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

S. 6408--C A. 9008--C

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

January 14, 2016

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

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

AN ACT intentionally omitted (Part A); intentionally omitted (Part B); intentionally omitted (Part C); to amend the vehicle and traffic law and the state finance law, in relation to the dedication of revenues and the costs of the department of motor vehicles; to amend chapter 751 of the laws of 2005 amending the insurance law and the vehicle and traffic law relating to establishing the accident prevention course internet technology pilot program, in relation to the effectiveness thereof; to repeal subdivision 2 of section 89-g of the state finance law relating to funds to be placed into the accident prevention course internet, and other technology pilot program fund; and to repeal certain provisions of the state finance law relating to the motorcycle safety fund (Part D); to amend the vehicle and traffic law, in relation to covered farm vehicles and to expand the scope of the P endorsement; and to repeal certain provisions of such law relating thereto (Part E); to amend the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part F); 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 effective-

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

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ness thereof (Part G); to establish the Transformational Economic Development Infrastructure and Revitalization Projects act; and providing for the repeal of such provisions upon expiration thereof (Part H); 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 I); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, zero emissions vehicle and electric vehicle rebate and Fuel NY programs, and to finance the department of environmental conservation's climate change program, from an assessment on gas and electric corporations (Part J); to authorize the department of health to finance certain activities with revenues generated from an assessment on cable television companies (Part K); to amend the public service law, in relation to authorizing the department of public service to increase program efficiencies (Part L); to amend chapter 21 of the laws of 2003, amending the executive law, relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending the expiration date thereof (Part M); intentionally omitted (Part N); to amend the general business law, in relation to authorized combative sports and to the costs of boxer medical examinations; and to amend a chapter of the laws of 2016 amending the general business law and other laws relating to authorized combative sports, as proposed in legislative bill numbers S.5949-A and A.2604-C, in relation to the effectiveness thereof and the service of commissioners on the state athletic commission (Part O); to amend chapter 584 of the laws of 2011, amending the public authorities law relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, in relation to the effectiveness thereof (Part P); intentionally omitted (Part Q); intentionally omitted (Part R); to amend the New York state urban development corporation act, in relation to transferring the statutory authority for the promulgation of marketing orders from the department of agriculture and markets to the New York state urban development corporation; to repeal certain provisions of the agriculture and markets law relating to the marketing of agricultural products; and providing for the repeal of such provisions upon expiration thereof (Part S); to amend the environmental conservation law, in relation to waste tire management (Part T); to amend the state finance law, in relation to creating a new climate change mitigation and adaptation account in the environmental protection fund; to amend the environmental conservation law, in relation to local waterfront revitalization programs; to amend the environmental conservation law, in relation to climate smart community projects; and to amend the executive law, in relation to payments for local waterfront revitalization programs (Part U); intentionally omitted (Part V); to amend the New York state urban development corporation act, in relation to the criteria governing the award of grants from the beginning farmers NY fund (Part W); to amend the environmental conservation law, in relation to retrofit technology for diesel-fueled vehicles (Part X); to amend the vehicle and traffic law, in relation to the disposition of certain fees received from the registration of snowmobiles (Part Y); to amend the public service law, in relation to operation of farm waste electric generating equipment (Part Z); relating to establishing a zero emissions vehicle and clean

burning fuel vehicle rebate program (Part AA); and to amend subpart H of part C of chapter 20 of the laws of 2015, appropriating money for certain municipal corporations and school districts, in relation to funding to local government entities from the urban development corporation; and to repeal certain provisions of such law relating thereto (Part BB)

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 2016-2017 state fiscal year. Each component is wholly contained within a Part identified as Parts A through BB. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Intentionally Omitted

PART B

Intentionally Omitted

PART C

Intentionally Omitted

PART D

Section 1. Section 399-l of the vehicle and traffic law, as added by chapter 751 of the laws of 2005, is amended to read as follows:

S 399-l. Application. Applicants for participation in the pilot program established pursuant to this article shall be among those accident prevention course sponsoring agencies that have a course approved by the commissioner pursuant to article twelve-B of this title prior to the effective date of this article and which deliver such course to the public. Provided, however, the commissioner may, in his or her discretion, approve applications after such date. In order to be approved for participation in such pilot program, the course must comply with the provisions of law, rules and regulations applicable thereto. The commissioner may, in his or her discretion, impose a fee for the submission of each application to participate in the pilot program established pursuant to this article. Such fee shall not exceed seven thousand five hundred dollars. The proceeds from such fee shall be deposited [in the accident prevention course internet technology pilot program fund as established by section eighty-nine-g of the state finance law] BY THE COMPTROLLER INTO THE SPECIAL OBLIGATION RESERVE AND PAYMENT ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTAB-

LISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW FOR THE PURPOSES ESTABLISHED IN THIS SECTION.

S 2. Subdivision 2 of section 89-g of the state finance law is REPEALED and subdivisions 3 and 4 are renumbered subdivisions 2 and 3.

S 3. Section 5 of chapter 751 of the laws of 2005, amending the insurance law and the vehicle and traffic law relating to establishing the accident prevention course internet technology pilot program, as amended by section 1 of part E of chapter 57 of the laws of 2014, is amended to read as follows:

S 5. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall expire and be deemed repealed [May 31, 2019] APRIL 1, 2020; provided that any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.

S 4. Paragraph a of subdivision 5 of section 410 of the vehicle and traffic law, as amended by section 16 of part G of chapter 59 of the laws of 2009, is amended to read as follows:

a. The annual fee for registration or reregistration of a motorcycle shall be eleven dollars and fifty cents. Beginning April first, nineteen hundred ninety-eight the annual fee for registration or reregistration of a motorcycle shall be seventeen dollars and fifty cents, of which two dollars and fifty cents shall be deposited BY THE COMPTROLLER into the [motorcycle safety fund established pursuant to section ninety-two-g of the state finance law] 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 FOR THE PURPOSES ESTABLISHED IN THIS SECTION.

S 5. Paragraph (c-1) of subdivision 2 of section 503 of the vehicle and traffic law, as added by chapter 435 of the laws of 1997, is amended to read as follows:

(c-1) In addition to the fees established in paragraphs (b) and (c) of this subdivision, a fee of fifty cents for each six months or portion thereof of the period of validity shall be paid upon the issuance of any permit, license or renewal of a license which is valid for the operation of a motorcycle, except a limited use motorcycle. Fees collected pursuant to this paragraph shall be deposited BY THE COMPTROLLER into the [motorcycle safety fund established pursuant to section ninety-two-g of the state finance law] 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 FOR THE PURPOSES ESTABLISHED IN THIS SECTION.

S 6. Subdivision 2 of section 92-g of the state finance law is REPEALED and subdivisions 3 and 4 are renumbered subdivisions 2 and 3.

S 7. Section 92-g of the state finance law is REPEALED.

S 8. Section 317 of the vehicle and traffic law is amended by adding a new subdivision 5 to read as follows:

5. ALL ASSESSMENTS CHARGED AND COLLECTED BY THE COMMISSIONER PURSUANT TO THIS SECTION SHALL BE 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 9. Paragraph (b) of subdivision 1-a of section 318 of the vehicle and traffic law, as amended by section 1-b of part A of chapter 63 of the laws of 2005, is amended to read as follows:

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, an order of suspension issued pursuant to paragraph (a) or (e) of

this subdivision may be terminated if the registrant pays to the commissioner a civil penalty in the amount of eight dollars for each day up to thirty days for which financial security was not in effect, plus ten dollars for each day from the thirty-first to the sixtieth day for which financial security was not in effect, plus twelve dollars for each day from the sixty-first to the ninetieth day for which financial security was not in effect. Of each eight dollar penalty, six dollars will be deposited in the general fund and two dollars in the [miscellaneous special revenue fund - compulsory insurance account] 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 FOR THE PURPOSES ESTABLISHED IN THIS SECTION. Of each ten dollar penalty collected, six dollars will be deposited in the general fund, two dollars will be deposited in the [miscellaneous special revenue fund - compulsory insurance account] 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 FOR THE PURPOSES ESTABLISHED IN THIS SECTION, and two dollars shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law. Of each twelve dollar penalty collected, six dollars will be deposited into the general fund, two dollars will be deposited into the [miscellaneous special revenue fund - compulsory insurance account] 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 FOR THE PURPOSES ESTABLISHED IN THIS SECTION, and four dollars shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law. The foregoing provision shall apply only once during any thirty-six month period and only if the registrant surrendered the certificate of registration and number plates to the commissioner not more than ninety days from the date of termination of financial security or submits to the commissioner new proof of financial security which took effect not more than ninety days from the termination of financial security.

S 10. Section 423-a of the vehicle and traffic law is amended by adding a new subdivision 6 to read as follows:

6. ALL FUNDS COLLECTED FROM THE DEPARTMENT'S SHARE OF THE SALE OF ASSETS PURSUANT TO THIS SECTION SHALL BE 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 11. Paragraph (a) of subdivision 3 of section 89-b of the state finance law, as amended by section 8 of part C of chapter 57 of the laws of 2014, 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 AND THE COMMISSIONER OF MOTOR VEHICLES pursuant to section fifty-two, section three hundred twenty-six, section eighty-eight of the highway law, subdivision fifteen of section three hundred eighty-five, SECTION FOUR HUNDRED TWENTY-THREE-A, SECTION FOUR HUNDRED TEN, SECTION THREE HUNDRED SEVENTEEN, SECTION THREE HUNDRED EIGHTEEN, ARTICLE TWELVE-C, AND PARAGRAPH (C-1) OF SUBDIVISION TWO OF SECTION FIVE HUNDRED THREE 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, and sections ninety-four, one hundred thirty-five, [one hundred forty-four] and one hundred forty-five of the transportation 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 12. Paragraph (a) of subdivision 3 of section 89-b of the state finance law, as amended by section 9 of part C of chapter 57 of the laws of 2014, 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 AND THE COMMISSIONER OF MOTOR VEHICLES pursuant to section fifty-two, section three hundred twenty-six, section eighty-eight of the highway law, subdivision fifteen of section three hundred eighty-five, SECTION FOUR HUNDRED TWENTY-THREE-A, SECTION FOUR HUNDRED TEN, SECTION THREE HUNDRED SEVENTEEN, SECTION THREE HUNDRED EIGHTEEN, ARTICLE TWELVE-C, AND PARAGRAPH (C-1) OF SUBDIVISION TWO OF SECTION FIVE HUNDRED THREE 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, and sections ninety-four, one hundred thirty-five, [one hundred forty-four] and one hundred forty-five of the transportation 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 13. This act shall take effect immediately; provided, however, that section seven of this act shall take effect April 1, 2020; provided further, however, that the amendments to section 399-1 of the vehicle and traffic law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and provided further, however, that the amendments to paragraph (a) of

subdivision 3 of section 89-b of the state finance law made by section eleven of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 13 of part U1 of chapter 62 of the laws of 2003, as amended, when upon such date the provisions of section twelve of this act shall take effect.

PART E

Section 1. Subparagraph (vi) of paragraph (b) of subdivision 2 of section 501 of the vehicle and traffic law is REPEALED.

S 2. Subparagraph (i) of paragraph (b) of subdivision 4 of section 501-a of the vehicle and traffic law, as amended by chapter 36 of the laws of 2009, is amended to read as follows:

(i) a personal use vehicle or a COVERED farm vehicle or a combination of such vehicles;

S 3. Subdivision 7 of section 501-a of the vehicle and traffic law is REPEALED, subdivision 8 is renumbered subdivision 7, and a new subdivision 8 is added to read as follows:

8. COVERED FARM VEHICLE. (A) A VEHICLE OR COMBINATION OF VEHICLES REGISTERED IN THIS STATE, WHICH (I) DISPLAYS A COVERED FARM VEHICLE DESIGNATION ISSUED BY THE COMMISSIONER, (II) IS OPERATED BY THE OWNER OR OPERATOR OF A FARM OR RANCH, OR AN EMPLOYEE OR FAMILY MEMBER OF AN OWNER OR OPERATOR OF A FARM OR RANCH, (III) IS USED TO TRANSPORT AGRICULTURAL COMMODITIES, LIVESTOCK, MACHINERY OR SUPPLIES TO OR FROM A FARM OR RANCH, (IV) IS NOT USED IN FOR-HIRE MOTOR CARRIER OPERATIONS, EXCLUSIVE OF OPERATION BY A TENANT PURSUANT TO A CROP SHARE FARM LEASE AGREEMENT TO TRANSPORT THE LANDLORD'S PORTION OF THE CROPS UNDER THAT AGREEMENT; AND (V) IS NOT USED FOR THE TRANSPORTATION OF HAZARDOUS MATERIALS.

(B) A COVERED FARM VEHICLE WITH A GROSS VEHICLE WEIGHT OR GROSS VEHICLE WEIGHT RATING, WHICHEVER IS GREATER, OF MORE THAN TWENTY-SIX THOUSAND POUNDS MAY ONLY BE OPERATED WITHIN ONE HUNDRED FIFTY AIR MILES OF THE FARM OR RANCH.

(C) THE COMMISSIONER SHALL, BY REGULATION, DESIGNATE AN ENDORSEMENT OR ENDORSEMENTS FOR THE OPERATION OF COVERED FARM VEHICLES WITH A GROSS VEHICLE WEIGHT OR GROSS VEHICLE WEIGHT RATING OF MORE THAN TWENTY-SIX THOUSAND POUNDS. SUCH ENDORSEMENT OR ENDORSEMENTS SHALL BE REQUIRED TO OPERATE SUCH A COVERED FARM VEHICLE OR COMBINATION OF COVERED FARM VEHICLES. THE IDENTIFICATION AND SCOPE OF SUCH ENDORSEMENT OR ENDORSEMENTS SHALL, AT A MINIMUM, INCLUDE A DISTINCTION BETWEEN THE OPERATION OF A COVERED FARM VEHICLE HAVING A GROSS VEHICLE WEIGHT OR GROSS VEHICLE WEIGHT RATING OF MORE THAN TWENTY-SIX THOUSAND POUNDS AND THE OPERATION OF A COMBINATION OF COVERED FARM VEHICLES HAVING A GROSS VEHICLE WEIGHT OR GROSS VEHICLE WEIGHT RATING OF MORE THAN TWENTY-SIX THOUSAND POUNDS.

(D) FOR THE PURPOSES OF THIS SUBDIVISION, THE GROSS VEHICLE WEIGHT OF A VEHICLE SHALL MEAN THE ACTUAL WEIGHT OF THE VEHICLE AND THE LOAD.

S 4. Subparagraph (iv) of paragraph (b) of subdivision 2 of section 501 of the vehicle and traffic law, as added by chapter 173 of the laws of 1990, is amended to read as follows:

(iv) P endorsement. Shall be required to operate a bus as defined in sections one hundred four and five hundred nine-a of this chapter OR ANY MOTOR VEHICLE WITH A GROSS VEHICLE WEIGHT OR GROSS VEHICLE WEIGHT RATING OF MORE THAN TWENTY-SIX THOUSAND POUNDS WHICH IS DESIGNED TO TRANSPORT PASSENGERS IN COMMERCE. FOR THE PURPOSES OF THIS SUBPARAGRAPH THE GROSS VEHICLE WEIGHT OF A VEHICLE SHALL MEAN THE ACTUAL WEIGHT OF THE VEHICLE AND THE LOAD.

S 5. This act shall take effect on the ninetieth day after it shall have become a law.

PART F

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, as amended by section 1 of part M of chapter 58 of the laws of 2015, is amended to read as follows:

3. The provisions of this section shall expire, notwithstanding any inconsistent provision of subdivision 4 of section 469 of chapter 309 of the laws of 1996 or of any other law, on July 1, [2016] 2017.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2016.

PART G

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 New York state urban development corporation to make loans, as amended by section 1 of part N of chapter 58 of the laws of 2015, 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, [2016] 2017, 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, 2016.

PART H

Section 1. This act shall be known and may be cited as the "Transformational Economic Development Infrastructure and Revitalization Projects act".

S 2. Definitions. For the purposes of this act, the following terms shall have the following meanings:

1. "Transformational Economic Development Infrastructure and Revitalization Projects act" or "projects" shall mean projects in the county of New York related to the Jacob K. Javits Convention Center, the Empire Station Complex, the James A. Farley Redevelopment, or the Pennsylvania Station New York Redevelopment. The term "project" shall refer to any of these construction projects.

2. "Authorized entity" shall mean the New York State Urban Development Corporation, the New York Convention Center Development Corporation, and/or their subsidiaries.

3. "Best value" shall mean the basis for awarding contracts for services to the bidder that optimize quality, cost and efficiency, price and performance criteria, which may include, but is not limited to:

(a) The quality of the contractor's performance on previous projects;

(b) The timeliness of the contractor's performance on previous projects;

(c) The level of customer satisfaction with the contractor's performance on previous projects;
(d) The contractor's record of performing previous projects on budget and ability to minimize cost overruns;
(e) The contractor's ability to limit change orders;
(f) The contractor's ability to prepare appropriate project plans;
(g) The contractor's technical capacities;
(h) The individual qualifications of the contractor's key personnel;
(i) The contractor's ability to assess and manage risk and minimize risk impact; and
(j) The contractor's past record of encouraging women and minority-owned business enterprise participation and compliance with article 15-A of the executive law.
Such basis shall reflect, wherever possible, objective and quantifiable analysis.
4. "Design-build contract" shall mean, in conformity with the requirements of this act, a contract for the design and construction of the projects with a single entity, which may be a team comprised of separate entities.
5. "Procurement record" shall mean documentation of the decisions made and the approach taken in the procurement process.
6. "Project labor agreement" shall mean a pre-hire collective bargaining agreement between a contractor and a bona fide building and construction trade labor organization establishing the labor organization as the collective bargaining representative for all persons who will perform work on the project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform project work.
S 3. Notwithstanding section 103 of the general municipal law or section 135 of the state finance law or the provisions of any other law to the contrary, in conformity with the requirements of this act, and only when a project labor agreement is performed, the authorized entity may utilize the alternative delivery method referred to as a design-build contract for the project. The authorized entity shall ensure that its procurement record reflects the design-build contract process authorized by this act if utilized and applicable.
S 4. An entity selected by the authorized entity to enter into a design-build contract for the project shall be selected through a two-step method, as follows:
1. Step one. Generation of a list of entities that have demonstrated the general capability to perform a design-build contract for the project. Such list shall consist of a specified number of entities, as determined by the authorized entity, and shall be generated based upon the authorized entity's review of responses to a publicly advertised request for qualifications for the project. The authorized entity's request for qualifications for the project shall include a general description of the project, the maximum number of entities to be included on the list, and the selection criteria to be used in generating the list. Such selection criteria shall include the qualifications and experience of the design and construction team, organization, demonstrated responsibility, ability of the team or of a member or members of the team to comply with applicable requirements, including the provisions of articles 145, 147 and 148 of the education law, past record of compliance with the labor law including prevailing wage requirements under state and federal law; the past record of compliance with existing labor standards and maintaining harmonious labor

relations; the record of protecting the health and safety of workers on public works projects and job sites as demonstrated by the experience modification rate for each of the last three years; the prospective bidder's ability to undertake the particular type and complexity of work; the financial capability, responsibility and reliability of the prospective bidder for such type and complexity of work; the prospective bidder's compliance with equal employment opportunity requirements and anti-discrimination laws, and demonstrated commitment to working with minority and women-owned businesses through joint ventures or subcontractor relationships; whether or not the prospective bidder or a person or entity with an interest of at least ten per centum in the prospective bidder, is debarred for having disregarded obligations to employees under the Davis-Bacon Act pursuant to 40 U.S.C. 3144 and 29 C.F.R. 5.12 and such other qualifications the authorized entity deems appropriate which may include but are not limited to project understanding, financial capability and record of past performance. The authorized entity shall evaluate and rate all entities responding to the request for qualifications. Based upon such ratings, the authorized entity shall list the entities that shall receive a request for proposals in accordance with subdivision two of this section. To the extent consistent with applicable federal law, the authorized entity shall consider, when awarding any contract pursuant to this section, the participation of: (a) firms certified pursuant to article 15-A of the executive law as minority or women-owned businesses and the ability of other businesses under consideration to work with minority and women-owned businesses so as to promote and assist participation by such businesses; and (b) small business concerns identified pursuant to subdivision (b) of section 139-g of the state finance law.

2. Step two. Selection of the proposal which is the best value to the authorized entity. The authorized entity shall issue a request for proposals for the project to the entities listed pursuant to subdivision one of this section. If such an entity consists of a team of separate entities, the entities that comprise such a team must remain unchanged from the entity as listed pursuant to subdivision one of this section unless otherwise approved by the authorized entity. The request for proposals for the project shall set forth the project's scope of work, and other requirements, as determined by the authorized entity including, but not limited to, requiring either (a) a lump sum price or (b) a fee for any preliminary professional services together with a specific methodology for determining a cost-plus not to exceed guaranteed maximum price for the balance of work that will be completed pursuant to the design-build contract following the completion of any preliminary professional services related to the project as long as any construction work on the project is awarded by the contractor on a competitive basis which is approved by the authorized entity. The request for proposals shall specify the criteria to be used to evaluate the responses and the relative weight of each such criteria. Such criteria shall include the proposal's cost, the quality of the proposal's solution, the qualifications and experience of the design-build entity, and other factors deemed pertinent by the authorized entity, which may include, but shall not be limited to, the proposal's project implementation, ability to complete the work in a timely and satisfactory manner, maintenance costs of the completed project, maintenance of traffic approach, and community impact. Any contract awarded pursuant to this act shall be awarded to a responsive and responsible entity that submits the proposal, which, in consideration of these and other specified criteria deemed pertinent to

the project, offers the best value to the authorized entity, as determined by the authorized entity. Nothing in this act shall be construed to prohibit the authorized entity from negotiating final contract terms and conditions including cost.

3. The design-build contract may be awarded to the contractor offering the best value:

(a) Utilizing a cost-plus not to exceed guaranteed maximum price form of contract in which the authorized entity shall be entitled to monitor and audit all project costs. In establishing the schedule and process for determining a guaranteed maximum price, the contract between the authorized entity and the contractor shall:

(i) describe the scope of the work and the cost of performing such work;

(ii) include a detailed line item cost breakdown;

(iii) include a list of all drawings, specifications and other information on which the guaranteed maximum price is based;

(iv) include the dates for substantial and final completion on which the guaranteed maximum price is based; and

(v) include a schedule of unit prices;

(b) Utilizing a lump sum contract in which the contractor agrees to accept a set dollar amount for a contract which comprises a single bid without providing a cost breakdown for all costs such as for equipment, labor, materials, as well as such contractor's profit for completing all items of work comprising the project; or

(c) The design-build contract may include both lump sum and cost-plus not to exceed guaranteed maximum price, and also may provide for professional services on a fee-for-service basis.

4. Notwithstanding the foregoing provisions of this section, an entity selected by the authorized entity to enter into a design-build contract for this project shall determine, before awarding any contracts authorized by this act, whether the bidder, or a person or entity with an interest of at least ten per centum in the bidder, is included in the published list of debarred contractors pursuant to 40 U.S.C. 3144 and 29 C.F.R. 5.12, for having disregarded obligations to employees under the Davis Bacon Act, and the bidder's inclusion on such list must be taken into consideration in deciding whether the bidder is awarded any contract.

S 5. Any contract entered into pursuant to this act shall include a clause requiring that any professional services regulated by articles 145, 147 and 148 of the education law shall be performed and stamped and sealed, where appropriate, by a professional licensed in accordance with such articles.

S 6. The construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation of the project undertaken by the authorized entity pursuant to this act shall be deemed a "public work" to be performed in accordance with the provisions of article 8 of the labor law, as well as subject to sections 200, 240, 241 and 242 of the labor law and enforcement of prevailing wage requirements by the New York state department of labor.

S 7. A project labor agreement shall be included as a requirement in the request for proposals for the project, provided that, based upon a study done by or for the authorized entity, the authorized entity determines that its interests are best met by requiring a project labor agreement. The authorized entity shall conduct such a study and the project labor agreement shall be performed consistent with the provisions of section 222 of the labor law. If a project labor agree-

ment is performed on the project the authorized entity may utilize a design-build contract for the project and section 135 of the state finance law shall not apply to the project. If a project labor agreement is not performed on the project the authorized entity shall not utilize a design-build contract for the project and sections 101 and 103 of the general municipal law and section 135 of the state finance law shall apply to the project.

S 8. Each contract entered into by the authorized entity pursuant to this act shall comply, whenever practical, with the objectives and goals of minority and women-owned business enterprises pursuant to article 15-A of the executive law or, if the project receives federal aid, shall comply with applicable federal requirements for disadvantaged business enterprises.

S 9. The project undertaken by the authorized entity pursuant to this act shall be subject to the requirements of article 8 of the environmental conservation law, and, where applicable, the requirements of the national environmental policy act.

S 10. The submission of a proposal or responses or the execution of a design-build contract pursuant to this act shall not be construed to be a violation of section 6512 of the education law.

S 11. Nothing contained in this act shall limit the right or obligation of the authorized entity to comply with the provisions of any existing contract, including any existing contract with or for the benefit of the holders of the obligations of the authorized entity, or to award contracts as otherwise provided by law.

S 12. This act shall take effect immediately and shall expire and be deemed repealed 3 years after such date, provided that, projects with requests for qualifications issued prior to such repeal shall be permitted to continue under this act notwithstanding such repeal.

PART I

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, 2016.

PART J

Section 1. Expenditures of moneys by the New York state energy research and development authority for services and expenses of the energy research, development and demonstration program, including grants, the energy policy and planning program, the zero emissions vehicle and electric vehicle rebate program, and the Fuel NY program 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 in an amount not to exceed $19,700,000 shall be reimbursed by assessment against gas corporations, as defined in subdivision 11 of section 2 of the public service law and electric corporations as defined in subdivision 13 of section 2 of the public service law, where such gas corporations and electric corporations have gross revenues from intrastate utility operations in excess of $500,000 in the preceding calendar year, 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 2014. Such amounts shall be excluded from the general assessment provisions of subdivision 2 of section 18-a of the public service law. The chair of the public service commission shall bill such gas and/or electric corporations for such amounts on or before August 10, 2016 and such amounts shall be paid to the New York state energy research and development authority on or before September 10, 2016. Upon receipt, the New York state energy research and development authority shall deposit such funds in the energy research and development operating fund established pursuant to section 1859 of the public authorities law. The New York state energy research and development authority is authorized and directed to: (1) transfer $1 million to the state general fund for services and expenses of the department of environmental conservation and to transfer $750,000 to the University of Rochester laboratory for laser energetics from the funds received; and (2) commencing in 2016, provide to the chair of the public service commission and the director of the budget and the chairs and secretaries of the legislative fiscal committees, on or before August first of each year, an itemized record, certified by the president and chief executive officer of the authority, or his or her designee, detailing any and all expenditures and commitments ascribable to moneys received as a result of this assessment by the chair of the department of public service pursuant to section 18-a of the public service law. This itemized record shall include an itemized breakdown of the programs being funded by this section and the amount committed to each program. The authority shall not commit for any expenditure, any moneys derived from the assessment provided for in this section, 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 chair to the chairs and secretaries of the legislative fiscal committees. Any such amount not committed by such authority to contracts or contracts to be awarded or otherwise expended by the authority during the fiscal year shall be refunded by such authority on a pro-rata basis to such gas and/or electric corporations, in a manner to be determined by 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, 2016.

PART K

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, 2016.

PART L

Section 1. Paragraph (c) of subdivision 12 of section 66 of the public service law, as amended by chapter 162 of the laws of 1998, is amended to read as follows:

(c) For the purpose of this subdivision, "major changes" shall mean an increase in the rates and charges which would increase the aggregate revenues of the applicant more than the greater of three hundred thousand dollars or two and one-half percent, but shall not include changes in rates, charges or rentals (I) allowed to go into effect by the commission or made by the utility pursuant to an order of the commission after hearings held upon notice to the public, OR (II) PROPOSED BY A MUNICIPALITY.

S 2. This act shall take effect immediately.

PART M

Section 1. Section 2 of chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, as amended by section 1 of part T of chapter 58 of the laws of 2015, is amended to read as follows:

S 2. This act shall take effect immediately, provided however, that section one of this act shall be deemed to have been in full force and effect on and after April 1, 2003 and shall expire March 31, [2016] 2017.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 31, 2016.

PART N

Intentionally Omitted

PART O

Section 1. Subdivision 2 of section 1010 of the general business law, as added by a chapter of the laws of 2016 amending the general business law and other laws relating to authorized combative sports, as proposed in legislative bill numbers S.5949-A and A.2604-C, is amended to read as follows:

2. Any professional applying for a license or renewal of a license to participate in combative sports under this article shall undergo a comprehensive physical examination including clinical neurological examinations by a physician approved by the commission. If, at the time of such examination, there is any indication of brain injury, or for any other reason the physician deems it appropriate, the professional shall be required to undergo further neurological examinations by a neurologist including magnetic resonance imaging or other medically equivalent procedures. The commission shall not issue a license to a professional until such examinations are completed and reviewed by the commission. The results of all such examinations herein required shall become a part of the professional's permanent medical record as maintained by the commission. The costs of all such examinations [for professional boxers shall be assumed by the state if such examinations are performed by a physician or neurologist approved by the commission; the costs of all such examinations for professional mixed martial arts participants] shall be assumed by the applicant or promoter with which the profes-

sional [mixed martial arts participant] is affiliated, regardless of provider.

S 2. Section 11 of a chapter of the laws of 2016 amending the general business law and other laws relating to authorized combative sports, as proposed in legislative bill numbers S.5949-A and A.2604-C, is amended to read as follows:

S 11. This act shall take effect on the first day of the first month next succeeding the one hundred twentieth day after it shall have become a law and shall apply to gross receipts from combative sports held on or after that date; provided, however, that:

(A) the addition, amendment and/or repeal of any rule or regulation of the state athletic commission necessary for the implementation of this act on its effective date is authorized to be made on or before such effective date;

(B) SECTION 1003 OF THE GENERAL BUSINESS LAW, AS ADDED BY SECTION TWO OF THIS ACT, SHALL TAKE EFFECT IMMEDIATELY; AND

(C) NOTWITHSTANDING SECTION 1003 OF THE GENERAL BUSINESS LAW, AS ADDED BY SECTION TWO OF THIS ACT, THE COMMISSIONERS APPOINTED TO THE COMMISSION REPEALED BY THIS ACT MAY CONTINUE TO SERVE AS COMMISSIONERS ON THE COMMISSION CREATED BY THIS ACT, AND THEIR TERMS SHALL CONTINUE UNINTERRUPTED BY SUCH REPEAL.

S 3. This act shall take effect immediately, provided, however that section one of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2016 amending the general business law and other laws relating to authorized combative sports, as proposed in legislative bill numbers S.5949-A and A.2604-C, as amended, takes effect.

PART P

Section 1. Section 2 of chapter 584 of the laws of 2011, amending the public authorities law relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, as amended by section 1 of part X of chapter 57 of the laws of 2014, is amended to read as follows:

S 2. This act shall take effect immediately and shall expire and be deemed repealed on July 1, [2016] 2018; provided however, that the expiration of this act shall not impair or otherwise affect any of the powers, duties, responsibilities, functions, rights or liabilities of any subsidiary duly created pursuant to subdivision twenty-five of section 1678 of the public authorities law prior to such expiration.

S 2. This act shall take effect immediately.

PART Q

Intentionally Omitted

PART R

Intentionally Omitted

PART S

Section 1. Section 258-aa and article 25 of the agriculture and markets law are REPEALED.

S 2. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding three new sections 16-x, 16-y and 16-z to read as follows:

S 16-X. DAIRY PROMOTION ACT. 1. DECLARATION OF POLICY. (A) IT IS HEREBY DECLARED THAT THE MISSION OF THE CORPORATION IS TO PROMOTE A VIGOROUS AND GROWING STATE ECONOMY. IN IMPLEMENTING THIS MISSION, THE CORPORATION HAS UNDERTAKEN A VIGOROUS CAMPAIGN TO MARKET THE STATE'S ASSETS AND, BY CARRYING OUT THE PROVISIONS OF THIS SECTION, WOULD FURTHER THIS MISSION BY PROMOTING THE STATE'S DAIRY INDUSTRY.

(B) IT IS FURTHER DECLARED THAT THE CONTINUED EXISTENCE OF THE STATE DAIRY INDUSTRY, AND THE CONTINUED PRODUCTION OF MILK ON THE FARMS OF THIS STATE, IS OF VAST ECONOMIC IMPORTANCE TO THE STATE AND TO THE HEALTH AND WELFARE OF THE INHABITANTS THEREOF; THAT IT IS ESSENTIAL, IN ORDER TO ASSURE SUCH CONTINUED PRODUCTION OF MILK AND ITS HANDLING AND DISTRIBUTION, THAT PRICES TO PRODUCERS BE SUCH AS TO RETURN REASONABLE COSTS OF PRODUCTION, AND AT THE SAME TIME TO ASSURE AN ADEQUATE SUPPLY OF MILK AND DAIRY PRODUCTS TO CONSUMERS AT REASONABLE PRICES; AND TO THESE ENDS IT IS ESSENTIAL THAT CONSUMERS AND OTHERS BE ADEQUATELY INFORMED AS TO THE DIETARY NEEDS AND ADVANTAGES OF MILK AND DAIRY PRODUCTS AND AS TO THE ECONOMIES RESULTING FROM THE USE OF MILK AND DAIRY PRODUCTS, AND TO COMMAND FOR MILK AND DAIRY PRODUCTS, CONSUMER ATTENTION AND DEMAND CONSISTENT WITH THEIR IMPORTANCE AND VALUE. IT IS FURTHER DECLARED THAT CONTINUED DECLINE IN THE CONSUMPTION OF FLUID MILK AND SOME OTHER DAIRY PRODUCTS WILL JEOPARDIZE THE PRODUCTION OF ADEQUATE SUPPLIES OF MILK AND DAIRY PRODUCTS BECAUSE OF INCREASING SURPLUSES NECESSARILY RETURNING LESS TO PRODUCERS; AND THAT CONTINUED ADEQUATE SUPPLIES OF MILK AND DAIRY PRODUCTS IS A MATTER OF VITAL CONCERN AS AFFECTING THE HEALTH AND GENERAL WELFARE OF THE PEOPLE OF THIS STATE. IT IS THEREFORE DECLARED TO BE THE LEGISLATIVE INTENT AND POLICY OF THE STATE:

(I) TO ENABLE MILK PRODUCERS AND OTHERS IN THE DAIRY INDUSTRY, WITH THE AID OF THE STATE, TO MORE EFFECTIVELY PROMOTE THE CONSUMPTION OF MILK AND DAIRY PRODUCTS,

(II) TO PROVIDE METHODS AND MEANS FOR THE DEVELOPMENT OF NEW AND IMPROVED DAIRY PRODUCTS, AND TO PROMOTE THEIR USE, AND

(III) TO THIS END, TO ELIMINATE THE POSSIBLE IMPAIRMENT OF THE PURCHASING POWER OF THE MILK PRODUCERS OF THIS STATE AND TO ASSURE AN ADEQUATE SUPPLY OF MILK FOR CONSUMERS AT REASONABLE PRICES.

2. DEFINITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "PRESIDENT" MEANS THE PRESIDENT OF THE CORPORATION.

(B) "DAIRY PRODUCTS" MEANS MILK AND PRODUCTS DERIVED THEREFROM, AND PRODUCTS OF WHICH MILK OR A PORTION THEREOF IS A SIGNIFICANT PART.

(C) "PRODUCER" MEANS ANY PERSON IN THIS STATE WHO IS ENGAGED IN THE PRODUCTION OF MILK OR WHO CAUSES MILK TO BE PRODUCED FOR ANY MARKET IN THIS OR ANY OTHER STATE.

(D) "ADVISORY BOARD" MEANS THE PERSONS APPOINTED BY THE COMMISSIONER FROM NOMINATIONS FROM PRODUCERS TO ASSIST THE PRESIDENT IN ADMINISTERING A DAIRY PROMOTION ORDER.

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

(F) "DAIRY PROMOTION ORDER" MEANS AN ORDER ISSUED BY THE PRESIDENT, PURSUANT TO THE PROVISIONS OF THIS SECTION.

(G) "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 THEIR 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 THEIR MEMBERS, THROUGH THE COOPERATIVE OR THROUGH A FEDERATION OF MILK COOPERATIVES IN WHICH THE COOPERATIVE HAS MEMBERSHIP.

(H) "STATE" MEANS THE STATE OF NEW YORK.

(I) "DEPARTMENT" MEANS THE NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS.

(J) "COMMISSIONER" MEANS THE COMMISSIONER OF THE NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS.

3. POWERS AND DUTIES OF THE PRESIDENT. (A) THE PRESIDENT SHALL ADMINISTER AND ENFORCE THE PROVISIONS OF THIS SECTION. IN ORDER TO EFFECTUATE THE DECLARED POLICY OF THIS SECTION THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER AND PRODUCERS, MAY, AFTER DUE NOTICE AND HEARING, MAKE AND ISSUE A DAIRY PROMOTION ORDER, OR ORDERS.

(B) SUCH ORDER OR ORDERS SHALL, IN CONSULTATION WITH THE COMMISSIONER AND PRODUCERS, BE ISSUED AND AMENDED OR TERMINATED IN ACCORDANCE WITH THE FOLLOWING PROCEDURES:

(I) 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:

(A) COOPERATIVES MAY SUBMIT WRITTEN APPROVAL OF SUCH ORDER WITHIN A PERIOD OF ONE HUNDRED TWENTY DAYS AFTER THE PRESIDENT HAS ANNOUNCED A REFERENDUM ON A PROPOSED ORDER, FOR SUCH PRODUCERS WHO ARE LISTED AND CERTIFIED TO THE PRESIDENT AS MEMBERS OF SUCH COOPERATIVE; PROVIDED, HOWEVER, THAT ANY COOPERATIVE BEFORE SUBMITTING SUCH WRITTEN APPROVAL SHALL GIVE AT LEAST SIXTY 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.

(B) ANY PRODUCER MAY OBTAIN A BALLOT FROM THE PRESIDENT SO THAT HE OR SHE MAY REGISTER HIS OR HER OWN APPROVAL OR DISAPPROVAL OF THE PROPOSED ORDER.

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

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

(E) THE PRESIDENT SHALL CONSULT WITH THE MILK PRODUCERS AND ESTABLISH A REFERENDUM ADVISORY COMMITTEE TO ASSIST AND ADVISE HIM OR HER IN THE CONDUCT OF THE REFERENDUM. SUCH COMMITTEE SHALL REVIEW REFERENDUM PROCE-

DURES AND THE TABULATION OF RESULTS, AND SHALL ADVISE THE PRESIDENT OF ITS FINDINGS. THE FINAL CERTIFICATION OF THE REFERENDUM RESULTS SHALL BE MADE BY THE PRESIDENT. THE COMMITTEE SHALL BE SELECTED BY THE COMMISSIONER IN CONSULTATION WITH THE PRESIDENT, AND SHALL CONSIST OF NOT LESS THAN THREE MEMBERS, NONE OF WHOM SHALL BE PERSONS DIRECTLY AFFECTED BY THE PROMOTION ORDER BEING VOTED UPON. TWO MEMBERS SHALL BE REPRESENTATIVES OF GENERAL FARM ORGANIZATIONS WHICH ARE NOT DIRECTLY AFFECTED BY THE ORDER BEING VOTED UPON. 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.

(II) THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER, MAY, AND UPON WRITTEN PETITION OF NOT LESS THAN TEN PER CENTUM OF THE PRODUCERS IN THE AREA, EITHER AS INDIVIDUALS OR THROUGH COOPERATIVE REPRESENTATION, SHALL, CALL A HEARING TO AMEND OR TERMINATE 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 THIS PARAGRAPH.

(C) THE PRESIDENT, CONSULTING WITH AND SEEKING THE ADVICE AND CONSENT OF THE ADVISORY BOARD, SHALL ADMINISTER AND ENFORCE ANY SUCH DAIRY PROMOTION ORDER WHILE IT IS IN EFFECT, FOR THE PURPOSE OF:

(I) ENCOURAGING THE CONSUMPTION OF MILK AND DAIRY PRODUCTS BY ACQUAINTING CONSUMERS AND OTHERS WITH THE ADVANTAGES AND ECONOMY OF USING MORE OF SUCH PRODUCTS,

(II) PROTECTING THE HEALTH AND WELFARE OF CONSUMERS BY ASSURING AN ADEQUATE SUPPLY OF MILK AND DAIRY PRODUCTS,

(III) PROVIDING FOR RESEARCH PROGRAMS DESIGNED TO DEVELOP NEW AND IMPROVED DAIRY PRODUCTS,

(IV) PROVIDING FOR RESEARCH PROGRAMS DESIGNED TO ACQUAINT CONSUMERS AND THE PUBLIC GENERALLY WITH THE EFFECTS OF THE USE OF MILK AND DAIRY PRODUCTS ON THE HEALTH OF SUCH CONSUMERS,

(V) CARRYING OUT, IN OTHER WAYS, THE DECLARED POLICY AND INTENT OF THIS SECTION.

4. PROVISIONS OF DAIRY PROMOTION ORDERS. ANY DAIRY PROMOTION ORDER OR ORDERS MAY CONTAIN, AMONG OTHERS, ANY OR ALL OF THE FOLLOWING:

(A) PROVISION FOR LEVYING AN ASSESSMENT AGAINST ALL PRODUCERS SUBJECT TO THE REGULATION FOR THE PURPOSE OF CARRYING OUT THE PROVISIONS OF SUCH ORDER AND TO PAY THE COST 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 TWO PERCENT PER HUNDREDWEIGHT OF THE GROSS VALUE OF THE PRODUCERS' MILK, AND THERE MAY BE CREDITED AGAINST ANY SUCH ASSESSMENT THE AMOUNTS PER HUNDREDWEIGHT OTHERWISE PAID BY ANY PRODUCER COVERED BY THE ORDER BY VOLUNTARY CONTRIBUTION OR OTHERWISE PURSUANT TO ANY OTHER FEDERAL OR STATE MILK MARKET ORDER FOR ANY SIMILAR RESEARCH PROMOTION OR ADVERTISING PROGRAM. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION THREE OF THIS SECTION, THE PRESIDENT, UPON WRITTEN PETITION OF NO LESS THAN TWENTY-FIVE PERCENT OF PRODUCERS IN THE AREA, EITHER AS INDIVIDUALS OR THROUGH COOPERATIVE REPRESENTATION, AND IN CONSULTATION WITH THE COMMISSIONER, MAY CALL A HEARING FOR THE SOLE PURPOSE OF 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 THROUGH COOPERATIVE REPRESEN-

TATION. NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS PARAGRAPH AND OF PARAGRAPH (B) OF SUBDIVISION THREE OF THIS SECTION, OR THE PROVISIONS OF ANY ORDER PROMULGATED PURSUANT TO THIS SECTION, THE RATE OF ASSESSMENT, FOR ANY PERIOD DURING WHICH A DAIRY PRODUCTS PROMOTION AND RESEARCH ORDER ESTABLISHED PURSUANT TO THE FEDERAL DAIRY AND TOBACCO ADJUSTMENT ACT OF 1983 IS IN EFFECT, SHALL NOT BE LESS THAN AN AMOUNT EQUAL TO THE MAXIMUM CREDIT WHICH PRODUCERS PARTICIPATING IN THIS STATE'S DAIRY PRODUCTS PROMOTION OR NUTRITION EDUCATION PROGRAMS MAY RECEIVE PURSUANT TO SUBDIVISION (G) OF SEC. 113 OF SAID FEDERAL ACT.

(B) PROVISION FOR PAYMENTS TO ORGANIZATIONS ENGAGED IN CAMPAIGNS BY ADVERTISEMENTS OR OTHERWISE, INCLUDING PARTICIPATION IN SIMILAR REGIONAL OR NATIONAL PLANS OR CAMPAIGNS TO PROMOTE THE INCREASED CONSUMPTION OF MILK AND DAIRY PRODUCTS, TO ACQUAINT THE PUBLIC WITH THE DIETARY ADVANTAGES OF MILK AND DAIRY PRODUCTS AND WITH THE ECONOMY OF THEIR INCLUSION IN THE DIET AND TO COMMAND, FOR MILK AND DAIRY PRODUCTS, CONSUMER ATTENTION CONSISTENT WITH THEIR IMPORTANCE AND VALUE.

(C) PROVISION FOR PAYMENTS TO INSTITUTIONS OR ORGANIZATIONS ENGAGED IN RESEARCH LEADING TO THE DEVELOPMENT OF NEW OR IMPROVED DAIRY PRODUCTS OR RESEARCH WITH RESPECT TO THE VALUE OF MILK AND DAIRY PRODUCTS IN THE HUMAN DIET.

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

(F) PROVISION FOR AN ADVISORY BOARD PURSUANT TO SUBDIVISION 10 OF THIS SECTION.

(G) PROVISION FOR THE PRESIDENT TO RETAIN MONEY COLLECTED UNDER ANY MARKETING ORDER ISSUED PURSUANT TO THIS SECTION, TO DEFRAY THE COSTS AND EXPENSES IN THE ADMINISTRATION THEREOF.

(H) SUCH OTHER PROVISIONS AS MAY BE NECESSARY TO EFFECTUATE THE DECLARED POLICIES OF THIS SECTION.

5. MATTERS TO BE CONSIDERED. IN CARRYING OUT THE PROVISIONS OF THIS SECTION AND PARTICULARLY IN DETERMINING WHETHER OR NOT A DAIRY PROMOTION ORDER SHALL BE ISSUED, THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER, SHALL TAKE INTO CONSIDERATION, AMONG OTHERS, FACTS AVAILABLE TO HIM OR HER WITH RESPECT TO THE FOLLOWING:

(A) THE TOTAL PRODUCTION OF MILK IN THE AREA AND THE PROPORTION OF SUCH MILK BEING UTILIZED IN FLUID FORM AND IN OTHER PRODUCTS,

(B) THE PRICES BEING RECEIVED FOR MILK BY PRODUCERS IN THE AREA,

(C) THE LEVEL OF CONSUMPTION PER CAPITA FOR FLUID MILK AND OF OTHER DAIRY PRODUCTS,

(D) THE PURCHASING POWER OF CONSUMERS,

(E) OTHER PRODUCTS WHICH COMPETE WITH MILK AND DAIRY PRODUCTS AND PRICES OF SUCH PRODUCTS.

6. INTERSTATE ORDERS FOR COMPACTS. THE COMMISSIONER IS AUTHORIZED TO CONFER AND COOPERATE WITH THE LEGALLY CONSTITUTED AUTHORITIES OF OTHER STATES AND OF THE UNITED STATES WITH RESPECT TO THE ISSUANCE AND OPERATION OF JOINT AND CONCURRENT DAIRY PROMOTION ORDERS OR OTHER ACTIVITIES TENDING TO CARRY OUT THE DECLARED INTENT OF THE ACT. THE COMMISSIONER MAY JOIN WITH SUCH OTHER AUTHORITIES IN CONDUCTING JOINT INVESTIGATIONS, HOLDING JOINT HEARINGS AND ISSUING JOINT OR CONCURRENT ORDER OR ORDERS COMPLEMENTARY TO THOSE OF THE FEDERAL GOVERNMENT AND THE PRESIDENT, AFTER CONSULTING WITH THE COMMISSIONER, SHALL HAVE THE AUTHORITY TO EMPLOY OR DESIGNATE A JOINT AGENT OR JOINT AGENCIES TO CARRY OUT AND ENFORCE SUCH JOINT, CONCURRENT OR SUPPLEMENTARY ORDERS.

7. PRIOR ASSESSMENTS. PRIOR TO THE EFFECTIVE DATE OF ANY DAIRY PROMOTION ORDER AS PROVIDED IN THIS SECTION, THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER, MAY REQUIRE THAT COOPERATIVE ASSOCIATIONS WHICH HAVE PETITIONED FOR SUCH AN ORDER AND THAT HAVE APPROVED OF THE ISSUANCE OF SUCH AN ORDER, TO DEPOSIT WITH THE PRESIDENT SUCH AMOUNTS AS HE OR SHE MAY DEEM NECESSARY TO DEFRAY THE EXPENSE OF ADMINISTERING AND ENFORCING SUCH ORDER UNTIL SUCH TIME AS THE ASSESSMENTS AS HEREIN BEFORE PROVIDED ARE ADEQUATE FOR THAT PURPOSE. SUCH FUNDS SHALL BE RECEIVED, DEPOSITED AND DISBURSED BY THE PRESIDENT IN THE SAME MANNER AS OTHER FUNDS RECEIVED BY HIM OR HER PURSUANT TO THIS SECTION AND THE PRESIDENT SHALL REIMBURSE THOSE WHO PAID THESE PRIOR ASSESSMENTS FROM OTHER FUNDS RECEIVED BY HIM OR HER PURSUANT TO THIS SECTION.

8. STATUS OF FUNDS. ANY MONEYS COLLECTED UNDER ANY MARKET ORDER ISSUED PURSUANT TO THIS SECTION SHALL NOT BE DEEMED TO BE STATE OR CORPORATION FUNDS AND SHALL BE DEPOSITED IN A BANK OR OTHER DEPOSITORY OF THE CORPORATION, APPROVED BY THE PRESIDENT, ALLOCATED TO EACH DAIRY PROMOTION ORDER UNDER WHICH THEY WERE COLLECTED, AND SHALL BE DISBURSED BY THE PRESIDENT ONLY FOR THE NECESSARY EXPENSES INCURRED BY THE PRESIDENT WITH RESPECT TO EACH SEPARATE ORDER, ALL IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE PRESIDENT. ALL SUCH EXPENSES SHALL BE SUBJECT TO AUDITS BY THE STATE COMPTROLLER. ANY MONEYS REMAINING IN SUCH FUND ALLOCABLE TO A PARTICULAR ORDER, AFTER THE TERMINATION OF SUCH ORDER AND NOT REQUIRED BY THE PRESIDENT TO DEFRAY THE EXPENSES OF OPERATING SUCH ORDER, MAY IN THE DISCRETION OF THE PRESIDENT BE REFUNDED ON A PRO-RATA BASIS TO ALL PERSONS FROM WHOM ASSESSMENTS THEREFOR WERE COLLECTED; PROVIDED, HOWEVER, THAT IF THE PRESIDENT FINDS THAT THE AMOUNTS SO REFUNDABLE ARE SO SMALL AS TO MAKE IMPRACTICABLE THE COMPUTATION AND REFUNDING OF SUCH MONEYS, THE PRESIDENT MAY USE SUCH MONEYS TO DEFRAY THE EXPENSES INCURRED BY HIM OR HER IN THE PROMULGATION, ISSUANCE, ADMINISTRATION OR ENFORCEMENT OF ANY OTHER SIMILAR DAIRY PROMOTION ORDER OR IN THE ABSENCE OF ANY OTHER SUCH DAIRY PROMOTION ORDER, THE PRESIDENT MAY PAY SUCH MONEYS TO ANY ORGANIZATION OR INSTITUTION AS PROVIDED IN PARAGRAPH (B) OR (C) OF SUBDIVISION FOUR OF THIS SECTION.

9. BUDGET. THE COMMISSIONER, IN CONSULTATION WITH THE PRESIDENT, SHALL PREPARE A BUDGET FOR THE ADMINISTRATION AND OPERATING COSTS AND EXPENSES INCLUDING ADVERTISING AND SALES PROMOTION WHEN REQUIRED IN ANY DAIRY PROMOTION ORDER EXECUTED HEREUNDER AND TO PROVIDE FOR THE COLLECTION OF SUCH NECESSARY FEES OR ASSESSMENTS TO DEFRAY COSTS AND EXPENSES, IN NO CASE TO EXCEED TWO PERCENT PER HUNDREDWEIGHT OF THE GROSS VALUE OF MILK MARKETED BY PRODUCERS IN THE AREA COVERED BY THE ORDER.

10. ADVISORY BOARD. (A) ANY DAIRY PROMOTION ORDER ISSUED PURSUANT TO THIS SECTION SHALL PROVIDE FOR THE ESTABLISHMENT OF AN ADVISORY BOARD TO ADVISE AND ASSIST THE PRESIDENT IN THE ADMINISTRATION OF SUCH ORDER. THE PRESIDENT SHALL ADMINISTER AND ENFORCE ANY SUCH DAIRY PROMOTION ORDER WHILE IT IS IN EFFECT, CONSULTING WITH THE ADVISORY BOARD AND SEEKING ITS ADVICE AND CONSENT. THIS BOARD SHALL CONSIST OF NOT LESS THAN FIVE MEMBERS AND SHALL BE APPOINTED BY THE COMMISSIONER FROM NOMINATIONS SUBMITTED BY PRODUCERS MARKETING MILK IN THE AREA TO WHICH THE ORDER APPLIES. NOMINATING PROCEDURE, QUALIFICATION, REPRESENTATION, AND SIZE OF THE ADVISORY BOARD SHALL BE PRESCRIBED IN THE ORDER FOR WHICH SUCH BOARD WAS APPOINTED.

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

(C) THE DUTIES AND RESPONSIBILITIES OF THE ADVISORY BOARD SHALL BE PRESCRIBED BY THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER, AND

HE OR SHE SHALL SPECIFICALLY DELEGATE TO THE ADVISORY BOARD, BY INCLUSION IN THE DAIRY PROMOTION ORDER THE FOLLOWING DUTIES AND RESPONSIBILITIES:

(I) THE RECOMMENDATION TO THE PRESIDENT OF ADMINISTRATIVE RULES AND REGULATIONS RELATING TO THE ORDER.

(II) RECOMMENDING TO THE PRESIDENT SUCH AMENDMENTS TO THE ORDER AS DEEMED ADVISABLE.

(III) THE PREPARATION AND SUBMISSION TO THE COMMISSIONER, IN CONSULTATION WITH THE PRESIDENT, OF AN ESTIMATED BUDGET REQUIRED FOR THE PROPER OPERATION OF THE ORDER.

(IV) RECOMMENDING TO THE PRESIDENT METHODS FOR ASSESSING PRODUCERS AND METHODS FOR COLLECTING THE NECESSARY FUNDS.

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

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

11. RULES AND REGULATIONS; ENFORCEMENT. (A) THE PRESIDENT MAY, WITH THE ADVICE AND CONSENT OF THE ADVISORY BOARD, MAKE AND ISSUE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO EFFECTUATE THE PROVISIONS AND INTENT OF THIS SECTION AND TO ENFORCE THE PROVISIONS OF ANY DAIRY PROMOTION ORDER, ALL OF WHICH SHALL HAVE THE FORCE AND EFFECT OF LAW.

(B) THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER MAY INSTITUTE SUCH ACTION AT LAW OR IN EQUITY AS MAY APPEAR NECESSARY TO ENFORCE COMPLIANCE WITH ANY PROVISION OF THIS SECTION, OR ANY RULE OR REGULATION, OR DAIRY PROMOTION ORDER COMMITTED TO HIS OR HER ADMINISTRATION, AND 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 SHALL BE MADE TO THE SUPREME COURT IN ANY DISTRICT OR COUNTY PROVIDED IN THE CIVIL PRACTICE LAW AND RULES, OR TO THE SUPREME COURT IN THE THIRD JUDICIAL DISTRICT.

12. COOPERATION BY THE DEPARTMENT. THE PRESIDENT MAY REQUEST AND RECEIVE, WITHIN NINETY DAYS OF SUCH REQUEST FROM THE DEPARTMENT SUCH ASSISTANCE, INFORMATION AND COOPERATION AS MAY BE NECESSARY FOR THE CORPORATION TO PROVIDE SERVICES WITH RESPECT TO THE ADMINISTRATION OF THE PROCEDURES SET FORTH FOR THE ISSUANCE, TERMINATION OR AMENDMENT OF ANY DAIRY PROMOTION ORDER AND/OR THE ADMINISTRATION OF ANY SUCH ORDER. THE CORPORATION SHALL RETAIN AN AMOUNT EQUAL TO THE EXPENSES INCURRED BY THE CORPORATION IN PERFORMING ITS DUTIES PURSUANT TO THIS SECTION AND REIMBURSE THE DEPARTMENT AN AMOUNT EQUAL TO THE EXPENSES INCURRED BY THE DEPARTMENT IN SUPPLYING SUCH SERVICES, SUBSEQUENT TO SUBMISSION AND AUDIT OF A VOUCHER THEREFOR. SUCH REIMBURSEMENT SHALL NOT EXCEED THE TOTAL AMOUNT OF FUNDS COLLECTED BY THE CORPORATION PURSUANT TO THIS SECTION LESS THE REASONABLE EXPENSES INCURRED BY THE CORPORATION IN PERFORMING ITS DUTIES PURSUANT TO THIS SECTION.

13. INDEMNIFICATION. THE STATE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CORPORATION, ITS DIRECTORS, OFFICERS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, DAMAGES, COSTS AND EXPENSES WHATSOEVER ARISING DIRECTLY OR INDIRECTLY FROM, OR RELATING TO, THE ADMINISTRATION OF A DAIRY PROMOTION ORDER ISSUED OR ADMINISTERED PURSUANT TO THIS SECTION. IN CONNECTION WITH THE FOREGOING, THE CORPORATION SHALL GIVE THE STATE (A) PROMPT WRITTEN NOTICE OF ANY ACTION, CLAIM OR THREAT OF SUIT, (B) THE OPPORTUNITY TO TAKE OVER, SETTLE OR DEFEND SUCH ACTION, CLAIM OR SUIT AT THE STATE'S SOLE EXPENSE, AND (C) ASSISTANCE IN THE DEFENSE OF ANY SUCH ACTION AT THE EXPENSE OF THE STATE.

14. CONTRACTUAL PROVISIONS. THE CORPORATION MAY CONTRACT FOR SERVICES WITH RESPECT TO THE IMPLEMENTATION OF THIS SECTION IN ACCORDANCE WITH THE CORPORATION'S POLICIES, PROCEDURES AND GUIDELINES. NOTWITHSTANDING SECTION 2879 OF THE PUBLIC AUTHORITIES LAW OR ANY OTHER LAW TO THE CONTRARY, ANY SUCH CONTRACT MAY BE PROCURED BY THE CORPORATION ON A SOLE-SOURCE BASIS, AND SHALL NOT BE SUBJECT TO COMPETITIVE BID OR COMPETITIVE REQUEST FOR PROPOSAL REQUIREMENTS.

S 16-Y. MARKETING OF AGRICULTURAL PRODUCTS. DECLARATION OF POLICY. (A) IT IS HEREBY DECLARED THAT THE MISSION OF THE CORPORATION IS TO PROMOTE A VIGOROUS AND GROWING STATE ECONOMY. IN IMPLEMENTING THIS MISSION, THE CORPORATION HAS UNDERTAKEN A VIGOROUS CAMPAIGN TO MARKET THE STATE'S ASSETS AND BY CARRYING OUT THE PROVISIONS OF THIS SECTION, WOULD FURTHER THIS MISSION BY PROMOTING THE DEVELOPMENT OF MARKETS FOR AGRICULTURAL PRODUCTS GROWN AND PRODUCED IN THE STATE.

(B) IT IS FURTHER DECLARED THAT THE MARKETING OF AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS IN THIS STATE, IN EXCESS OF REASONABLE AND NORMAL MARKET DEMANDS THEREFOR; DISORDERLY MARKETING OF SUCH COMMODITIES; IMPROPER PREPARATION FOR MARKET AND LACK OF UNIFORM GRADING AND CLASSIFICATION OF AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS; UNFAIR METHODS OF COMPETITION IN THE MARKETING OF SUCH COMMODITIES AND THE INABILITY OF INDIVIDUAL PRODUCERS TO DEVELOP NEW AND LARGER MARKETS FOR AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS, RESULT IN AN UNREASONABLE AND UNNECESSARY ECONOMIC WASTE OF THE AGRICULTURAL WEALTH OF THIS STATE. SUCH CONDITIONS AND THE ACCOMPANYING WASTE JEOPARDIZE THE FUTURE CONTINUED PRODUCTION OF ADEQUATE FOOD SUPPLIES FOR THE PEOPLE OF THIS AND OTHER STATES. THESE CONDITIONS VITALLY CONCERN THE HEALTH, SAFETY AND GENERAL WELFARE OF THE PEOPLE OF THIS STATE.

IT IS THEREFORE DECLARED THE LEGISLATIVE PURPOSE AND THE POLICY OF THIS STATE:

(I) TO ENABLE AGRICULTURAL PRODUCERS AND AQUATIC PRODUCERS OF THIS STATE, WITH THE AID OF THE STATE, MORE EFFECTIVELY TO CORRELATE THE MARKETING OF THEIR AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS WITH MARKET DEMANDS THEREFOR.

(II) TO ESTABLISH ORDERLY, EFFICIENT AND EQUITABLE MARKETING OF AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS.

(III) TO PROVIDE FOR UNIFORM GRADING AND PROPER PREPARATION OF AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS FOR MARKET.

(IV) TO PROVIDE METHODS AND MEANS FOR THE DEVELOPMENT OF NEW AND LARGER MARKETS FOR AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS PRODUCED IN NEW YORK.

(V) TO ELIMINATE OR REDUCE THE ECONOMIC WASTE IN THE MARKETING OF AGRICULTURAL COMMODITIES AND AQUATIC PRODUCTS.

(VI) TO ELIMINATE UNJUST IMPAIRMENT OF THE PURCHASING POWER OF AQUATIC PRODUCERS AND THE AGRICULTURAL PRODUCERS OF THIS STATE; AND

(VII) TO AID AGRICULTURAL AND AQUATIC PRODUCERS IN MAINTAINING AN INCOME AT AN ADEQUATE AND EQUITABLE LEVEL.

2. DEFINITIONS. (A) "AGRICULTURAL COMMODITY" MEANS ANY AND ALL AGRICULTURAL, HORTICULTURAL, VINEYARD PRODUCTS, CORN FOR GRAIN, OATS, SOYBEANS, BARLEY, WHEAT, POULTRY OR POULTRY PRODUCTS, BEES, MAPLE SAP AND PURE MAPLE PRODUCTS PRODUCED THEREFROM, CHRISTMAS TREES, LIVESTOCK, INCLUDING SWINE, AND HONEY, SOLD IN THE STATE EITHER IN THEIR NATURAL STATE OR AS PROCESSED BY THE PRODUCER THEREOF BUT DOES NOT INCLUDE MILK, TIMBER OR TIMBER PRODUCTS, OTHER THAN CHRISTMAS TREES, ALL HAY, RYE AND LEGUMES EXCEPT FOR SOYBEANS.

(B) "AQUACULTURE" MEANS THE CULTURE, CULTIVATION AND HARVEST OF AQUATIC PLANTS AND ANIMALS.

(C) "AQUATIC PRODUCTS" MEANS ANY FOOD OR FIBER PRODUCTS OBTAINED THROUGH THE PRACTICE OF AQUACULTURE, INCLUDING MARICULTURE; OR BY HARVEST FROM THE SEA WHEN SUCH PRODUCTS ARE CULTURED OR LANDED IN THIS STATE. SUCH PRODUCTS INCLUDE BUT ARE NOT LIMITED TO FISH, SHELLFISH, SEAWEED OR OTHER WATER BASED PLANT LIFE.

(D) "PRODUCER" MEANS ANY PERSON ENGAGED WITHIN THIS STATE IN THE BUSINESS OF PRODUCING, OR CAUSING TO BE PRODUCED FOR ANY MARKET, ANY AGRICULTURAL COMMODITY OR AQUATIC PRODUCT.

(E) "HANDLER" MEANS ANY PERSON ENGAGED IN THE OPERATION OF PACKING, GRADING, SELLING, OFFERING FOR SALE OR MARKETING ANY MARKETABLE AGRICULTURAL COMMODITIES OR AQUATIC PRODUCTS, WHO AS OWNER, AGENT OR OTHERWISE SHIPS OR CAUSES AN AGRICULTURAL COMMODITY TO BE SHIPPED.

(F) "PROCESSOR" MEANS ANY PERSON ENGAGED WITHIN THIS STATE IN PROCESSING, OR IN THE OPERATION OF RECEIVING, GRADING, PACKING, CANNING, FREEZING, DEHYDRATING, FERMENTING, DISTILLING, EXTRACTING, PRESERVING, GRINDING, CRUSHING, OR IN ANY OTHER WAY PRESERVING OR CHANGING THE FORM OF AN AGRICULTURAL PRODUCT OR AQUATIC PRODUCT FOR THE PURPOSE OF MARKETING SUCH COMMODITY BUT SHALL NOT INCLUDE A PERSON ENGAGED IN MANUFACTURING FROM AN AGRICULTURAL COMMODITY OR AQUATIC PRODUCT ANOTHER AND DIFFERENT PRODUCT.

(G) "DISTRIBUTOR" MEANS ANY PERSON ENGAGED WITHIN THIS STATE, IN SELLING, OFFERING FOR SALE, MARKETING OR DISTRIBUTING AN AGRICULTURAL COMMODITY OR AQUATIC PRODUCT WHICH HE OR SHE HAS PURCHASED OR ACQUIRED FROM A PRODUCER OR OTHER PERSON OR WHICH HE OR SHE IS MARKETING ON BEHALF OF A PRODUCER OR OTHER PERSON, WHETHER AS OWNER, AGENT, EMPLOYEE, BROKER OR OTHERWISE, BUT SHALL NOT INCLUDE A RETAILER, EXCEPT SUCH RETAILER WHO PURCHASES OR ACQUIRES FROM, OR HANDLES ON BEHALF OF ANY PRODUCER OR OTHER PERSON, AN AGRICULTURAL COMMODITY OR AQUATIC PRODUCT SUBJECT TO REGULATION BY THE MARKETING AGREEMENT OR ORDER COVERING SUCH COMMODITY.

(H) "PRESIDENT" MEANS THE PRESIDENT OF THE CORPORATION.

(I) "MARKETING AGREEMENT" MEANS AN AGREEMENT ENTERED INTO, WITH THE APPROVAL OF THE PRESIDENT, BY PRODUCERS WITH DISTRIBUTORS, PROCESSORS AND HANDLERS REGULATING THE PREPARATION, SALE AND HANDLING OF AGRICULTURAL COMMODITIES OR AQUATIC PRODUCTS.

(J) "MARKETING ORDER" MEANS AN ORDER ISSUED BY THE PRESIDENT PURSUANT TO THIS SECTION, PRESCRIBING RULES AND REGULATIONS GOVERNING THE MARKETING FOR PROCESSING, THE DISTRIBUTING, THE SALE OF, OR THE HANDLING IN ANY MANNER OF ANY AGRICULTURAL COMMODITY OR AQUATIC PRODUCT SOLD IN THIS STATE DURING ANY SPECIFIED PERIOD OR PERIODS.

(K) "COMMISSIONER" MEANS THE COMMISSIONER OF THE NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS.

(L) "DEPARTMENT" MEANS THE NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS.

3. POWERS AND DUTIES OF THE PRESIDENT. (A) IN ORDER TO EFFECTUATE THE DECLARED POLICY OF THIS SECTION, THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER, MAY, AFTER DUE NOTICE AND OPPORTUNITY FOR HEARING, APPROVE MARKETING AGREEMENTS, WHICH MARKETING AGREEMENTS SHALL THEREUPON BE BINDING UPON THE SIGNATORIES THERETO EXCLUSIVELY.

(B) THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER AND THE PRODUCERS, MAY MAKE AND ISSUE MARKETING ORDERS, AFTER DUE NOTICE AND OPPORTUNITY FOR HEARING, SUBJECT TO:

(I) APPROVAL OF NOT LESS THAN SIXTY-SIX AND TWO-THIRDS PER CENTUM OF THE PRODUCERS PARTICIPATING IN A REFERENDUM IN THE AREA AFFECTED, OR

(II) APPROVAL OF NOT LESS THAN SIXTY-FIVE PER CENTUM OF THE PRODUCERS PARTICIPATING IN A REFERENDUM VOTE, IN THE AREA AFFECTED, AND HAVING

MARKETED NOT LESS THAN FIFTY-ONE PER CENTUM OF THE TOTAL QUANTITY OF THE COMMODITY WHICH WAS MARKETED IN THE NEXT PRECEDING, ORDINARY MARKETING SEASON BY ALL PRODUCERS THAT VOTED IN THE REFERENDUM, OR

(III) APPROVAL OF NOT LESS THAN FIFTY-ONE PER CENTUM OF THE PRODUCERS PARTICIPATING IN A REFERENDUM VOTE, IN THE AREA AFFECTED, AND HAVING MARKETED NOT LESS THAN SIXTY-FIVE PER CENTUM OF THE TOTAL QUANTITY OF THE COMMODITY WHICH WAS MARKETED IN THE NEXT PRECEDING, ORDINARY MARKETING SEASON BY ALL PRODUCERS THAT VOTED IN THE REFERENDUM. THE PRESIDENT MAY, AND UPON WRITTEN PETITION DULY SIGNED BY TWENTY-FIVE PER CENTUM OF THE PRODUCERS IN THE AREA AMEND OR TERMINATE SUCH ORDER AFTER DUE NOTICE AND OPPORTUNITY FOR HEARING, BUT SUBJECT TO THE APPROVAL OF NOT LESS THAN FIFTY PER CENTUM OF SUCH PRODUCERS PARTICIPATING IN A REFERENDUM VOTE.

(C) THE PRESIDENT, CONSULTING WITH AND SEEKING THE ADVICE AND CONSENT OF THE ADVISORY BOARD SHALL ADMINISTER AND ENFORCE ANY MARKETING ORDER, WHILE IT IS IN EFFECT, TO:

(I) ENCOURAGE AND MAINTAIN STABLE PRICES RECEIVED BY PRODUCERS FOR SUCH AGRICULTURAL COMMODITY AND AQUATIC PRODUCT AT A LEVEL WHICH IS CONSISTENT WITH THE PROVISIONS AND AIMS OF THIS ACT.

(II) PREVENT THE UNREASONABLE OR UNNECESSARY WASTE OF LAND OR WATER BASED WEALTH.

(III) PROTECT THE INTERESTS OF CONSUMERS OF SUCH COMMODITY, BY EXERCISING THE POWERS OF THIS SECTION TO SUCH EXTENT AS IS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS ACT.

(IV) PROVIDE CONSULTATION TO THE COMMISSIONER WHO SHALL BUDGET FOR THE ADMINISTRATION AND OPERATING COSTS AND EXPENSES, SEEKING THE ADVICE AND CONSENT OF THE ADVISORY BOARD, INCLUDING ADVERTISING AND SALES PROMOTION WHEN REQUIRED IN ANY MARKETING AGREEMENT OR ORDER EXECUTED IN THIS SECTION AND TO PROVIDE FOR THE COLLECTION AND RETENTION OF SUCH NECESSARY FEES TO DEFRAY SUCH COSTS AND EXPENSES, IN NO CASE TO EXCEED FIVE PERCENT OF THE GROSS DOLLAR VOLUME OF SALES OR DOLLAR VOLUME OF PURCHASES OR AMOUNTS HANDLED, TO BE COLLECTED FROM EACH PERSON ENGAGED IN THE PRODUCTION, PROCESSING, DISTRIBUTING OR THE HANDLING OF ANY MARKETABLE AGRICULTURAL COMMODITY AND AQUATIC PRODUCT PRODUCED OR LANDED IN THIS STATE AND DIRECTLY AFFECTED BY ANY MARKETING ORDER ISSUED PURSUANT TO THIS SECTION FOR SUCH COMMODITY.

(V) CONFER AND COOPERATE WITH THE LEGALLY CONSTITUTED AUTHORITIES OF OTHER STATES AND THE UNITED STATES.

(D) ANY MARKETING AGREEMENT OR ORDER ISSUED BY THE PRESIDENT PURSUANT TO THIS SECTION, IN CONSULTATION WITH THE COMMISSIONER, MAY CONTAIN ANY OR ALL OF THE FOLLOWING:

(I) PROVISIONS FOR DETERMINING THE EXISTENCE AND EXTENT OF THE SURPLUS OF ANY AGRICULTURAL COMMODITY, OR OF ANY GRADE, SIZE OR QUALITY THEREOF, AND PROVIDING FOR THE REGULATION AND DISPOSITION OF SUCH SURPLUS.

(II) PROVISIONS FOR LIMITING THE TOTAL QUANTITY OF ANY AGRICULTURAL PRODUCT, OR OF ANY GRADE OR GRADES, SIZE OR SIZES, OR QUALITY OR PORTIONS OR COMBINATIONS THEREOF, WHICH MAY BE MARKETED DURING ANY SPECIFIED PERIOD OR PERIODS. SUCH TOTAL QUANTITY OF ANY SUCH COMMODITY SO REGULATED SHALL NOT BE LESS THAN THE QUANTITY WHICH THE PRESIDENT SHALL FIND IS REASONABLY NECESSARY TO SUPPLY THE MARKET DEMAND OF CONSUMERS FOR SUCH COMMODITY.

(III) PROVISIONS REGULATING TO THE PERIOD, OR PERIODS, DURING WHICH ANY AGRICULTURAL COMMODITY, OR ANY GRADE OR GRADES, SIZE OR SIZES OR QUALITY OR PORTIONS OR COMBINATIONS OF SUCH COMMODITY, MAY BE MARKETED.

(IV) PROVISIONS FOR THE ESTABLISHMENT OF UNIFORM GRADING, STANDARDS, AND INSPECTION OF ANY AGRICULTURAL COMMODITY DELIVERED BY PRODUCERS OR

OTHER PERSONS TO HANDLERS, PROCESSORS, DISTRIBUTORS OR OTHERS ENGAGING IN THE HANDLING THEREOF, AND FOR THE ESTABLISHMENT OF GRADING OR STANDARDS OF QUALITY, CONDITION, SIZE, MATURITY OR PACK FOR ANY AGRICULTURAL COMMODITY, AND THE INSPECTION AND GRADING OF SUCH COMMODITY IN ACCORDANCE WITH SUCH GRADING OR STANDARDS SO ESTABLISHED; AND FOR PROVISIONS THAT NO PRODUCER, HANDLER, PROCESSOR OR DISTRIBUTOR OF ANY AGRICULTURAL COMMODITY FOR WHICH GRADING OR STANDARDS ARE SO ESTABLISHED MAY, EXCEPT AS OTHERWISE PROVIDED IN SUCH MARKETING AGREEMENT OR ORDER, SELL, OFFER FOR SALE, PROCESS, DISTRIBUTE OR OTHERWISE HANDLE ANY SUCH COMMODITY WHETHER PRODUCED WITHIN OR WITHOUT THIS STATE, NOT MEETING AND COMPLYING WITH SUCH ESTABLISHED GRADING OR STANDARDS. FOR THE PURPOSES OF THIS SECTION, THE FEDERAL-STATE INSPECTION SERVICE SHALL PERFORM ALL INSPECTIONS MADE NECESSARY BY SUCH PROVISIONS.

(V) PROVISIONS FOR THE ESTABLISHMENT OF RESEARCH PROGRAMS DESIGNED TO BENEFIT A SPECIFIED COMMODITY OR NEW YORK AGRICULTURE IN GENERAL.

(VI) PROVISIONS FOR THE PRESIDENT TO RETAIN MONEY COLLECTED UNDER ANY MARKETING ORDER ISSUED PURSUANT TO THIS SECTION TO DEFRAY THE COSTS AND EXPENSES IN THE ADMINISTRATION THEREOF.

(VII) SUCH OTHER PROVISIONS AS MAY BE NECESSARY TO EFFECTUATE THE DECLARED POLICIES OF THIS SECTION.

(VIII) PROVISIONS TO ESTABLISH MARKETING PROMOTION AND RESEARCH PROGRAMS FOR AQUATIC PRODUCTS WHICH MAY INCLUDE SUBPARAGRAPHS (I) THROUGH (VII) OF THIS PARAGRAPH.

(E) THE PRESIDENT, SEEKING THE ADVICE AND THE CONSENT OF THE ADVISORY BOARD, MAY TEMPORARILY SUSPEND THE OPERATION OF AN EFFECTIVE MARKETING ORDER FOR A CONTINUING PERIOD OF NOT LONGER THAN ONE GROWING AND MARKETING SEASON, IF THE PURPOSES OF THIS SECTION ARE DEEMED UNNECESSARY DURING SUCH SEASON.

(F) IN CARRYING OUT THE PURPOSES OF THIS SECTION, THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER AND CONSULTING WITH AND SEEKING THE ADVICE AND CONSENT OF THE ADVISORY BOARD, SHALL TAKE INTO CONSIDERATION ANY AND ALL FACTS AVAILABLE TO HIM OR HER WITH RESPECT TO THE FOLLOWING ECONOMIC FACTORS:

(I) THE QUANTITY OF SUCH AGRICULTURAL COMMODITY AVAILABLE FOR DISTRIBUTION.

(II) THE QUANTITY OF SUCH AGRICULTURAL COMMODITY NORMALLY REQUIRED BY CONSUMERS.

(III) THE COST OF PRODUCING SUCH AGRICULTURAL COMMODITY.

(IV) THE PURCHASING POWER OF CONSUMERS.

(V) THE LEVEL OF PRICES OF COMMODITIES, SERVICES AND SECTIONS WHICH THE FARMERS COMMONLY BUY.

(VI) THE LEVEL OF PRICES OF OTHER COMMODITIES WHICH COMPETE WITH OR ARE UTILIZED AS SUBSTITUTES FOR SUCH AGRICULTURAL COMMODITY.

(G) THE EXECUTION OF SUCH MARKETING AGREEMENTS SHALL IN NO MANNER AFFECT THE ISSUANCE, ADMINISTRATION OR ENFORCEMENT OF ANY MARKETING ORDER PROVIDED FOR IN THIS SECTION. THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER, MAY ISSUE SUCH MARKETING ORDER WITHOUT EXECUTING A MARKETING AGREEMENT OR MAY EXECUTE A MARKETING AGREEMENT WITHOUT ISSUING A MARKETING ORDER COVERING THE SAME COMMODITY. THE PRESIDENT, IN HIS OR HER DISCRETION, IN CONSULTATION WITH THE COMMISSIONER MAY HOLD A CONCURRENT HEARING UPON A PROPOSED MARKETING AGREEMENT AND A PROPOSED MARKETING ORDER IN THE MANNER PROVIDED FOR GIVING DUE NOTICE AND OPPORTUNITY FOR HEARING FOR A MARKETING ORDER AS PROVIDED IN THIS SECTION.

(H) PRIOR TO THE ISSUANCE, AMENDMENT OR TERMINATION OF ANY MARKETING ORDER, THE PRESIDENT MAY REQUIRE THE APPLICANTS 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 A MARKETING ORDER. SUCH FUNDS SHALL BE RECEIVED, DEPOSITED AND DISBURSED BY THE PRESIDENT IN THE SAME MANNER AS OTHER FEES RECEIVED BY HIM OR HER UNDER THIS SECTION AND, IN THE EVENT THE APPLICATION FOR ADOPTION, AMENDMENT OR TERMINATION OF A MARKETING ORDER IS APPROVED IN A REFERENDUM, THE PRESIDENT SHALL REIMBURSE ANY SUCH APPLICANT IN THE AMOUNT OF ANY SUCH DEPOSIT FROM ANY UNEXPENDED MONIES COLLECTED UNDER THE MARKETING ORDER AFFECTED BY SUCH REFERENDUM.

(I) ANY MONEYS COLLECTED BY THE PRESIDENT PURSUANT TO THIS SECTION SHALL NOT BE DEEMED STATE OR CORPORATION FUNDS AND SHALL BE DEPOSITED IN A BANK OR OTHER DEPOSITORY OF THE CORPORATION, APPROVED BY THE PRESIDENT, ALLOCATED TO EACH MARKETING ORDER UNDER WHICH THEY ARE COLLECTED, AND SHALL BE DISBURSED BY THE PRESIDENT ONLY FOR THE NECESSARY EXPENSES INCURRED BY THE PRESIDENT WITH RESPECT TO EACH SUCH SEPARATE MARKETING ORDER, ALL IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE PRESIDENT. ALL SUCH EXPENDITURES SHALL BE SUBJECT TO AUDITS BY THE STATE COMPTROLLER. ANY MONEYS REMAINING IN SUCH FUND ALLOCABLE TO ANY PARTICULAR COMMODITY AFFECTED BY A MARKETING ORDER MAY, IN THE DISCRETION OF THE PRESIDENT, BE REFUNDED AT THE CLOSE OF ANY MARKETING SEASON UPON A PRO-RATA BASIS TO ALL PERSONS FROM WHOM ASSESSMENTS THEREFOR WERE COLLECTED OR, WHENEVER THE PRESIDENT FINDS THAT SUCH MONEYS MAY BE NECESSARY TO DEFRAY THE COST OF OPERATING SUCH MARKETING ORDER IN A SUCCEEDING MARKETING SEASON, HE OR SHE MAY CARRY OVER ALL OR ANY PORTION OF SUCH MONEYS INTO THE NEXT SUCH SUCCEEDING SEASON. UPON THE TERMINATION BY THE PRESIDENT OF ANY MARKETING ORDER, ALL MONEYS REMAINING AND NOT REQUIRED BY THE PRESIDENT TO DEFRAY THE EXPENSES OF OPERATING SUCH MARKETING ORDER, SHALL BE REFUNDED BY THE PRESIDENT UPON A PRO-RATA BASIS TO ALL PERSONS FROM WHOM ASSESSMENTS THEREFOR WERE COLLECTED; PROVIDED, HOWEVER, THAT IF THE PRESIDENT FINDS THAT THE AMOUNTS SO REFUNDABLE ARE SO SMALL AS TO MAKE IMPRACTICABLE THE COMPUTATION AND REFUNDING OF SUCH REFUNDS, THE PRESIDENT MAY USE SUCH MONEYS TO DEFRAY THE EXPENSES INCURRED BY HIM OR HER IN THE FORMULATION, ISSUANCE, ADMINISTRATION OR ENFORCEMENT OF ANY SUBSEQUENT MARKETING ORDER FOR SUCH COMMODITY.

(J) ADVISORY BOARD. (I) ANY MARKETING ORDER ISSUED PURSUANT TO THIS SECTION SHALL PROVIDE FOR THE ESTABLISHMENT OF AN ADVISORY BOARD, TO CONSIST OF NOT LESS THAN FIVE MEMBERS NOR MORE THAN NINE MEMBERS, TO ADVISE THE PRESIDENT IN THE ADMINISTRATION OF SUCH MARKETING ORDER IN ACCORDANCE WITH ITS TERMS AND PROVISIONS. THE PRESIDENT SHALL ADMINISTER AND ENFORCE ANY SUCH ORDER WHILE IT IS IN EFFECT, CONSULTING WITH THE ADVISORY BOARD AND SEEKING ITS ADVICE AND CONSENT. THE MEMBERS OF SAID BOARD SHALL BE APPOINTED BY THE COMMISSIONER FROM NOMINATIONS RECEIVED FROM THE COMMODITY GROUP FOR WHICH THE MARKETING ORDER IS ESTABLISHED. NOMINATING PROCEDURE, QUALIFICATION, REPRESENTATION AND SIZE OF THE ADVISORY BOARD SHALL BE PRESCRIBED IN EACH MARKETING ORDER FOR WHICH SUCH BOARD IS APPOINTED. EACH ADVISORY BOARD SHALL BE COMPOSED OF SUCH PRODUCERS AND HANDLERS OR PROCESSORS AS ARE DIRECTLY AFFECTED BY THE MARKETING ORDER IN SUCH PROPORTION OF REPRESENTATION AS THE ORDER SHALL PRESCRIBE. THE COMMISSIONER MAY APPOINT ONE PERSON WHO IS NEITHER A PRODUCER, PROCESSOR OR OTHER HANDLER TO REPRESENT THE DEPARTMENT OF AGRICULTURE AND MARKETS, THE CORPORATION, OR THE PUBLIC GENERALLY.

(II) NO MEMBER OF AN ADVISORY BOARD SHALL RECEIVE A SALARY, BUT EACH SHALL BE ENTITLED TO HIS OR HER ACTUAL EXPENSES INCURRED WHILE ENGAGED IN PERFORMING HIS OR HER DUTIES HEREIN AUTHORIZED.

(III) THE DUTIES AND RESPONSIBILITIES OF EACH ADVISORY BOARD SHALL BE PRESCRIBED BY THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER, AND

HE OR SHE SHALL SPECIFICALLY DELEGATE TO THE ADVISORY BOARD, BY INCLUSION IN THE MARKETING ORDER, THE FOLLOWING DUTIES AND RESPONSIBILITIES:

(A) THE RECOMMENDATION TO THE PRESIDENT OF ADMINISTRATIVE RULES AND REGULATIONS RELATING TO THE MARKETING ORDER.

(B) RECOMMENDING TO THE PRESIDENT SUCH AMENDMENTS TO THE MARKETING ORDER AS DEEMED ADVISABLE.

(C) THE PREPARATION AND SUBMISSION TO THE COMMISSIONER, IN CONSULTATION WITH THE PRESIDENT, OF THE ESTIMATED BUDGET REQUIRED FOR THE PROPER OPERATION OF THE MARKETING ORDER.

(D) RECOMMENDING TO THE PRESIDENT METHODS FOR ASSESSING MEMBERS OF THE INDUSTRY AND METHODS FOR COLLECTING THE NECESSARY FUNDS.

(E) ASSISTING THE PRESIDENT IN THE COLLECTION AND ASSEMBLING OF INFORMATION AND DATA NECESSARY TO THE PROPER ADMINISTRATION OF THE ORDER.

(F) THE PERFORMANCE OF SUCH OTHER DUTIES IN CONNECTION WITH THE MARKETING ORDER AS THE PRESIDENT SHALL DESIGNATE.

4. RULES AND REGULATIONS; ENFORCEMENT. THE PRESIDENT, WITH THE ADVICE AND CONSENT OF THE ADVISORY BOARD, MAY MAKE AND PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO EFFECTUATE THE PROVISIONS AND INTENT OF THIS SECTION AND TO ENFORCE THE PROVISION OF ANY MARKETING AGREEMENT OR ORDER, ALL OF WHICH SHALL HAVE THE FORCE AND EFFECT OF LAW.

THE PRESIDENT, IN CONSULTATION WITH THE COMMISSIONER MAY INSTITUTE SUCH ACTION AT LAW OR IN EQUITY AS MAY APPEAR NECESSARY TO ENFORCE COMPLIANCE WITH ANY PROVISION OF THIS SECTION, OR ANY RULE OR REGULATION, MARKETING AGREEMENT OR ORDER, COMMITTED TO HIS OR HER ADMINISTRATION, AND IN ADDITION 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.

5. COOPERATION BY THE DEPARTMENT. THE PRESIDENT OF THE CORPORATION MAY REQUEST AND RECEIVE, WITHIN NINETY DAYS OF SUCH REQUEST, FROM THE DEPARTMENT SUCH ASSISTANCE, INFORMATION AND COOPERATION AS MAY BE NECESSARY FOR THE CORPORATION TO PROVIDE SERVICES WITH RESPECT TO THE ADMINISTRATION OF THE PROCEDURES SET FORTH FOR THE ISSUANCE, TERMINATION OR AMENDMENT OF ANY AGRICULTURAL, COMMODITIES OR AQUATIC ORDER AND/OR THE ADMINISTRATION OF ANY SUCH ORDER. THE CORPORATION SHALL RETAIN AN AMOUNT EQUAL TO THE EXPENSES INCURRED BY THE CORPORATION IN PERFORMING ITS DUTIES PURSUANT TO THIS SECTION AND REIMBURSE THE DEPARTMENT AN AMOUNT EQUAL TO THE EXPENSES INCURRED BY THE DEPARTMENT IN SUPPLYING SUCH SERVICES, SUBSEQUENT TO SUBMISSION AND AUDIT OF A VOUCHER THEREFOR. SUCH REIMBURSEMENT SHALL NOT EXCEED THE TOTAL AMOUNT OF FUNDS COLLECTED BY THE CORPORATION PURSUANT TO THIS SECTION LESS THE REASONABLE EXPENSES INCURRED BY THE CORPORATION IN PERFORMING ITS DUTIES PURSUANT TO THIS SECTION.

6. INDEMNIFICATION. THE STATE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CORPORATION, ITS DIRECTORS, OFFICERS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, DAMAGES, COSTS AND EXPENSES WHATSOEVER ARISING DIRECTLY OR INDIRECTLY FROM, OR RELATING TO, THE ADMINISTRATION OF ANY AGRICULTURAL, COMMODITIES OR AQUATIC PROMOTION ORDER ISSUED OR ADMINISTERED PURSUANT TO THIS SECTION. IN CONNECTION WITH THE FOREGOING, THE CORPORATION SHALL GIVE THE STATE (A) PROMPT WRITTEN NOTICE OF ANY ACTION, CLAIM OR THREAT OF SUIT, (B) THE OPPORTUNITY TO TAKE OVER, SETTLE OR DEFEND SUCH ACTION, CLAIM OR SUIT AT THE STATE'S SOLE EXPENSE, AND (C) ASSISTANCE IN THE DEFENSE OF ANY SUCH ACTION AT THE EXPENSE OF THE STATE.

7. CONTRACTUAL PROVISIONS. THE CORPORATION MAY CONTRACT FOR SERVICES WITH RESPECT TO THE IMPLEMENTATION OF THIS SECTION IN ACCORDANCE WITH THE CORPORATION'S POLICIES, PROCEDURES AND GUIDELINES. NOTWITHSTANDING SECTION 2879 OF THE PUBLIC AUTHORITIES LAW OR ANY OTHER LAW TO THE CONTRARY, ANY SUCH CONTRACT MAY BE PROCURED BY THE CORPORATION ON A SOLE-SOURCE BASIS, AND SHALL NOT BE SUBJECT TO COMPETITIVE BID OR COMPETITIVE REQUEST FOR PROPOSAL REQUIREMENTS.

S 16-Z. MARKETING ORDERS. THE MARKETING ORDERS, THE REGULATORY PROVISIONS RELATING THERETO, SET FORTH IN TITLE ONE OF THE OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK PARTS 40, 200, 201, 202, 203, 204, AND 205, AND THE CONTRACTS RELATING THERETO SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL AMENDED OR REPEALED PURSUANT TO THE STATUTORY AUTHORITY SET FORTH IN SECTIONS 16-X AND 16-Y OF THIS ACT EXCEPT THAT: (A) SUCH MARKETING ORDERS, THE REGULATORY PROVISIONS RELATING THERETO, AND THE CONTRACTS RELATING THERETO SHALL BE ADMINISTERED BY AND UNDER THE SUPERVISION OF THE PRESIDENT OF THE CORPORATION AS OF THE EFFECTIVE DATE OF SECTIONS 16-X AND 16-Y OF THIS ACT; (B) ALL UNDISBURSED FUNDS UNDER THE CONTROL OF THE DEPARTMENT OF AGRICULTURE AND MARKETS SHALL BE TRANSFERRED TO THE CORPORATION ON OR BEFORE SUCH EFFECTIVE DATE; AND (C) ANY ASSESSMENTS DUE AND PAYABLE UNDER SUCH MARKETING ORDERS SHALL BE REMITTED TO THE CORPORATION STARTING 30 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

S 3. This act shall take effect on the ninetieth day after it shall have become a law and shall expire and be deemed repealed two years after such date; provided, however, that any assessment due and payable under such marketing orders shall be remitted to the urban development corporation starting 30 days after such effective date.

PART T

Section 1. Subdivisions 1 and 2 of section 27-1905 of the environmental conservation law, as amended by section 1 of part G of chapter 58 of the laws of 2013, are amended to read as follows:

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

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

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

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

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

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

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

S 2. Subdivisions 1, 2 and 3 and paragraph (a) of subdivision 6 of section 27-1913 of the environmental conservation law, as amended by section 2 of part G of chapter 58 of the laws of 2013, are amended to read as follows:

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

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

(a) recapped or resold tires;

(b) mail-order sales; or

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

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

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

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

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

(a) Each return shall include:

(i) the name of the tire service;

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

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

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

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

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

(b) Copies of each report shall be retained by the tire service for three years.

If a tire service ceases business, it shall file a final return and remit all fees due under this title with the department of taxation and finance not more than one month after discontinuing that business.

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

S 3. Subdivision 6 of section 27-1915 of the environmental conservation law, as added by section 3 of part V-1 of chapter 62 of the laws of 2003, is amended to read as follows:

6. costs of the department of health for the following:

(a) recommendations to protect public health; [and]

(b) administration of requirements of this section[.]; AND

(C) PREVENTION OR CONTROL OF ON-SITE POPULATIONS OF VECTORS, AS DEFINED IN SUBDIVISION TEN OF SECTION 27-2301 OF THIS ARTICLE, USING TECHNIQUES APPROPRIATE FOR PROTECTION OF HUMAN HEALTH AND THE ENVIRONMENT TO PREVENT THE SITE FROM BEING A VECTOR BREEDING AREA.

S 4. This act shall take effect immediately.

PART U

Section 1. Paragraph a of subdivision 2 of section 92-s of the state finance law, as added by chapter 610 of the laws of 1993, is amended to read as follows:

a. The comptroller shall establish the following separate and distinct accounts within the environmental protection fund:

(i) solid waste account;

(ii) parks, recreation and historic preservation account;

(iii) open space account; [and]

(iv) CLIMATE CHANGE MITIGATION AND ADAPTATION ACCOUNT; AND

(V) environmental protection transfer account.

S 2. Subdivision 6 of section 92-s of the state finance law is amended by adding a new paragraph (f) to read as follows:

(F) MONEYS FROM THE CLIMATE CHANGE ACCOUNT SHALL BE AVAILABLE, PURSUANT TO APPROPRIATION AND UPON CERTIFICATE OF APPROVAL OF AVAILABILITY BY THE DIRECTOR OF THE BUDGET, FOR CLIMATE SMART COMMUNITIES PROJECTS PURSUANT TO TITLE FIFTEEN OF ARTICLE FIFTY-FOUR OF THE ENVIRONMENTAL CONSERVATION LAW.

S 3. Paragraph (b) of subdivision 6 of section 92-s of the state finance law, as amended by chapter 432 of the laws of 1997, is amended to read as follows:

(b) Moneys from the solid waste account shall be available, pursuant to appropriation and upon certificate of approval of availability by the director of the budget, for any non-hazardous municipal landfill closure project; municipal waste reduction or recycling project, as defined in article fifty-four of the environmental conservation law; for the

purposes of section two hundred sixty-one and section two hundred sixty-four of the economic development law; any project for the development, updating or revision of local solid waste management plans pursuant to sections 27-0107 and 27-0109 of the environmental conservation law; ENVIRONMENTAL JUSTICE PROJECTS AND GRANTS and for the development of the pesticide sales and use data base [in conjunction with Cornell University] pursuant to title twelve of article thirty-three of the environmental conservation law.

S 4. Subdivisions 1 and 2 of section 54-1101 of the environmental conservation law, subdivision 1 as amended by chapter 355 of the laws of 2014 and subdivision 2 as amended by chapter 309 of the laws of 1996, are amended to read as follows:

1. The secretary is authorized to provide on a competitive basis, within amounts appropriated, state assistance payments AND/OR TECHNICAL ASSISTANCE AS DEFINED IN SECTION NINE HUNDRED SEVENTEEN OF THE EXECUTIVE LAW, to municipalities toward the [cost] DEVELOPMENT of any local waterfront revitalization program, PURSUANT TO ARTICLE FORTY-TWO OF THE EXECUTIVE LAW including planning projects to mitigate future physical climate risks AND UPDATES TO EXISTING LOCAL WATERFRONT REVITALIZATION PROGRAM PLANS TO MITIGATE FUTURE PHYSICAL CLIMATE RISKS. Eligible costs include planning, studies, preparation of local laws, and construction projects.

2. State assistance payments AND/OR TECHNICAL ASSISTANCE, AS DEFINED IN SECTION NINE HUNDRED SEVENTEEN OF THE EXECUTIVE LAW, shall not exceed fifty percent of the cost of the program. For the purpose of determining the amount of state assistance payments, costs shall not be more than the amount set forth in the application for state assistance payments approved by the secretary. The state assistance payments shall be paid on audit and warrant of the state comptroller on a certificate of availability of the director of the budget.

S 5. Article 54 of the environmental conservation law is amended by adding a new title 15 to read as follows:

TITLE 15
CLIMATE SMART COMMUNITY PROJECTS

SECTION 54-1501. DEFINITION.
54-1503. CLIMATE SMART COMMUNITY PROJECTS.
54-1505. ELIGIBILITY TO RECEIVE STATE ASSISTANCE PAYMENTS FOR CLIMATE SMART COMMUNITY PROJECTS.
54-1507. CRITERIA FOR CLIMATE SMART COMMUNITY PROJECTS.
54-1509. STATE ASSISTANCE APPLICATION PROCEDURE.
54-1511. STATE ASSISTANCE PAYMENTS FOR CLIMATE SMART COMMUNITY PROJECTS.
54-1513. CLIMATE CHANGE MITIGATION EASEMENTS.
54-1515. CONTRACTS FOR STATE ASSISTANCE PAYMENTS FOR CLIMATE SMART COMMUNITY PROJECTS.
54-1517. POWERS AND DUTIES OF THE COMMISSIONER.
54-1519. POWERS AND DUTIES OF A MUNICIPALITY.
54-1521. CLEAN VEHICLE PROJECTS.
54-1523. CLIMATE ADAPTATION AND MITIGATION PROJECTS.

S 54-1501. DEFINITION.

FOR PURPOSES OF THIS TITLE, "CLIMATE SMART COMMUNITY PROJECTS" SHALL MEAN ADAPTATION AND MITIGATION PROJECTS, INCLUDING FLOOD MITIGATION AND COASTAL AND RIPARIAN RESILIENCY, GREENHOUSE GAS REDUCTIONS OUTSIDE THE POWER SECTOR AND CLIMATE CHANGE ADAPTATION PLANNING, AND CLEAN VEHICLE PROJECTS.

S 54-1503. CLIMATE SMART COMMUNITY PROJECTS.
THE COMMISSIONER, PURSUANT TO APPROPRIATION THEREFOR, IS AUTHORIZED TO UNDERTAKE CLIMATE SMART COMMUNITY PROJECTS.
S 54-1505. ELIGIBILITY TO RECEIVE STATE ASSISTANCE PAYMENTS FOR CLIMATE SMART COMMUNITY PROJECTS.
ANY MUNICIPALITY MAY APPLY FOR STATE ASSISTANCE PAYMENTS TOWARD THE COST OF A CLIMATE SMART COMMUNITY PROJECT. ANY APPLICATION MUST COMPLY WITH ALL APPLICABLE RULES AND REGULATIONS DETERMINED BY THE DEPARTMENT.
S 54-1507. CRITERIA FOR CLIMATE SMART COMMUNITY PROJECTS.
COSTS INCURRED PRIOR TO APRIL FIRST, TWO THOUSAND SIXTEEN, SHALL NOT BE ELIGIBLE FOR STATE ASSISTANCE PAYMENTS FUNDED PURSUANT TO THIS TITLE. PROJECTS MUST DEMONSTRATE AN ABILITY TO IDENTIFY, MITIGATE AND/OR ADAPT TO CLIMATE CHANGE VULNERABILITY AND RISK OR DEMONSTRATE POTENTIAL TO REDUCE GREENHOUSE GAS EMISSIONS OUTSIDE THE POWER SECTOR.
S 54-1509. STATE ASSISTANCE APPLICATION PROCEDURE.
1. A MUNICIPALITY, UPON THE APPROVAL OF ITS GOVERNING BODY, MAY SUBMIT AN APPLICATION TO THE COMMISSIONER, IN SUCH FORM AND CONTAINING SUCH INFORMATION AS THE COMMISSIONER MAY REQUIRE, FOR STATE ASSISTANCE PAYMENTS TOWARD THE COST OF A PROJECT WHICH IS WITHIN THE STATE OF NEW YORK AND WHICH IS ELIGIBLE FOR STATE ASSISTANCE PURSUANT TO THIS TITLE.
2. THE COMMISSIONER SHALL REVIEW SUCH PROJECT APPLICATION AND MAY APPROVE, DISAPPROVE OR RECOMMEND MODIFICATIONS THERETO CONSISTENT WITH APPLICABLE LAW, CRITERIA, STANDARDS OR RULES AND REGULATIONS RELATIVE TO SUCH PROJECTS. IN REVIEWING APPLICATIONS FOR PROJECTS PURSUANT TO THIS SECTION, THE COMMISSIONER SHALL GIVE DUE CONSIDERATION TO:
A. THE URGENCY OF NEED TO PROVIDE STATE ASSISTANCE PAYMENTS FOR THE PROJECT IN RELATION TO THE PROVISION OF MONIES FOR OTHER PROJECT NEEDS IN THE STATE KNOWN AT THE TIME SUCH APPLICATION IS MADE;
B. THE PROJECT'S CONTRIBUTION TO THE STATE'S CLIMATE GOALS; AND
C. THE ABILITY OF THE MUNICIPALITY TO PAY FOR THE COSTS OF THE CLIMATE SMART COMMUNITY PROJECT.
S 54-1511. STATE ASSISTANCE PAYMENTS FOR CLIMATE SMART COMMUNITY PROJECTS.
1. UNLESS OTHERWISE SPECIFIED BY LAW, THE COMMISSIONER IS AUTHORIZED TO PROVIDE ON A COMPETITIVE BASIS, WITHIN AMOUNTS APPROPRIATED, STATE ASSISTANCE PAYMENTS TO A MUNICIPALITY TOWARD THE COST OF ANY CLIMATE SMART COMMUNITY PROJECT APPROVED BY THE COMMISSIONER PROVIDED THAT THE COMMISSIONER DETERMINES THAT FUTURE PHYSICAL CLIMATE RISK DUE TO SEA LEVEL RISE, AND/OR STORM SURGES AND/OR FLOODING, BASED ON AVAILABLE DATA PREDICTING THE LIKELIHOOD OF FUTURE EXTREME WEATHER EVENTS, INCLUDING HAZARD RISK ANALYSIS DATA IF APPLICABLE, HAS BEEN CONSIDERED, EXCEPT THAT SUCH DETERMINATION SHALL NOT APPLY TO REBATES FOR ELIGIBLE PURCHASES PURSUANT TO SECTION 54-1521 OF THIS TITLE.
2. THE COMMISSIONER AND A MUNICIPALITY MAY ENTER INTO A CONTRACT FOR THE UNDERTAKING OF A CLIMATE SMART COMMUNITY PROJECT. SUCH PROJECT SHALL BE RECOMMENDED TO THE COMMISSIONER BY THE GOVERNING BODY OF THE MUNICIPALITY, AND WHEN APPROVED BY THE COMMISSIONER, UNDERTAKEN BY THE MUNICIPALITY PURSUANT TO THIS ARTICLE AND ANY OTHER APPLICABLE PROVISIONS OF LAW.
3. STATE ASSISTANCE PAYMENTS SHALL NOT EXCEED FIFTY PERCENT OF THE PROJECT COST OR TWO MILLION DOLLARS, WHICHEVER IS LESS. SUCH COSTS ARE SUBJECT TO FINAL COMPUTATION AND DETERMINATION BY THE COMMISSIONER UPON COMPLETION OF THE PROJECT, AND SHALL NOT EXCEED THE MAXIMUM ELIGIBLE COST SET FORTH IN THE CONTRACT.
4. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS WHICH SHALL INCLUDE CRITERIA FOR DETERMINING ELIGIBLE EXPENDITURES AND PROCEDURES

FOR GOVERNING THE COMMITMENT AND DISBURSEMENT OF FUNDS APPROPRIATED IN ACCORDANCE WITH THIS TITLE. THE COMMISSIONER SHALL ALSO PROMULGATE RULES AND REGULATIONS WHICH SHALL INCLUDE APPLICATION PROCEDURES, REVIEW PROCESSES, AND PROJECT APPROVAL GUIDELINES AND CRITERIA.

S 54-1513. CLIMATE CHANGE MITIGATION EASEMENTS.

A MUNICIPALITY WHICH DEVELOPS, IMPROVES, RESTORES OR REHABILITATES REAL PROPERTY THAT IS NOT OWNED BY THE MUNICIPALITY PURSUANT TO THIS TITLE WITH FUNDS MADE AVAILABLE PURSUANT TO THIS TITLE SHALL OBTAIN A CLIMATE CHANGE MITIGATION EASEMENT FROM THE OWNER OF THE REAL PROPERTY. CLIMATE CHANGE MITIGATION EASEMENTS SHALL BE ENFORCED AS CONSERVATION EASEMENTS ARE ENFORCED IN SECTION 49-0305 OF THIS CHAPTER.

S 54-1515. CONTRACTS FOR STATE ASSISTANCE PAYMENTS FOR CLIMATE SMART COMMUNITY PROJECTS.

1. AFTER APPROVAL OF THE APPLICATION, THE COMMISSIONER MAY, IN THE NAME OF THE STATE, ENTER INTO CONTRACTS WITH MUNICIPALITIES, TO PROVIDE STATE ASSISTANCE PAYMENTS TOWARD THE COST OF CLIMATE SMART COMMUNITY PROJECTS, WHICH SHALL INCLUDE THE FOLLOWING PROVISIONS:

A. AN ESTIMATE OF THE COSTS OF THE PROJECT AS DETERMINED BY THE COMMISSIONER;

B. AN AGREEMENT BY THE COMMISSIONER TO MAKE STATE ASSISTANCE PAYMENTS TOWARD THE COST OF THE PROJECT BY PERIODICALLY REIMBURSING THE MUNICIPALITY DURING THE PROGRESS OF PROJECT DEVELOPMENT OR FOLLOWING COMPLETION OF THE PROJECT AS MAY BE AGREED UPON BY THE PARTIES, IN AN AMOUNT NOT TO EXCEED THE AMOUNTS ESTABLISHED ELSEWHERE IN THIS TITLE; AND

C. AN AGREEMENT BY THE MUNICIPALITY:

(I) TO PROCEED EXPEDITIOUSLY WITH AND COMPLETE THE PROJECT AS APPROVED BY THE COMMISSIONER;

(II) TO UNDERTAKE AND MAINTAIN THE CLIMATE SMART COMMUNITY PROJECT IN ACCORDANCE WITH APPLICABLE LAW AND RULES AND REGULATIONS;

(III) TO PROVIDE FOR THE PAYMENT OF THE MUNICIPALITY'S SHARE OF THE COST OF THE PROJECT;

(IV) TO ASSUME THE FULL COST OF ANY ADDITIONAL ELEMENTS OR CONTINUED OPERATION OF THE PROJECT;

(V) TO REPAY WITHIN ONE YEAR OF NOTIFICATION BY THE COMMISSIONER, ANY STATE ASSISTANCE PAYMENTS MADE TOWARD THE COST OF THE PROJECT OR AN EQUITABLE PORTION OF SUCH MONIES DECLARED APPROPRIATE BY THE COMMISSIONER, IF THE MUNICIPALITY FAILS TO COMPLETE THE PROJECT AS APPROVED. NO REPAYMENT, HOWEVER, SHALL BE REQUIRED WHERE THE COMMISSION DETERMINES THAT SUCH FAILURE, DISPOSITION OR CHANGE OF USE WAS IMMEDIATELY NECESSARY TO PROTECT PUBLIC HEALTH AND SAFETY; AND

(VI) TO APPLY FOR AND MAKE REASONABLE EFFORTS TO SECURE FEDERAL ASSISTANCE FOR THE PROJECT.

2. IN CONNECTION WITH EACH CONTRACT, THE COMMISSIONER SHALL KEEP ADEQUATE RECORDS OF THE AMOUNT OF THE PAYMENT BY THE STATE, IF ANY, RECEIVED BY THE MUNICIPALITY. SUCH RECORDS SHALL BE RETAINED BY THE COMMISSIONER AND SHALL ESTABLISH THE BASIS FOR RECALCULATION OF THE STATE PAYMENT AS REQUIRED HEREIN.

3. THE COMMISSIONER SHALL IMPOSE SUCH CONTRACTUAL REQUIREMENTS AND CONDITIONS UPON ANY MUNICIPALITY WHICH RECEIVES STATE ASSISTANCE PAYMENTS PURSUANT TO THIS TITLE AS MAY BE NECESSARY AND APPROPRIATE TO ENSURE THAT A PUBLIC BENEFIT SHALL ACCRUE FROM THE USE OF PUBLIC FUNDS BY SUCH MUNICIPALITY. SUCH CONDITIONS SHALL INCLUDE LIMITATIONS ON THE RIGHT OF THE MUNICIPALITY TO DEMOLISH OR CONVEY SUCH PROPERTY, PROVISIONS FOR PUBLIC ACCESS OR USE WHERE APPROPRIATE, A REQUIREMENT THAT ALL PLANS FOR RESTORATION, REHABILITATION, IMPROVEMENT, DEMOLITION

OR OTHER PHYSICAL CHANGE MUST BE SUBJECT TO THE COMMISSIONER'S APPROVAL, AND SUCH OTHER CONDITIONS WHICH SHALL ASSURE THE PRESERVATION AND PROTECTION OF THE PROJECT.

S 54-1517. POWERS AND DUTIES OF THE COMMISSIONER.

IN ADMINISTERING THE PROVISIONS OF THIS TITLE THE COMMISSIONER:

1. SHALL MAKE AN ITEMIZED ESTIMATE OF FUNDS OR APPROPRIATIONS REQUESTED ANNUALLY FOR INCLUSION IN THE EXECUTIVE BUDGET;

2. MAY, IN THE NAME OF THE STATE, AS FURTHER PROVIDED WITHIN THIS ARTICLE, CONTRACT TO MAKE, WITHIN THE LIMITATIONS OF APPROPRIATION AVAILABLE THEREFOR, STATE ASSISTANCE PAYMENTS TOWARD THE COSTS OF AN APPROVED PROJECT. SUCH CONTRACTS SHALL BE SUBJECT TO APPROVAL BY THE STATE COMPTROLLER AND, AS TO FORM, BY THE ATTORNEY GENERAL;

3. SHALL APPROVE VOUCHERS FOR THE PAYMENTS PURSUANT TO AN APPROVED CONTRACT. ALL SUCH PAYMENTS SHALL BE PAID ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER; AND

4. MAY PERFORM SUCH OTHER AND FURTHER ACTS AS MAY BE NECESSARY, PROPER OR DESIRABLE TO CARRY OUT THE PROVISIONS OF THIS ARTICLE.

S 54-1519. POWERS AND DUTIES OF A MUNICIPALITY.

A MUNICIPALITY SHALL HAVE THE POWER AND AUTHORITY TO:

1. UNDERTAKE AND CARRY OUT ANY PROJECT FOR WHICH STATE ASSISTANCE PAYMENTS PURSUANT TO CONTRACT ARE RECEIVED OR ARE TO BE RECEIVED PURSUANT TO THIS ARTICLE AND MAINTAIN AND OPERATE SUCH PROJECT;

2. EXPEND MONEY RECEIVED FROM THE STATE PURSUANT TO THIS ARTICLE FOR COSTS INCURRED IN CONJUNCTION WITH THE APPROVED PROJECT; AND

3. PERFORM SUCH OTHER AND FURTHER ACTS AS MAY BE NECESSARY, PROPER OR DESIRABLE TO CARRY OUT A PROJECT OR OBLIGATION, DUTY OR FUNCTION RELATED THERETO.

S 54-1521. CLEAN VEHICLE PROJECTS.

1. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

A. "ELIGIBLE INFRASTRUCTURE PROJECT" SHALL MEAN ANY FACILITY (NOT INCLUDING A BUILDING AND ITS STRUCTURAL COMPONENTS) THAT IS USED PRIMARILY FOR THE PUBLIC CHARGING AND/OR FUELING OF VEHICLES WHICH MEET THE ELIGIBLE VEHICLE DEFINITION THAT HAS RECEIVED REQUIRED FEDERAL, STATE AND LOCAL PERMITS AND AUTHORIZATIONS COMPLIES WITH ZONING.

B. "ELIGIBLE PURCHASE" SHALL MEAN THE PURCHASE BY A MUNICIPALITY TO OWN OR LEASE FOR A PERIOD OF NOT LESS THAN THIRTY-SIX MONTHS OF AN ELIGIBLE VEHICLE PLACED INTO SERVICE ON OR AFTER APRIL FIRST, TWO THOUSAND SIXTEEN AT A DEALER LOCATED WITHIN NEW YORK.

C. "ELIGIBLE VEHICLE" MEANS AND INCLUDES A NEW MOTOR VEHICLE THAT:

(I) HAS FOUR WHEELS;

(II) WAS MANUFACTURED FOR USE PRIMARILY ON PUBLIC STREETS, ROADS AND HIGHWAYS;

(III) THE POWERTRAIN OF WHICH HAS NOT BEEN MODIFIED FROM THE ORIGINAL MANUFACTURER'S SPECIFICATIONS;

(IV) IS RATED AT NOT MORE THAN EIGHT THOUSAND FIVE HUNDRED POUNDS GROSS VEHICLE WEIGHT;

(V) HAS A MAXIMUM SPEED CAPABILITY OF AT LEAST FIFTY-FIVE MILES PER HOUR; AND

(VI) IS PROPELLED AT LEAST IN PART BY AN ELECTRIC MOTOR AND ASSOCIATED POWER ELECTRONICS WHICH PROVIDE ACCELERATION TORQUE TO THE DRIVE WHEELS SOMETIME DURING NORMAL VEHICLE OPERATION, AND THAT DRAWS ELECTRICITY FROM A HYDROGEN FUEL CELL OR FROM A BATTERY THAT:

(A) HAS A CAPACITY OF NOT LESS THAN FOUR KILOWATT HOURS; AND

(B) IS CAPABLE OF BEING RECHARGED FROM AN EXTERNAL SOURCE OF ELECTRICITY.

2. A. UNTIL APRIL 1, 2023, THE COMMISSIONER, IN CONSULTATION WITH THE NEW YORK STATE ENERGY RESEARCH DEVELOPMENT AUTHORITY, IS AUTHORIZED TO ISSUE REBATES UNTIL THE ANNUAL ALLOCATION IS EXHAUSTED TO MUNICIPALITIES TOWARD THE COST OF ANY ELIGIBLE INFRASTRUCTURE PROJECTS WHICH SUPPORT THE DEVELOPMENT OF CLEAN VEHICLES.

B. THE DEPARTMENT, IN CONSULTATION WITH THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, SHALL DETERMINE THE AMOUNT OF THE REBATE FOR ELIGIBLE INFRASTRUCTURE PROJECTS, PROVIDED THAT AN APPLICANT FOR SUCH ELIGIBLE INFRASTRUCTURE PROJECT REBATE MAY RECEIVE A MAXIMUM REBATE OF TWO HUNDRED FIFTY THOUSAND DOLLARS PER FACILITY.

3. A. UNTIL APRIL 1, 2023, THE COMMISSIONER, IN CONSULTATION WITH THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, IS AUTHORIZED TO ISSUE REBATES UNTIL THE ANNUAL ALLOCATION IS EXHAUSTED TO MUNICIPALITIES TOWARD THE COST OF ELIGIBLE PURCHASES OF CLEAN VEHICLES.

B. THE DEPARTMENT, IN CONSULTATION WITH THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, SHALL DETERMINE THE AMOUNT OF THE REBATE TAKING INTO CONSIDERATION THE ELECTRIC RANGE OF THE VEHICLE, PROVIDED THAT A REBATE OF AN ELIGIBLE PURCHASE SHALL BE NOT LESS THAN SEVEN HUNDRED FIFTY DOLLARS PER VEHICLE AND NOT MORE THAN FIVE THOUSAND DOLLARS PER VEHICLE.

4. THE DEPARTMENT, IN CONSULTATION WITH THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, SHALL PROMULGATE RULES TO IMPLEMENT AND ADMINISTER THIS TITLE INCLUDING RULES RELATING TO THE FORMS REQUIRED TO CLAIM A REBATE, THE REQUIRED DOCUMENTATION FOR ESTABLISHING ELIGIBILITY FOR A REBATE, PROCEDURES AND GUIDELINES FOR CLAIMING A REBATE, AND THE COLLECTION OF ECONOMIC IMPACT DATA FROM APPLICANTS AND ANY OTHER REQUIREMENTS THE DEPARTMENT AND NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY DEEM NECESSARY. THE DEPARTMENT SHALL DETERMINE AND PUBLISH ON ITS WEBSITE ON AN ONGOING BASIS THE AMOUNT OF AVAILABLE FUNDING FOR REBATES REMAINING IN EACH FISCAL YEAR.

5. NO LATER THAN APRIL FIRST, TWO THOUSAND EIGHTEEN AND ANNUALLY THEREAFTER, THE DEPARTMENT SHALL ISSUE A REPORT TO THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY DETAILING THE STATUS OF ITS PROGRAM TO ENCOURAGE THE DEPLOYMENT OF CLEAN VEHICLES. SUCH REPORT SHALL INCLUDE:

A. THE AMOUNT OF FUNDING DEDICATED BY THE DEPARTMENT FOR THE PROGRAM IN THE PRECEDING YEAR;

B. THE AMOUNT OF ELIGIBLE PURCHASES AND ELIGIBLE INFRASTRUCTURE PROJECTS FOR WHICH A REBATE WAS AWARDED;

C. THE AMOUNT AND GEOGRAPHIC DISTRIBUTION OF REBATES; AND

D. ANY OTHER INFORMATION THE DEPARTMENT DEEMS NECESSARY.

S 54-1523. CLIMATE ADAPTATION AND MITIGATION PROJECTS.

1. THE COMMISSIONER IS AUTHORIZED TO PROVIDE ON A COMPETITIVE BASIS, WITHIN AMOUNTS APPROPRIATED, STATE ASSISTANCE PAYMENTS TO A MUNICIPALITY TOWARD THE COST OF ANY CLIMATE ADAPTATION OR MITIGATION PROJECTS. SUCH PROJECTS SHALL INCLUDE:

A. THE CONSTRUCTION OF NATURAL RESILIENCY MEASURES, CONSERVATION OR RESTORATION OF RIPARIAN AREAS AND TIDAL MARSH MIGRATION AREAS;

B. NATURE-BASED SOLUTIONS SUCH AS WETLAND PROTECTIONS TO ADDRESS PHYSICAL CLIMATE RISK DUE TO SEA LEVEL RISE, AND/OR STORM SURGES AND/OR FLOODING, BASED ON AVAILABLE DATA PREDICTING THE LIKELIHOOD OF FUTURE EXTREME WEATHER EVENTS, INCLUDING HAZARD RISK ANALYSIS DATA IF APPLICABLE;

C. RELOCATION OR RETROFIT OF FACILITIES TO ADDRESS PHYSICAL CLIMATE RISK DUE TO SEA LEVEL RISE, AND/OR STORM SURGES AND/OR FLOODING BASED ON

AVAILABLE DATA PREDICTING THE LIKELIHOOD OF FUTURE EXTREME WEATHER EVENTS, INCLUDING HAZARD RISK ANALYSIS DATA IF APPLICABLE;

D. FLOOD RISK REDUCTION;

E. GREENHOUSE GAS EMISSION REDUCTIONS OUTSIDE THE POWER SECTOR;

F. ENABLING COMMUNITIES TO BECOME CERTIFIED UNDER THE CLIMATE SMART COMMUNITIES PROGRAM, INCLUDING BY DEVELOPING NATURAL RESOURCES INVENTORIES, RIGHT SIZING OF MUNICIPAL FLEETS AND DEVELOPING CLIMATE ADAPTATION STRATEGIES; AND

G. CLIMATE CHANGE ADAPTATION PLANNING AND SUPPORTING STUDIES, INCLUDING BUT NOT LIMITED TO VULNERABILITY ASSESSMENT AND RISK ANALYSIS OF MUNICIPAL DRINKING WATER, WASTEWATER, AND TRANSPORTATION INFRASTRUCTURE.

2. TO THE FULLEST EXTENT PRACTICABLE, IT IS THE POLICY OF THE STATE TO PROMOTE AN EQUITABLE REGIONAL DISTRIBUTION OF CLIMATE ADAPTATION AND MITIGATION PROJECTS, CONSISTENT WITH THE PURPOSE OF THIS TITLE, TAKING INTO ACCOUNT REGIONAL DIFFERENCES IN CLIMATE CHANGE RISKS, SOCIOECONOMIC CONDITIONS AND ECOLOGICAL RESOURCES.

3. NO MONIES SHALL BE EXPENDED FOR LAND ACQUISITION.

S 6. Paragraph (a) of subdivision 1 of section 33-1201 of the environmental conservation law, as added by chapter 279 of the laws of 1996, is amended to read as follows:

a. The department shall develop a pesticide sales and use computer data base [in conjunction with Cornell University]. The data base shall be maintained at the department.

S 7. Paragraph b of subdivision 1 of section 918 of the executive law, as added by chapter 840 of the laws of 1981, is amended to read as follows:

b. To any local government or local government agency for research, design, and other activities which serve to facilitate construction projects provided for in an approved waterfront revitalization program; provided, however, THAT SUCH PROJECTS SHALL TAKE INTO ACCOUNT THE FUTURE PHYSICAL CLIMATE RISK DUE TO SEA LEVEL RISE, AND/OR STORM SURGES AND/OR FLOODING, BASED ON AVAILABLE DATA PREDICTING THE LIKELIHOOD OF FUTURE EXTREME WEATHER EVENTS INCLUDING HAZARD RISK ANALYSIS DATA IF APPLICABLE AND PROVIDED, FURTHER, that such grants or payments shall not exceed ten percent of the estimated cost of such construction project.

S 8. Until January 1, 2018 or such time as regulations are adopted pursuant to section 54-1521 of the environmental conservation law, whichever is sooner, the department of environmental conservation, in consultation with the New York state energy research and development authority, is authorized to issue rebates pursuant to a request for proposal which shall specify rules relating to the forms, procedures and guidelines for claiming a rebate for the purchase of eligible vehicles and eligible infrastructure projects. Until January 1, 2018 or such time as regulations are adopted pursuant to section 54-1511 of the environmental conservation law, whichever is sooner, the department of environmental conservation is authorized to provide state assistance to municipalities pursuant to one or more request for proposal which shall include criteria for determining scoring of projects, eligible expenditures and procedures governing the commitment and disbursement of funds pursuant to section 54-1523 of the environmental conservation law. The department shall make all information required to be included in a request for proposal pursuant to this section publicly available.

S 9. Paragraph (h) of subdivision 1 of section 56-0303 of the environmental conservation law, as added by chapter 413 of the laws of 1996, is amended to read as follows:

(h) For state assistance payments for the cost of water quality improvement projects intended for any waters of the state FOR PROJECTS TO SUPPORT A STUDY OF GROUNDWATER QUALITY IN LONG ISLAND OR OPEN SPACE LAND CONSERVATION PROJECTS which have been (a) approved by the commissioner, (b) identified in plans in accordance with section 1455b of the federal [costal] COASTAL zone management act or article forty-two of the executive law and approved by the secretary of state, or (c) developed in accordance with title eleven-b of article two of the soil and water conservation districts law and approved by the state soil and water conservation committee and commissioner of agriculture and markets.

S 10. This act shall take effect immediately, provided, however, that section six of this act shall take effect on April 1, 2018.

PART V

Intentionally Omitted

PART W

Section 1. Subdivision 2 of section 16-w of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 1 of part FF of chapter 58 of the laws of 2015, is amended to read as follows:

2. The corporation shall consult with the department of agriculture and markets in order to establish such criteria governing the award of grants as authorized herein, as the corporation and such department deem necessary. Such criteria shall include, but not be limited to[:

(a)], farmers who have not produced an "agricultural product" as defined by section three hundred twenty-eight of the agriculture and markets law, for more than ten consecutive years, and who will materially and substantially participate in the production of an agricultural product within a region of the state.

[(b) farms of one hundred fifty acres or less.]

S 2. This act shall take effect immediately.

PART X

Section 1. Subdivisions 3, 5 and 7 of section 19-0323 of the environmental conservation law, subdivisions 3 and 5 as amended by section 1 and subdivision 7 as amended by section 2 of part II of chapter 58 of the laws of 2015, are amended to read as follows:

3. Any diesel powered heavy duty vehicle that is owned by, operated by or on behalf of, or leased by a state agency and state and regional public authority with more than half of its governing body appointed by the governor shall utilize the best available retrofit technology for reducing the emission of pollutants. The commissioner shall promulgate regulations for the implementation of this subdivision specifying that all vehicles covered by this subdivision shall have best available retrofit technology on or before December 31, [2016] 2017.

This subdivision shall not apply to any vehicle subject to a lease or public works contract entered into or renewed prior to the effective date of this section.

5. In addition to any waiver which may be issued pursuant to subdivision four of this section, the department shall issue a waiver to a state agency, a state or regional public authority, or a person operating any diesel-powered heavy duty vehicle on behalf of a state agency,

state or regional public authority, upon a request in a form acceptable to the department for a waiver from the provisions of subdivision three of this section for a vehicle engine provided that such vehicle engine will cease to be used in the state on or before December thirty-first, two thousand [seventeen] EIGHTEEN. Any waiver issued pursuant to this subdivision shall expire when a state agency, a state or regional public authority, or a person operating any diesel-powered heavy duty vehicle on behalf of a state agency, state or regional public authority ceases to use the engine in the state but not later than December thirty-first, two thousand [seventeen] EIGHTEEN.

7. On or before January 1, 2008 and every year thereafter, the commissioner shall report to the governor and legislature on the use of ultra low sulfur diesel fuel. On or before January 1, [2017] 2018 and every year thereafter, the commissioner shall include in the report to the governor and legislature the use of the best available retrofit technology as required under this section. The information contained in this report shall include, but not be limited to, for each state agency and public authority covered by this section: (a) the total number of diesel fuel-powered motor vehicles owned or operated by such agency and authority; (b) the number of such motor vehicles that were powered by ultra low sulfur diesel fuel; (c) the total number of diesel fuel-powered motor vehicles owned or operated by such agency and authority having a gross vehicle weight rating of more than 8,500 pounds; (d) the number of such motor vehicles that utilized the best available retrofit technology, including a breakdown by motor vehicle model, engine year and the type of technology used for each vehicle; (e) the number of such motor vehicles that are equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for particulate matter that is at least as stringent; and (f) all waivers, findings, and renewals of such findings, which, for each waiver, shall include, but not be limited to, the quantity of diesel fuel needed to power diesel fuel-powered motor vehicles owned or operated by such agency and authority; specific information concerning the availability of ultra low sulfur diesel fuel.

S 2. This act shall take effect immediately.

PART Y

Section 1. The opening paragraph of section 2231 of the vehicle and traffic law is designated subdivision 1 and a new subdivision 2 is added to read as follows:

2. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, THE COMMISSIONER SHALL ALSO DEPOSIT FIVE DOLLARS OF THE FEES COLLECTED PURSUANT TO PARAGRAPHS (A), (B) AND (C) OF SUBDIVISION FOUR OF SECTION TWO THOUSAND TWO HUNDRED TWENTY-TWO OF THIS ARTICLE, TO THE CREDIT OF THE SNOWMOBILE TRAIL DEVELOPMENT AND MAINTENANCE FUND.

S 2. This act shall take effect October 1, 2016.

PART Z

Section 1. Paragraph (e) of subdivision 1 of section 66-j of the public service law, as amended by chapter 355 of the laws of 2009, and the opening paragraph as amended by chapter 336 of the laws of 2010, is amended to read as follows:

(e) "Farm waste electric generating equipment" means equipment that generates electric energy from biogas produced by the anaerobic digestion of agricultural waste, such as livestock manure, farming wastes and food processing wastes with a rated capacity of not more than [one] TWO thousand kilowatts, that is:

(i) manufactured, installed, and operated in accordance with applicable government and industry standards;

(ii) connected to the electric system and operated in conjunction with an electric corporation's transmission and distribution facilities;

(iii) operated in compliance with any standards and requirements established under this section;

(iv) fueled at a minimum of ninety percent on an annual basis by biogas produced from the anaerobic digestion of agricultural waste such as livestock manure materials, crop residues, and food processing waste; and

(v) fueled by biogas generated by anaerobic digestion with at least fifty percent by weight of its feedstock being livestock manure materials on an annual basis.

S 2. This act shall take effect immediately.

PART AA

Section 1. Zero emissions vehicle and electric vehicle rebate program.

1. Definitions. For purposes of this act, the following terms shall have the following meanings:

a. "Authority" shall mean the New York state energy research and development authority.

b. "Eligible vehicle" means and includes a new motor vehicle that:

(i) has four wheels;

(ii) was manufactured for use primarily on public streets, roads and highways;

(iii) the powertrain of which has not been modified from the original manufacturer's specifications;

(iv) is rated at not more than eight thousand five hundred pounds gross vehicle weight;

(v) has a maximum speed capability of at least fifty-five miles per hour; and

(vi) is propelled at least in part by an electric motor and associated power electronics which provide acceleration torque to the drive wheels sometime during normal vehicle operation, and that draws electricity from a hydrogen fuel cell or from a battery that:

(A) has a capacity of not less than four kilowatt hours; and

(B) is capable of being recharged from an external source of electricity.

2. No later than one year after the effective date of this act, the authority shall develop a program to encourage the deployment of zero emissions vehicles and electric vehicles.

3. The program created pursuant to this act shall include rebates for eligible purchases, provided that a rebate for an eligible purchase shall not exceed two thousand dollars.

4. Within one year of the effective date of this act, the authority shall implement and administer this act including rules relating to the forms required to claim a rebate, the required documentation for establishing eligibility for a rebate, procedures and guidelines for claiming a rebate, and the collection of economic impact data from applicants and any other requirements the authority deems necessary.

The authority shall determine and publish on its website on an ongoing basis the amount of available funding for rebates remaining in each fiscal year.

5. No later than April 1, 2018 and annually thereafter, the authority shall issue a report to the temporary president of the senate, the speaker of the assembly, the chair of the senate committee on energy and telecommunications and the chair of the assembly committee on energy detailing the status of its program to encourage the deployment of zero emissions vehicles and electric vehicles. Such report shall include:

a. the amount of funding dedicated by the authority for the program in the preceding year;

b. the amount of eligible purchases for which a rebate was awarded;

c. the amount and geographic distribution of rebates; and

d. any other information the authority deems necessary.

S 2. This act shall take effect immediately.

PART BB

Section 1. Sections 1 and 2 of subpart H of part C of chapter 20 of the laws of 2015, appropriating money for certain municipal corporations and school districts are REPEALED and two new sections 1 and 2 are added to read as follows:

SECTION 1. CONTINGENT UPON AVAILABLE FUNDING, AND NOT TO EXCEED $30,000,000, MONEYS FROM THE URBAN DEVELOPMENT CORPORATION SHALL BE AVAILABLE FOR A LOCAL GOVERNMENT ENTITY, WHICH FOR THE PURPOSES OF THIS SECTION SHALL MEAN A COUNTY, CITY, TOWN, VILLAGE, SCHOOL DISTRICT OR SPECIAL DISTRICT, WHERE (I) ON OR AFTER JUNE 25, 2015, AN ELECTRIC GENERATING FACILITY LOCATED WITHIN SUCH LOCAL GOVERNMENT ENTITY HAS CEASED OPERATIONS, AND (II) THE CLOSING OF SUCH FACILITY HAS CAUSED A REDUCTION IN THE REAL PROPERTY TAX COLLECTIONS OR PAYMENTS IN LIEU OF TAXES OF AT LEAST TWENTY PERCENT OWED BY SUCH ELECTRIC GENERATING FACILITY. SUCH MONEYS ATTRIBUTABLE TO THE CESSATION OF OPERATIONS, SHALL BE PAID ANNUALLY ON A FIRST COME, FIRST SERVED BASIS BY THE URBAN DEVELOPMENT CORPORATION TO SUCH LOCAL GOVERNMENT ENTITY WITHIN A REASONABLE TIME UPON CONFIRMATION FROM THE STATE OFFICE OF REAL PROPERTY TAX SERVICES OR THE LOCAL INDUSTRIAL DEVELOPMENT AUTHORITY ESTABLISHED PURSUANT TO TITLES ELEVEN AND FIFTEEN OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW, OR THE LOCAL INDUSTRIAL DEVELOPMENT AGENCY ESTABLISHED PURSUANT TO ARTICLE EIGHTEEN-A OF THE GENERAL MUNICIPAL LAW THAT SUCH CESSATION HAS RESULTED IN A REDUCTION IN THE REAL PROPERTY TAX COLLECTIONS OR PAYMENTS IN LIEU OF TAXES, PROVIDED, HOWEVER, THAT THE URBAN DEVELOPMENT CORPORATION SHALL NOT PROVIDE ASSISTANCE TO SUCH LOCAL GOVERNMENT ENTITY FOR MORE THAN FIVE YEARS, AND SHALL NOT AWARD IN THE FIRST YEAR MORE THAN EIGHTY PERCENT OF THE LOSS OF REVENUES DUE TO THE CESSATION OF OPERATIONS. A LOCAL GOVERNMENT ENTITY SHALL BE ELIGIBLE FOR ONLY ONE PAYMENT OF FUNDS HEREUNDER PER YEAR. A LOCAL GOVERNMENT ENTITY MAY SEEK ASSISTANCE UNDER THE ELECTRIC GENERATION FACILITY CESSATION MITIGATION FUND ONCE A GENERATOR HAS SUBMITTED ITS NOTICE TO THE FEDERALLY DESIGNATED ELECTRIC BULK SYSTEM OPERATOR (BSO) SERVING THE STATE OF NEW YORK OF ITS INTENT TO RETIRE THE FACILITY OR OF ITS INTENT TO VOLUNTARILY REMOVE THE FACILITY FROM SERVICE SUBJECT TO ANY RETURN-TO-SERVICE PROVISIONS OF ANY TARIFF, AND THAT THE FACILITY ALSO IS INELIGIBLE TO PARTICIPATE IN THE MARKETS OPERATED BY THE BSO. THE DATE OF SUBMISSION OF A LOCAL GOVERNMENT ENTITY'S APPLICATION FOR ASSISTANCE SHALL ESTABLISH THE ORDER IN WHICH ASSISTANCE IS PAID TO PROGRAM APPLICANTS, EXCEPT THAT IN NO EVENT SHALL ASSISTANCE BE PAID TO A LOCAL GOVERNMENT ENTITY

UNTIL SUCH TIME THAT AN ELECTRIC GENERATING FACILITY HAS RETIRED OR BECOME INELIGIBLE TO PARTICIPATE IN THE MARKETS OPERATED BY THE BSO. FOR PURPOSES OF THIS SECTION, ANY LOCAL GOVERNMENT ENTITY SEEKING ASSISTANCE UNDER THE ELECTRIC GENERATION FACILITY CESSATION MITIGATION FUND MUST SUBMIT AN ATTESTATION TO THE DEPARTMENT OF PUBLIC SERVICE THAT A FACILITY IS NO LONGER PRODUCING ELECTRICITY AND IS NO LONGER PARTICIPATING IN MARKETS OPERATED BY THE BSO. AFTER RECEIPT OF SUCH ATTESTATION, THE DEPARTMENT OF PUBLIC SERVICE SHALL CONFIRM SUCH INFORMATION WITH THE BSO. IN THE CASE THAT THE BSO CONFIRMS TO THE DEPARTMENT OF PUBLIC SERVICE THAT THE FACILITY IS NO LONGER PRODUCING ELECTRICITY AND PARTICIPATING IN MARKETS OPERATED BY SUCH BSO, IT SHALL BE DEEMED THAT THE ELECTRIC GENERATING FACILITY LOCATED WITHIN THE LOCAL GOVERNMENT ENTITY HAS CEASED OPERATION. THE DEPARTMENT OF PUBLIC SERVICE SHALL PROVIDE SUCH CONFIRMATION TO THE URBAN DEVELOPMENT CORPORATION UPON RECEIPT. THE DETERMINATION OF THE AMOUNT OF SUCH ANNUAL PAYMENT SHALL BE DETERMINED BY THE PRESIDENT OF THE URBAN DEVELOPMENT CORPORATION BASED ON THE AMOUNT OF THE DIFFERENTIAL BETWEEN THE ANNUAL REAL PROPERTY TAXES AND PAYMENTS IN LIEU OF TAXES IMPOSED UPON THE FACILITY, EXCLUSIVE OF INTEREST AND PENALTIES, DURING THE LAST YEAR OF OPERATIONS AND THE CURRENT REAL PROPERTY TAXES AND PAYMENTS IN LIEU OF TAXES IMPOSED UPON THE FACILITY, EXCLUSIVE OF INTEREST AND PENALTIES. THE TOTAL AMOUNT AWARDED FROM THIS PROGRAM SHALL NOT EXCEED $30,000,000.

S 2. NOTWITHSTANDING ANY PROVISION OF LAW, RULE, OR REGULATION TO THE CONTRARY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY (AUTHORITY) IS AUTHORIZED AND DIRECTED TO MAKE A CONTRIBUTION TO THE URBAN DEVELOPMENT CORPORATION FOR THE PURPOSES OF THIS ACT, AN AMOUNT NOT TO EXCEED $30,000,000 FOR THE STATE FISCAL YEAR COMMENCING APRIL 1, 2016 FROM PROCEEDS COLLECTED BY THE AUTHORITY FROM THE AUCTION OR SALE OF CARBON DIOXIDE EMISSION ALLOWANCES ALLOCATED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

S 2. This act shall take effect immediately provided, however, that the amendments to subpart H of part C of chapter 20 of the laws of 2015 made by section one of this act shall not affect the repeal of such subpart and shall be deemed repealed therewith.

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

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