preserves and [tagged] IDENTIFIED as provided in this subdivision, may be possessed, bought, sold and offered for sale, and transported without restriction. Fish raised or possessed under license issued under this section may be sold at any time for scientific, exhibition, propagation or stocking purposes.

S 17. Subdivision 14 of section 13-0309 of the environmental conservation law, as amended by section 1 of part A of chapter 59 of the laws of 2006, is amended to read as follows:

14. The department, until April first, two thousand [ten] SIXTEEN shall be entitled to collect fifteen cents per bushel of surf clams and ten cents per bushel of ocean quahogs taken from all certified waters to be deposited in the surf clam/ocean quahog account as provided in section eighty-three of the state finance law.

S 18. This act shall take effect immediately, except that if this act shall have become a law on or after April 1, 2012 this act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012; provided that the amendments to subdivision 2 of section 11-0931 of the environmental conservation law made by section six of this act shall be subject to the expiration and reversion of such subdivision pursuant to chapter 483 of the laws of 2010, as amended, when upon such date the provisions of section seven of this act shall take effect.

PART I

Section 1. Section 2 of the public service law is amended by adding a new subdivision 28 to read as follows:

28. THE TERM "VOICE-OVER-INTERNET PROTOCOL SERVICE" OR "VOIP SERVICE" WHEN USED IN THIS CHAPTER, SHALL MEAN ANY SERVICE THAT: (A) ENABLES REAL-TIME TWO-WAY VOICE COMMUNICATIONS THAT ORIGINATE FROM OR TERMINATE TO THE USER'S LOCATION USING INTERNET PROTOCOL OR ANY SUCCESSOR PROTOCOL; (B) USES A BROADBAND CONNECTION FROM THE USER'S LOCATION; AND (C) PERMITS USERS GENERALLY TO RECEIVE CALLS THAT ORIGINATE ON THE PUBLIC SWITCHED TELEPHONE NETWORK AND TO TERMINATE CALLS TO THE PUBLIC SWITCHED TELEPHONE NETWORK.

S 2. Paragraph d of subdivision 1 of section 5 of the public service law, as amended by chapter 155 of the laws of 1970, is amended to read as follows:

d. To every telephone line which lies wholly within the state and that part within the state of New York of every telephone line which lies partly within and partly without the state and to the persons or corporations owning, leasing or operating any such telephone line. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NEITHER THE COMMISSION, THE DEPARTMENT OF PUBLIC SERVICE, NOR ANY OTHER DEPARTMENT OR AGENCY OF THIS STATE, OR ANY POLITICAL SUBDIVISION THEREOF, SHALL HAVE AUTHORITY TO REGULATE THE ENTRY, RATES OR OTHER TERMS OF SERVICE OF VOICE-OVER-INTERNET PROTOCOL SERVICE. PROVIDED, HOWEVER, THAT NOTHING IN THIS PARAGRAPH SHALL AFFECT THE AUTHORITY OF THE STATE OR ITS AGENCIES TO ENFORCE SUCH REQUIREMENTS AS ARE OTHERWISE EXPRESSLY PROVIDED FOR BY FEDERAL LAW, INCLUDING, BUT NOT LIMITED TO, CONNECTION TO 911 FACILITIES, THE COLLECTION OF ENHANCED 911 FEES, TELECOMMUNICATIONS RELAY SERVICE FEES, OR FEDERAL UNIVERSAL SERVICE FUND FEES ON VOICE-OVER-INTERNET PROTOCOL SERVICES THAT MAY BE DETERMINED TO APPLY, OR BE CONSTRUED TO (1) MODIFY OR AFFECT THE RIGHTS, OBLIGATIONS OR AUTHORITY OF ANY ENTITY, INCLUDING BUT NOT LIMITED TO THE PUBLIC SERVICE COMMISSION, TO ACT PURSUANT TO, OR ENFORCE THE PROVISIONS OF 47 U.S.C. 251, 47 U.S.C. 252, ANY APPLICABLE TARIFF, OR ANY STATE LAW, RULE, REGULATION OR ORDER RELATED TO WHOLESALE RIGHTS, DUTIES AND OBLIGATIONS, INCLUDING THE RIGHTS, DUTIES, AND OBLIGATIONS OF LOCAL EXCHANGE CARRIERS TO INTERCONNECT AND EXCHANGE VOICE TRAFFIC; (2) MODIFY OR AFFECT THE AUTHORITY OF THE PUBLIC SERVICE COMMISSION TO IMPLEMENT, CARRY OUT, AND

ENFORCE SUCH PROVISIONS, RIGHTS, DUTIES, OBLIGATIONS OR TARIFF THROUGH ARBITRATION PROCEEDINGS OR OTHER AVAILABLE MECHANISMS AND PROCEDURES; OR (3) AFFECT THE PAYMENT OF SWITCHED NETWORK ACCESS RATES OR OTHER INTER-CARRIER COMPENSATION RATES, AS APPLICABLE. NOTHING HEREIN SHALL BE CONSTRUED TO AFFECT THE APPLICATION OR ENFORCEMENT OF OTHER STATUTES OR REGULATIONS THAT APPLY GENERALLY TO THE CONDUCT OF BUSINESS IN THE STATE, INCLUDING CONSUMER PROTECTION, TAXATION OR UNFAIR OR DECEPTIVE TRADE PRACTICES RULES OF GENERAL APPLICABILITY.

S 3. Subdivision 1 of section 90 of the public service law, as amended by chapter 414 of the laws of 1981, is amended to read as follows:

1. [The] EXCEPT AS PROVIDED IN PARAGRAPH D OF SUBDIVISION ONE OF SECTION FIVE OF THIS CHAPTER, THE provisions of this article shall apply to communication by telegraph or telephone between one point and another within the state of New York and to every telegraph corporation and telephone corporation.

S 4. This act shall take effect immediately.

PART J

Section 1. Paragraph f of subdivision 1 of section 72-0402 of the environmental conservation law, as added by chapter 99 of the laws of 2010, is amended to read as follows:

f. In any case where a generator EITHER (I) recycles more than ninety percent of the [amount] TOTAL TONS of hazardous waste or more than ninety percent of the [amount] TOTAL TONS of hazardous wastewater WHICH it [produces in any] GENERATED DURING THAT calendar year, as certified to the commissioner, [upon which a fee is imposed pursuant to this section, any such fee imposed or to be imposed in such case] OR (II) RECYCLES MORE THAN FOUR THOUSAND TONS OF HAZARDOUS WASTE OR MORE THAN FOUR THOUSAND TONS OF HAZARDOUS WASTEWATER WHICH IT GENERATED IN THAT CALENDAR YEAR, AS CERTIFIED TO THE COMMISSIONER, THE FEE IMPOSED PURSUANT TO THIS SECTION shall be [determined] CALCULATED AND IMPOSED based upon the net amount of hazardous waste or THE NET AMOUNT OF hazardous wastewater generated[, as applicable, which] THAT is not [so] recycled in [such] THAT calendar year, rather than upon the gross [amount] AMOUNTS of hazardous waste [or] AND hazardous wastewater generated in such calendar year.

S 2. This act shall take effect immediately and shall apply to hazardous waste program fee bills issued by the department of environmental conservation after January 1, 2012 for hazardous waste or hazardous wastewater generated during calendar year 2011 or later.

PART K

Section 1. Subdivisions 2 and 4 of section 97-1 of the state finance law, as added by chapter 565 of the law of 1989, are amended to read as follows:

2. The sewage treatment program management and administration fund [shall] MAY consist of (a) all moneys transferred to the state from the water pollution control revolving fund pursuant to section twelve hundred eighty-five-j of the public authorities law, (b) all OR A PORTION OF moneys made available to New York state for the purposes of administering and managing financial assistance provided to municipalities from the water pollution control revolving fund pursuant to the Federal Water Pollution Control Act, and (c) all other moneys credited or transferred thereto from any other fund or source pursuant to law.

Notwithstanding the foregoing, no money reserved for planning pursuant to section six hundred four (b) of the Federal Water Pollution Control Act shall be deposited in the sewage treatment program management and administration fund.

4. Moneys in such fund, following appropriation by the legislature, [shall] MAY be used, for the purpose of paying all costs of the department of environmental conservation and New York state environmental facilities corporation for management and administration of the sewage treatment program established by section 17-1909 of the environmental conservation law and of the water pollution control revolving fund established by section twelve hundred eighty-five-j of the public authorities law.

S 2. Subdivisions 2 and 4 of section 97-ddd of the state finance law, as added by chapter 432 of the laws of 1997, are amended to read as follows:

2. The drinking water program management and administration fund [shall] MAY consist of (a) all moneys transferred to the state from the drinking water revolving fund pursuant to section twelve hundred eighty-five-m of the public authorities law, (b) all OR A PORTION OF moneys made available to New York state for purposes of administering and managing financial assistance provided to recipients from the drinking water revolving fund pursuant to the Federal Safe Drinking Water Act, and (c) all other moneys credited or transferred thereto from any other fund or source pursuant to law.

4. Moneys in the fund, following appropriation by the legislature, [shall] MAY be used, for the purpose of paying all costs of the department of health and New York state environmental facilities corporation for management and administration of the drinking water program established by title four of article eleven of the public health law and of the drinking water revolving fund established by section twelve hundred eighty-five-m of the public authorities law.

S 3. Subdivisions 5 and 7 of section 1285-j of the public authorities law, subdivision 5 as amended by chapter 134 of the laws of 2007 and subdivision 7 as added by chapter 565 of the laws of 1989, are amended to read as follows:

5. The corporation [shall] MAY make payments to the sewage treatment program management and administration fund in accordance with subdivision seven of this section to reimburse such fund for expenditures made pursuant to appropriation to pay the cost of the corporation and the department of environmental conservation for administering and managing the water pollution control revolving fund program established in section ninety-seven-l of the state finance law, for such costs. Such reimbursement shall be made from (a) available investment earnings on all amounts in the water pollution control revolving fund excluding all amounts in the fund which are the subject of allocations or other financial assistance to a municipality; and (b) payments received from a municipality for such purpose pursuant to a project financing agreement or loan agreement; and (c) if the sources of revenue described in this paragraph and paragraphs (a) and (b) of this subdivision are or are anticipated to be insufficient, then from the proceeds of federal capitalization grants, awards or assistance appropriated to the fund for administration and management of such program.

Notwithstanding the foregoing, if the sources of revenues described in paragraphs (a), (b) and (c) of this subdivision are at any time insufficient to make a reimbursement to the state pursuant to this subdivision when due, the corporation shall make such reimbursement from any other

available amounts in the water pollution control revolving fund, excluding all amounts that are the subject of allocations, provided, that the amounts paid from fund sources other than those described in paragraphs (a), (b) and (c) of this subdivision shall be reimbursed upon a determination by the director of the budget that future revenues obtained from sources described in paragraphs (a), (b) and (c) of this subdivision are in excess of the amounts reasonably needed to make future reimbursements pursuant to this subdivision.

7. The corporation [shall] MAY transfer to the sewage treatment program management and administration fund established pursuant to section ninety-seven-l of the state finance law no less frequently than semi-monthly amounts from the fund sufficient to reimburse the sewage treatment program management and administration fund in accordance with the provisions of subdivision five of this section.

S 4. Subdivision 7 of section 1285-m of the public authorities law, as added by chapter 413 of the laws of 1996, is amended to read as follows:

7. The corporation [shall] MAY transfer to the state on such schedule as the corporation and the department of health shall agree amounts from the fund to reimburse the state in accordance with the provisions of subdivision five of this section.

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, 2012.

PART L

Section 1. Section 140 of the agriculture and markets law, as added by chapter 631 of the laws of 1955, subdivision 1 as amended by chapter 592 of the laws of 2003, is amended to read as follows:

S 140. Samples; publication of results of tests. 1. The commissioner or his or her duly authorized representatives shall take samples of seeds [and submit them to the director of the New York state agricultural experiment station] for examination, analysis, and testing BY THE DEPARTMENT. THE COMMISSIONER MAY CONTRACT WITH A QUALIFIED LABORATORY TO PERFORM SUCH EXAMINATION, ANALYSIS, AND TESTING. When the analysis of an official sample indicates that seed is mislabeled, the results of such analysis shall be provided to the person responsible for the labeling of the seed and, upon that person's request, made within fifteen days of his or her receipt of said results, the commissioner or his or her authorized agent shall furnish such person with a portion of the sample taken.

2. [The director of the New York state agricultural experiment station shall examine, analyze, or test, or cause to be examined, analyzed or tested such samples of seeds taken under the provisions of this article as shall be submitted to him for that purpose by the commissioner, and shall report the results of such analysis, examination, or testing to the commissioner. For this purpose the New York state agricultural experiment station may establish and maintain trial grounds and a seed laboratory with the necessary equipment, and may employ experts and incur such expense as may be necessary to comply with the requirements of this article.

3.] From time to time the [New York state agricultural experiment station, in cooperation with the] department of agriculture and markets, shall make public the results of examinations, analyses, trials, and tests of any sample or samples so procured, together with such additional information as circumstances advise. These published results shall be the property of the state of New York and shall not be used for

advertising or regulatory purposes by any person or agency, governmental or otherwise without requested and granted permission of the commissioner [of agriculture and markets].

S 2. Section 140-a of the agriculture and markets law, as added by chapter 631 of the laws of 1955, is amended to read as follows:

S 140-a. Provision for seed tests. Any citizen of this state shall have the privilege of submitting to the [New York state agricultural experiment station] DEPARTMENT samples of seeds for [test] TESTING and analysis subject to [such rules and regulations as may be adopted by the director of said experiment station and approved by Cornell university] PAYMENT OF A FEE TO THE COMMISSIONER THAT SHALL, AT A MINIMUM, COVER THE FULL COSTS OF THE SERVICES PROVIDED. ALL MONIES RECEIVED BY THE COMMISSIONER PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN AN ACCOUNT WITHIN THE MISCELLANEOUS SPECIAL RECEIVE FUND AND SHALL BE USED TO DEFRAY THE EXPENSES INCIDENTAL TO CARRYING OUT THE SERVICES AUTHORIZED BY THIS SECTION.

S 3. This act shall take effect immediately.

## PART M

Section 1. Subdivision 25-c of section 16 of the agriculture and markets law, as added by section 1 of part H of chapter 59 of the laws of 2006, is amended to read as follows:

25-c. The commissioner may enter into a contract or cooperative agreement under which [laboratory] services, INCLUDING, BUT NOT LIMITED TO, LABORATORY SERVICES AND SERVICES RELATING TO FOOD SAFETY AND INSPECTION, ANIMAL HEALTH, INVASIVE SPECIES CONTROL, THE COLLECTION OF SAMPLES FOR RESEARCH STUDIES AND SIMILAR SERVICES RELATING TO THE DUTIES AND RESPONSIBILITIES of the department may be made available to federal, state, local, and educational entities when, in the commissioner's judgment, such contract or cooperative agreement shall be in the public interest and shall not adversely affect the department's obligations under this chapter. Such contracts or cooperative agreements shall require payment by contractors and cooperators of, at a minimum, the full costs of the services provided. All moneys received by the commissioner pursuant to such contracts and agreements shall be deposited in an account within the miscellaneous special revenue fund and shall be used to defray the expenses incidental to carrying out the services authorized by this subdivision.

S 2. This act shall take effect immediately.

## PART N

Section 1. Section 251-z-3 of the agriculture and markets law, as amended by chapter 307 of the laws of 2004, the second undesignated paragraph as amended by section 2 of part II of chapter 59 of the laws of 2009, is amended to read as follows:

S 251-z-3. Licenses; fees. No person shall maintain or operate a food processing establishment unless licensed biennially by the commissioner. Application for a license to operate a food processing establishment shall be made, upon a form prescribed by the commissioner[, on or before the fifteenth of the month preceding the applicable license period as herein prescribed. The license period shall begin February fifteenth for applicants who apply for a license between February fifteenth and May fourteenth, May fifteenth for applicants who apply for a license between May fifteenth and August fourteenth, August fifteenth for applicants who

apply for a license between August fifteenth and November fourteenth, and November fifteenth for applicants who apply for a license between November fifteenth and February fourteenth]. RENEWAL APPLICATIONS SHALL BE SUBMITTED TO THE COMMISSIONER AT LEAST THIRTY DAYS PRIOR TO THE COMMENCEMENT OF THE NEXT LICENSE PERIOD.

The applicant shall furnish evidence of his or her good character, experience and competency, that the establishment has adequate facilities and equipment for the business to be conducted, that the establishment is such that the cleanliness of the premises can be maintained, that the product produced therein will not become adulterated and, if the applicant is a retail food store, that the applicant has an individual in a position of management or control who has completed an approved food safety education program pursuant to section two hundred fifty-one-z-twelve of this article. The commissioner, if so satisfied, shall issue to the applicant, upon payment of the license fee of four hundred dollars, a license to operate the food processing establishment described in the application. However, the license fee shall be nine hundred dollars for a food processing establishment determined by the commissioner, pursuant to duly promulgated regulations, to require more intensive regulatory oversight due to the volume of the products produced, the potentially hazardous nature of the product produced or the multiple number of processing operations conducted in the establishment. The license application for retail food stores shall be accompanied by documentation in a form approved by the commissioner which demonstrates that the food safety education program requirement has been met. The license shall take effect on the date of issuance and continue [until the last day of the applicable license period set forth in this section] FOR TWO YEARS FROM SUCH DATE.

[Notwithstanding any other provision of law to the contrary, the commissioner is hereby authorized and directed to deposit all money received pursuant to this section in an account within the miscellaneous special revenue fund.]

S 2. Subdivision 4 of section 128-a of the agriculture and markets law is REPEALED and subdivisions 5, 6, 7, 8, 9 and 10 are renumbered subdivisions 4, 5, 6, 7, 8 and 9.

S 3. Subdivision 3 of section 133-a of the agriculture and markets law is REPEALED.

S 4. Section 90-b of the state finance law is REPEALED.

S 5. This act shall take effect immediately.

## PART O

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, 2012.

## PART P

Section 1. Expenditures of moneys appropriated in a chapter of the laws of 2012 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 2010. 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, 2012.

PART Q

Section 1. Paragraphs (c) and (d) of subdivision 3 of section 5 of chapter 35 of the laws of 1979, relating to appropriating funds to the New York state urban development corporation for the acquisition and initial planning of convention and exhibition center facilities in New York county, as amended by chapter 3 of the laws of 2004, are amended and a new paragraph (e) is added to read as follows:

(c) Enter into such other agreements with the city, the state, the New York state urban development corporation, the operating corporation, Triborough bridge and tunnel authority and the state of New York mortgage agency as the parties thereto deem appropriate to effectuate the provisions of this act, and to effectuate the expansion project and any convention center hotel and the financing thereof pursuant to the chapter of the laws of 2004 which amended this paragraph; [and]

(d) If the subsidiary enters into an agreement with the metropolitan transportation authority for the acquisition of the Quill building, then any and all proceeds shall be applied to and used for the metropolitan transportation authority's capital plan[.]; AND

(E) SELL, GRANT OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY OWNED BY THE NEW YORK CONVENTION CENTER DEVELOPMENT CORPORATION INCLUDING, WITHOUT LIMITATION, THE PROPERTIES IN THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK, LOCATED BETWEEN 11TH AND 12TH AVENUES AND 33RD STREET AND 34TH STREET AND BETWEEN 35TH STREET AND 36TH STREET ALONG THE EASTERN BORDER OF 11TH AVENUE, THAT IS DETERMINED BY THE NEW YORK CONVENTION CENTER DEVELOPMENT CORPORATION TO BE UNNECESSARY FOR THE OPERATION OF THE CONVENTION CENTER, THE EXPANSION PROJECT OR ANY CONVENTION CENTER HOTEL, SUBJECT TO ANY OBLIGATIONS SET FORTH IN ANY APPLICABLE BOND RESOLUTION OR CREDIT SUPPORT AGREEMENT AND SUBJECT TO THE PRIOR

APPROVAL OF THE DIRECTOR OF THE BUDGET, PROVIDED THAT ANY PROCEEDS FROM THE DISPOSITION OF THE PROPERTY SHALL BE TRANSFERRED TO THE STATE TREASURY TO THE CREDIT OF THE GENERAL FUND.

S 2. This act shall take effect immediately.

PART R

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 G of chapter 60 of the laws of 2011, 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, 2012, 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, 2012.

PART S

Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is REPEALED.

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, 2009.

PART T

Section 1. Subdivisions 27, 28, 29 and 30 of section 5 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, subdivisions 28 and 29 as renumbered by chapter 686 of the laws of 1986, are renumbered subdivisions 28, 29, 30 and 31 and a new subdivision 27 is added to read as follows:

(27) TO MAKE GRANTS USING FUNDS FROM ANY SOURCE ON SUCH TERMS AND CONDITIONS AS THE CORPORATION MAY DEEM ADVISABLE, IN FURTHERANCE OF THE LEGISLATIVE FINDINGS AND PURPOSES OF THIS ACT, TO ANY PERSON OR ENTITY, WHETHER PUBLIC OR PRIVATE, PROVIDED THAT SUCH GRANTS ARE MADE OR ISSUED IN COMPLIANCE WITH GUIDELINES ESTABLISHED BY THE CORPORATION.

S 2. This act shall take effect immediately.

PART U

Section 1. Subdivision 1 of section 218 of the state finance law, as amended by chapter 424 of the laws of 2009, is amended to read as follows:

1. Linked loans made to certified businesses in empire zones or to eligible businesses in highly distressed areas or to eligible businesses that are defined in paragraph (b-1) of subdivision eleven of section two hundred thirteen of this article that are located in a renewal community or defined in paragraph (b-2) of such subdivision that are located in an empowerment zone or defined in paragraph (b-3) of such subdivision that

are located in an enterprise community, respectively for eligible projects defined in paragraph (c) of subdivision twelve of section two hundred thirteen of this article or to minority- or women-owned business enterprises for an eligible project defined in paragraph (e) of subdivision twelve of section two hundred thirteen of this article or to a defense industry manufacturer for a project defined in paragraph (d) of subdivision twelve of section two hundred thirteen of this article OR TO AN ELIGIBLE BUSINESS PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ELEVEN OF SECTION TWO HUNDRED THIRTEEN OF THIS ARTICLE THAT PRODUCES PRODUCTS DEFINED IN SUBDIVISION TWO OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW FOR AN ELIGIBLE PROJECT AS DEFINED IN PARAGRAPH (B) OF SUBDIVISION TWELVE OF SECTION TWO HUNDRED THIRTEEN OF THIS ARTICLE shall bear interest at a fixed rate equal to three percentage points below the fixed interest rate the lender would have charged for the loan in the absence of a linked deposit based on its usual credit considerations. All other linked loans shall bear interest at a fixed rate equal to two percentage points below the fixed interest rate the lender would have charged for the loan in the absence of a linked deposit based on its usual credit considerations. Lenders shall certify to the commissioner of economic development that the rate to be charged on a linked loan is two percentage points or three percentage points, as the case may be, below the interest rate the lender would have charged for the loan in the absence of a linked deposit.

S 2. Paragraph (a) of subdivision 11 and paragraph (b) of subdivision 12 of section 213 of the state finance law, as added by chapter 705 of the laws of 1993, are amended to read as follows:

(a) a manufacturing firm OR AGRICULTURAL BUSINESS which employs five hundred or fewer employees within the state on a full-time basis; or

(b) for manufacturing, AGRICULTURAL and service firms, projects which involve the preparation of strategic plans for improving productivity and competitiveness; the introduction of modern equipment and/or an expansion of facilities as part of a modernization plan; the introduction of advanced technologies to improve productivity and quality; improvements in production processes and operations, INCLUDING AGRICULTURAL OPERATIONS; introduction of computerized information, reporting and control systems; reorganization or improvement of work place systems and the introduction of total quality and employee participation programs; development and introduction of new products; identification and development of new markets, including entry into foreign markets; financial restructuring for purposes of enabling modernization activities; buyouts of viable companies by employees or local owners residing in the state; and the provision of working capital for other modernization activities that will improve the competitiveness and productivity of a firm and result in the creation or retention of jobs; or

S 3. This act shall take effect immediately.

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, 2012.

PART W

Section 1. Subdivision 10 of section 89-h of the general business law, as amended by chapter 699 of the laws of 2004, is amended to read as follows:

10. Fees: pay (a) a fee of [thirty-six] SEVENTY-TWO dollars for processing of the application, investigation of the applicant and for the initial [biennial] FOUR YEAR registration period. Such fees shall be deposited to the credit of the business and licensing services account established pursuant to the provisions of section ninety-seven-y of the state finance law; and (b) a fee pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law, and amendments thereto, for the cost of the division's full search and retain procedures, and a fee as determined by the federal bureau of investigation for the cost of its fingerprint search procedures, which fees shall be remitted by the department to the division and federal bureau of investigation; and

S 2. Subdivision 1 of section 89-m of the general business law, as added by chapter 336 of the laws of 1992, is amended to read as follows:

1. Registration cards shall expire [two] FOUR years from the date of issuance or last renewal as the case may be. Not less than sixty nor more than ninety days prior to the expiration date of a registration card, the department shall mail to each registrant at his last known address, notice of renewal and a registration renewal form. Registration cards shall not be renewed unless not more than sixty nor less than thirty days prior to the expiration date of the registration card, the holder submits to the department, a registration renewal form sworn to or affirmed by the holder under the penalty of perjury together with a [biennial] renewal fee in the amount of [twenty-five] FIFTY dollars payable to the department and a certificate certifying that the holder has satisfactorily completed the required annual in-service training courses as prescribed by the commissioner pursuant to subdivision one of section eight hundred forty-one-c of the executive law. Unless the department determines the existence of facts which would constitute cause for denial, revocation or suspension of the registration card pursuant to this article, it shall renew the registration card. Denial of renewal hereunder shall be reviewable by an administrative hearing as set forth in section seventy-nine of this chapter. The [twenty-five] FIFTY dollar [biennial] renewal fee collected by the department shall be deposited to the licensing examinations services account established pursuant to the provisions of section 97-aa of the state finance law. Notice that a registration card has expired or has not been renewed pursuant to this section shall be given by the secretary to the holder of such registration card and to the security guard company by which such holder was employed at the time of such expiration or non-renewal.

S 3. Subdivision 2 and paragraph (a) of subdivision 3 of section 441 of the real property law, subdivision 2 as amended by chapter 81 of the laws of 1995 and paragraph (a) of subdivision 3 as amended by chapter 474 of the laws of 2007, are amended to read as follows:

2. Renewals. Any license granted under the provision hereof may be renewed by the department upon application therefor by the holder thereof, in such form as the department may prescribe and conforming to the requirements of section 3-503 of the general obligations law, and payment of the fee for such license. In case of application for renewal of license, the department may dispense with the requirement of such statements as it deems unnecessary in view of those contained in the

original application for license but may not dispense with the requirements of section 3-503 of the general obligations law. A renewal period within the meaning of this act is considered as being a period of [two] FOUR years from the date of expiration of a previously issued license. The department shall require any applicant, who does not apply for renewal of license within such period, to qualify by passing the written examination as provided herein, and may require any licensee who has not yet passed the written examination, and who cannot reasonably prove to the satisfaction of the department, that he can meet the competency requirements, to pass the written examination before a renewal of license shall be granted; provided, however, that a person who failed or was unable to renew his license by reason of his induction or enlistment in the armed forces of the United States shall not be required to take or pass such examination.

(a) No renewal license shall be issued any licensee under this article for any license period commencing [November first, nineteen hundred ninety-five] APRIL FIRST, TWO THOUSAND SEVENTEEN unless such licensee shall have within the [two] FOUR year period immediately preceding such renewal attended at least [twenty-two and one-half] FORTY-FIVE hours which shall include at least [three] SIX hours of instruction pertaining to fair housing and/or discrimination in the sale or rental of real property or an interest in real property and successfully completed a continuing education real estate course or courses approved by the secretary of state as to method, content and supervision, which approval may be withdrawn if in the opinion of the secretary of state such course or courses are not being conducted properly as to method, content and supervision. APPLICANTS WITH A LICENSE EXPIRING PRIOR TO APRIL FIRST, TWO THOUSAND FIFTEEN, SHALL HAVE WITHIN THE TWO YEAR PERIOD IMMEDIATELY PRECEDING SUCH RENEWAL ATTENDED AT LEAST TWENTY-TWO AND ONE-HALF HOURS WHICH SHALL INCLUDE AT LEAST THREE HOURS OF INSTRUCTION PERTAINING TO FAIR HOUSING AND/OR DISCRIMINATION IN THE SALE OR RENTAL OF REAL PROPERTY OR AN INTEREST IN REAL PROPERTY AND SUCCESSFULLY COMPLETED A CONTINUING EDUCATION REAL ESTATE COURSE OR COURSES APPROVED BY THE SECRETARY OF STATE AS TO METHOD, CONTENT AND SUPERVISION, WHICH APPROVAL MAY BE WITHDRAWN IF IN THE OPINION OF THE SECRETARY OF STATE SUCH COURSE OR COURSES ARE NOT BEING CONDUCTED PROPERLY AS TO METHOD, CONTENT AND SUPERVISION. The licensee shall provide an affidavit, in a form acceptable to the department of state, establishing the nature of the continuing education acquired and shall provide such further proof as required by the department of state. The provisions of this paragraph shall not apply to any licensed real estate broker who is engaged full time in the real estate business and who has been licensed under this article prior to July first, two thousand eight for at least fifteen consecutive years immediately preceding such renewal.

S 4. Subdivisions 2 and 7 of section 441-a of the real property law, subdivision 2 as amended by chapter 324 of the laws of 1998 and subdivision 7 as amended by chapter 497 of the laws of 1985, are amended to read as follows:

2. Terms. A license issued or reissued under the provisions of this article shall entitle the person, co-partnership, limited liability company or corporation to act as a real estate broker, or, if the application is for a real estate salesman's license, to act as a real estate salesman in this state [up to and including the thirty-first day of October of the year in which the license by its terms expires] FOR A PERIOD OF FOUR YEARS FOLLOWING THE ISSUANCE OF SAID LICENSE.

7. License term. From and after the date when this subdivision shall take effect, the term for which a license shall be issued or reissued under this article shall be a period of [two] FOUR years.

S 5. Subdivision 1 of section 441-b of the real property law, as amended by chapter 324 of the laws of 1998, is amended to read as follows:

1. The fee for a license issued or reissued under the provisions of this article entitling a person, co-partnership, limited liability company or corporation to act as a real estate broker shall be [one hundred fifty] THREE HUNDRED dollars. The fee for a license issued or reissued under the provisions of this article entitling a person to act as a real estate salesman shall be [fifty] ONE HUNDRED dollars. Notwithstanding the provisions of subdivision seven of section four hundred forty-one-a of this article, after January first, nineteen hundred eighty-six, the secretary of state shall assign staggered expiration dates for outstanding licenses that have been previously renewed on October thirty-first of each year from the assigned date unless renewed. [If the assigned date results in a term that exceeds twenty-four months, the applicant shall pay an additional prorated adjustment together with the regular renewal fee.] The secretary of state shall assign dates to existing licenses in a manner which shall result in a term of not less than [two] FOUR years.

S 6. This act shall take effect immediately; provided, however, that sections three, four and five of this act shall take effect April 1, 2013.

## PART X

Section 1. Subdivision 3 of section 235 of the racing, pari-mutuel wagering and breeding law is renumbered subdivision 4 and a new subdivision 3 is added to read as follows:

3. THE RULES SHALL PROVIDE THAT ALL WINNING CASH VOUCHERS MUST BE PRESENTED FOR PAYMENT BEFORE APRIL FIRST OF THE YEAR FOLLOWING THE YEAR OF THEIR PURCHASE AND FAILURE TO PRESENT ANY SUCH VOUCHER WITHIN THE PRESCRIBED PERIOD OF TIME SHALL CONSTITUTE A WAIVER OF THE RIGHT TO PARTICIPATE IN THE AWARD OR DIVIDEND. THE FUNDS RECEIVED FROM UNCASHED VOUCHERS SHALL BE PAID TO THE RACING REGULATION ACCOUNT ESTABLISHED PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS CHAPTER.

S 2. Paragraph c of subdivision 2 of section 301 of the racing, pari-mutuel wagering and breeding law, as relettered by chapter 211 of the laws of 1999, is relettered paragraph d and a new paragraph c is added to read as follows:

C. THE RULES OF THE BOARD SHALL PROVIDE THAT ALL WINNING CASH VOUCHERS MUST BE PRESENTED FOR PAYMENT BEFORE APRIL FIRST OF THE YEAR FOLLOWING THE YEAR OF THEIR PURCHASE AND FAILURE TO PRESENT ANY SUCH VOUCHER WITHIN THE PRESCRIBED PERIOD OF TIME SHALL CONSTITUTE A WAIVER OF THE RIGHT TO PARTICIPATE IN THE AWARD OR DIVIDEND. THE FUNDS RECEIVED FROM UNCASHED VOUCHERS SHALL BE PAID TO THE RACING REGULATION ACCOUNT ESTABLISHED PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS CHAPTER.

S 3. Subdivision 2 of section 401 of the racing, pari-mutuel wagering and breeding law is amended to read as follows:

2. Without limiting the generality of the foregoing, and in addition to its other powers:

a. [The state racing and wagering board shall have power to fix minimum and maximum charges for admission to quarter horse race meetings at which pari-mutuel betting is conducted provided, however, that the state

racing and wagering board shall have power to fix the charge for admission of members of the armed forces of the United States in uniform at one-half of the amount fixed for such admission generally under authority of this section.

b.] The state racing and wagering board shall prescribe rules and regulations for effectually preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed of quarter horses in any race in which they are about to participate.

[c.] B. The rules of the board shall also provide that all winning pari-mutuel tickets must be presented for payment before April first of the year following the year of their purchase and failure to present any such ticket within the prescribed period of time shall constitute a waiver of the right to participate in the award or dividend.

C. THE RULES OF THE BOARD SHALL ALSO PROVIDE THAT ALL WINNING CASH VOUCHERS MUST BE PRESENTED FOR PAYMENT BEFORE APRIL FIRST OF THE YEAR FOLLOWING THE YEAR OF THEIR PURCHASE AND FAILURE TO PRESENT ANY SUCH VOUCHER WITHIN THE PRESCRIBED PERIOD OF TIME SHALL CONSTITUTE A WAIVER OF THE RIGHT TO PARTICIPATE IN THE AWARD OR DIVIDEND. THE FUNDS RECEIVED FROM UNCASHED VOUCHERS SHALL BE PAID TO THE RACING REGULATION ACCOUNT ESTABLISHED PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS CHAPTER.

d. The board shall have power in its discretion, consistent with the powers of the state tax commission, to prescribe uniform methods of keeping accounts, records and books to be observed by associations or corporations licensed under the provisions of this article or by any association or corporation which owns stock in, or shares in the profits, or participates in the management or affairs of, such licensed association or corporation, or by any person, firm, association or corporation holding any concession, right or privilege to perform any service or sell any article at any track at which pari-mutuel quarter horse racing meets are conducted. The board may also in its discretion, consistent with the powers of the state tax commission, prescribe by order forms of accounts, records and memoranda to be kept by such persons, firms, associations or corporations. The board shall have power to visit, investigate, and place expert accountants, or such other persons as it may deem necessary, in the offices, tracks or other places of business of any such person, firm, association or corporation for the purpose of seeing that the provisions of sections two hundred twenty-two through seven hundred five of this chapter and rules and regulations issued by the board thereunder are strictly complied with. Such persons, firms, associations or corporations shall annually file with the board, on such date as the board shall prescribe, a report showing their financial condition and financial transactions during the fiscal year, including a balance sheet and a profit and loss statement, verified by the oath of at least two of its principal officers, if it be an association or corporation having officers, and by one or more of the owners or proprietors thereof if not an association or corporation. The report shall be in such form and contain such other matters as the board may determine from time to time to be necessary to disclose accurately the financial condition and operation of such persons, firms, associations or corporations during the preceding fiscal year. The board may for good cause shown grant a reasonable extension of time for the filing of any such report.

S 4. Subdivision 2 of section 529 of the racing, pari-mutuel wagering and breeding law, is renumbered subdivision 3 and a new subdivision 2 is added to read as follows:

2. THE RULES SHALL PROVIDE THAT ALL WINNING CASH VOUCHERS MUST BE PRESENTED FOR PAYMENT BEFORE APRIL FIRST OF THE YEAR FOLLOWING THE YEAR OF THEIR PURCHASE AND FAILURE TO PRESENT ANY SUCH VOUCHER WITHIN THE PRESCRIBED PERIOD OF TIME SHALL CONSTITUTE A WAIVER OF THE RIGHT TO PARTICIPATE IN THE AWARD OR DIVIDEND. THE FUNDS RECEIVED FROM UNCASHED VOUCHERS SHALL BE PAID TO THE RACING REGULATION ACCOUNT ESTABLISHED PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS CHAPTER.

S 5. This act shall take effect immediately; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date.

PART Y

Section 1. Section 308 of the racing, pari-mutuel wagering and breeding law is amended to read as follows:

S 308. Officials at harness horse race meetings. At all harness race meetings licensed by the state racing and wagering board in accordance with the provisions of sections two hundred twenty-two through seven hundred five of this chapter qualified judges and [starters] RACING OFFICIALS shall be designated by the state racing and wagering board. THE LICENSED RACING ASSOCIATIONS AND CORPORATIONS SHALL EMPLOY AND APPOINT ONE ASSOCIATE JUDGE AND THE STARTER TO SERVE AT HARNESS RACE MEETINGS, SUBJECT TO WRITTEN APPROVAL OF THE STATE RACING AND WAGERING BOARD BEFORE ENTERING UPON THE DISCHARGE OF THEIR DUTIES. Such officials shall enforce the rules and regulations of the state racing and wagering board and shall render regular written reports of the activities and conduct of such race meetings to the state racing and wagering board, PROVIDED HOWEVER, THAT THE JUDGES AND STARTERS EMPLOYED BY THE RACING ASSOCIATION OR CORPORATION SHALL NOT HAVE THE POWER TO IMPOSE FINES OR ISSUE SUSPENSIONS OF OCCUPATIONAL RACING LICENSES.

S 2. Subdivision 8 of section 73 of the public officers law is amended by adding a new paragraph (j) to read as follows:

(J) THE PROVISIONS OF SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT APPLY TO ANY PERSON AS A RESULT OF HIS OR HER EMPLOYMENT BY THE NEW YORK STATE RACING AND WAGERING BOARD IN THE CIVIL SERVICE TITLE OF STARTER OR ASSOCIATE JUDGE WHOSE EMPLOYMENT WAS TERMINATED WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH AS A RESULT OF THE ABOLITION OF HIS OR HER POSITION.

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

PART Z

Section 1. The agriculture and markets law is amended by adding a new article 21-A to read as follows:

ARTICLE 21-A

DAIRY RESEARCH AND EDUCATION

SECTION 258-S. LEGISLATIVE DECLARATION.
258-T. DEFINITIONS.
258-U. POWERS AND DUTIES OF THE COMMISSIONER.
258-V. RULES AND REGULATIONS; ENFORCEMENT.

S 258-S. LEGISLATIVE DECLARATION. IT IS HEREBY DECLARED THAT THE DAIRY INDUSTRY IS OF VITAL SIGNIFICANCE TO THE STATE'S ECONOMY, SOCIAL FABRIC, AND WELFARE OF THE PEOPLE OF THIS STATE, AND THAT RESEARCH,

EDUCATION AND DEVELOPMENT ASSOCIATED WITH DAIRY PRODUCTION IS IMPERATIVE TO ENSURE THAT THE STATE'S DAIRY FARMS AND INDUSTRY REMAIN COMPETITIVE AND PROFITABLE. IT IS THEREFORE DECLARED TO BE THE LEGISLATIVE INTENT AND POLICY OF THE STATE:

1. TO ENABLE MILK PRODUCERS AND OTHERS IN THE DAIRY INDUSTRY, WITH THE AID OF THE STATE, TO MORE ECONOMICALLY AND EFFECTIVELY PRODUCE MILK AND DAIRY PRODUCTS,

2. TO PROVIDE METHODS AND MEANS FOR THE DEVELOPMENT OF NEW, IMPROVED OR INNOVATIVE DAIRY INDUSTRY PRODUCTION PRACTICES, AND TO PROMOTE THEIR USE, AND

3. TO IMPROVE THE ECONOMIC STRENGTH, FARM PROFITABILITY AND WELL-BEING OF THE MILK PRODUCERS OF THIS STATE THROUGH APPLIED RESEARCH, FARMER EDUCATION AND TRAINING.

S 258-T. DEFINITIONS. 1. "ADVISORY BOARD" MEANS THE PERSONS APPOINTED BY THE COMMISSIONER FROM NOMINATIONS FROM PRODUCERS AS HEREIN DEFINED TO ASSIST THE COMMISSIONER IN ADMINISTERING A DAIRY RESEARCH AND EDUCATION ORDER.

2. "AREA" MEANS THE ENTIRE GEOGRAPHIC AREA OF THE STATE OF NEW YORK.

3. "COMMISSIONER" MEANS THE COMMISSIONER OF AGRICULTURE AND MARKETS OF THE STATE OF NEW YORK.

4. "COOPERATIVE" MEANS AN ASSOCIATION OR FEDERATION OR COOPERATIVE OF MILK PRODUCERS ORGANIZED UNDER THE LAWS OF NEW YORK STATE, OR ANY OTHER STATE, HAVING AGREEMENTS WITH ITS PRODUCER MEMBERS TO MARKET, BARGAIN FOR OR SELL THE MILK OF SUCH PRODUCERS, AND IS ACTUALLY PERFORMING ONE OR MORE OF THESE SERVICES IN THE MARKETING OF THE MILK PRODUCED BY ITS MEMBERS, THROUGH THE COOPERATIVE OR THROUGH A FEDERATION OF MILK COOPERATIVES IN WHICH THE COOPERATIVE HAS MEMBERSHIP.

5. "DAIRY PRODUCTS" MEANS MILK AND PRODUCTS DERIVED THEREFROM.

6. "DAIRY RESEARCH AND EDUCATION ORDER" MEANS AN ORDER ISSUED BY THE COMMISSIONER, PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

7 "MILK" MEANS COW'S MILK.

8. "MILK DEALER" MEANS ANY PERSON WHO PURCHASES OR HANDLES OR RECEIVES OR SELLS MILK, INCLUDING INDIVIDUALS, PARTNERSHIPS, CORPORATIONS, COOPERATIVE ASSOCIATIONS, AND UNINCORPORATED COOPERATIVE ASSOCIATIONS.

9. "PRODUCER" MEANS ANY PERSON IN THIS STATE WHO IS ENGAGED IN THE PRODUCTION OF MILK FOR COMMERCIAL USE.

S 258-U. POWERS AND DUTIES OF THE COMMISSIONER. 1. IN ORDER TO EFFECTUATE THE DECLARED POLICY OF THIS ARTICLE, THE COMMISSIONER MAY, AFTER DUE NOTICE AND OPPORTUNITY FOR HEARING, MAKE AND ISSUE A DAIRY RESEARCH AND EDUCATION ORDER.

2. SUCH ORDER SHALL BE ISSUED AND AMENDED OR TERMINATED IN ACCORDANCE WITH THE FOLLOWING PROCEDURES:

(A) BEFORE ANY SUCH ORDER MAY BECOME EFFECTIVE IT MUST BE APPROVED BY FIFTY-ONE PER CENTUM OF THE PRODUCERS OF MILK VOTING IN THE REFERENDUM FOR THE AREA TO BE REGULATED BY SUCH ORDER. SUCH REFERENDUM SHALL NOT CONSTITUTE VALID APPROVAL UNLESS FIFTY-ONE PER CENTUM OF ALL MILK PRODUCERS FOR THE AREA TO BE REGULATED VOTE IN THE REFERENDUM. PRODUCERS MAY VOTE BY INDIVIDUAL BALLOT OR THROUGH THEIR COOPERATIVES IN ACCORDANCE WITH THE FOLLOWING PROCEDURES:

(I) COOPERATIVES MAY SUBMIT WRITTEN APPROVAL OF SUCH ORDER WITHIN A PERIOD OF NINETY DAYS AFTER THE COMMISSIONER HAS ANNOUNCED A REFERENDUM ON A PROPOSED ORDER, FOR SUCH PRODUCERS WHO ARE LISTED AND CERTIFIED TO THE COMMISSIONER AS MEMBERS OF SUCH COOPERATIVE, PROVIDED, HOWEVER, THAT ANY COOPERATIVE BEFORE SUBMITTING SUCH WRITTEN APPROVAL SHALL GIVE AT LEAST THIRTY DAYS PRIOR WRITTEN NOTICE TO EACH PRODUCER WHO IS ITS MEMBER, OF THE INTENTION OF THE COOPERATIVE TO APPROVE SUCH PROPOSED

ORDER, AND FURTHER PROVIDE THAT IF SUCH COOPERATIVE DOES NOT INTEND TO APPROVE SUCH PROPOSED ORDER, IT SHALL LIKEWISE GIVE WRITTEN NOTICE TO EACH SUCH PRODUCER WHO IS ITS MEMBER, OF ITS INTENTION NOT TO APPROVE OF SUCH PROPOSED ORDER.

(II) IN ORDER TO ENSURE THAT ALL MILK PRODUCERS ARE INFORMED REGARDING A PROPOSED ORDER, THE COMMISSIONER SHALL NOTIFY ALL MILK PRODUCERS THAT AN ORDER IS BEING CONSIDERED AND THAT EACH PRODUCER MAY REGISTER APPROVAL OR DISAPPROVAL WITH THE COMMISSIONER EITHER DIRECTLY OR THROUGH THE PRODUCER'S COOPERATIVE.

(III) ANY PRODUCER MAY OBTAIN A BALLOT FROM THE COMMISSIONER IN ORDER TO REGISTER HIS OR HER OWN APPROVAL OR DISAPPROVAL OF THE PROPOSED ORDER. INDIVIDUAL BALLOTS SHALL BE CONSIDERED CONFIDENTIAL AND NOT SUBJECT TO PUBLIC DISCLOSURE, EXCEPT SUCH BALLOTS SHALL NOT BE CONSIDERED CONFIDENTIAL AS DEEMED NECESSARY BY THE COMMISSIONER TO IMPLEMENT THE PURPOSES OF THIS ARTICLE.

(IV) A PRODUCER WHO IS A MEMBER OF A COOPERATIVE THAT HAS NOTIFIED THE PRODUCER OF ITS INTENT TO APPROVE OR NOT TO APPROVE A PROPOSED ORDER, AND WHO OBTAINS A BALLOT AND WITH SUCH BALLOT EXPRESSES APPROVAL OR DISAPPROVAL OF THE PROPOSED ORDER, SHALL NOTIFY THE COMMISSIONER AS TO THE NAME OF THE COOPERATIVE OF WHICH THE PRODUCER IS A MEMBER, AND THE COMMISSIONER SHALL REMOVE SUCH PRODUCER'S NAME FROM THE LIST CERTIFIED BY SUCH COOPERATIVE.

(V) THE COMMISSIONER MAY APPOINT A REFERENDUM ADVISORY COMMITTEE TO ASSIST AND ADVISE IN THE CONDUCT OF THE REFERENDUM. SUCH COMMITTEE SHALL REVIEW REFERENDUM PROCEDURES AND THE TABULATION OF RESULTS, AND SHALL ADVISE THE COMMISSIONER OF ITS FINDINGS. THE FINAL CERTIFICATION OF THE REFERENDUM RESULTS SHALL BE MADE BY THE COMMISSIONER. THE COMMITTEE SHALL CONSIST OF NOT LESS THAN THREE MEMBERS, NONE OF WHOM SHALL BE PERSONS DIRECTLY AFFECTED BY THE PROPOSED DAIRY RESEARCH AND EDUCATION ORDER. TWO MEMBERS SHALL BE REPRESENTATIVES OF GENERAL FARM ORGANIZATIONS WHICH ARE NOT DIRECTLY AFFECTED BY THE PROPOSED ORDER. THE MEMBERS OF THE COMMITTEE SHALL NOT RECEIVE A SALARY BUT SHALL BE ENTITLED TO ACTUAL AND REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

3. THE COMMISSIONER SHALL ADMINISTER AND ENFORCE ANY SUCH DAIRY RESEARCH AND EDUCATION ORDER WHILE IT IS IN EFFECT, TO:

(A) ENCOURAGE THE STABILITY AND CONTINUED GROWTH OF THE DAIRY INDUSTRY,

(B) PROVIDE FOR RESEARCH AND EDUCATION PROGRAMS DESIGNED TO IMPROVE MILK PRODUCTION AND FARM PROFITABILITY,

(C) CARRY OUT, IN OTHER WAYS, THE DECLARED POLICY AND INTENT OF THIS ARTICLE.

4. THE COMMISSIONER MAY, AND UPON WRITTEN PETITION OF NOT LESS THAN TWENTY-FIVE PER CENTUM OF THE PRODUCERS IN THE AREA, EITHER AS INDIVIDUALS OR THROUGH COOPERATIVE REPRESENTATION, SHALL CALL A HEARING TO CONSIDER AMENDING OR TERMINATING SUCH ORDER, AND ANY SUCH AMENDMENT OR TERMINATION SHALL BE EFFECTIVE ONLY UPON APPROVAL OF FIFTY-ONE PER CENTUM OF THE PRODUCERS OF MILK FOR THE AREA REGULATED PARTICIPATING IN A REFERENDUM VOTE AS PROVIDED PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

5. THE COMMISSIONER SHALL PREPARE A BUDGET FOR THE ADMINISTRATION AND OPERATING COSTS AND EXPENSES ASSOCIATED WITH ANY DAIRY RESEARCH AND EDUCATION ORDER ISSUED PURSUANT TO THIS ARTICLE.

6. ANY DAIRY RESEARCH AND EDUCATION ORDER ISSUED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE MAY CONTAIN ANY OR ALL OF THE FOLLOWING:

(A) PROVISIONS FOR LEVYING AN ASSESSMENT AGAINST ALL PRODUCERS SUBJECT TO THE ORDER FOR THE PURPOSES OF CARRYING OUT THE PROVISIONS AND PAYING THE COSTS OF ADMINISTERING AND ENFORCING SUCH ORDER. IN ORDER TO COLLECT ANY SUCH ASSESSMENTS, PROVISION SHALL BE MADE FOR EACH MILK DEALER WHO RECEIVES MILK FROM PRODUCERS TO DEDUCT THE AMOUNT OF ASSESSMENT FROM MONEYS OTHERWISE DUE TO PRODUCERS FOR THE MILK SO DELIVERED. THE RATE OF SUCH ASSESSMENT SHALL NOT EXCEED ONE-TENTH OF ONE PERCENT PER HUNDREDWEIGHT OF THE AVERAGE STATISTICAL UNIFORM PRICE FOR THE NORTHEAST FEDERAL MILK MARKETING ORDER, OR ANY SUCCESSOR THERETO, AT ONONDAGA COUNTY FOR THE PRECEDING YEAR. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, THE COMMISSIONER, UPON WRITTEN PETITION OF NO LESS THAN TWENTY-FIVE PERCENT OF PRODUCERS IN THE AREA, EITHER AS INDIVIDUALS OR THROUGH COOPERATIVE REPRESENTATION, MAY CALL A HEARING FOR THE SOLE PURPOSE OF CONSIDERING ESTABLISHING A NEW RATE OF ASSESSMENT HEREUNDER AND MAY SUBMIT A PROPOSED CHANGE IN THE RATE OF ASSESSMENT TO THE PRODUCERS FOR ACCEPTANCE OR REJECTION WITHOUT OTHERWISE AFFECTING THE ORDER. THE PRODUCERS IN THE AREA MAY VOTE ON THE PROPOSED RATE EITHER AS INDIVIDUALS OR THOROUGH COOPERATIVE REPRESENTATION.

(B) PROVISIONS FOR PAYMENTS TO INSTITUTIONS OR ORGANIZATIONS ENGAGED IN RESEARCH LEADING TO THE DEVELOPMENT OF NEW, INNOVATIVE OR IMPROVED PRACTICES OR METHODS FOR DAIRY PRODUCTION AND FARM PROFITABILITY.

(C) PROVISIONS FOR PAYMENTS TO INSTITUTIONS OR ORGANIZATIONS ENGAGED IN EDUCATIONAL ACTIVITIES TO PROMOTE THE USE OF NEW, INNOVATIVE OR IMPROVED PRACTICES OR METHODS FOR DAIRY PRODUCTION AND FARM PROFITABILITY.

(D) PROVISIONS FOR REQUIRING RECORDS TO BE KEPT AND REPORTS TO BE FILED BY MILK DEALERS WITH RESPECT TO MILK RECEIVED FROM PRODUCERS AND WITH RESPECT TO ASSESSMENTS ON THE MILK OF SUCH PRODUCERS.

(E) PROVISIONS FOR THE AUDITING OF THE RECORDS OF SUCH MILK DEALERS FOR THE PURPOSE OF VERIFYING PAYMENT OF PRODUCER ASSESSMENTS.

(F) PROVISIONS FOR AN ADVISORY BOARD AS HEREINAFTER INDICATED.

(G) SUCH OTHER PROVISIONS AS MAY BE NECESSARY TO EFFECTUATE THE DECLARED POLICES OF THIS ARTICLE.

7. THE COMMISSIONER MAY TEMPORARILY SUSPEND THE OPERATION OF AN EFFECTIVE DAIRY RESEARCH AND EDUCATION ORDER FOR A CONTINUING PERIOD OF NOT LONGER THAN ONE YEAR, IF THE PURPOSES OF THIS ARTICLE ARE DEEMED UNNECESSARY DURING SUCH YEAR.

8. PRIOR TO THE ISSUANCE, AMENDMENT OR TERMINATION OF ANY DAIRY RESEARCH AND EDUCATION ORDER, THE COMMISSIONER MAY REQUIRE THE PETITIONERS FOR SUCH ISSUANCE, AMENDMENT OR TERMINATION TO DEPOSIT WITH HIM OR HER SUCH AMOUNT AS HE OR SHE MAY DEEM NECESSARY TO DEFRAY THE EXPENSES OF PREPARING AND MAKING EFFECTIVE, AMENDING OR TERMINATING THE ORDER. SUCH FUNDS SHALL BE RECEIVED, DEPOSITED AND DISBURSED BY THE COMMISSIONER IN THE SAME MANNER AS OTHER MONEYS RECEIVED BY THE COMMISSIONER UNDER THIS ARTICLE AND, IN THE EVENT THE APPLICATION FOR ADOPTION, AMENDMENT OR TERMINATION OF A RESEARCH AND EDUCATION ORDER IS APPROVED IN A REFERENDUM, THE COMMISSIONER SHALL REIMBURSE ANY SUCH APPLICANT IN THE AMOUNT OF ANY SUCH DEPOSIT FROM ANY UNEXPENDED MONIES COLLECTED UNDER THE RESEARCH ORDER AFFECTED BY SUCH REFERENDUM.

9. ANY MONEYS COLLECTED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE SHALL NOT BE DEEMED STATE FUNDS AND SHALL BE DEPOSITED IN A BANK OR OTHER DEPOSITORY IN THIS STATE, APPROVED BY THE COMMISSIONER, AND SHALL BE DISBURSED BY THE COMMISSIONER ONLY FOR THE NECESSARY EXPENSES INCURRED BY THE COMMISSIONER WITH RESPECT TO THE ORDER, ALL IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE COMMISSIONER. ALL SUCH EXPENDITURES SHALL BE AUDITED BY THE STATE COMPTROLLER OR A CERTIFIED

PUBLIC ACCOUNTANT AT LEAST EVERY TWO YEARS AND WITHIN FORTY-FIVE DAYS AFTER THE COMPLETION THEREOF THE STATE COMPTROLLER OR CERTIFIED PUBLIC ACCOUNTANT SHALL GIVE A COPY THEREOF TO THE COMMISSIONER AND THE ADVISORY BOARD. ANY MONEYS REMAINING IN SUCH FUND MAY, IN THE DISCRETION OF THE COMMISSIONER, BE REFUNDED AT THE CLOSE OF ANY FISCAL YEAR UPON A PRO-RATA BASIS TO ALL PERSONS FROM WHOM ASSESSMENTS THEREFORE WERE COLLECTED OR, WHENEVER THE COMMISSIONER FINDS THAT SUCH MONEYS MAY BE NECESSARY TO DEFRAY THE COST OF OPERATING SUCH RESEARCH AND EDUCATION ORDER IN A SUCCEEDING FISCAL YEAR, THE COMMISSIONER MAY CARRY OVER ALL OR ANY PORTION OF SUCH MONEYS INTO THE NEXT SUCH SUCCEEDING YEAR. UPON THE TERMINATION BY THE COMMISSIONER OF ANY DAIRY RESEARCH AND EDUCATION ORDER, ALL MONEYS REMAINING AND NOT REQUIRED BY THE COMMISSIONER TO DEFRAY THE EXPENSES OF OPERATING SUCH DAIRY RESEARCH AND EDUCATION ORDER, SHALL BE REFUNDED BY THE COMMISSIONER UPON A PRO-RATA BASIS TO ALL PERSONS FROM WHOM ASSESSMENTS THEREFORE WERE COLLECTED; PROVIDED, HOWEVER, THAT IF THE COMMISSIONER FINDS THAT THE AMOUNTS SO REFUNDABLE ARE SO SMALL AS TO MAKE IMPRACTICABLE THE COMPUTATION AND REFUNDING OF SUCH REFUNDS, THE COMMISSIONER MAY USE SUCH MONEYS TO DEFRAY THE EXPENSES INCURRED IN THE FORMULATION, ISSUANCE, ADMINISTRATION OR ENFORCEMENT OF ANY SUBSEQUENT RESEARCH ORDER.

10. ADVISORY BOARD. (A) ANY DAIRY RESEARCH AND EDUCATION ORDER ISSUED PURSUANT TO THIS ARTICLE SHALL PROVIDE FOR THE ESTABLISHMENT OF AN ADVISORY BOARD TO ADVISE AND ASSIST THE COMMISSIONER IN THE ADMINISTRATION OF SUCH ORDER. THIS BOARD SHALL CONSIST OF NOT LESS THAN FIVE MEMBERS. AT LEAST THREE MEMBERS SHALL REPRESENT DAIRY COOPERATIVES, ONE MEMBER SHALL REPRESENT A GENERAL FARM ORGANIZATION, AND ONE MEMBER SHALL BE AN AT-LARGE PRODUCER REPRESENTATIVE. MEMBERS SHALL SERVE THREE-YEAR TERMS AND SHALL BE APPOINTED BY THE COMMISSIONER FROM NOMINATIONS SUBMITTED BY PRODUCERS LOCATED IN THE AREA TO WHICH THE ORDER APPLIES. THE COMMISSIONER SHALL MAKE EVERY EFFORT TO ENSURE THAT THERE IS GEOGRAPHICAL REPRESENTATION FROM THE MAJOR DAIRY PRODUCING REGIONS OF THE STATE. NOMINATING PROCEDURES, QUALIFICATIONS, REPRESENTATION AND SIZE OF THE ADVISORY BOARD SHALL BE PRESCRIBED IN THE ORDER.

(B) NO MEMBER OF AN ADVISORY BOARD SHALL RECEIVE A SALARY BUT SHALL BE ENTITLED TO ACTUAL AND REASONABLE EXPENSES INCURRED WHILE PERFORMING DUTIES AS AUTHORIZED IN THIS SECTION.

(C) THE DUTIES AND RESPONSIBILITIES OF THE ADVISORY BOARD SHALL BE PRESCRIBED BY THE COMMISSIONER IN THE DAIRY RESEARCH AND EDUCATION ORDER, AND MAY INCLUDE ALL OR ANY OF THE FOLLOWING DUTIES AND RESPONSIBILITIES:

(1) RECOMMENDING TO THE COMMISSIONER OF ADMINISTRATIVE RULES AND REGULATIONS RELATING TO THE ORDER.

(2) RECOMMENDING TO THE COMMISSIONER SUCH AMENDMENTS TO THE ORDER AS DEEMED ADVISABLE.

(3) PREPARING AND SUBMITTING TO THE COMMISSIONER AN ESTIMATED BUDGET REQUIRED FOR THE PROPER OPERATION OF THE ORDER.

(4) REVIEWING, EVALUATING AND RECOMMENDING TO THE COMMISSIONER RESEARCH AND EDUCATION ACTIVITIES FOR FUNDING THAT ARE DESIGNED TO IMPROVE MILK PRODUCTION AND FARM PROFITABILITY.

(5) RECOMMENDING TO THE COMMISSIONER METHODS FOR ASSESSING PRODUCERS AND METHODS FOR COLLECTING THE NECESSARY FUNDS.

(6) ASSISTING THE COMMISSIONER IN THE COLLECTION AND ASSEMBLY OF INFORMATION AND DATA NECESSARY FOR THE PROPER ADMINISTRATION OF THE ORDER.

(7) THE PERFORMANCE OF SUCH OTHER DUTIES IN CONNECTION WITH THE ORDER AS THE COMMISSIONER SHALL DESIGNATE.

S 258-V. RULES AND REGULATIONS; ENFORCEMENT. 1. THE COMMISSIONER MAY MAKE AND PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO EFFECTUATE THE PROVISIONS AND INTENT OF THIS ARTICLE AND TO ENFORCE THE PROVISION OF ANY DAIRY RESEARCH AND EDUCATION ORDER, ALL OF WHICH SHALL HAVE THE FORCE AND EFFECT OF LAW.

2. THE COMMISSIONER MAY INSTITUTE SUCH ACTION AT LAW OR IN EQUITY AS MAY APPEAR NECESSARY TO ENFORCE COMPLIANCE WITH ANY PROVISION OF THIS ARTICLE, OR ANY RULE OR REGULATION, OR RESEARCH AND EDUCATION ORDER, COMMITTED TO HIS OR HER ADMINISTRATION, AND IN ADDITION TO ANY OTHER REMEDY UNDER ARTICLE THREE OF THIS CHAPTER OR OTHERWISE, MAY APPLY FOR RELIEF BY INJUNCTION IF NECESSARY TO PROTECT THE PUBLIC INTEREST WITHOUT BEING COMPELLED TO ALLEGE OR PROVE THAT AN ADEQUATE REMEDY AT LAW DOES NOT EXIST. SUCH APPLICATION MAY BE MADE TO THE SUPREME COURT IN ANY DISTRICT OR COUNTY AS PROVIDED IN THE CIVIL PRACTICE LAW AND RULES, OR TO THE SUPREME COURT IN THE THIRD JUDICIAL DISTRICT.

S 2. This act shall take effect immediately.

## PART AA

Section 1. Paragraph (b) of subdivision 2 of section 2975 of the public authorities law, as amended by section 1 of part J of chapter 60 of the laws of 2011, is amended to read as follows:

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

S 2. This act shall take effect immediately.

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 AA of this act shall be as specifically set forth in the last section of such Parts.