

2012-13 NEW YORK STATE EXECUTIVE BUDGET

**TRANSPORTATION
ECONOMIC DEVELOPMENT AND
ENVIRONMENTAL CONSERVATION
ARTICLE VII LEGISLATION**

MEMORANDUM IN SUPPORT

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MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in
Accordance with Article VII of the Constitution

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

licenses, permits and fees; and repealing certain provisions of such law relating thereto (Part H); to amend the public service law, in relation to eliminating state regulation of VoIP service in order to facilitate competition and ensure consumers receive the maximum benefit of competition (Part I); to amend the environmental conservation law, in relation to hazardous waste program fees and surcharges (Part J); to amend the state finance law and the public authorities law, in relation to the sewage treatment and drinking water funds and the water pollution control and drinking water revolving funds (Part K); to amend the agriculture and markets law, in relation to seed testing (Part L); to amend the agriculture and markets law, in relation to fees for services (Part M); to amend the agriculture and markets law, in relation to food processing license fees; and to repeal subdivision 4 of section 128-a and subdivision 3 of section 133-a of the agriculture and markets law and section 90-b of the state finance law relating to the commercial feed licensing fund (Part N); to authorize and direct the New York state energy research and development authority to make a payment to the general fund of up to \$913,000 (Part O); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration and policy and planning programs from assessments on gas and electric corporations (Part P); to amend chapter 35 of the laws of 1979, relating to appropriating funds to the New York state urban development corporation for the acquisition and initial planning of convention and exhibition center facilities in New York county, in relation to additional powers of such corporation (Part Q); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part R); to repeal subdivision 3 of section 16-m of the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part S); to amend the New York state urban development corporation

act, relating to the powers of the New York state urban development corporation to make grants (Part T); to amend the state finance law, in relation to the excelsior linked deposit act (Part U); to authorize the department of health to finance certain activities with revenues generated from an assessment on cable television companies (Part V); to amend the general business law and the real property law, in relation to increasing the term of licensure and registration from two to four years (Part W); to amend the racing, pari-mutuel wagering and breeding law, in relation to presenting uncashed pari-mutuel vouchers within a prescribed period of time (Part X); to amend the racing, pari-mutuel wagering and breeding law and the public officers law, in relation to employment of officials at harness race meetings (Part Y); to amend the agriculture and markets law, in relation to authorizing the creation of a dairy research and education order (Part Z); and to amend public authorities law, in relation to the recovery of state governmental costs from public authorities and public benefit corporations (Part AA)

PURPOSE:

This bill contains provisions needed to implement the Transportation, Economic Development and Environmental Conservation portions of the 2012-13 Executive Budget.

This memorandum describes Parts A through AA the bill which are described wholly within the parts listed below.

Part A – Provide the annual authorization for the CHIPS and Marchiselli programs.

Purpose:

This bill would authorize funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for State Fiscal Year 2012-13, and would extend, for one year, the eligibility of certain highway work types for CHIPS reimbursement.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The CHIPS program is a local highway and bridge program that provides State funds to local governments for the purpose of reimbursing local government spending on construction, reconstruction, or improvement of highways, bridges, highway-railroad crossings, and other local facilities that are not part of the State highway system. The Marchiselli program (also known as the Municipal Streets and Highways Program) is a local highway program that provides municipalities with State matching funds for local Federal Highway Aid projects. This bill would authorize the CHIPS and Marchiselli Capital Aid Programs to counties, cities, towns and villages for State Fiscal Year 2012-13 at approximately \$363.1 million and \$39.7 million, respectively.

In addition, the bill would extend the eligibility of certain highway work types for CHIPS reimbursement through March 31, 2013. These work types, which provide a cost-effective way for local governments to preserve highway infrastructure, were made eligible for CHIPS until March 31, 2012 in the 2011-12 Enacted Budget.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget, because annual authorization is required for these programs.

Effective Date:

This bill takes effect immediately.

Part B – Consolidate the Department of Transportation's Accident Damage Account with the Dedicated Highway and Bridge Trust Fund.

Purpose:

This bill would consolidate the revenues and disbursements of the Accident Damage Account with the Dedicated Highway and Bridge Trust Fund.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This proposal would consolidate highway and bridge maintenance activities funded by the non-statutory Accident Damage Account with maintenance activities funded within the Dedicated Highway and Bridge Trust Fund (Trust Fund). The remaining fund balance in the Accident Damage account would be shifted to the Trust Fund. Revenues from accident damage recoveries would also be deposited into the Trust Fund, thereby improving the Fund's debt service coverage ratio, which allows for the issuance of

additional Trust Fund bonds to finance transportation projects. The Accident Damage account would be administratively eliminated by the Department of Transportation.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget. The dedication of additional revenue would improve the annual debt service coverage ratio of the Trust Fund and reduce General Fund support for the Trust Fund by \$5.9 million in 2012-13. This proposal would also consolidate State highway repair and maintenance expenses into a single fund by eliminating an administrative special revenue fund.

Effective Date:

This bill takes effect April 1, 2012.

Part C – Implement a performance-based bus inspection program.

Purpose:

This bill would implement a performance-based bus inspection program to enhance safety and compliance and more efficiently utilize Department of Transportation (DOT) staffing resources.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This proposal would modify the current semi-annual inspection process to allow the Commissioner of Transportation to implement a performance-based inspection program that would increase inspection and compliance efforts for vehicle operators with the lowest compliance rates while performing less frequent inspections for those operators with the highest compliance rates. The net effect of the proposal would be both increased public safety and less overtime worked by State bus inspection staff. Program details including compliance tiers would be developed and promulgated through Department rules and regulations. Existing Transportation Law requires the Department to inspect each passenger bus every 6 months.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget and will lower expenses by approximately \$665,000 in 2012-13 and at least \$782,000 on an annualized basis.

Effective Date:

This bill takes effect April 1, 2012.

Part D – Conform the Vehicle and Traffic Law to federal requirements governing operators of commercial motor vehicles and medical certification requirements pertaining to such operators.

Purpose:

This bill would amend Vehicle and Traffic Law to bring New York State into compliance with the Federal Motor Carrier Safety Improvement Act of 1999 with respect to medical certifications for commercial driver's license (CDL) holders.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The Federal Motor Carrier Safety Administration has notified the Department of Motor Vehicles (DMV) that notwithstanding the enactment of Chapter 58 of the Laws of 2011, New York was still not in full compliance with the Federal Motor Carrier Safety Improvement Act of 1999, because that chapter required the suspension rather than downgrade of CDLs under certain circumstances. This proposal would address existing deficiencies and thereby enable New York to retain federal funding.

Effective January 30, 2012, new CDL applicants are required to self-certify to DMV regarding the type of driving they will perform and, if appropriate, that they are not subject to the federal physical qualification rules. They also must submit a valid medical certificate and, if applicable, a valid medical variance to DMV. In addition, existing CDL-holders are required to self-certify to DMV regarding the type of driving they perform and, if appropriate, that they are not subject to the federal physical qualification rules. CDL-holders who are subject to the physical qualification requirements will have to submit a valid medical certificate and, if applicable, a valid medical variance to DMV. Under the federal rules, DMV must "downgrade" not suspend a CDL if a driver fails to provide the required self-certification and/or medical certificate/variance to DMV. This legislation would give DMV the authority to implement these federal mandates.

Budget Implications:

Failure to enact this legislation could result in the loss of \$33 million in federal highway funds.

Effective Date:

Sections 1 through 4 of this bill take effect immediately; section 5 takes effect sixty days following enactment.

Part E – Raise the statutory limit on the amount of bonds, notes and other obligations the MTA, the New York City Transit Authority (NYCTA), and the Triborough Bridge and Tunnel Authority (TBTA) may issue.

Purpose:

This bill would help fund the remaining three years of the 2010-2014 capital program plan of the Metropolitan Transportation Authority (MTA), by raising the statutory limit \$7 billion, from \$34.877 billion to \$41.877 billion, for the amount of bonds, notes and other obligations the MTA, the New York City Transit Authority (NYCTA), and the Triborough Bridge and Tunnel Authority (TBTA) may issue.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The Capital Program Review Board (CPRB) approved MTA capital plan for the period 2010 to 2014 includes approved full funding sources only for the first two years of the capital program. MTA's January 2012 funding proposal to the CPRB for the three remaining years of the 2010-2014 MTA capital plan includes, among other funding sources, the proposed issuance of additional bonds, notes or other obligations. This bill would provide statutory bonding capacity sufficient to allow (though not require) issuance of the full amount of bonds, notes and other obligations of MTA, NYCTA, and TBTA contemplated in MTA's proposed funding package for years 2012 – 2014 of the MTA capital program.

The State has historically raised the MTA's bond cap authorization to coincide with the approval of the MTA's five-year capital programs. The cap was last raised in 2010 from \$28.9 billion to \$34 billion to ensure funding for the first two years of the MTA's 2010-14 capital program. In 2006, the cap was raised from \$16.5 billion to \$28.9 billion to provide sufficient funding for the MTA's 2005-2009 capital program. In 2000, the cap was raised from \$6 billion to \$16.5 billion to provide sufficient funding for the MTA's 2000-2004 capital program.

Budget Implications:

Enactment of this bill is necessary to fund the remaining three years of the MTA's 2010-14 capital program. While the issuance of additional debt pursuant to this bill's raised limit would increase the amount of debt service payable by MTA in the future, the MTA anticipates that it would use funds currently budgeted as pay-as-you-go funding to make debt service payments on the additional debt. MTA expects to repay approximately \$7.0 billion in existing and planned principal over the 2012-2019 period through normal amortization thereby maintaining a growing, but manageable debt level.

Effective Date:

This bill takes effect immediately.

Part F – Establish an additional retention rate for county clerks acting as an agent of the Department of Motor Vehicles based upon internet transactions.

Purpose:

This bill would provide that county clerks would retain a percentage of motor vehicle fees collected as the result of internet transactions.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Section 205 of the Vehicle and Traffic Law (VTL) provides that 51 county clerks act as agents of the Commissioner of Motor Vehicles. These clerks register and title motor vehicles, issue drivers licenses and perform other critical functions that are also performed in the state-run motor vehicle offices. Currently, VTL §205(3) provides that the clerks shall retain 12.7 percent of the gross receipts collected in their offices.

In recent years, DMV's customers have dramatically increased the use of the Internet. For example, almost 30% of registration renewals are done via the Internet. This serves two purposes: it reduces the number of individuals who must wait on line in state and county offices and it enhances customer service.

One result of the increased use of internet services is that county clerks collect less revenue from motor vehicle transactions. This proposal would assist the clerks by allowing clerks to retain a percentage of internet revenue generated by transactions performed by residents of a given county. Specifically, a clerk would retain 4 percent of fees above the baseline number collected via internet transactions for calendar year 2011 in that county.

This bill would ameliorate the reduction in motor revenue incurred by the clerks due to the rise in internet transactions. As technologies develop, it is anticipated that the number and type of transactions available through DMV's website will continue to expand. Providing DMV's county clerk agents with a modest share of revenue derived from internet transactions removes an artificial barrier to the clerks' ability to support new technology based initiatives, and allows them to share in the resulting savings and efficiencies.

Section 1 of this bill would provide that each county clerk shall retain 4 percent of "enhanced internet and electronic partner revenue" collected by the commissioner. The share of enhanced internet and electronic partner revenue retained by each county clerk would increase or decrease depending upon the amount of revenue actually delivered to such county clerk during calendar years 2012 and 2013, but in no event would a county clerk's share of the enhanced internet and electronic partner revenue be lower than 2.5 percent or higher than 6 percent. For purposes of this bill, "enhanced internet and electronic partner revenue" means the amount of gross receipts attributable to all transactions conducted on the Internet by residents of such county and by

designated partners of the department on behalf of such residents for the current calendar year that exceeds the amount of such revenue collected by the Commissioner during calendar year 2011.

Budget Implications

Enactment of this bill is necessary to implement the 2012-13 Executive Budget because it will increase revenue to county clerks by \$500k in calendar years 2012 and 2013 and encourage county clerks to support new State technology based initiatives.

Effective Date:

This bill takes effect April 1, 2012.

Part G – Ensures State compliance with Federal motor carrier regulations issued by FMCSA and prevents the loss of half the State’s Federal MCSAP funding.

Purpose:

This bill would allow the State’s highway safety programs to avoid over \$4 million of annual revenue losses by ensuring State compliance with Federal Motor Carrier Safety Administration (FMCSA) rules.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

A Federal audit of New York State law has found several discrepancies between Federal motor carrier safety rules and State law. This proposal will bring State law into conformance and will allow the State to avoid over \$4 million in annual Federal revenue loss. Motor Carrier Safety Assistance Program (MCSAP) grants are used to support State motor carrier compliance reviews; conduct roadside inspections; enforce violations noted in roadside inspections, and ensure that new trucking firms pass a safety audit to receive permanent registration.

Sections 1 through 5 expand the variety of entities covered by the State’s law in accordance with Federal regulations (49 CFR 390.3). Section 4 changes the period of time for which a commercial vehicle may display an out-of-state or Canadian province certificate of inspection from six months from the date issued to twelve months. Section 6 expands coverage of hours of service rules for commercial motor vehicle drivers to private carriers in accordance with 49 CFR 395.1(a). Section 7 subjects all motor buses operated by a public authority within the jurisdictional area of such public authority to the maximum driving and on-duty time rules for commercial motor vehicle drivers in accordance with 49 CFR 395.5. Section 8 changes record-keeping provisions in accordance with 49 CFR 395.8(k)(2). Section 9 eliminates the exceptions to the hours of service rules that conflict with the Federal hours of service rules in 49 CFR 395.1.

Section 10 deletes the definitions of hazard classes and provides that the rules governing the transport of hazardous materials will be set forth in the rules and regulations promulgated by the Department of Transportation (these rules and regulations will comply with 49 CFR 171-173). Sections 11 through 16 are technical amendments that change references of “interstate commerce commission” to “United States department of transportation” to conform to Federal Motor Carrier Safety Administration rules. Sections 17 through 20 are technical amendments to conform other State laws to this proposal. This is a new proposal.

Budget Implications:

This proposal would ensure State compliance with Federal highway regulations, thereby avoiding Federal penalties and saving the State \$2.1 million in 2012-13 and \$4.2 million annually thereafter.

Effective Date:

This bill takes effect April 1, 2012.

Part H – Eliminate certain tagging requirements, streamline various fish and wildlife licenses, permits and associated fees and extend the authority of the Department of Environmental Conservation to collect fees for ocean quahogs taken from all certified waters.

Purpose:

This bill would eliminate certain tagging requirements, streamline requirements with respect to various fish and wildlife licenses, permits and associated fees, and extend the authority of the Department of Environmental Conservation (DEC) to collect fees for ocean quahogs taken from all certified waters.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would streamline DEC services allowing the agency to operate more efficiently and provide services to the general public in the most uncomplicated manner as possible while still preserving the legislative intent of various statutes.

The provisions in this bill would amend the Environmental Conservation Law (ECL) by:

- Eliminating the requirement for a license to collect or possess birds’ nests or eggs;
- Waiving the requirement for a DEC permit if a depredation permit (issued to address wildlife or game bird nuisances) has been issued by the U.S. Department of Interior;

- Adding muskrats to the list of nuisance animals that may be taken without a permit;
- Exempting municipalities from the fee for a nuisance wildlife control operator license;
- Eliminating the \$5 fee on permits for the possession for use of a firearm in or on a motor vehicle by a non-ambulatory person;
- Eliminating various tagging requirements;
- Increasing the length of the term from one to five years for domestic game bird breeder's licenses, shooting preserve licenses and domestic game animal breeder's licenses, while reducing the fee per year for such licenses;
- Increasing the length of the term from two to five years for falconry licenses, while reducing the fee per year for such licenses; and
- Extending until April 1, 2016, DEC's authority to collect fifteen cents per bushel of surfclams and ten cents per bushel of ocean quahogs.

Under existing law, ECL Article 11 requires, among other things, (i) the tagging of various fish and wildlife and (ii) various licenses and permits for the handling of fish and wildlife. ECL Article 13 provides that DEC, until April 1, 2010, shall be entitled to collect fees on surfclams and ocean quahogs taken from certified waters.

Budget Implications:

Enactment of this bill is necessary to implement the 2013 Executive Budget because it would result in reduced administrative effort and streamline services. All of the fees addressed in this bill collectively generate revenue of approximately \$70,000 annually, which are deposited into the Conservation Fund. Elimination of certain fees and permits as well as adjustments to permit and license terms, as required under the bill, would reduce overall revenue but with a corresponding reduction in administrative workload. Additionally, since 2006, DEC has collected between \$45,000 and \$61,000 annually in fees for surfclams and ocean quahogs, which are then deposited into the Surfclam/Ocean Quahog Account of the Conservation Fund. These funds are used to conduct population surveys and stock assessments on the surfclam/ocean quahog fishery.

Effective Date:

This bill takes effect immediately.

Part I – Clarify that the State does not regulate Voice over Internet Protocol (VoIP) service, in order to facilitate competition for the benefit of consumers and businesses alike.

Purpose:

This bill would clarify that the Public Service Commission and other State agencies do not have authority to regulate rates or other terms of service related to Voice over

Internet Protocol (VoIP) service. New York State consumer protections would not be impacted by this bill.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill clarifies in State law the role of State agencies with respect to regulating VoIP, a technology that allows customers to make phone calls using a broadband internet connection instead of a regular (or analog) phone line.

VoIP offers an economical and reliable alternative to traditional networks for providing communication connections. This bill would benefit rural residents and businesses by: (i) making it less expensive for telecommunication companies to extend broadband communication systems to rural areas; (ii) allowing remote businesses to transform the way they do business; and (iii) facilitating higher paying information age jobs. The bill would also further promote competition among the different types of communication services currently available in all areas of the State.

This bill does not affect the State's authority to enforce federal requirements, to the extent applicable, with respect to 911 facilities, "Enhanced 911" fees, telecommunications relay service, and federal Universal Service Fund fees. New York State's consumer protection laws, including those barring unfair or deceptive trade practices, continue to apply.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget, because of the increased economic activity and investment through expanded broadband deployment.

Effective Date:

This bill takes effect immediately.

Part J – Reduce costs on businesses by amending the formula for the imposition of the fees on hazardous waste and hazardous wastewater to incentivize the on-site recycling of such waste.

Purpose:

This bill would amend the formula used in the Environmental Conservation Law (ECL), as previously amended in 2010, by exempting from the fee requirement associated with the generation of hazardous waste certain amounts of such waste that are recycled as a mechanism to incentivize on-site recycling.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Existing law sets forth regulatory fees for the generation of hazardous waste and hazardous wastewater. This bill would promote on-site recovery and reuse and external sale of excess recovered hazardous waste while still assessing the fee for hazardous waste and hazardous wastewater on the amount of such materials actually disposed of as a hazardous waste.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget because it will eliminate an unintended consequence of a 2010 ECL amendment.

Effective Date:

This bill takes effect immediately and shall apply to hazardous waste program fee bills issued by the Department of Environmental Conservation after January 1, 2012 for hazardous waste or hazardous wastewater generated during calendar year 2011 or later.

Part K – Terminate unnecessary State Operating Fund support of the Environmental Facilities Corporation with respect to the Clean Water and Drinking Water State Revolving Funds.

Purpose:

This bill would eliminate State Operating Fund support of the Environmental Facilities Corporation (EFC) with respect to the Clean Water and Drinking Water State Revolving Funds, in a manner that preserves (i) all existing channels of EFC's financial support of the Departments of Environmental Conservation and Health, and (ii) existing job levels at EFC. The bill would also eliminate duplicative administrative functions at EFC and the Office of the State Comptroller (OSC).

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

EFC – a financially self-sustaining authority – was established to provide local governments with low cost financing associated with constructing and maintaining drinking water and water pollution control facilities. In general, EFC is funded by Federal capitalization grants and State matching funds, loan repayments and internally generated funds. The original purpose of the appropriation at issue (\$12 million) was to be a source of administrative cash flow for EFC prior to EFC's receipt of similarly purposed Federal funds from which reimbursement was provided by EFC back to the

State. Currently, EFC maintains two payroll systems, one through the appropriation and another for its remaining off-budget employees. EFC's on-budget appropriations have been used to meet a portion of EFC's personal service (payroll) costs. All personal service payments issued by OSC through this state appropriation are fully reimbursed by EFC. Given its self-sustaining nature, EFC does not need support from State Operating Funds.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget, because it would result in reducing the overall size of State Operating Funds by \$12 million, while maintaining EFC's current workforce levels, and eliminate the administrative burden associated with EFC and OSC operating two separate payroll systems (one off-budget and one on-budget).

Effective Date:

This bill takes effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012.

Part L – Eliminate the mandate that the New York State Agricultural Experiment Station be the exclusive seed testing entity in the State, and allow testing to be conducted by the Department of Agriculture and Markets or a qualified laboratory.

Purpose:

This bill would remove the current requirement that the New York State Agricultural Experiment Station be the exclusive seed testing entity in the State, and allow testing to be conducted by the Department of Agriculture and Markets (Department) or a qualified laboratory.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Under existing law, the Department is required to submit seed samples to the New York State Agricultural Experiment Station (NYSAES), operated by Cornell University, for seed analysis and testing which supports the Department's regulatory role and assures farmers, homeowners and various businesses that the seed's quality is consistent with its label. NYSAES can no longer accommodate the Seed Testing Program. As such, this proposal would amend Agriculture and Markets Law to allow seed testing to be performed by the Department of Agriculture and Markets or a qualified laboratory. The Department may be able to accommodate the seed testing responsibility when the New York State Food and Metrology Laboratory is built and operational, which is planned for

the Fall of 2012. In the interim, the Department would contract for services with an alternative laboratory.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget as it would enable the Department to save \$78,000 annually if testing were performed by the Department or a qualified laboratory. The 2011-12 Enacted Budget included \$128,000 for the NYSAES.

Effective Date:

This bill takes effect immediately.

Part M – Provide the Department of Agriculture and Markets with more comprehensive fee-for-service authority in order to recover normal costs related to services provided to other states.

Purpose:

This bill authorizes the Commissioner of Agriculture and Markets (Commissioner) to enter into contracts and cooperative agreements to provide services of the Department of Agriculture and Markets (Department) for a fee to governmental and educational entities when it serves the public interest.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Under existing law, the Commissioner is authorized to enter into contracts and cooperative agreements only to provide laboratory services of the Department for a fee. This bill will enable the Department to charge a fee for other services that it currently performs. For example, this bill will allow the Department to enter into contracts and cooperative agreements with other states to conduct milk or food safety inspections or assist with invasive species eradication and control efforts, and charge the state for that service. Similarly, this bill will allow the Department to conduct food safety training seminars at educational facilities for a fee, which in turn will better enable the regulated community to comply with food safety requirements.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget because it will allow the Department to recoup costs associated with services it provides that are related to its core mission.

Effective Date:

This bill takes effect immediately.

Part N – Redirect certain fees currently deposited to the Consumer Food Account and the Commercial Feed Licensing Account to the General Fund, as a result of the consolidation of these accounts into the General Fund.

Purpose:

This bill would redirect certain fees currently deposited to the Consumer Food Account and the Commercial Feed Licensing Account to the General Fund, as a result of the consolidation of these accounts into the General Fund.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Under existing law, food processing establishment license fees and commercial feed tonnage and license fees are deposited into certain Special Revenue Funds. In recent years, revenues from these fees have not kept pace with the increasing costs of administering the respective programs, resulting in a structural imbalance. This bill would allow the respective license and tonnage fees collected by the Department pursuant to Agriculture and Markets Law Article 8 and 20-C to be deposited to the General Fund to offset the costs of inspection and administration. This proposal, together with the shifting of corresponding special revenue fund appropriations and costs to the General Fund, would enable the Department to maintain existing levels of food safety inspection and oversight.

This bill would also provide for a more efficient and less complicated licensing renewal period schedule by replacing four food processing license application periods with a rolling application schedule.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget because it provides a mechanism to allow the Department to maintain existing levels of food safety inspection and oversight.

Effective Date:

This bill takes effect immediately.

Part O – Authorize and direct the Comptroller to receive for deposit to the credit of the General Fund a payment of up to \$913,000 from the New York State Energy Research and Development Authority.

Purpose:

This bill would authorize and direct the Comptroller to receive for deposit to the credit of the General Fund a payment of up to \$913,000 from the New York State Energy Research and Development Authority (NYSERDA).

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would authorize and direct the Comptroller to receive for deposit to the credit of the General Fund a payment of up to \$913,000 from NYSERDA from unrestricted corporate funds. The \$913,000 transfer will help offset New York State's debt service requirements relating to the Western New York Nuclear Service Center (West Valley). Chapter 60 of the Laws of 2011 provided a similar one year authorization.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-2013 Executive Budget because it authorizes the Comptroller to accept from NYSERDA \$913,000 in payments to the General Fund as provided in the Financial Plan.

Effective Date:

This bill takes effect immediately.

Part P – Authorize the New York State Energy Research and Development Authority to finance a portion of its research, development and demonstration, and policy and planning programs, and to finance the Department of Environmental Conservation's climate change program, from an assessment on gas and electric corporations.

Purpose:

This bill would authorize the New York State Energy Research and Development Authority (NYSERDA) to obtain revenue for certain programs from a special assessment on gas corporations and electric corporations.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The bill would authorize NYSERDA to finance its research, development and demonstration, and policy and planning programs, and to finance the Department of Environmental Conservation's climate change program, from a special assessment on gas corporations and electric corporations. Section 18-a of the Public Service Law authorizes the Department of Public Service to assess gas corporations and electric corporations for expenses related to administering Public Service Law programs. This is a special assessment, in addition to the section 18-a assessment, which has been proposed annually as an Article VII provision, and a similar bill was last enacted as Part Q of Chapter 60 of the Laws of 2011. Without this authorization, NYSERDA and DEC could not continue to implement necessary programs in the 2012-13 State Fiscal Year.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget because it authorizes the collection of assessments to fund NYSERDA's research, development and demonstration, and policy and planning programs and, as set forth in the appropriation, DEC's climate change program. A \$16.2 million appropriation is included in NYSERDA's budget for these programs.

Effective Date:

This bill takes effect immediately.

Part Q – Amend the Jacob K. Javits Convention Center enabling legislation to authorize the disposal of adjacent properties.

Purpose:

This bill would amend the law authorizing the construction, expansion and renovation of the Jacob K. Javits Convention Center (Javits Center) to permit the Convention Center Development Corporation (CCDC), a subsidiary of the New York State Urban Development Corporation, to dispose of real and personal property.

Summary of Provisions, Existing Law, Prior Legislative History, and Statement in Support:

CCDC owns multiple parcels of land at and adjacent to the Javits Center site that may not be incorporated into or required for the continued use or expansion of the Javits Center.

The bill would enable the CCDC to dispose of any property it owns that is determined to be unnecessary for current or future expansion plans for the Javits Center and to

transfer the proceeds from any disposition of such property to the State's General Fund.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget, which proposes that proceeds from the sale of land adjacent to the Javits Center will be transferred to the State's General Fund.

Effective Date:

This bill takes effect immediately.

Part R – Make permanent the general loan powers of the New York State Urban Development Corporation.

Purpose:

This bill would make permanent the general loan powers of the New York State Urban Development Corporation (UDC).

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Chapter 393 of the Laws of 1994 provides UDC with the general power to make loans. This authorization has been renewed annually and is currently set to expire on July 1, 2012. The sunset date has been extended each year since 1997.

Absent enactment of this bill, UDC will only be authorized to make loans in connection with certain State-funded economic development programs that have statutory loan authorization.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget, which assumes that UDC will provide certain economic development assistance through loans. Absent this legislation, the UDC could not fund approved loans being made by the Metropolitan Economic Revitalization Fund.

Effective Date:

This bill takes effect immediately.

Part S – Make permanent the Empire State Economic Development Fund.

Purpose:

This bill would make permanent the Empire State Economic Development Fund (EDF), one of the State's primary economic development grant and loan programs for job creation and job retention.

Statement in Support, Summary of Provisions, Existing Law and Prior Legislative History:

This bill would eliminate the section of the New York State Urban Development Corporation Act (UDC Act) that provides for the expiration of the EDF, thereby making the EDF permanent.

The EDF was created in 1996 with the adoption of Section 16-I of the UDC Act, L.1996, c.309, §105. The EDF is the only economic development program that contains a sunset provision. Elimination of the sunset provision would permit UDC to fulfill prior commitments made through this program to businesses and other stakeholders throughout the State without interruption.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget, which assumes new EDF funding as well as the continuity of previously authorized EDF funding.

Effective Date:

This bill takes effect immediately and will be deemed to have been in full force and effect on and after April 1, 2009.

Part T – Provide general grant-making power for the New York State Urban Development Corporation.

Purpose:

This bill would add grant-making to the general powers of the New York State Urban Development Corporation (UDC).

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Currently, UDC's ability to make grants derives solely from the program-specific sections of the New York State Urban Development Corporation Act. These individual

program sections typically include program-specific loan-making and grant-making authority. To further support and clarify the statutory activities of UDC, the corporation was given the legal authority to make loans without program-specific authorization in 1994. UDC has relied on this general loan-making power to make loans using available funds that do not relate to a program contained within the UDC Act, such as the Metropolitan Economic Revitalization Fund.

Enactment of this bill is necessary to allow UDC to similarly make grants with available funds for programs that are authorized outside the UDC Act. Inclusion in the UDC Act of general grant-making power is a logical corollary to its general loan-making power and would provide UDC with the necessary authority to structure financial assistance to businesses and other entities.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-13 Executive Budget, portions of which appropriate funding for purposes related to programs authorized outside of the UDC Act.

Effective Date:

This bill takes effect immediately.

Part U – Provide a 3 percent linked loan savings for agricultural businesses.

Purpose:

This bill would provide a 3 percent linked loan savings for agricultural businesses.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The Linked Deposit Program helps New York State firms obtain reduced-rate financing so they can undertake projects to improve their competitiveness, market access and product development; modernize their equipment; expand their facilities for productivity growth; introduce new technologies; facilitate ownership transition; and promote job creation and retention.

The Linked Deposit Program currently only provides for a 2 percent reduction in interest rates for a 4 year period or a 3 percent reduction for projects in a highly distressed area. This bill would expand the Linked Deposit Program to ensure that certain agricultural businesses will be eligible for a 3 percent reduction in interest rates on linked deposit loans. Reduction of the interest rate for agricultural businesses will benefit farms and encourage growth in agriculture throughout the State.

Budget Implications:

Enactment of this bill is necessary to implement the 2013 Executive Budget because it will stimulate growth in the agricultural sector and create and retain jobs.

Effective Date:

This bill takes effect immediately.

Part V – Authorize the Department of Health to finance certain activities with revenues generated from an assessment on cable television companies.

Purpose:

This bill would authorize the Department of Health (DOH) to finance public service education activities with revenues generated from an assessment on cable television companies.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The bill would authorize certain expenditures of DOH as eligible expenses for cable television assessment revenue. Section 217 of the Public Service Law authorizes the Department of Public Service (DPS) to assess cable television companies for DPS costs associated with the regulation of cable television companies. This annual Article VII bill also makes DOH public service education expenses, charged to the special revenue cable television account, eligible for this funding. Chapter 60 of the Laws of 2011 provided similar authorization.

Budget Implications:

Enactment of this bill is necessary to implement the 2012-2013 Executive Budget because it ensures the recovery of public service education expenses incurred by DOH, as provided for in the Financial Plan. A \$454,000 appropriation is included in DOH's budget for these activities.

Effective Date:

This bill takes effect immediately.

Part W – Extends the renewal period for certain disciplines licensed by the Department of State.

Purpose:

This bill would increase the renewal term for security guards and real estate salespersons and brokers from two to four years and correspondingly doubles the associated fee.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would amend the General Business Law and the Real Property Law to extend the term for certain disciplines licensed and regulated by the Department of State. Each renewal fee would be doubled as a result of the extended licensing term.

Budget Implications:

Enactment of this bill is necessary to implement the 2012–2013 Executive Budget as the State Financial Plan assumes approximately \$1.8 million in additional revenue from the implementation of its provisions.

Effective Date:

This bill takes effect immediately.

Part X – Make uncashed pari-mutuel vouchers subject to escheatment.

Purpose:

This bill would provide that all cash pari-mutuel vouchers must be presented for payment before April 1st of the year following the year of their purchase; if not presented, the funds will be paid to the racing regulation account

Statement in Support, Summary of Provisions, Existing Law and Prior Legislative History:

Uncashed pari-mutuel tickets are subject to escheatment if not presented for payment by April 1st of the year following their year of purchase. No provision in law is made for pari-mutuel vouchers that are not presented for payment.

This bill would amend Sections 235, 301, 401, and 529 of the Racing, Pari-Mutuel Wagering and Breeding Law to provide that all cash pari-mutuel vouchers must be presented for payment before April 1st of the year following the year of their purchase; if

not presented, the funds will be paid to the racing regulation account established pursuant to Section 111 of the Racing, Pari-Mutuel Wagering and Breeding Law.

Additionally, the bill would repeal existing subdivision a concerning admission charges; this quarterhorse racing provision was inadvertently not repealed with corresponding thoroughbred and harness racing provisions (Chapter 211 of the Laws of 1999).

Budget Implications:

This bill would increase funds for the regulation of pari-mutuel horse racing by an annualized value of \$200,000.

Effective Date: This bill takes effect immediately with authorization for the promulgation of any rules necessary for timely implementation.

Part Y – Reduce Racing and Wagering Board employee costs.

Purpose: This bill would authorize licensed harness racing associations and corporations to appoint and employ the starter and one of the officiating judges at pari-mutuel harness race meetings

Statement in Support, Summary of Provisions, Existing Law and Prior Legislative History:

This bill would more closely align the appointment and employment of certain racing officials by the licensed track operator. One of the three stewards as well as the starting-related employees at thoroughbred race meetings are employed by the track operator. Qualified and employable candidates should be readily available as the corresponding positions would be abolished by the Racing and Wagering Board. The abolition of positions would also alleviate the so-called revolving door bar otherwise applicable pursuant to Public Officers Law Section 73.8.

This bill would provide that the licensed harness racing associations and corporations shall employ and appoint one associate judge and the starter to serve at pari-mutuel harness race meetings.

Under current law, the Racing and Wagering Board designates and employs all of the racing officials who supervise the conduct of live pari-mutuel harness racing.

Budget Implications:

This bill would reduce the cost of racing regulation in the approximate annualized amount of \$829,000 based on salary, fringe benefit and indirect costs at seven harness tracks.

Effective Date: This bill takes effect ninety days after it becomes law.

Part Z – Enable the Commissioner of Agriculture and Markets to issue a dairy research and education order to fund research for the purpose of improving dairy industry production and increasing the efficiency and profitability of the State’s dairy industry.

Purpose:

This bill would enable the Commissioner of Agriculture and Markets to issue a dairy research and education order to fund research for the purpose of improving dairy industry production and increasing the efficiency and profitability of the State’s dairy industry.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Existing law provides for an industry-initiated and funded referendum process to provide the Commissioner with approval to issue dairy promotion orders associated with advertising and promotion of milk, and post-production research to develop new and improved dairy products. This bill would add another such referendum process but for the purpose of funding farm level research and education, with the goal of increasing the profitability of milk production and the New York dairy industry in general.

The procedure established under the bill is similar to the statutory procedures established with respect to dairy promotion orders, as well as other promotion and research orders that are currently in place for fruits and vegetables. Accordingly, the bill would authorize the Commissioner, after due notice and opportunity for a hearing, and subject to approval of fifty-one percent of milk producers, to make and issue a dairy research and education order. The bill would also specify requirements with respect to amending or terminating any such research and education order, creating an advisory committee, levying assessments against all milk producers subject to the order, and providing for payments to institutions or organizations engaged in research and/or educational activities that would result in improved dairy production and farm profitability.

Budget Implications:

Enactment of this bill will ensure sufficient future funding to support necessary dairy research and education once the order is created, a process which may take a year to complete.

Effective Date:

This bill takes effect immediately.

Part AA – Increase cost recovery from public authorities to support auditing and oversight work done by the Office of the State Comptroller.

Purpose:

This bill would increase the amount of governmental costs assessed to public authorities to support oversight.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Under current law, the State may assess public authorities up to \$60 million to cover the costs of services provided to public authorities. This bill would increase that amount to \$62 million.

The Public Authorities Accountability Act of 2005 and the Public Authorities Reform Act of 2009 increased transparency and accountability of the State's public authorities and requires enhanced oversight of authority activities. The increase in assessments would support this oversight.

Budget Implications:

This bill is necessary to implement and balance the 2012-13 State Budget by increasing the authority to collect revenues in an amount commensurate with expected spending.

Effective Date:

This bill takes effect immediately.

The provisions of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.