2013-14 NEW YORK STATE EXECUTIVE BUDGET
TRANSPORTATION
ECONOMIC DEVELOPMENT AND
ENVIRONMENTAL CONSERVATION
ARTICLE VII LEGISLATION
## CONTENTS

<table>
<thead>
<tr>
<th>PART</th>
<th>DESCRIPTION</th>
<th>STARTING PAGE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Provide the annual authorization for the CHIPS and Marchiselli programs.</td>
<td>5</td>
</tr>
<tr>
<td>B</td>
<td>Continue the redistribution of the statewide collected transmission tax between the upstate (PTOA) and downstate (MMTOA) transit accounts in an equitable manner.</td>
<td>8</td>
</tr>
<tr>
<td>C</td>
<td>Impose license sanctions for violations of the cell phone (mobile telephone) and texting (portable electronic device) laws by commercial motor vehicle operators and conform State law to federal law regarding cell phone use and texting by such operators.</td>
<td>9</td>
</tr>
<tr>
<td>D</td>
<td>Permit the Department of Motor Vehicles to serve the public on Saturdays.</td>
<td>13</td>
</tr>
<tr>
<td>E</td>
<td>Provide financial assistance for the New York State Thruway Authority and eliminate the need for a commercial toll hike.</td>
<td>14</td>
</tr>
<tr>
<td>F</td>
<td>Enact the Cleaner Greener New York Act of 2013 to increase revenues deposited to the Environmental Protection Fund by redirecting unclaimed bottle deposit receipts and by strengthening enforcement of the Bottle Bill to prevent fraud.</td>
<td>15</td>
</tr>
<tr>
<td>G</td>
<td>Make permanent the waste tire management and recycling fee.</td>
<td>33</td>
</tr>
<tr>
<td>H</td>
<td>Make permanent the general loan powers of the New York State Urban Development Corporation.</td>
<td>37</td>
</tr>
<tr>
<td>PART</td>
<td>DESCRIPTION</td>
<td>STARTING PAGE NUMBER</td>
</tr>
<tr>
<td>------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>----------------------</td>
</tr>
<tr>
<td>I</td>
<td>Extend the authorization for the Dormitory Authority of the State of New York to enter into certain design and construction management agreements.</td>
<td>38</td>
</tr>
<tr>
<td>J</td>
<td>Provide general grant-making power for the New York State Urban Development Corporation.</td>
<td>38</td>
</tr>
<tr>
<td>K</td>
<td>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 to offset debt service related to the Western New York Nuclear Service Center (West Valley).</td>
<td>39</td>
</tr>
<tr>
<td>L</td>
<td>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.</td>
<td>39</td>
</tr>
<tr>
<td>M</td>
<td>Authorize the Department of Health to finance certain activities with revenues generated from an assessment on cable television companies.</td>
<td>40</td>
</tr>
<tr>
<td>N</td>
<td>Extend the Temporary State Energy and Utility Service Conservation Assessment, to provide continued revenues in support of necessary expenses of the State, including the purchase of utility services.</td>
<td>41</td>
</tr>
<tr>
<td>O</td>
<td>Implement recommendations made by the Moreland Commission on Utility Storm Preparation and Response, related to strengthening the oversight and enforcement mechanisms of the Public Service Commission to ensure that public utility companies are held accountable and responsive to regulators and customers.</td>
<td>42</td>
</tr>
<tr>
<td>P</td>
<td>Extend for one year the authority of the Secretary of State to charge increased fees for expedited handling of documents.</td>
<td>54</td>
</tr>
<tr>
<td>Q</td>
<td>Facilitate an online corporate filing system and reduce costs and regulatory burdens on the State's businesses.</td>
<td>55</td>
</tr>
</tbody>
</table>
IN SENATE--Introduced by Sen

--read twice and ordered printed, and when printed to be committed to the Committee on

---------- A.
Assembly ----------

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the Committee on

*BUDG.BI*
(Enacts into law major components of legislation necessary to implement the transportation, economic development and environmental conservation budget for the 2013-2014)

******

BUDG.BI. TED

AN ACT
to authorize funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2013-2014 (Part A); to amend the tax law, in relation to the statewide transmission tax (Part B); to amend the vehicle and traffic law, in relation to imposing drivers license sanctions (Part C); to amend the vehicle and traffic law, in

IN SENATE

The senators whose names are circled below wish to join me in the sponsorship of this proposal:
s20 Adams s17 Felder s63 Montgomery s25 Savino
s15 Addabbo s02 Flanagan s34 Klein s54 Nozzolio s29 Serrano
s11 Avella s08 Fuschillo s28 Krueger s55 O'Brien s51 Seward
s40 Ball s59 Gallivan s24 Lanza s58 O'Mara s09 Skelos
s42 Bonacic s12 Gianaris s39 Larkin s21 Parker s14 Smith
s04 Boyle s41 Gipson s37 Latimer s13 Peralta s26 Squadron
s44 Breslin s22 Golden s01 LaValle s30 Perkins s16 Stavisky
s38 Carluccio s47 Griffio s52 Libous s61 Ranzenhofer s35 Stewart-
s50 DeFrancisco s60 Giansanti s45 Little s48 Ritchie Cousin
s32 Diaz s06 Hannon s05 Marcellino s33 Rivera s53 Valesky
s18 Dilan s36 Hassell-Flagg s43 Marchione s56 Robach s57 Young
s31 Espaillat Thompson s07 Martins s19 Sampson s03 Zeldin
s49 Farley s27 Hoylman s62 Maziarz s10 Sanders s46

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the multi-sponsorship of this proposal:
a049 Abbate a034 DenDekker a097 Jaffe a136 Morelle a111 Santabarbara
a092 Abinanti a081 Dinowitz a135 Johns a057 Mosley a029 Scarborough
a084 Arroyo a147 DiPietro a113 Jordan a039 Moya a016 Schimel
a035 Aubry a115 Duprey a094 Katz a133 Noyes a140 Schimminger
a120 Barclay a004 Engelbright a074 Kavanagh a037 Nolan a087 Sepulveda
a106 Barrett a054 Espinal a142 Kearns a130 Oaks a065 Silver
a060 Barron a109 Fahy a076 Kellner a069 O'Donnell a027 Simonwitz
a082 Benedetto a071 Farrell a040 Kim a051 Ortiz a036 Simotas
a117 Blankenbush a126 Finch a131 Kolb a091 Otis a104 Skartados
a062 Borelli a008 Fitzpatrick a105 Lalor a132 Palenske a099 Skoufis
a055 Boyland a124 Friend a013 Lavine a088 Paulin a022 Solages
a026 Braunstein a143 Gabryszak a050 Lentol a141 Peoples-Story a114 Steck
a044 Brennan a095 Galef a125 Lifton Stokes a110 Steck
a119 Brindisi a137 Gantt a102 Lopez, P. a058 Perry a079 Stevenson
a138 Bronson a007 Garbarino a053 Lopez, V. a089 Pretlow a127 Stabile
a046 Brook-Krasny a077 Gibson a002 Losquadro a073 Quart a011 Sweeney
a093 Buchwald a148 Giglio a123 Lupardo a019 Ra a112 Tedisco
a118 Butler a080 Gjonaj a100 Lupinacci a098 Rabbit a101 Tenney
a103 Cahill a066 Glick a121 Magee a012 Raja a001 Thiele
a043 Camara a023 Goldfeder a129 Magnarelli a006 Rams a061 Tite
a086 Castro a150 Goodell a059 Maisel a134 Reiche a031 Titus
a145 Ceretto a075 Gottfried a064 Malliotakis a078 Rivera a146 Walter
a033 Clark a065 Graf a030 Markey a128 Roberts a041 Weinstein
a047 Colton a100 Gunther a090 Mayer a056 Robinson a020 Weisenberg
a032 Cook a139 Hawley a108 McDonald a068 Rodriguez a24 Weprin
a114 Corwin a083 Hestia a014 McDonough a072 Rosa a070 Wright
a085 Crespo a003 Hennessy a017 McKevitt a067 Rosenthal a096 Zebrowski
a122 Crouch a028 Hevesi a107 McLaughlin a025 Roczniak
a021 Curran a048 Hikind a038 Miller a116 Russell
a063 Cusick a018 Hooper a052 Millman a149 Ryan
a045 Cymbrowitz a042 Jacobs a015 Montesano a009 Saladieno

1) Single House Bill (introduced and printed separately in either or both houses). Uni-Bill (introduced simultaneously in both houses and printed as one bill. Senate and Assembly introducer sign same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed copies of bill and 4 copies of memorandum in support (single house); or 4 signed copies of bill and 8 copies of memorandum in support (uni-bill).
relation to the hours of operation of the department of motor vehicles (Part D); to amend the public authorities law, in relation to enforcement assistance; and to repeal section 357-a of such law relating to payment by the New York state thruway authority for services provided by the division of state police (Part E); to amend the environmental conservation law and the state finance law, in relation to establishing the "Cleaner, Greener NY Act of 2013"; and repealing section 27-1017 of the environmental conservation law relating thereto (Part F); to amend the environmental conservation law, in relation to waste tire management and recycling fees (Part G); 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 H); to amend chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements, in relation to extending certain authority of the dormitory authority of the state of New York (Part I); to amend the New York state urban development corporation act, in relation to the powers of the New York state urban development corporation to make grants (Part J); 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 K); 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 L); to authorize the department of health to finance certain activities with revenues generated from an assessment on cable television companies (Part M); to amend the
public service law, in relation to extending the temporary state energy and utility conservation assessment; and to amend section 6 of part NN of chapter 59 of the laws of 2009 amending the public service law relating to financing the operations of the department of public service, the public service commission, department support and energy management services provided by other state agencies, increasing the utility assessment cap and the minimum threshold for collection thereunder, and establishing a temporary state energy and utility service conservation assessment and providing for the collection thereof, in relation to extending the effectiveness thereof (Part N); to amend the public service law, in relation to strengthening the oversight and enforcement mechanisms of the Public Service Commission; to amend the general business law, in relation to expanding the definition of underground facilities and increasing fines for violations relating to the protection of underground facilities; and to repeal certain provisions of the public service law relating thereto (Part O); 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 P); and to amend the banking law, the cooperative corporations law, the general business law, and the not-for-profit corporation law, in relation to facilitating an online corporate filing system by removing the type classification system for not-for-profit corporations; to repeal certain provisions of the not-for-profit corporation law and the religious corporations law, relating thereto (Subpart A); to amend the business corporation law, the education law, the general business law, the limit-
ed liability company law, the not-for-profit corporation law, the partnership law, the private housing finance law, the public health law and the transportation corporations law, in relation to facilitating online filing by authorizing self-certification by filers with regard to required consents; to repeal certain provisions of the business corporation law and the not-for-profit corporation law, relating thereto (Subpart B); to amend the business corporation law, the limited liability company law, the not-for-profit corporation law and the partnership law, in relation to authorizing electronic attendance at meetings (Subpart C); to amend the business corporation law, the limited liability company law and the not-for-profit corporation law, in relation to who may act as an incorporator (Subpart D); to amend the general associations law, in relation to serving process upon the secretary of state as agent (Subpart E); to amend the tax law, in relation to reducing the taxes on shares (Subpart F) (Part Q)

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 2013-2014 state fiscal year. Each component is wholly contained within a Part identified as Parts A through Q. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

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

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

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

<table>
<thead>
<tr>
<th>State Fiscal Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013-14</td>
<td>$39,700,000</td>
</tr>
</tbody>
</table>

(b) Three hundred four million three hundred thousand dollars ($304,300,000) to counties, cities, towns and villages for reimbursement of eligible costs of local highway and bridge projects pursuant to sections 16 and 16-a of chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of the laws of 1991, as amended. For the purposes of computing allocations to municipalities, the amount distributed pursuant to section 16 of chapter 329 of the laws of 1991 shall be deemed to be $121,520,000. The amount distributed pursuant to section 16-a of chapter 329 of the laws of 1991 shall be deemed to be $182,780,000. Notwithstanding the provisions of any general or special law, the amounts deemed distributed in accordance with section 16 of chapter 329 of the laws of 1991 shall be adjusted so that such amounts...
will not be less than 83.807 percent of the "funding level" as defined in subdivision 5 of section 10-c of the highway law for each such municipality. In order to achieve the objectives of section 16 of chapter 329 of the laws of 1991, to the extent necessary, the amounts in excess of 83.807 percent of the funding level to be deemed distributed to each municipality under this subdivision shall be reduced in equal proportion.

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

<table>
<thead>
<tr>
<th>State Fiscal Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013-14</td>
<td>$363,097,000</td>
</tr>
</tbody>
</table>

§ 2. This act shall take effect immediately.

PART B

Section 1. Subdivision 3 of section 205 of the tax law, as added by section 8 of part U1 of chapter 62 of the laws of 2003, is amended to read as follows:

3. [From the] The moneys collected from the taxes imposed by sections one hundred eighty-three and one hundred eighty-four of this article on and after April first, two thousand [four] thirteen, after reserving amounts for refunds or reimbursements, shall be distributed as follows: twenty percent of such moneys shall be deposited to the credit of the dedicated highway and bridge trust fund established by section eighty-nine-b of the state finance law[. The remainder], fifty-four percent of such moneys shall be deposited in the mass transportation operating assistance fund to the credit of the metropolitan mass transportation operating assistance account created pursuant to section eighty-eight-a of the state finance law and twenty-six percent of such moneys shall be deposited in the mass transportation operating assistance fund to the credit of the public transportation systems operating assistance account created pursuant to section eighty-eight-a of the state finance law.
§ 2. This act shall take effect on the same date and in the same manner as the expiration and repeal of subdivision 3 of section 205 of the tax law per section 2 of part P of chapter 59 of the laws of 2012, as amended; provided, however, that the amendments to subdivision 3 of section 205 of the tax law made by section one of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.

PART C

Section 1. Paragraph (a) of subdivision 4 of section 510-a of the vehicle and traffic law, as amended by section 14 of part E of chapter 60 of the laws of 2005, is amended to read as follows:

(a) A serious traffic violation shall mean operating a commercial motor vehicle in violation of a state or local law or ordinance restricting or prohibiting the use of a hand-held mobile telephone or a portable electronic device while driving or in violation of any provision of this chapter or the laws of any other state, the District of Columbia or any Canadian province which (i) limits the speed of motor vehicles, provided the violation involved fifteen or more miles per hour over the established speed limit; (ii) is defined as reckless driving by state or local law or regulation; (iii) prohibits improper or erratic lane change; (iv) prohibits following too closely; (v) relates to motor vehicle traffic (other than parking, standing or stopping) and which arises in connection with a fatal accident; (vi) operating a commercial motor vehicle without first obtaining a commercial driver's license as required by section five hundred one of this title; (vii) operating a commercial motor vehicle without a commercial driver's license in the
driver's possession; or (viii) operating a commercial motor vehicle
without the proper class of commercial driver's license and/or endorsement for the specific vehicle being operated or for the passengers or type of cargo being transported.

§ 2. Paragraphs (c) and (e) of subdivision 1 of section 1225-c of the vehicle and traffic law, as added by chapter 69 of the laws of 2001, are amended to read as follows:

(c) "Using" shall mean holding a mobile telephone to, or in the immediate proximity of, the user's ear, dialing or answering a mobile telephone by pressing more than a single button, or reaching for a mobile telephone in a manner that requires a driver to maneuver so that such driver is no longer in a seated position, restrained by a seat belt that is installed in accordance with 49 CFR 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

(e) "Hands-free mobile telephone" shall mean a mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate or initiate a function of such telephone, provided, however, that a telephone that requires dialing or answering such telephone by pressing more than a single button shall not constitute a hands-free mobile telephone.

§ 3. Paragraphs (a) and (b) of subdivision 2 of section 1225-c of the vehicle and traffic law, as added by chapter 69 of the laws of 2001, are amended and a new paragraph (d) is added to read as follows:

(a) Except as otherwise provided in this section, no person shall operate a motor vehicle upon a public highway while using a mobile tele-
phone to engage in a call while such vehicle is in motion, provided, however, no person shall operate a commercial motor vehicle, as defined in subdivision four-a of section two of the transportation law, while using a mobile telephone on a public highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. The operator of a commercial motor vehicle may use a mobile telephone when such operator has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can remain stationary unless stopping is prohibited by law, rules and regulations or by a directive of law enforcement.

(b) An operator of [a] any motor vehicle who holds a mobile telephone to, or in the immediate proximity of his or her ear while such vehicle is in motion is presumed to be engaging in a call within the meaning of this section, provided, however, that an operator of a commercial motor vehicle who holds a mobile telephone to, or in the immediate proximity of his or her ear while such vehicle is temporarily stationary because of traffic, a traffic control device, or other momentary delays is also presumed to be engaging in a call within the meaning of this section. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not engaged in a call.

(d) No motor carrier, as defined in subdivision seventeen of section two of the transportation law, shall allow or require its drivers to use a hand-held mobile telephone while driving a commercial motor vehicle.

§ 4. Subdivision 1 of section 1225-d of the vehicle and traffic law, as added by chapter 403 of the laws of 2009, is amended to read as follows:

1. Except as otherwise provided in this section, no person shall operate a motor vehicle while using any portable electronic device while
such vehicle is in motion, provided, however, no person shall operate a
commercial motor vehicle, as defined in subdivision four-a of section
two of the transportation law, while using a portable electronic device
on a public highway, including while temporarily stationary because of
traffic, a traffic control device, or other momentary delays. The opera-
tor of a commercial motor vehicle may use a portable electronic device
when such operator has moved the vehicle to the side of, or off, a high-
way and has halted in a location where the vehicle can remain stationary
unless stopping is prohibited by law, rules, and regulations or by a
directive of law enforcement.

§ 5. Section 1225-d of the vehicle and traffic law is amended by
adding a new subdivision 1-a to read as follows:

1-a. No motor carrier, as defined in subdivision seventeen of section
two of the transportation law, shall allow or require its drivers to use
a portable electronic device while driving a commercial motor vehicle.

§ 6. Paragraphs (a) and (b) of subdivision 2 of section 1225-d of the
vehicle and traffic law, as added by chapter 403 of the laws of 2009,
are amended to read as follows:

(a) "Portable electronic device" shall mean any hand-held mobile tele-
phone, as defined by subdivision one of section twelve hundred twenty-
five-c of this article, personal digital assistant (PDA), handheld
device with mobile data access, laptop computer, pager, broadband
personal communication device, two-way messaging device, electronic
game, or portable computing device or any other device used to input,
write, send, receive or read text.

(b) "Using" shall mean holding a portable electronic device while
viewing, taking or transmitting images, instant messaging, performing a
command or request to access a world wide web page, playing games, or
composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages, or other electronic data.

§ 7. This act shall take effect October 28, 2013 and shall apply to violations committed on or after such date.

PART D

Section 1. Subdivision 1 of section 200 of the vehicle and traffic law, as amended by chapter 60 of the laws of 1993, is amended to read as follows:

1. There shall be in the state government a department of motor vehicles. The head of the department shall be the commissioner of motor vehicles who shall be appointed by the governor, by and with the advice and consent of the senate, and hold office until the end of the term of the appointing governor and until a successor is appointed and has qualified, and who shall receive an annual salary within the amount appropriated therefor. The commissioner of motor vehicles shall have the immediate charge of the department. The commissioner of motor vehicles may appoint, and at pleasure remove, such deputy commissioners of motor vehicles, inspectors, examiners and other assistants and employees of the department as are deemed necessary, within the amounts available therefor by appropriation. The commissioner of motor vehicles and all other officers and employees of the department shall be paid and allowed their necessary, actual and reasonable expenses incurred in the exercise of their duties. All salaries and expenses of the department shall be paid out of the state treasury on the audit and warrant of the comptroller on the certificate of the commissioner of motor vehicles. The principal office of the department shall be in the city of Albany.
Notwithstanding the provisions of section sixty-two of the public officers law, the commissioner of motor vehicles may designate certain branch offices of the department to be open to serve the public and transact business on Saturdays.

§ 2. This act shall take effect immediately.

PART E

Section 1. Section 357-a of public authorities law is REPEALED and a new section 357-a is added to read as follows:

§ 357-a. State police and state payment for services. 1. Enforcement assistance shall be provided by the division of state police at a level consistent with historical precedents, as a matter of state interest, on all sections of the thruway. The authority shall provide goods and services to the division of state police in connection with its enforcement activity on the thruway. The division of state police and the authority shall enter into an agreement identifying those goods and services that the authority will provide to the division of state police and determine reporting and other requirements related thereto. Any costs borne by the state police outside of such agreement shall not be reimbursed by the authority nor shall they be deemed costs of the authority.

2. The state shall be responsible for additional goods and services provided by the authority equal to twenty-four million dollars in each calendar year. Such goods and services shall be deemed to be costs to the state and not operating costs of the authority. The authority and the director of the division of the budget shall enter into an agreement
identifying any such state costs and determine reporting and other requirements related thereto.

3. Notwithstanding any law to the contrary, the authority shall not constitute a public benefit corporation within the meaning of section twenty-nine hundred seventy-five of this chapter and shall not be assessed an annual cost recovery charge under said section.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 1, 2013.

PART F

Section 1. This act shall be known and may be cited as the "Cleaner, Greener NY act of 2013."

§ 2. Subdivision 2-a of section 27-1003 of the environmental conservation law, as added by section 3 of part SS of chapter 59 of the laws of 2009, is amended to read as follows:

2-a. "Bottler" means a person, firm or corporation who:

a. bottles, cans or otherwise packages beverages in beverage containers except that if such packaging is for [a distributor] any other person, firm or corporation having the right to bottle, can or otherwise package the same brand of beverage, then such [distributor] other person, firm or corporation shall be the bottler; or

b. imports filled beverage containers into the United States.

§ 3. Subdivisions 2, 3, 4, 5, 7, 8 and 11 of section 27-1007 of the environmental conservation law, as added by section 4 of part SS of chapter 59 of the laws of 2009, are amended to read as follows:

2. A dealer shall post a conspicuous sign, at the point of sale, that
"NEW YORK BOTTLE BILL OF RIGHTS

STATE LAW REQUIRES US TO REDEEM EMPTY RETURNABLE BEVERAGE CONTAINERS OF THE SAME TYPE AND BRAND THAT WE SELL OR OFFER FOR SALE

YOU HAVE CERTAIN RIGHTS UNDER THE NEW YORK STATE RETURNABLE CONTAINER ACT:

THE RIGHT to return your empties for refund to any dealer who sells the same brand, type and size, whether you bought the beverage from the dealer or not. It is illegal to return containers for refund [that you did not pay] on which a deposit was never paid in New York state.

THE RIGHT to get your deposit refund in cash, without proof of purchase.

THE RIGHT to return your empties any day, any hour, except for the first and last hour of the dealer's business day (empty containers may be redeemed at any time in 24-hour stores).

THE RIGHT to return your containers if they are reasonably clean, empty and intact. [Washing containers is not required by law, but is strongly recommended to maintain sanitary conditions.]

The New York state returnable container act can be enforced by the New York state department of environmental conservation, the New York state department of agriculture and markets, the New York state department of taxation and finance, the New York state attorney general and/or by your local government."

Such sign must be no less than eight inches by ten inches in size and have lettering a minimum of one quarter inch high, and of a color which contrasts with the background. The department shall maintain a toll free telephone number for a "bottle bill complaint line" that shall be avail-
3. [On or after June first, two thousand nine, a] A dealer whose place of business is less than ten thousand square feet in size may limit the number of empty beverage containers to be accepted for redemption at the dealer's place of business to no less than seventy-two containers per visit, per redeemer, per day, provided that:

(a) The dealer has a written agreement with a redemption center, be it either at a fixed physical location within the same county and within one and one-half mile of the dealer's place of business, or a mobile redemption center, operated by a redemption center, that is located within [one-quarter] one mile of the dealer's place of business. The redemption center must have a written agreement with the dealer to accept containers on behalf of the dealer; and the redemption center's hours of operation must cover at least 9:00 a.m. through 7:00 p.m. daily or in the case of a mobile redemption center, the hours of operation must cover at least four consecutive hours between 8:00 a.m. and 8:00 p.m. daily. The dealer must post a conspicuous, permanent sign, meeting the size and color specifications set forth in subdivision two of this section, open to public view, identifying the location and hours of operation of the affiliated redemption center or mobile redemption center; [and] or

(b) The dealer provides, at a minimum, a consecutive two hour period between 7:00 a.m. and 7:00 p.m. daily whereby the dealer will accept up to two hundred forty containers, per redeemer, per day, and posts a conspicuous, permanent sign, meeting the size and color specifications set forth in subdivision two of this section, open to public view, iden-
tifying those hours. The dealer may not change the hours of redemption without first posting a thirty day notice[; and]

(c) The dealer's primary business is the sale of food or beverages for consumption off-premises, and the dealer's place of business is less than ten thousand square feet in size.

4. A deposit initiator shall accept from a dealer or operator of a redemption center any empty beverage container of the design, shape, size, color, composition and brand sold or offered for sale by the deposit initiator, provided such containers are properly sorted as determined in rules and regulations promulgated by the commissioner and shall pay the dealer or operator of a redemption center the refund value of each such beverage container as established by section 27-1005 of this title. A deposit initiator shall accept and redeem all such empty beverage containers from a dealer or redemption center without limitation on quantity.

5. A deposit initiator's or distributor's failure to pick up empty beverage containers[, including containers processed in a reverse vending machine,] from a redemption center, dealer or the operator of a reverse vending machine, shall be a violation of this title.

7. A deposit initiator [on a brand] who initiates a deposit on a beverage container shall accept such empty beverage container from [a] and reimburse any distributor who [does not initiate deposits on that brand any] accepted and redeemed such empty beverage [containers of that brand accepted by the distributor] container from a dealer or operator of a redemption center [and shall reimburse the distributor] for the [refund value of each such beverage container, as established by section 27-1005 of this title] deposit and handling fee paid by the distributor. [In addition, the deposit initiator shall reimburse such distributor for]
each such beverage container the handling fee established under subdivi-

dition six of this section.] Without limiting the rights of the department

or any person, firm or corporation under this subdivision or any other

provision of this [section] title, a distributor shall have a civil

right of action to enforce this subdivision, including, upon three days

notice, the right to apply for temporary and preliminary injunctive

relief against continuing violations, and until arrangements for

collection and return of empty containers or reimbursement of [such] the

redeeming distributor for such deposits and handling fees are made.

8. It shall be the responsibility of the deposit initiator or distrib-

utor to provide to a dealer or redemption center a sufficient number of

bags, cartons, or other suitable containers, at no cost, for the packag-
ing, handling and pickup of empty beverage containers that are not

redeemed through a reverse vending machine. The bags, cartons, or

containers must be provided by the deposit initiator or distributor on a

schedule that allows the dealer or redemption center sufficient time to

sort the empty beverage containers prior to pick up by the deposit

initiator or distributor. In addition:

(a) When picking up empty beverage containers, a deposit initiator or

distributor shall not require a dealer or redemption center to load

their own bags, cartons or containers onto or into the deposit initi-

ator's or distributor's vehicle or vehicles or provide the staff or

equipment needed to do so. However, where pallets or skids, bags,
cartons or containers are readily movable only by means of a forklift or

similar equipment, a deposit initiator or distributor may require a
dealer or redemption center to move or load such items at no cost using

a forklift or similar equipment belonging to the dealer or redemption
center.
(b) A deposit initiator or distributor [shall not] may require empty containers to be counted at a location other than the redemption center or dealer's place of business. The dealer or redemption center shall have the right to be present at the count.

(c) A deposit initiator or distributor shall pick up empty beverage containers from the dealer or redemption center at reasonable times and intervals that shall also take into account a minimum volume of containers necessary for such a pick up as determined in rules or regulations promulgated by the department or on a schedule meeting the minimum requirements of such regulations and agreed to in writing by the deposit initiator or distributor and the redemption center.

11. [Notwithstanding the provisions of subdivision two of section 27-1009 of this title, a deposit initiator or distributor shall accept and redeem beverage containers as provided in this title, if the dealer or operator of a redemption center shall have accepted and paid the refund value of such beverage containers.] No person shall program, tamper with, misuse, render inaccurate, or circumvent the proper operation of a reverse vending machine to elicit deposit monies when no valid, redeemable beverage container has been placed in the reverse vending machine.

§ 4. Section 27-1009 of the environmental conservation law, as amended by section 5 of part SS of chapter 59 of the laws of 2009, is amended to read as follows:

§ 27-1009. Refusal of acceptance.

1. A dealer or operator of a redemption center [may] shall refuse to accept from a redeemer, and a deposit initiator or distributor [may] shall refuse to accept from a dealer or operator of a redemption center any empty beverage container which does not state thereon a refund value
as established by section 27-1005 and provided by section 27-1011 of
this title.

2. A dealer [or], operator of a redemption center, distributor, or
deposit initiator may also refuse to accept any beverage container which
is not reasonably clean or contains a significant amount of foreign
material, any broken bottle, any corroded, crushed or dismembered [can]
container, or any beverage container which [contains a significant
amount of foreign material,] is otherwise altered so that it is rendered
unredeemable as determined in rules and regulations to be promulgated by
the commissioner. Such refusal must occur at the time the beverage
container is tendered for redemption. Notwithstanding the foregoing,
containers processed through reverse vending machines authorized by a
distributor or deposit initiator, as documented through reverse vending
machine reconciliation statements or other reasonable documentation,
shall be accepted by a distributor or deposit initiator.

§ 5. Subdivision 1 of section 27-1011 of the environmental conserva-
tion law, as amended by chapter 149 of the laws of 1983, is amended to
read as follows:

1. a. Every beverage container sold or offered for sale in this state
[by a distributor or dealer] shall clearly indicate by permanently mark-
ing or embossing the container or by printing as part of the product
label the refund value of the container and the words "New York" or the
letters "NY"[, provided, however, in the case of private label beverages
such information may be embossed or printed on a label which is securely
or permanently affixed to the beverage container. Private label beverag-
es shall be defined as beverages purchased from a beverage manufacturer
in beverage containers bearing a brand name or trademark for sale at
retail directly by the owner or licensee of such brand name or trade-
mark; or through retail dealers affiliated with such owner or licensee by a cooperative or franchise agreement].

b. Such embossing or permanent imprinting on the beverage container shall be the responsibility of the person, firm or corporation which bottles, cans or otherwise fills or packages a beverage container or a brand owner for whose exclusive account private label beverages are bottled, canned or otherwise packaged; provided, however, that the duly authorized agent of any such person, firm or corporation may indicate such refund value by a label securely affixed on any beverage container containing beverages imported into the United States. Private label beverages shall be defined as beverages purchased from a bottler in beverage containers bearing a brand name or trademark for sale at retail directly by the owner or licensee of such brand name or trademark; or through retail dealers affiliated with such owner or licensee by a cooperative or franchise agreement.

§ 6. Subdivision 5, paragraph b of subdivision 9 and subdivision 12 of section 27-1012 of the environmental conservation law, as added by section 8 of part SS of chapter 59 of the laws of 2009, are amended to read as follows:

5. All monies collected or received by the department of taxation and finance pursuant to this title shall be deposited to the credit of the comptroller with such responsible banks, banking houses or trust companies as may be designated by the comptroller. Such deposits shall be kept separate and apart from all other moneys in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected, the comptroller shall retain the amount determined by the commissioner of taxation and finance to be necessary for refunds out of which the comptroller must pay any
refunds to which a deposit initiator may be entitled. After reserving the amount to pay refunds, the comptroller must, by the tenth day of each month, pay into the state treasury to the credit of the general fund the revenue deposited under this subdivision during the preceding calendar month and remaining to the comptroller's credit on the last day of that preceding month.; provided, however, that, beginning April first, two thousand thirteen, and all fiscal years thereafter, fifteen million dollars plus all funds received from the payments due each fiscal year pursuant to subdivision four of this section in excess of the amount received from April first, two thousand twelve through March thirty-first, two thousand thirteen, shall be deposited to the credit of the environmental protection fund established pursuant to section ninety-two of the state finance law.

b. Any deposit initiator who fails to file reports, make quarterly payments or maintain accounts or records pursuant to this section, unless it is shown that such failure was due to reasonable cause and not due to negligence or willful neglect, in addition to any other penalty imposed by this title, shall be subject to a penalty to be assessed by the commissioner of taxation and finance of not more than one thousand dollars for each quarter during which such failure occurred, and an additional penalty of not more than one thousand dollars for each quarter such failure continues.

12. [Beginning on June first, two thousand nine each deposit initiator shall register the container label of any beverage offered for sale in the state on which it initiates a deposit. Any such registered container label shall bear a universal product code. Such universal product code shall be New York state specific, in order to identify the beverage container as offered for sale exclusively in New York state, and as a
means of preventing illegal redemption of beverage containers purchased
out-of-state. Registration must be on forms as prescribed by the depart-
ment and must include the universal product code for each combination of
beverage and container manufactured. The commissioner may require that
such forms be filed electronically. The deposit initiator shall renew a
label registration whenever that label is revised by altering the
universal product code or whenever the container on which it appears is
changed in size, composition or glass color.)

a. Each deposit initiator
shall provide a report to the department describing all the types of
beverage containers on which it initiates deposits. The report shall
include the product name, type of beverage, size and composition of the
beverage container, universal product code, and any other information
the department may require. Upon request, a deposit initiator shall also
provide to the department a copy of the container label or a picture of
any beverage container sold or offered for sale in this state on which
it initiates a deposit. Such information shall be provided in a form as
prescribed by the department. The department may require that such
forms be filed electronically.

b. A bottler may place on a beverage container a universal product
code or other distinctive marking that is specific to the state or used
only in the state and any other states with laws substantially similar
to this title as a means of preventing redemption of beverage containers
on which a deposit was not paid.

c. A bottler or deposit initiator shall notify the department, in a
form prescribed by the department, whenever a beverage container or
beverage container label is revised by altering the universal product
code, or whenever the container on which a universal product code
appears is changed in size, composition or glass color, or whenever the
container or container label on which a universal product code appears is changed to include a universal product code that is unique to the state or used only in the state and any other states with laws substantially similar to this title.

§ 7. Section 27-1013 of the environmental conservation law, as amended by section 9 of part SS of chapter 59 of the laws of 2009, is amended to read as follows:

§ 27-1013. Redemption centers and dealers.

The commissioner is hereby empowered to promulgate rules and regulations governing (1) the registration or permitting of redemption centers including but not limited to conditions for granting a registration or permit, grounds for revocation of a registration or permit and the process for the revocation of a registration or permit; (2) the circumstances in which deposit initiators, dealers and distributors, individually or collectively, are required to accept the return of empty beverage containers, and make payment therefor; [(2)] (3) the sorting of the containers which a deposit initiator or distributor may require of dealers and redemption centers; [(3)] (4) the collection of returned beverage containers by deposit initiators or distributors, including the party to whom such expense is to be charged, the frequency of such pick ups that shall also allow a schedule meeting the minimum requirements of such regulations and agreed to in writing by the deposit initiator or distributor and the redemption center and that shall also take into account a minimum volume of containers necessary for such a pick up and the payment for refunds and handling fees thereon; [(4)] (5) the right of dealers to restrict or limit the number of containers redeemed, the rules for redemption at the dealers' place of business, and the redemption of containers from a beverage for which sales have been discontin-
ued, and to issue registrations or permits to persons, firms or corpora-
tions which establish redemption centers, subject to applicable
provisions of local and state laws, at which redeemers and dealers may
return empty beverage containers and receive payment of the refund value
of such beverage containers; (6) the assignment of a specific registra-
tion or permit identification number to each redemption center; such
registration or permit number, along with the number of containers
contained therein, shall be affixed to any box or bag proffered by a
redemption center to a deposit initiator or distributor for redemption
in a manner mandated by the commissioner; and (7) the operation of
mobile redemption centers in order to ensure that to the best extent
practicable containers are not proffered for redemption to a deposit
initiator or distributor outside of the geographic area where such
deposit initiator sells containers and initiates deposits. No dealer or
distributor, as defined in section 27-1003 of this title, shall be
required to obtain a permit to operate a redemption center at the same
location as the dealer's or distributor's place of business. Operators
of such redemption centers shall receive payment of the refund value of
each beverage container from the appropriate deposit initiator or
distributor as provided under section 27-1007 of this title.
§ 8. Section 27-1014 of the environmental conservation law, as amended
by section 10 of part SS of chapter 59 of the laws of 2009, is amended
to read as follows:
§ 27-1014. Authority to promulgate rules and regulations.
In addition to the authority of the commissioner, under sections
27-1007, 27-1009 and 27-1013 of this title, the commissioner shall have
the power to promulgate rules and regulations necessary and appropriate
for the administration of this title and to prevent fraud.
§ 9. Section 27-1015 of the environmental conservation law, as amended by section 11 of part SS of chapter 59 of the laws of 2009, is amended to read as follows:

§ 27-1015. Violations.

1. [A violation of this title, except as otherwise provided in this section and section 27-1012 of this title, shall be a public nuisance. In addition, except] Civil and administrative sanctions. a. Except as otherwise provided in this section and section 27-1012 of this title, any person who [shall violate] violates any [provision] of the provisions of, or fails to perform a duty imposed by, this title or any rule or regulation promulgated pursuant thereto, or any term or condition of any registration or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this title shall be liable [to the state of New York] for a civil penalty of not more than five hundred dollars for each violation, and an additional civil penalty of not more than five hundred dollars for each day during which each such violation continues. Any civil penalty may be assessed by the commissioner following a hearing or opportunity to be heard pursuant to the provisions of section 71-1709 of this chapter or by the court in any action or proceeding pursuant to section 71-2727 of this chapter. In addition, such person may by similar process be enjoined from continuing such violation and any permit or registration issued to such person may be revoked or suspended or a pending renewal application denied.

[2. Any] b. In addition to any penalties imposed by the department of taxation and finance as provided in section 27-1012 of this title, any distributor or deposit initiator who violates any provision of this title, [except as provided in section 27-1012 of this title,] or fails
to perform a duty imposed by this title, or any rule or regulation promulgated pursuant thereto, or any term or condition of any registration or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this title shall be liable [to the state of New York] for a civil penalty of not more than one thousand dollars for each violation, and an additional civil penalty of not more than one thousand dollars for each day during which each such violation continues. Any civil penalty may be assessed by the commissioner following a hearing or opportunity to be heard pursuant to the provisions of section 71-1709 of this chapter, or by the court in any action or proceeding pursuant to section 71-2727 of this chapter. In addition, such deposit initiator or distributor may by similar process be enjoined from continuing such violation and any permit or registration issued to such person may be revoked or suspended or a pending renewal application denied.

2. Criminal sanctions. a. Any person who, having any of the culpable mental states defined in section 15.05 of the penal law, violates any provision of or who fails to perform any duty imposed by this title, or any rule or regulation promulgated pursuant thereto, or any final determination or order of the commissioner made pursuant to this title shall be guilty of a violation and, upon conviction, shall be punished by a fine of not more than five hundred dollars for each violation; each day on which such violation occurs shall constitute a separate violation; and for each such violation the person shall be subject, upon conviction, to imprisonment for not more than fifteen days or to a fine of not more than five hundred dollars, or to both imprisonment and fine.

b. In addition to any penalties imposed by the department of taxation and finance as provided in section 27-1012 of this title, any distribu-
tor or deposit initiator who, having any of the culpable mental states
defined in section 15.05 of the penal law, violates any provision of or
who fails to perform any duty imposed by this title, or any rule or
regulation promulgated pursuant thereto, or any final determination or
order of the commissioner made pursuant to this title shall be guilty of
a violation and, upon conviction, shall be punished by a fine of not
more than one thousand dollars for each violation; each day on which
such violation occurs shall constitute a separate violation; and for
each such violation the person shall be subject, upon conviction, to
imprisonment for not more than fifteen days or to a fine of not more
than one thousand dollars, or to both such imprisonment and such fine.

[3.] c. It shall be unlawful for [a distributor or deposit initiator]
any person, acting alone or aided by another, to return any empty bever-
age container to a dealer or redemption center for its refund value if
[the] a distributor or deposit initiator had previously accepted such
beverage container from any dealer or operator of a redemption center,
or if such container was previously accepted by a reverse vending
machine. A violation of this [subdivision] paragraph shall be a misde-
meanor punishable by a fine of not less than five hundred dollars nor
more than one thousand dollars and an amount equal to two times the
amount of money received as a result of such violation, or imprisonment
for not more than one year, or to both such imprisonment and such fines.

d. In addition to any other penalty provided by this title, any person
who violates subdivision eleven of section 27-1007 of this title, or any
rule or regulation promulgated pursuant thereto, or any final determi-
nation or order of the commissioner made pursuant to this title shall be
guilty of a misdemeanor and, upon conviction, shall be punished by a
fine of not more than one thousand dollars per day of violation, or by
imprisonment for not more than one year, or by both such fine and imprison-
ment.

e. In addition to any other penalty provided by this title, any dealer, distributor or deposit initiator, who knowingly or intentionally violates any provision of or fails to perform any duty imposed by
section 27-1005 or 27-1012 of this title, or any rule or regulation promulgated pursuant thereto, or any final determination or order of the commissioner made pursuant to this title shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one thousand dollars per day of violation, or by imprisonment for not more than one year, or by both such fine and imprisonment.

[4.] 3. Any person who [willfully] tenders to a dealer, distributor, redemption center or deposit initiator more than forty-eight empty beverage containers for which such person knows or should reasonably know that no deposit was paid in New York state may be assessed [by the department] a civil penalty of up to one hundred dollars for each container or up to twenty-five thousand dollars for each such tender of containers. At each location where a person tenders containers for redemption, dealers and redemption centers must conspicuously display a sign in letters that are at least one inch in height with the following information: "WARNING: Persons tendering for redemption containers on which a deposit was never paid in this state may be subject to a civil penalty of up to one hundred dollars per container or up to twenty-five thousand dollars for each such tender of containers." Any civil penalty may be assessed by the commissioner following a hearing or opportunity to be heard pursuant to the provisions of section 71-1709 of this chapter, or by the court in any action or proceeding pursuant to section 71-2727 of this chapter. In addition, such person may by similar process
be enjoined from continuing such violation and any permit or registration issued to such person may be revoked or suspended or a pending renewal application denied.

[5.] 4. a. The department, the department of agriculture and markets, the department of taxation and finance and the attorney general are hereby authorized to enforce the provisions of this title and all monies collected shall be deposited to the credit of the environmental protection fund established pursuant to section ninety-two-s of the state finance law. In addition, the provisions of section 27-1005 of this title and subdivisions one, two, three, four, five, ten and eleven of section 27-1007 of this title may be enforced by a county, city, town or village, and the local legislative body thereof may adopt local laws, ordinances or regulations consistent with this title providing for the enforcement of such provisions and all monies collected by the enforcing county, city, town or village as fines or penalties pursuant to this section shall be payable to and be the property of the county, city, town or village.

b. In addition, a violation of this title, except as otherwise provided in this section, shall be a public nuisance, and without limiting the rights of the department, or any person, firm or corporation under this subdivision or any other provision of this section, a dealer, owner or operator of a redemption center, distributor, or deposit initiator shall have a civil right of action to enforce the provisions of section 27-1009 of this title and subdivisions four, five, six, and eight of section 27-1007 of this title.

§ 10. Section 27-1017 of the environmental conservation law is REPEALED.
§ 11. Subdivision 3 of section 92-s of the state finance law, as amended by section 2 of part T of chapter 59 of the laws of 2009, is amended to read as follows:

3. Such fund shall consist of the amount of revenue collected within the state from the amount of revenue, interest and penalties deposited pursuant to section fourteen hundred twenty-one of the tax law, the amount of fees and penalties received from easements or leases pursuant to subdivision fourteen of section seventy-five of the public lands law and the money received as annual service charges pursuant to section four hundred four-l of the vehicle and traffic law, all moneys required to be deposited therein from the contingency reserve fund pursuant to section two hundred ninety-four of chapter fifty-seven of the laws of nineteen hundred ninety-three, all moneys required to be deposited pursuant to section thirteen of chapter six hundred ten of the laws of nineteen hundred ninety-three, repayments of loans made pursuant to section 54-0511 of the environmental conservation law, all moneys to be deposited from the Northville settlement pursuant to section one hundred twenty-four of chapter three hundred nine of the laws of nineteen hundred ninety-six, provided however, that such moneys shall only be used for the cost of the purchase of private lands in the core area of the central Suffolk pine barrens pursuant to a consent order with the Northville industries signed on October thirteenth, nineteen hundred ninety-four and the related resource restoration and replacement plan, the amount of penalties required to be deposited therein by section 71-2724 of the environmental conservation law, all moneys required to be deposited pursuant to article thirty-three of the environmental conservation law, all fees collected pursuant to subdivision eight of section 70-0117 of the environmental conservation law, [as added by a chapter of
the laws of two thousand nine,) all moneys collected pursuant to title thirty-three of article fifteen of the environmental conservation law, [as added by a chapter of the laws of two thousand nine] beginning with the fiscal year commencing on April first, two thousand thirteen, and all fiscal years thereafter, fifteen million dollars plus all funds received by the state each fiscal year in excess of the amount received from April first, two thousand twelve through March thirty-first, two thousand thirteen, from the payments collected pursuant to subdivision four of section 27-1012 of the environmental conservation law, and all other moneys credited or transferred thereto from any other fund or source pursuant to law. All such revenue shall be initially deposited into the environmental protection fund, for application as provided in subdivision five of this section.

§ 12. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2013.

PART G

Section 1. Subdivisions 1 and 2 of section 27-1905 of the environmental conservation law, as amended by section 1 of part DD of chapter 59 of the laws of 2010, are amended to read as follows:

1. [Until December thirty-first, two thousand thirteen, accept] 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 thirteen, post] Post written notice in a prominent location, which must be at least eight and
"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."

"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."

§ 2. Subdivisions 1, 2 and 3 and paragraph (a) of subdivision 6 of section 27-1913 of the environmental conservation law, subdivisions 1, 2, the opening paragraph of subdivision 3 and paragraph (a) of subdivision 6 as amended by section 4 of part DD of chapter 59 of the laws of 2010 and subdivision 3 as amended by section 2 of part E1 of chapter 63 of the laws of 2003, are amended to read as follows:
1. [Until December thirty-first, two thousand thirteen, a] 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 thirteen, the] The tire
service shall collect the waste tire management and recycling fee from
the purchaser at the time of the sale and shall [remit] pay such fee to
the department of taxation and finance with the quarterly [report]
return filed pursuant to subdivision three of this section. The commis-
sioner of taxation and finance may require that the tire service pay the
fee electronically.

(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 twen-
ty-five cents per tire from fees collected.

3. [Until March thirty-first, two thousand fourteen, each] 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] in the form and manner prescribed by the commissioner of taxation and finance. The commissioner of taxation and finance may require such returns to be filed electronically. The quarterly returns required by this subdivision shall be filed for the quarterly periods ending on the last day of February, May, August and November of each year, and each such return shall be filed within twenty days after the end of the quarterly period covered thereby.

(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] return shall be retained by the tire service for three years.

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

(a) [Until December thirty-first, two thousand thirteen, any] 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.

§ 3. This act shall take effect immediately, and shall apply to the quarterly periods provided for in the opening paragraph of subdivision three of section 27-1913 of the environmental conservation law, as amended by section two of this act, beginning on or after the date this act shall have become a law.

PART H

Section 1. Section 2 of chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, as
amended by section 1 of part R of chapter 58 of the laws of 2012, is
amended to read as follows:

§ 2. This act shall take effect immediately [provided, however, that
section one of this act shall expire on July 1, 2013, 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].

§ 2. This act shall take effect immediately and shall be deemed to
have been in full force and effect on and after April 1, 2013.

PART I

Section 1. Section 2 of part BB of chapter 58 of the laws of 2012
amending the public authorities law relating to authorizing the dormito-
ry authority to enter into certain design and construction management
agreements is amended to read as follows:

§ 2. This act shall take effect immediately and shall expire and be
deemed repealed April 1, [2013] 2015.

§ 2. This act shall take effect immediately and shall be deemed to
have been in effect on and after April 1, 2013.

PART J

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

(27) To make grants using funds from any source on such terms and conditions as the corporation may deem advisable, in furtherance of the legislative findings and purposes of this act, to any person or entity, whether public or private, provided that such grants are made or issued in compliance with guidelines established by the corporation.

§ 2. This act shall take effect immediately.

PART K

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.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2013.

PART L

Section 1. Expenditures of moneys appropriated in a chapter of the laws of 2013 to the energy research and development authority, under the research, development and demonstration program, from the special revenue funds - other/state operations, miscellaneous special revenue fund - 339, energy research and planning account, and special revenue funds - other/aid to localities, miscellaneous special revenue fund - 339, energy research and planning account shall be subject to the provisions of
this section. Notwithstanding the provisions of subdivision 4-a of section 18-a of the public service law, all moneys committed or expended shall be reimbursed by assessment against gas corporations and electric corporations as defined in section 2 of the public service law, and the total amount which may be charged to any gas corporation and any electric corporation shall not exceed one cent per one thousand cubic feet of gas sold and .010 cent per kilowatt-hour of electricity sold by such corporations in their intrastate utility operations in calendar year 2011. Such amounts shall be excluded from the general assessment provisions of subdivision 2 of section 18-a of the public service law, but shall be billed and paid in the manner set forth in such subdivision and upon receipt shall be paid to the state comptroller for deposit in the state treasury for credit to the miscellaneous special revenue fund. The director of the budget shall not issue a certificate of approval with respect to the commitment and expenditure of moneys hereby appropriated until the chair of such authority shall have submitted, and the director of the budget shall have approved, a comprehensive financial plan encompassing all moneys available to and all anticipated commitments and expenditures by such authority from any source for the operations of such authority. Copies of the approved comprehensive financial plan shall be immediately submitted by the director of the budget to the chairs and secretaries of the legislative fiscal committees. § 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2013.
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.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2013.

PART N

Section 1. Paragraph (a) of subdivision 6 of section 18-a of the public service law, as added by section 4 of part NN of chapter 59 of the laws of 2009, is amended to read as follows:

(a) Notwithstanding any provision of law to the contrary, and subject to the exceptions provided for in paragraph (b) of this subdivision, for the state fiscal year beginning on April first, two thousand nine and [four] nine state fiscal years thereafter, a temporary annual assessment (hereinafter "temporary state energy and utility service conservation assessment") is hereby imposed on public utility companies (including for the purposes of this subdivision municipalities other than municipalities as defined in section eighty-nine-l of this chapter), corporations (including for purposes of this subdivision the Long Island power authority), and persons subject to the commission's regulation (hereinafter such public utility companies, corporations, and persons are referred to collectively as the "utility entities") to encourage the conservation of energy and other resources provided through utility entities, to be assessed in the manner provided in this subdivision; provided, however, that such assessment shall not be imposed upon tele-
Section 1. Sections 24 and 25 of the public service law are REPEALED and a new section 24 is added to read as follows:
§ 24. Administrative sanctions; recovery of penalties. 1. Every public utility company, corporation or person and the officers, agents and employees thereof shall adhere to every provision of this chapter and every order or regulation adopted under authority of this chapter so long as the same shall be in force.

2. (a) The commission shall have the authority to assess a civil penalty against a public utility company, corporation, or person and the officers, agents and employees thereof subject to the jurisdiction, supervision, or regulation pursuant to this chapter in an amount as set forth in this section. In determining the amount of any penalty to be assessed pursuant to this section, the commission shall consider: (i) the seriousness of the violation for which a penalty is sought; (ii) the nature and extent of any previous violations for which penalties have been assessed against the public utility company, corporation or person; (iii) the gross revenues and financial status of the public utility company, corporation or person; and (iv) such other factors as the commission may deem appropriate and relevant. The remedies provided by this subdivision are in addition to any other remedies provided in law.

(b) Whenever the commission has reason to believe that a public utility company, corporation or person and such officers, agents and employees thereof may be subject to imposition of a civil penalty as set forth in this subdivision, it shall notify such public utility company, corporation or person. Such notice shall include, but shall not be limited to (i) the date and a brief description of the facts and nature of each act or failure to act for which such penalty is proposed; (ii) a list of each statute, regulation or order that the commission alleges has been violated; (iii) the amount of each penalty that the commission proposes to assess; and (iv) the option to request a hearing to demonstrate why
the proposed penalty or penalties should not be assessed against such
public utility company, corporation, or such person.

3. Any public utility company or corporation that violates a provision
of this chapter, regulation or an order adopted under authority of this
chapter so long as the same shall be in force, or who fails to provide
safe and adequate service shall forfeit a sum not exceeding the greater
of one hundred thousand dollars or two one-hundredths of one percent of
the annual intrastate gross operating revenue of the utility, constitut-
ing a civil penalty for each and every offense and, in the case of a
continuing violation, each day shall be deemed a separate and distinct
offense.

4. Notwithstanding the provisions of subdivision three of this
section, any such public utility company or corporation that violates a
provision of this chapter, or an order or regulation adopted under the
authority of this chapter specifically for the protection of human safe-
ty or prevention of significant damage to real property, including, but
not limited to, the commission's code of gas safety regulations shall,
if it is determined by the commission that such safety violation caused
or constituted a contributing factor in bringing about: (a) a death or
personal injury; or (b) damage to real property in excess of fifty thou-
sand dollars, forfeit a sum not to exceed the greater of:

(i) two hundred fifty thousand dollars or three one-hundredths of one
percent of the annual intrastate gross operating revenue of the utility,
whichever is greater, constituting a civil penalty for each separate and
distinct offense; provided, however, that for purposes of this para-
graph, each day of a continuing violation shall not be deemed a separate
and distinct offense. The total period of a continuing violation, as
well as every distinct violation, shall be similarly treated as a separate and distinct offense for purposes of this paragraph; or

(ii) the maximum forfeiture determined in accordance with subdivision three of this section.

5. Notwithstanding the provisions of subdivision three or four of this section, a public utility company or corporation that violates a provision of this chapter, or an order or regulation adopted under authority of this chapter, designed to protect the overall reliability and continuity of electric service, including but not limited to the restoration of electric service following a major outage event or emergency, shall forfeit a sum not to exceed the greater of:

(a) five hundred thousand dollars or four one-hundredths of one percent of the annual intrastate gross operating revenue of the utility, whichever is greater, constituting a civil penalty for each separate and distinct offense; provided, however, that for purposes of this paragraph each day of a continuing violation shall not be deemed a separate and distinct offense. The total period of a continuing violation, as well as every distinct violation shall be similarly treated as a separate and distinct offense for purposes of this paragraph; or

(b) the maximum forfeiture determined in accordance with subdivision three of this section.

6. Any officer, agent, or employee of any corporation determined by the commission to have violated the provisions of subdivision three, four, or five of this section, and who knowingly violates a provision of this chapter, regulation or an order adopted under authority of this chapter so long as the same shall be in force, including a failure to provide safe and adequate service, shall forfeit a sum not to exceed one hundred thousand dollars constituting a civil penalty for each and every
offense and, in the case of a continuing violation, each day shall be
debemed a separate and distinct offense.

7. Any such assessment may be compromised or discontinued by the
commission. All moneys recovered pursuant to this section, together with
the costs thereof, shall be remitted to, or for the benefit of, the
ratepayers in a manner to be determined by the commission.

8. Upon a failure by a public utility company, corporation, or person
to remit any penalty assessed by the commission pursuant to this
section, the commission, through its counsel, may institute an action or
special proceeding to collect the penalty in a court of competent juris-
diction.

9. Any payment made by a public utility company, corporation or person
and the officers, agents and employees thereof as a result of an assess-
ment as provided in this section, and the cost of litigation and inves-
tigation related to any such assessment, shall not be recoverable from
ratepayers.

10. In construing and enforcing the provisions of this chapter relat-
ing to penalties, the act of any director, officer, agent or employee of
a public utility company, corporation or person acting within the scope
of his or her official duties or employment shall be deemed to be the
act of such public utility company or corporation.

§ 2. Section 26 of the public service law is renumbered section 25.

§ 3. Section 65 of the public service law is amended by adding two new
subdivisions 14 and 15 to read as follows:

14. In conjunction with a management and operations audit undertaken
pursuant to subdivision nineteen of section sixty-six of this article or
upon its own motion, the commission shall review the capability, includ-
ing but not limited to, the capability to implement emergency response
plans and restoration, of each gas corporation and electric corporation
to provide safe, adequate, and reliable service. Upon good cause shown,
the commission may direct such corporation to comply with additional and
more stringent terms and conditions of service than existed prior to the
commencement of the management and operations audit, or cause such
corporation to divest some or all of its state-based utility assets,
including franchise territories, based upon standards and procedures
established by the commission to ensure continuity of safe and adequate
service, due process, and fair and just compensation; provided, however,
that nothing in this subdivision limits the commission's authority to
undertake the actions set forth pursuant to sections twenty-four and
twenty-five of this chapter. In the case where the commission directs a
full or partial divestment of a corporation's assets, the commission
shall first proceed in such manner as to facilitate the voluntary trans-
fer of such assets.

15. The chief executive officer of each gas corporation and electric
corporation shall certify to the commission on or before March fifteenth
of each year that such corporation is in compliance with the require-
ments of this chapter and any rules, regulations, orders and procedures
adopted thereto, including the obligation that such corporation provide
safe and adequate service.

§ 4. Subdivisions 19 and 21 of section 66 of the public service law,
subdivision 19 as added by chapter 556 of the laws of 1976 and the clos-
ing paragraph as added by chapter 586 of the laws of 1986 and subdivi-
sion 21 as added by chapter 718 of the laws of 1980, are amended and a
new subdivision 1-a is added to read as follows:

1-a. Review the annual capital expenditure of each gas or electric
corporation and may order such improvement in the manufacture, convey-
ing, transportation, distribution or supply of gas, in the manufacture, transportation or supply of electricity, or in the methods employed by such corporation as in the commission's judgment is adequate, just and reasonable.

19. (a) The commission shall have power to provide for management and operations audits of gas corporations and electric corporations. Such audits shall be performed at least once every five years for combination gas and electric companies, as well as for straight gas corporations having annual gross revenues in excess of two hundred million dollars. The audit shall include, but not be limited to, an investigation of the company's construction program planning in relation to the needs of its customers for reliable service [and] an evaluation of the efficiency of the company's operations, recommendations with respect to same, and the timing with respect to the implementation of such recommendations. The commission shall have discretion to have such audits performed by its staff, or by independent auditors.

In every case in which the commission chooses to have the audit provided for in this subdivision or pursuant to subdivision fourteen of section sixty-five of this article performed by independent auditors, it shall have authority to select the auditors, and to require the company being audited to enter into a contract with the auditors providing for their payment by the company. Such contract shall provide further that the auditors shall work for and under the direction of the commission according to such terms as the commission may determine are necessary and reasonable.

[The commission shall have authority to direct the company to implement any recommendations resulting from such audits that it finds to be necessary and reasonable.]
(b) Each gas and electric corporation subject to an audit under this subdivision shall file a report with the commission within thirty days after issuance of such audit detailing its plan to implement the recommendations made in the audit. After review of such plan, the commission may require that such corporation amend the plan in a particular manner. Such plan shall thereafter become enforceable upon approval by the commission. The commission shall have power to commence a proceeding to examine any such corporation's compliance with the recommendations of such audit.

(c) Upon the application of a gas or electric corporation for a major change in rates as defined in subdivision twelve of this section, the commission shall review that corporation's compliance with the directions and recommendations made previously by the commission, as a result of the most recently completed management and operations audit. The commission shall incorporate the findings of such review in its opinion or order, and such findings shall be enforceable by the commission.

21. [The commission shall require every electric corporation to submit storm plans to the commission for review and approval at such times and in such detail and form as the commission shall require, provided, however, that the same shall be filed at least annually.] (a) Each electric corporation shall annually, on or before December fifteenth, submit to the commission an emergency response plan for review and approval. The emergency response plan shall be designed for the reasonably prompt restoration of service in the case of an emergency event, defined for purposes of this subdivision as an event where widespread outages have occurred in the service territory of the company due to storms or other causes beyond the control of the company. The emergency response plan
shall include, but shall not be limited to, the following: (i) the identifica-

tion of management staff responsible for company operations during an emergency; (ii) a communications system with customers during an emergency that extends beyond normal business hours and business conditions; (iii) identification of and outreach plans to customers who had documented their need for essential electricity for medical needs; (iv) identification of and outreach plans to customers who had documented their need for essential electricity to provide critical telecommunications, critical transportation and critical fuel distribution services; (v) designation of company staff to communicate with local officials and appropriate regulatory agencies; (vi) provisions regarding how the company will assure the safety of its employees and contractors; (vii) procedures for deploying company and mutual aid crews to work assignment areas; (viii) identification of additional supplies and equipment needed during an emergency; (ix) the means of obtaining additional supplies and equipment; (x) procedures to practice the emergency response plan; and (xi) such other additional information as the commis-

sion may require. The filing with the commission shall also include a copy of all written mutual assistance agreements among utilities. The commission shall accord protected treatment of confidential, competitively sensitive or other proprietary information contained in any emergency response plan. Each such corporation shall, on an annual basis, undertake drills implementing procedures to practice its emergency management plan. The department may adopt additional requirements consistent with ensuring the reasonably prompt restoration of service in the case of an emergency event.

(b) After review of a corporation's emergency response plan, the commission may require such corporation to amend the plan. The commis-
sion may also open an investigation of the corporation's plan to determine its sufficiency to respond adequately to an emergency event. If, after hearings, the commission finds a material deficiency in the plan, it may order the company to make such modifications that it deems reasonably necessary to remedy the deficiency.

(c) The commission is authorized to open an investigation to review the performance of any corporation in restoring service or otherwise meeting the requirements of the emergency response plan during an emergency event. If, after evidentiary hearings or other investigatory proceedings, the commission finds that the corporation failed to reasonably implement its emergency response plan or the length of such corporation's outages were materially longer than they would have been but for such failure to reasonably implement its emergency response plan, the commission may deny the recovery of all, or any part of, the service restoration costs, commensurate with the degree and impact of the service outage; provided, however, that nothing herein limits the commission's authority to otherwise commence a proceeding pursuant to sections twenty-four and twenty-five of this chapter.

(d) The commission shall certify to the department of homeland security and emergency services that each such corporation's emergency response plan is sufficient to ensure to the greatest extent feasible the timely and safe restoration of energy services after an emergency.

§ 5. Section 68 of the public service law, as amended by chapter 52 of the laws of 1940, is amended to read as follows:

§ 68. [Approval of incorporation and franchises; certificate] Certificate of public convenience and necessity. 1. Certificate required. No gas corporation or electric corporation shall begin construction of a gas plant or electric plant without first having obtained the permission
and approval of the commission. No such corporation shall exercise any
right or privilege under any franchise hereafter granted, or under any
franchise heretofore granted but not heretofore actually exercised, or
the exercise of which shall have been suspended for more than one year,
without first having obtained [the permission and approval of] a certificate of public convenience and necessity issued by the commission.

Before such certificate shall be issued a certified copy of the charter
of such corporation shall be filed in the office of the commission,
 together with a verified statement of the president and secretary of the
corporation, showing that it has received the required consent of the
proper municipal authorities. The commission shall have power to grant
the permission and approval herein specified whenever it shall after due
hearing determine that such construction or such exercise of the right,
privilege or franchise is [necessary or] convenient and necessary for
the public service. In making such a determination, the commission shall
consider the economic feasibility of the corporation, the corporation's
ability to finance improvements of a gas plant or electric plant, render
safe, adequate and reliable service, and provide just and reasonable
rates, and whether issuance of a certificate is in the public interest.

Except as provided in article [fourteen-a] fourteen-A of the general
municipal law, no municipality shall build, maintain and operate for
other than municipal purposes any works or systems for the manufacture
and supplying of gas or electricity for lighting purposes without a
certificate of authority granted by the commission. If the certificate
of authority is refused, no further proceedings shall be taken by such
municipality before the commission, but a new application may be made
therefor after one year from the date of such refusal.
2. Revocation or modification of certificate. The commission may commence a proceeding to revoke or modify such certificate as it relates to such corporation's service territory or any portion thereof based on good cause shown, with the inquiry informed by consideration of the following factors:

(a) the factors identified in subdivision one of this section for issuance of a certificate of public convenience and necessity;

(b) whether another person, firm or corporation is qualified, available, and prepared to provide alternative service that is adequate to serve the public convenience and necessity, and that the transition to such alternative person, firm or corporation is in the public interest; and

(c) upon any other standards and procedures deemed necessary by the commission to ensure continuity of safe and adequate service, and due process.

§ 6. Paragraph d of subdivision 1 of section 119-b of the public service law, as amended by chapter 445 of the laws of 1995, is amended to read as follows:

d. "Underground facilities" means pipelines, conduits, ducts, cables, wires, gas production and gathering pipeline systems designed to operate at three hundred pounds per square inch gauge or higher, manholes, vaults or other such facilities or their attachments[, which have been] installed underground by an operator to provide services or materials.

Such term shall not include oil [and gas] production and gathering pipeline systems used primarily to collect oil [or gas] production from wells.
§ 7. Subdivision 4 of section 760 of the general business law, as amended by chapter 685 of the laws of 1994, is amended to read as follows:

4. "Underground facilities" means pipelines, conduits, ducts, cables, wires, gas production and gathering pipeline systems designed to operate at three hundred pounds per square inch gauge or higher, manholes, vaults or other such facilities or their attachments[, which have been] installed underground by an operator to provide services or materials. Such term shall not include oil [and gas] production and gathering pipeline systems used primarily to collect oil [or gas] production from wells.

§ 8. Paragraphs a and b of subdivision 1 of section 765 of the general business law, as amended by chapter 685 of the laws of 1994, are amended to read as follows:

a. Failure to comply with any provision of this article shall subject an excavator or an operator to a civil penalty of up to [one] two thousand five hundred dollars for the first violation and up to an additional [seven] ten thousand [five hundred] dollars for each succeeding violation [which] that occurs [in connection with the entire self-same excavation or demolition activity] within a [two] twelve month period.

b. The penalties provided for by this article shall not apply to an excavator who damages an underground facility due to the failure of the operator to comply with any of the provisions of this article nor shall in such instance the excavator be liable for repairs as prescribed in subdivision [five] four of this section.

§ 9. This act shall take effect immediately.
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 L of chapter 60 of the laws of 2011, is amended to read as follows:

§ 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, [2013] 2014.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 31, 2013.

PART Q

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2013-2014 state fiscal year. Each component is wholly contained within a Subpart identified as Subparts A through F. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, 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 Subpart in which it is found. Section three of this Part sets forth the general effective date of this Part.

SUBPART A
Section 1. Section 579 of the banking law, as amended by chapter 629 of the laws of 2002, is amended to read as follows:

§ 579. Doing business without license prohibited. Only a [type B] not-for-profit corporation [as defined in section two hundred one of the not-for-profit corporation law of this state,] or an entity incorporated in another state and having a similar not-for-profit status, shall engage in the business of budget planning as defined in subdivision one of section four hundred fifty-five of the general business law [of this state] except as authorized by this article and without first obtaining a license from the superintendent.

§ 2. The opening paragraph of paragraph 1 of section 5 of the cooperative corporations law, as amended by chapter 158 of the laws of 1978, is amended to read as follows:

The business corporation law applies to every corporation heretofore or hereafter formed under this chapter, or under any other statute or special act of this state, or under laws other than the statutes of this state, [which] that has as its purpose or among its purposes the cooperative rendering of mutual help and service to its members and which, if formed under laws other than the statutes of this state, would, if it were to be formed currently under the laws of this state, be formed under this chapter except a membership cooperative as defined in section three of this chapter, to which the not-for-profit corporation law shall apply. Any corporation to which the business corporation law is made applicable by this section shall be treated as a "corporation," "domestic corporation," or "foreign corporation," as such terms are used in the business corporation law; provided, however, that neither the purposes for which any such corporation may be formed under this chapter nor its classification as a non-profit corporation shall thereby be
extended or affected. Any corporation to which the not-for-profit corporation law is made applicable by this section shall be [a type D not-for-profit corporation] subject to provisions governing corporations formed under subparagraph four of paragraph (b) of section two hundred one of the not-for-profit corporation law.

§ 3. Subdivision 4 of section 455 of the general business law, as amended by chapter 456 of the laws of 2006, is amended to read as follows:

4. Person or entity as used in this article shall not include a [type B] not-for-profit corporation as defined in section two hundred one of the not-for-profit corporation law of this state, or an entity incorporated in another state and having a similar not-for-profit status, licensed by the superintendent of financial services, to engage in the business of budget planning as defined in this section.

§ 4. Paragraphs (a) and (c) of section 103 of the not-for-profit corporation law, paragraph (a) as amended by chapter 807 of the laws of 1973 and paragraph (c) as amended by chapter 961 of the laws of 1972, are amended to read as follows:

(a) Except as otherwise provided in this section, this chapter applies to every domestic corporation as herein defined, and to every foreign corporation as herein defined which is authorized to conduct or which conducts any activities in this state. This chapter also applies to any other domestic corporation or foreign corporation of any type or kind to the extent, if any, provided under this chapter or any law governing such corporation and, if no such provision for application is made, to the extent, if any, that the membership corporations law applied to such corporation as of the effective date of this chapter. A corporation formed by a special act of this state which has as its prin-
principal purpose an education purpose and which is a member of the university of the state of New York, is an "education corporation" under section two hundred sixteen-a of the education law.

To the extent that the membership corporations law or the general corporation law applied to it as of the effective date of this chapter, the corresponding provisions of this chapter apply to a corporation heretofore formed by or pursuant to a special act of this state other than a religious corporation or an "education corporation" under clause (b) of subdivision one of section two hundred sixteen-a of the education law, if (1) its principal purpose is a religious, charitable or education purpose, and (2) it is operated, supervised or controlled by or in connection with a religious organization. Any such corporation may elect hereunder at any time after the effective date of this chapter to file a restated certificate of [type] incorporation under section [one] eight hundred [thirteen (Certificate of type of not-for-profit corporation)] five (Restated certificate of incorporation). Such restated certificate of incorporation shall meet the requirements of section 402 (Certificate of incorporation; contents). Upon the filing of such certificate by the department of state, this chapter shall apply in all respects to such corporation.

This chapter also applies to any other corporation of any type or kind, formed not for profit under any other chapter of the laws of this state except a chapter of the consolidated laws, to the extent that provisions of this chapter do not conflict with the provisions of such unconsolidated law. If an applicable provision of such unconsolidated law relates to a matter embraced in this chapter but is not in conflict therewith, both provisions shall apply. Any corporation to which this chapter is made applicable by this paragraph shall be treated as a
"corporation" or "domestic corporation" as such terms are used in this chapter, except that the purposes of any such corporation formed or formable under such unconsolidated law shall not thereby be extended.

For the purpose of this paragraph, the effective date of this chapter as to corporations to which this chapter is made applicable by this paragraph shall be September one, nineteen hundred seventy-three.

(c) If any provision in articles one to thirteen inclusive of this chapter conflicts with a provision of any subsequent articles or of any special act under which a corporation to which this chapter applies is formed, the provision in such subsequent article or special act prevails. A provision of any such subsequent article or special act relating to a matter referred to in articles one to thirteen inclusive and not in conflict therewith is supplemental and both shall apply.

Whenever the board of a [Type B] corporation formed for the purposes specified in subparagraph two of paragraph (b) of section two hundred one of this chapter, formed under a special act, reasonably makes an interpretation as to whether a provision of the special act or this chapter prevails, or both apply, such interpretation shall govern unless and until a court determines otherwise, if such board has acted in good faith for a purpose which it reasonably believes to be in the best interests of the corporation, provided however, that such interpretation shall not bind any governmental body or officer.

§ 5. Paragraph (e) of section 104 of the not-for-profit corporation law, as amended by chapter 833 of the laws of 1982, is amended to read as follows:

(e) If an instrument which is delivered to the department of state for filing complies as to form with the requirements of law [and there has been attached to it the consent or approval of the supreme court
justice, governmental body or officer, or, other person or body, if any, whose consent to or approval of such instrument or the filing thereof is required by any statute of this state] and the filing fee and tax, if any, required by any statute of this state in connection therewith have been paid, the instrument shall be filed and indexed by the department of state. No certificate of authentication or conformity or other proof shall be required with respect to any verification, oath or acknowledgment of any instrument delivered to the department of state under this chapter, if such verification, oath or acknowledgment purports to have been made before a notary public, or person performing the equivalent function, of one of the states, or any subdivision thereof, of the United States or the District of Columbia. Without limiting the effect of section four hundred three of this chapter, filing and indexing by the department of state shall not be deemed a finding that a certificate conforms to law, nor shall it be deemed to constitute an approval by the department of state of the name of the corporation or the contents of the certificate, nor shall it be deemed to prevent any person with appropriate standing from contesting the legality thereof in an appropriate forum. Upon the written notification to the department of state by any state official, department, board, agency or other body that a domestic corporation or foreign authorized corporation has failed to obtain the consent or approval of such state official, department, board, agency or other body for any certificate or instrument, the corporation's authority to carry on, conduct or transact activities in this state shall be suspended. Such suspension shall be annulled upon the filing of a certificate of amendment with the required consent or approval annexed thereto.
§ 6. Subparagraph 7 of paragraph (a) of section 112 of the not-for-profit corporation law, as amended by chapter 1058 of the laws of 1971, is amended to read as follows:

(7) To enforce any right given under this chapter to members, a director or an officer of a [Type B or Type C] corporation formed for the purposes specified in subparagraph two, three or four of paragraph (b) of section two hundred one of this chapter. The attorney-general shall have the same status as such members, director or officer.

§ 7. Section 113 of the not-for-profit corporation law is REPEALED.

§ 8. Section 114 of the not-for-profit corporation law, as added by chapter 847 of the laws of 1970, is amended to read as follows:

§ 114. Visitation of supreme court.

[Type B and Type C corporations] Corporations formed for the purposes specified in subparagraph two, three or four of paragraph (b) of section two hundred one of this chapter, whether formed under general or special laws, with their books and vouchers, shall be subject to the visitation and inspection of a justice of the supreme court, or of any person appointed by the court for that purpose. If it appears by the verified petition of a member or creditor of any such corporation, that it, or its directors, officers or agents, have misappropriated any of the funds or property of the corporation, or diverted them from the purpose of its incorporation, or that the corporation has acquired property in excess of the amount which it is authorized by law to hold, or has engaged in any business other than that stated in its certificate of incorporation, the court may order that notice of at least eight days, with a copy of the petition, be served on the corporation and the persons charged with misconduct, requiring them to show cause at a time and place specified, why they should not be required to make and file an inventory and
account of the property, effects and liabilities of such corporation
with a detailed statement of its transactions during the twelve months
next preceding the granting of such order. On the hearing of such
application, the court may make an order requiring such inventory,
account and statement to be filed, and proceed to take and state an
account of the property and liabilities of the corporation, or may
appoint a referee for that purpose. When such account is taken and
stated, after hearing all the parties to the application, the court may
enter a final order determining the amount of property so held by the
corporation, its annual income, whether any of the property or funds of
the corporation have been misappropriated or diverted to any other
purpose than that for which such corporation was incorporated, and
whether such corporation has been engaged in any activity not covered by
its certificate of incorporation. An appeal may be taken from the order
by any party aggrieved to the appellate division of the supreme court,
and to the court of appeals, as in a civil action. No corporation shall
be required to make and file more than one inventory and account in any
one year, nor to make a second account and inventory, while proceedings
are pending for the statement of an account under this section.

§ 9. Paragraph (b) of section 201 of the not-for-profit corporation
law, as amended by chapter 847 of the laws of 1970, is amended to read
as follows:

(b) A corporation, [of a type and] for a purpose or purposes as
follows, may be formed under this chapter, provided consents required
under any other statute of this state have been obtained:

[Type A - A not-for-profit corporation of this type may be formed] (1)

for any lawful non-business purpose or purposes including, but not
limited to, any one or more of the following non-pecuniary purposes:
civic, patriotic, political, social, fraternal, athletic, agricultural,
horticultural, animal husbandry, and for a professional, commercial,
industrial, trade or service association.

[Type B - A not-for-profit corporation of this type may be formed] (2)
for any one or more of the following non-business purposes: charitable,
educational, religious, scientific, literary, cultural or for the
prevention of cruelty to children or animals.

[Type C - A not-for-profit corporation of this type may be formed] (3)
for any lawful business purpose to achieve a lawful public or quasi-
public objective.

[Type D - A not-for-profit corporation of this type may be formed
under this chapter] (4) when such formation is authorized by any other
corporate law of this state for any business or non-business, or pecuni-
ary or non-pecuniary, purpose or purposes specified by such other law,
whether such purpose or purposes are also within [types A, B, C] subpar-
agraphs one, two or three above or otherwise.

§ 10. Paragraph (c) of section 201 of the not-for-profit corporation
law, as amended by chapter 1058 of the laws of 1971, is amended to read
as follows:

(c) If a corporation is formed for purposes which are [within both
type A and type B above, it is a type B corporation] specified in
subparagraphs one and two of paragraph (b) of this section, all
provisions governing corporations formed for purposes specified in
subparagraph two of paragraph (b) of this section shall apply to such
corporation. [If a corporation has among its purposes any purpose which
is within type C, such corporation is a type C corporation.] A [type D]
corporation [is subject to all provisions of this chapter which are
applicable to a type B corporation under this chapter] formed pursuant
to subparagraph four of paragraph (b) of this section shall be governed by all provisions governing corporations formed for purposes specified in paragraph two of subdivision (b) of this section unless provided to the contrary in, and subject to the contrary provisions of, the other corporate law authorizing formation under this chapter of [the type D] such corporation.

§ 11. Subparagraph 3 of paragraph (a) of section 301 of the not-for-profit corporation law is amended to read as follows:

(3) Shall not contain any word or phrase, or any abbreviation or derivative thereof, the use of which is prohibited or restricted by [section 404 (Approvals and consents) or] any other statute of this state, [unless in the latter case the] except in compliance with such restrictions [have been complied with].

§ 12. Subparagraphs 2 and 4 of paragraph (a) of section 402 of the not-for-profit corporation law, subparagraph 2 as amended by chapter 847 of the laws of 1970 and subparagraph 4 as amended by chapter 679 of the laws of 1985, are amended to read as follows:

(2) That the corporation is a corporation as defined in subparagraph (a) (5) of section 102 (Definitions); the purpose or purposes for which it is formed [and the type of corporation it shall be under section 201 (Purposes)]; and in the case of a [Type C] corporation formed for purposes specified in subparagraph three of paragraph (b) of section 201 (Purposes), the lawful public or quasi-public objective [which] each business purpose will achieve.

(4) [In the case of a Type A, Type B, or Type C corporation, the] The names and addresses of the initial directors. In the case of a [Type D] corporation formed under subparagraph four of paragraph (b) of section
§ 13. Paragraph (d) of section 502 of the not-for-profit corporation law is amended to read as follows:

(d) A member's capital contribution shall be evidenced by a capital certificate which shall be non-transferable, except that the certificate of incorporation of a [Type A] corporation formed for the purposes specified in subparagraph one of paragraph (b) of section two hundred one of this chapter may provide that its capital certificates, or some of them, may be transferable to other members with the consent of the corporation upon specified terms and conditions.

§ 14. Paragraph (b) of section 503 of the not-for-profit corporation law, subparagraph 1 as amended by chapter 847 of the laws of 1970, is amended to read as follows:

(b) Each capital certificate shall when issued state upon the face thereof:

(1) That the corporation is a Type ..... corporation under section 113 or section 402 of the New York Not-for-Profit Corporation Law.

(2) The name of the member to whom issued.

(3) The amount of the member's capital contribution evidenced by such certificate.

(4) If appropriate, [that the corporation is a Type A corporation, and] in the case of a corporation formed for the purposes of subparagraph (1) of paragraph (b) of section 201 (purposes), that its certificate of incorporation provides that the capital certificate is transferable to other members with the consent of the corporation.

§ 15. Subparagraph 1 of paragraph (b) of section 505 of the not-for-profit corporation law, as amended by chapter 847 of the laws of 1970,
is REPEALED, and subparagraphs 2, 3, 4, 5 and 6 are renumbered subpara-
graphs 1, 2, 3, 4, and 5.

§ 16. Subparagraph 3 of paragraph (a) of section 510 of the not-for-
profit corporation law, as amended by chapter 847 of the laws of 1970,
is amended to read as follows:

(3) If the corporation is, or would be if formed under this chapter[,
classified as a Type B or Type C corporation under] for purposes speci-
fied in subparagraph two or three of paragraph (b) of section 201,
(Purposes) such a sale, lease, exchange or other disposition shall in
addition require leave of the supreme court in the judicial district or
of the county court of the county in which the corporation has its
office or principal place of carrying out the purposes for which it was
formed.

§ 17. Paragraph (a) of section 513 of the not-for-profit corporation
law, as amended by chapter 690 of the laws of 1978, is amended to read
as follows:

(a) [A] Unless otherwise provided by law or in the certificate of
incorporation, a corporation [which is, or would be if formed under this
chapter, classified as a Type B corporation shall] may hold full owner-
ship rights in any assets consisting of funds or other real or personal
property of any kind, that may be given, granted, bequeathed or devised
to or otherwise vested in such corporation in trust for, or with a
direction to apply the same to, any purpose specified in its certificate
of incorporation, and shall not be deemed a trustee of an express trust
of such assets, except for corporations formed for purposes specified in
subparagraph two of paragraph (b) of section 201 (Purposes). [Any other
corporation subject to this chapter may similarly hold assets so
received, unless otherwise provided by law or in the certificate of
incorporation.]

§ 18. Paragraph (a) of section 601 of the not-for-profit corporation
law, as amended by chapter 1058 of the laws of 1971, is amended to read
as follows:

(a) A corporation [shall] may have one or more classes of members, or,
[in the case of a Type B corporation,] may have no members[, in which
case any such provision for classes of members or for no members]. A
corporation which has one or more classes of members shall [be] set
forth in the certificate of incorporation or the by-laws provisions for
such classes of members. Corporations, joint-stock associations, unin-
corporated associations and partnerships, as well as any other person
without limitation, may be members.

§ 19. Subparagraph 3 of paragraph (a) of section 803 of the not-for-
profit corporation law, as added by chapter 168 of the laws of 1982, is
amended to read as follows:

(3) That the corporation is a corporation as defined in subparagraph
(a) (5) of section 102 (Definitions)[; the type of corporation it is
under section 201 (Purposes); and if the corporate purposes are
enlarged, limited or otherwise changed, the type of corporation it shall
thereafter be under section 201].

§ 20. Subparagraph (ii) of paragraph (a) of section 804 of the not-
for-profit corporation law, as amended by chapter 139 of the laws of
1993, is amended to read as follows:

(ii) Every certificate of amendment of a corporation [classified as
type B or type C under section 201 (Purposes)] formed for the purposes
specified in subparagraph two or three of paragraph (b) of section 201
which seeks to change or eliminate a purpose or power enumerated in the
corporation's certificate of incorporation, or to add a power or purpose not enumerated therein, shall have endorsed thereon or annexed thereto the approval of a justice of the supreme court of the judicial district in which the office of the corporation is located. Ten days' written notice of the application for such approval shall be given to the attorney-general.

§ 21. Paragraphs (a) and (c) of section 907 of the not-for-profit corporation law are amended to read as follows:

(a) [Where any constituent corporation or the consolidated corporation is, or would be if formed under this chapter, a Type B or a Type C corporation under section 201 (Purposes) of this chapter, no] No certificate shall be filed pursuant to section 904 (Certificate of merger or consolidation; contents) or section 906 by corporations (Merger or consolidation of domestic and foreign corporations) formed for the purposes specified in subparagraph two or three of paragraph (b) of section 201 until an order approving the plan of merger or consolidation and authorizing the filing of the certificate has been made by the supreme court, as provided in this section. A certified copy of such order shall be annexed to the certificate of merger or consolidation. Application for the order may be made in the judicial district in which the principal office of the surviving or consolidated corporation is to be located, or in which the office of one of the domestic constituent corporations is located. The application shall be made by all the constituent corporations jointly and shall set forth by affidavit (1) the plan of merger or consolidation, (2) the approval required by section 903 (Approval of plan) or paragraph (b) of section 906 (Merger or consolidation of domestic and foreign corporations) for each constituent corporation, (3) the objects and purposes of each such corporation
to be promoted by the consolidation, (4) a statement of all property, and the manner in which it is held, and of all liabilities and of the amount and sources of the annual income of each such corporation, (5) whether any votes against adoption of the resolution approving the plan of merger or consolidation were cast at the meeting at which the resolution as adopted by each constituent corporation, and (6) facts showing that the consolidation is authorized by the laws of the jurisdictions under which each of the constituent corporations is incorporated.

(c) If the court shall find that any of the assets of any of the constituent corporations are held for [a] any purpose specified [as Type B] in subparagraph two or three of paragraph (b) of section 201 (Purposes) or are legally required to be used for a particular purpose, but not upon a condition requiring return, transfer or conveyance by reason of the merger or consolidation, the court may, in its discretion, direct that such assets be transferred or conveyed to the surviving or consolidated corporation subject to such purpose or use, or that such assets be transferred or conveyed to the surviving or consolidated corporation or to one or more other domestic or foreign corporations or organizations engaged in substantially similar activities, upon an express trust the terms of which shall be approved by the court.

§ 22. Paragraphs (a) and (f) of section 908 of the not-for-profit corporation law are amended to read as follows:

(a) One or more domestic or foreign corporations [which is, or would be if formed under this chapter, a type A or type C corporation under section 201 (Purposes)] may be merged or consolidated into a domestic or foreign corporation which is, or would be if formed under the laws of this state, a corporation formed under the business corporation law of this state if such merger or consolidation is not contrary to the law of
the state of incorporation of any constituent corporation. With respect
to such merger or consolidation, any reference in paragraph (b) of
section 901 [of this article] (Power of merger or consolidation) or
paragraph (b) of section 901 of the business corporation law to a corpo-
ration shall, unless the context otherwise requires, include both domes-
tic and foreign corporations.

(f) [Where any constituent corporation is, or would be if formed under
this chapter, a Type C corporation under section 201 (Purposes), no] No
certificate shall be filed pursuant to this section by corporations
formed for the purposes specified in subparagraph two or three of para-
graph (b) of section 201 until an order approving the plan of merger or
consolidation and authorizing the filing of the certificate has been
made by the supreme court, as provided in section 907 (Approval by the
supreme court).

§ 23. Paragraphs (b) and (c) and subparagraph 3 of paragraph (d) of
section 1001 of the not-for-profit corporation law, as amended by chap-
ter 434 of the laws of 2006, are amended to read as follows:

(b) If [the] a corporation [is a Type B, C or D corporation and]
formed for the purposes specified in subparagraph two, three or four of
paragraph (b) of section two hundred one of this chapter has no assets
to distribute and no liabilities at the time of dissolution, the plan of
dissolution shall include a statement to that effect.

(c) If [the] a corporation [is a Type B, C or D corporation and]
formed for the purposes specified in subparagraph two, three or four of
paragraph (b) of section two hundred one of this chapter has no assets
to distribute, other than a reserve not to exceed twenty-five thousand
dollars for the purpose of paying ordinary and necessary expenses of
winding up its affairs including attorney and accountant fees, and
liabilities not in excess of ten thousand dollars at the time of
adoption of the plan of dissolution, the plan of dissolution shall
include a statement to that effect.

(3) if there are assets received and held by the corporation [either]
for a purpose specified [as Type B] in subparagraph two or three of
paragraph (b) of section 201 (Purposes) or [which] that are legally
required to be used for a particular purpose, a statement that the
assets owned by the corporation, subject to any unpaid liabilities of
the corporation, shall be distributed as required by any gift instrument
or to a charitable organization or organizations exempt from taxation
pursuant to federal and state laws and engaged in activities substan-
tially similar to those of the dissolved corporation. Each such recipi-
ent organization shall be identified and the governing instrument and
amendments thereto of each of the proposed recipient organizations shall
be annexed to such statement, along with the financial reports of each
recipient organization for the last three years and a sworn affidavit
from a director and officer of each recipient organization stating the
purposes of the organization, and that it is currently exempt from
federal income taxation.

§ 24. Paragraphs (a) and (d) of section 1002 of the not-for-profit
corporation law, as amended by chapter 434 of the laws of 2006, are
amended to read as follows:

(a) Upon adopting a plan of dissolution and distribution of assets,
the board shall submit it to a vote of the members, if any, and such
plan shall be approved at a meeting of members by two-thirds vote as
provided in paragraph (c) of section 613 (Vote of members); provided,
however, that if the corporation is [a Type B, C or D corporation]
formed for the purposes specified in subparagraph two, three or four of
paragraph (b) of section two hundred one of this chapter, other than a corporation incorporated pursuant to article 15 (Public cemetery corporations), [and] has no assets to distribute, other than a reserve not to exceed twenty-five thousand dollars for the purpose of paying ordinary and necessary expenses of winding up its affairs including attorney and accountant fees, and liabilities not in excess of ten thousand dollars at the time of adoption of the plan of dissolution, the vote required by the corporation's board of directors for adoption of the plan of dissolution of such a corporation or by the corporation's members for the authorization thereof shall be:

(1) In the case of a vote by the board of directors: (i) the number of directors required under the certificate of incorporation, by-laws, this chapter and any other applicable law; or

(ii) if the number of directors actually holding office as such at the time of the vote to adopt the plan is less than the number required to constitute a quorum of directors under the certificate of incorporation, the by-laws, this chapter or any other applicable law, the remaining directors unanimously;

(2) In the case of a vote by the members, (i) the number of members required under the certificate of incorporation, by-laws, this chapter and any other applicable law; or (ii) by the vote of members authorized by an order of the supreme court pursuant to section 608 [of this chapter] (Quorum at meeting of members) permitting the corporation to dispense with the applicable quorum requirement.

Notice of a special or regular meeting of the board of directors or of the members entitled to vote on adoption and authorization or approval of the plan of dissolution shall be sent to all the directors and members of record entitled to vote. Unless otherwise directed by order
of the supreme court pursuant to section 608 [of this chapter] (Quorum at meeting of members), the notice shall be sent by certified mail, return receipt requested, to the last known address of record of each director and member not fewer than thirty, and not more than sixty days before the date of each meeting provided, however, that if the last known address of record of any director or member is not within the United States, the notice to such director shall be sent by any other reasonable means.

(d) The plan of dissolution and distribution of assets shall have annexed thereto the approval of a justice of the supreme court in the judicial district in which the office of the corporation is located in the case of a [Type B, C or D] corporation formed for the purposes specified in subparagraph two, three or four of paragraph (b) of section two hundred one of this chapter, and in the case of any other corporation which holds assets at the time of dissolution legally required to be used for a particular purpose, except that no such approval shall be required with respect to the plan of dissolution of a corporation, other than a corporation incorporated pursuant to article 15 (Public cemetery corporations), which has no assets to distribute at the time of dissolution, other than a reserve not to exceed twenty-five thousand dollars for the purpose of paying ordinary and necessary expenses of winding up its affairs including attorney and accountant fees, and liabilities not in excess of ten thousand dollars, and which has complied with the requirements of section 1001 (Plan of dissolution and distribution of assets) and this section applicable to such a corporation. Application to the supreme court for an order for such approval shall be by verified petition, with the plan of dissolution and distribution of assets and certified copies of the consents prescribed by this section annexed
thereunto, and upon ten days written notice to the attorney general accompanied by copies of such petition, plan and consents. In such case where approval of a justice of the supreme court is not required for a [Type B, C or D] corporation formed for the purposes specified in subparagraph two, three or four of paragraph (b) of section two hundred one of this chapter, a copy of such plan certified under penalties of perjury shall be filed with the attorney general within ten days after its authorization.

§ 25. Subparagraph 1 of paragraph (c) of section 1002-a of the not-for-profit corporation law, as amended by chapter 434 of the laws of 2006, is amended to read as follows:

(1) assets received and held by the corporation [either] for a purpose specified [as Type B] in subparagraph two or three of paragraph (b) of section 201 (Purposes) or which are legally required to be used for a particular purpose, shall be distributed to one or more domestic or foreign corporations or other organizations engaged in activities substantially similar to those of the dissolved corporation pursuant to the plan of dissolution and distribution or, if applicable, as ordered by the court to which such plan is submitted for approval under section 1002 (Authorization of plan). Any disposition of assets contained in a will or other instrument, in trust or otherwise, made before or after the dissolution, to or for the benefit of any corporation so dissolved shall inure to or for the benefit of the corporation or organization acquiring such assets of the dissolved corporation as provided in this section, and so far as is necessary for that purpose the corporation or organization acquiring such disposition shall be deemed a successor to the dissolved corporation with respect to such assets; provided, however, that such disposition shall be devoted by the acquiring corporation
or organization to the purposes intended by the testator, donor or grantor.

§ 26. Subparagraph 4 of paragraph (a) of section 1003 of the not-for-profit corporation law is REPEALED and subparagraphs 5, 6, 7 and 8 are renumbered subparagraphs 4, 5, 6 and 7.

§ 27. Subparagraph 2 of paragraph (b) of section 1003 of the not-for-profit corporation law, as amended by chapter 434 of the laws of 2006, is amended to read as follows:

(2) By the attorney general in the case of a [Type B, C or D] corporation formed for the purposes specified in subparagraph two, three or four of paragraph (b) of section two hundred one of this chapter, or any other corporation that holds assets at the time of dissolution legally required to be used for a particular purpose.

§ 28. Subparagraph 15 of paragraph (a) of section 1008 of the not-for-profit corporation law, as amended by chapter 434 of the laws of 2006, is amended to read as follows:

(15) Where assets were received and held by the corporation either for a purpose specified [as Type B] in subparagraph two or three of paragraph (b) of section 201 (Purposes), or were legally required to be used for a particular purpose, the distribution of such assets to one or more domestic or foreign corporations or other organizations engaged in activities substantially similar to those of the dissolved corporation, on notice to the attorney general and to such other persons, and in such manner, as the court may deem proper.

§ 29. Subparagraph 6 of paragraph (a) of section 1012 of the not-for-profit corporation law is REPEALED.

§ 30. Section 1302 of the not-for-profit corporation law, as amended by chapter 847 of the laws of 1970, is amended to read as follows:
§ 1302. Application to existing authorized foreign corporations.

Every foreign corporation which on the effective date of this chapter is authorized to conduct activities in this state under a certificate of authority heretofore issued to it by the secretary of state shall continue to have such authority. Such foreign corporation, its members, directors, and officers shall have the same rights, franchises, and privileges and shall be subject to the same limitations, restrictions, liabilities, and penalties as a foreign corporation authorized under this chapter, its members, directors, and officers respectively. A foreign corporation [may by amendment to its certificate of authority set forth the type of corporation it is under section 201 (Purposes); and in the absence of such amendment an authorized foreign corporation shall be a Type B corporation] shall be subject to provisions governing corporations formed under subparagraph two of paragraph (b) of section 201, unless otherwise required by law. Reference in this chapter to an application for authority shall, unless the context otherwise requires, include the statement and designation and any amendment thereof required to be filed by the secretary of state under prior statutes to obtain a certificate of authority.

§ 31. Subparagraph 4 of paragraph (a) of section 1304 of the not-for-profit corporation law, as amended by chapter 847 of the laws of 1970 and as renumbered by chapter 590 of the laws of 1982, is amended to read as follows:

(4) That the corporation is a foreign corporation as defined in subparagraph (a) (7) of section 102 (Definitions); [the type of corporation it shall be under section 201 (Purposes);] a statement of its purposes to be pursued in this state and of the activities which it proposes to conduct in this state; a statement that it is authorized to
1 conduct those activities in the jurisdiction of its incorporation; and
2 in the case of a [Type C] corporation formed for the purposes specified
3 in subparagraph three of paragraph (b) of section 201, the lawful public
4 or quasi-public objective which each business purpose will achieve.
5 § 32. Paragraph (a) of section 1321 of the not-for-profit corporation
6 law, subparagraphs 1, 2 and 3 as amended by chapter 847 of the laws of
7 1970, are amended to read as follows:
8 (a) Notwithstanding any other provision of this chapter, a foreign
9 corporation conducting activities in this state which is authorized
10 under this article, its directors, officers and members, shall be exempt
11 from the provisions of paragraph (e) of section 1317 (Voting trust
12 records), subparagraph (a) (1) of section 1318 (Liabilities of directors
13 and officers of foreign corporations), and subparagraph (a) (2) of
14 section 1320 (Applicability of other provisions) if when such provision
15 would otherwise apply[:
16 (1) The corporation is a Type A corporation under this chapter; its]
17 the corporation's principal activities are conducted outside this state;
18 the greater part of its property is located outside this state; and (1)
19 less than one third of its members are residents of this state; or
20 (2) [The corporation is a Type B corporation under this chapter; its
21 principal activities are conducted outside this state; the greater part
22 of its property is located outside this state; and] less than ten per
23 cent of its annual revenues is derived from solicitation of funds within
24 this state; or
25 (3) [The corporation is a Type C corporation under this chapter; its
26 principal activities are conducted outside this state; the greater part
27 of its property is located outside this state; and] less than one half
28 of its revenues for the preceding three fiscal years, or such portion
thereof as the foreign corporation was in existence, was derived from sources within this state.

§ 33. Paragraph (d) of section 1401 of the not-for-profit corporation law is REPEALED and paragraph (e) is relettered paragraph (d).

§ 34. Paragraph (b) of section 1402 of the not-for-profit corporation law is REPEALED and paragraphs (c), (d), (e), (f), (g), (h) and (i) are relettered paragraphs (b), (c), (d), (e), (f), (g) and (h).

§ 35. Paragraph (c) of section 1403 of the not-for-profit corporation law is REPEALED.

§ 36. Paragraph (b) of section 1404 of the not-for-profit corporation law is REPEALED and paragraphs (c), (d) and (e) are relettered paragraphs (b), (c) and (d).

§ 37. Paragraph (b) of section 1405 of the not-for-profit corporation law is REPEALED and paragraphs (c), (d), (e) and (f) are relettered paragraphs (b), (c) (d) and (e).

§ 38. Paragraph (b) of section 1406 of the not-for-profit corporation law is REPEALED and paragraphs (c), (d), (e) and (f) are relettered paragraphs (b), (c), (d) and (e).

§ 39. Paragraph (b) of section 1407 of the not-for-profit corporation law is REPEALED and paragraphs (c) and (d) are relettered paragraphs (b) and (c).

§ 40. Paragraph (b) of section 1408 of the not-for-profit corporation law is REPEALED and paragraph (c) is relettered paragraph (b).

§ 41. Paragraph (b) of section 1409 of the not-for-profit corporation law is REPEALED and paragraphs (c), (d), (e), (f), (g), (h), (i), (j) and (k) are relettered paragraphs (b), (c), (d), (e), (f), (g), (h), (i) and (j).
§ 42. Paragraph (b) of section 1410 of the not-for-profit corporation law is REPEALED and paragraph (c) is relettered paragraph (b).

§ 43. Paragraph (b) of section 1411 of the not-for-profit corporation law is REPEALED and paragraphs (c), (d), (e), (f), (g), (h) and (i) are relettered paragraphs (b), (c), (d), (e), (f), (g) and (h).

§ 44. Paragraph (d) of section 1412 of the not-for-profit corporation law is REPEALED and paragraphs (e), (f) and (g) are relettered paragraphs (d), (e) and (f), respectively.

§ 45. Paragraph (c) of section 1505 of the not-for-profit corporation law is REPEALED and paragraph (d) is relettered paragraph (c).

§ 46. Subdivision 2 of section 2-b of the religious corporations law is REPEALED and subdivisions 3 and 4 are renumbered subdivisions 2 and 3.

§ 47. This act shall take effect on the sixtieth day after it shall have become a law.

SUBPART B

Section 1. Paragraph (e) of section 104 of the business corporation law, as amended by chapter 832 of the laws of 1982, is amended to read as follows:

(e) If an instrument which is delivered to the department of state for filing complies as to form with the requirements of law and where required by statute there has been attached to it the consent or approval of the state official, [department, board,] agency or other body, if any, whose consent to or approval of such instrument or the filing thereof is required by any statute of this state and the filing fee and tax, if any, required by any statute of this state in connection
therewith have been paid, the instrument shall be filed and indexed by
the department of state. No certificate of authentication or conformity
or other proof shall be required with respect to any verification, oath
or acknowledgment of any instrument delivered to the department of state
under this chapter, if such verification, oath or acknowledgment
purports to have been made before a notary public, or person performing
the equivalent function, of one of the states, or any subdivision there-
of, of the United States or the District of Columbia. Without limiting
the effect of section four hundred three of this chapter, filing and
indexing by the department of state shall not be deemed a finding that a
certificate conforms to law, nor shall it be deemed to constitute an
approval by the department of state of the name of the corporation or
the contents of the certificate, nor shall it be deemed to prevent any
person with appropriate standing from contesting the legality thereof in
an appropriate forum. Upon the written notification to the department of
state by any state official, department, board, agency or other body
that a domestic corporation or foreign authorized corporation has failed
to obtain the consent or approval of such state official, department,
board, agency or other body for any certificate or instrument, the
corporation's authority to carry on, conduct or transact business in
this state shall be suspended. Such suspension shall be annulled upon
the filing of a certificate of amendment with the required consent or
approval annexed thereto.

§ 2. Paragraphs (b) and (e) of section 201 of the business corporation
law, paragraph (b) as amended by chapter 182 of the laws of 1981, and
paragraph (e) as amended by section 71 of part A of chapter 58 of the
laws of 2010, are amended to read as follows:
(b) [The] Certification that approval of the industrial board of appeals has been obtained is required for the filing with the department of state of any certificate of incorporation, certificate of merger or consolidation or application of a foreign corporation for authority to do business in this state which states as the purpose or one of the purposes of the corporation the formation of an organization of groups of working men or women or wage earners, or the performance, rendition or sale of services as labor consultant or as advisor on labor-management relations or as arbitrator or negotiator in labor-management disputes.

(e) A corporation may not include as its purpose or among its purposes the establishment or maintenance of a hospital or facility providing health related services, as those terms are defined in article twenty-eight of the public health law unless its certificate of incorporation shall so state and such certificate includes a certification that approval of the public health and health planning council of such purpose has been obtained.

§ 3. Clause (B) of subparagraph 5 of paragraph (a) of section 301 of the business corporation law, as amended by chapter 155 of the laws of 2012, is amended to read as follows:

(B) Shall not contain any of the following words, or any abbreviation or derivative thereof:

- acceptance
- endowment
- loan
- annuity
- fidelity
- mortgage
- assurance
- finance
- savings
- bank
- guaranty
- surety
- benefit
- indemnity
- title
- bond
- insurance
- trust
1 casualty investment underwriter
2 doctor lawyer
3 unless the [approval of the superintendent of financial services is
4 attached to the] certificate of incorporation, or application for
5 authority or amendment thereof includes a certification that approval of
6 the superintendent of financial services has been obtained; or [that]
7 unless the word "doctor" or "lawyer" or an abbreviation or derivation
8 thereof is used in the name of a university faculty practice corporation
9 formed pursuant to section fourteen hundred twelve of the not-for-profit
10 corporation law or a professional service corporation formed pursuant to
11 article fifteen of this chapter, or a foreign professional service
12 corporation authorized to do business in this state pursuant to article
13 fifteen-A of this chapter, the members or shareholders of which are
14 composed exclusively of doctors or lawyers, respectively, or are used in
15 a context which clearly denotes a purpose other than the practice of law
16 or medicine.

§ 4. Subparagraphs 6, 7 and 11 of paragraph (a) of section 301 of the
business corporation law, subparagraph 7 as amended by chapter 555 of
the laws of 1978 and subparagraph 11 as added by chapter 316 of the laws
of 2005, are amended to read as follows:

(6) Shall not, unless [the approval of the state board of standards
and appeals is attached to] the certificate of incorporation, or appli-
cation for authority or amendment thereof includes a certification that
the approval of the state board of standards and appeals has been
obtained, contain any of the following words or phrases, or any abbrevi-
ation or derivative thereof: union, labor, council, industrial organ-
ization, in a context which indicates or implies that the domestic
corporation is formed or the foreign corporation authorized as an organ-
ization of working men or women or wage earners or for the performance,
rendition or sale of services as labor or management consultant, adviser
or specialist, or as negotiator or arbitrator in labor-management
disputes.

(7) Shall not, unless [the approval of the state department of social
services is attached to] the certificate of incorporation, or applica-
tion for authority or amendment thereof includes a certification that
the approval of the state department of social services has been
obtained, contain the word "blind" or "handicapped". Such approval shall
be granted by the state department of social services, if in its opinion
the word "blind" or "handicapped" as used in the corporate name proposed
will not tend to mislead or confuse the public into believing that the
corporation is organized for charitable or non-profit purposes related
to the blind or the handicapped.

(11) Shall not, unless [the consent of the commissioner of education
is endorsed on or annexed to] the certificate of incorporation includes
a certification that the consent of the commissioner of education has
been obtained, contain the words "school;" "education;" "elementary;"
"secondary;" "kindergarten;" "prekindergarten;" "preschool;" "nursery
school;" "museum;" "history;" "historical;" "historical society;"
"arboretum;" "library;" "college;" "university" or other term restricted
by section two hundred twenty-four of the education law; "conservatory;"
"academy," or "institute," or any abbreviation or derivative of such
terms. Such consent shall not be granted by the commissioner of educa-
tion, if in the commissioner's opinion, the use of such terms in the
corporate name is likely to mislead or confuse the public into believing
that the corporation is organized for non-profit educational purposes or
for educational business purposes that are not specified in the corpo-
rate purposes and powers contained in its certificate of incorporation.

§ 5. Section 406 of the business corporation law, as amended by chap-
ter 558 of the laws of 1999, is amended to read as follows:

§ 406. Filing of a certificate of incorporation; facility for alcoholism
or alcohol abuse, substance abuse, substance dependence, or
chemical abuse or dependence.

Every certificate of incorporation which includes among its corporate
purposes the establishment or operation of a program of services for
alcoholism or alcohol abuse, substance abuse, substance dependence, or
chemical abuse or dependence shall [have endorsed thereon or annexed
thereto] include a certification that the approval of the commissioner
of the state office of alcoholism and substance abuse services of the
purposes has been obtained.

§ 6. Paragraph (a) of section 806 of the business corporation law is
amended to read as follows:

(a) The department of state shall not file a certificate of amendment
reviving the existence of a corporation unless the certificate of amend-
ment includes a certification that the consent of the state tax commis-
sion to the revival [is delivered to the department] has been obtained.

If the name of the corporation being revived is not available under
section 301 (Corporate name; general) for use by a corporation then
being formed under this chapter, the certificate of amendment shall
change the name to one which is available for such use.

§ 7. Paragraph (a) of section 1003 of the business corporation law is
amended by adding two new subparagraphs 6 and 7 to read as follows:

(6) A certification that consent of the department of taxation and
finance to the dissolution has been obtained.
With respect to any corporation that has done business in the city of New York and incurred liability for any tax or charge under chapter six, seven, eight, ten, eleven, twelve, thirteen, fourteen, twenty-one, twenty-four, twenty-five or twenty-seven of title eleven of the administrative code of the city of New York, a certification that consent of the commissioner of finance of the city of New York to the dissolution has been obtained.

§ 8. Paragraph (a) of section 1004 of the business corporation law, as amended by chapter 201 of the laws of 2009, is amended to read as follows:

(a) [The department shall not file such certificate unless the consent of the state department of taxation and finance to the dissolution is attached thereto.] Upon [such] filing such certificate, the corporation is dissolved.

§ 9. Paragraph (b) of section 1004 of the business corporation law is REPEALED.

§ 10. Subparagraph 8 of paragraph (a) of section 1304 of the business corporation law, as amended by chapter 684 of the laws of 1963 and as renumbered by chapter 590 of the laws of 1982, is amended to read as follows:

(8) A statement that the foreign corporation has not since its incorporation or since the date its authority to do business in this state was last surrendered, engaged in any activity in this state, except as set forth in paragraph (b) of section 1301 (Authorization of foreign corporations), or in lieu thereof a certification that the consent of the state tax commission to the filing of the application[, which consent shall be attached thereto] has been obtained.
§ 11. Paragraph (a) of section 1310 of the business corporation law is amended by adding a new subparagraph 7 to read as follows:

(7) A certification that consent of the department of taxation and finance to the surrender of authority has been obtained.

§ 12. Paragraph (b) of section 1310 of the business corporation law is REPEALED, and paragraphs (c) and (d) are relettered (b) and (c).

§ 13. Section 216 of the education law, as amended by chapter 901 of the laws of 1972, and the closing paragraph as added by chapter 316 of the laws of 2005, is amended to read as follows:

§ 216. Charters. Under such name, with such number of trustees or other managers, and with such powers, privileges and duties, and subject to such limitations and restrictions in all respects as the regents may prescribe in conformity to law, they may, by an instrument under their seal and recorded in their office, incorporate any university, college, academy, library, museum, or other institution or association for the promotion of science, literature, art, history or other department of knowledge, or of education in any way, associations of teachers, students, graduates of educational institutions, and other associations whose approved purposes are, in whole or in part, of educational or cultural value deemed worthy of recognition and encouragement by the university. No institution or association which might be incorporated by the regents under this chapter shall, without their consent, be incorporated under any other general law. An institution or association which might be incorporated by the regents under this chapter may, with the consent of the commissioner of education, be formed under the business corporation law or pursuant to the not-for-profit corporation law if [such consent of the commissioner of education is attached to] its certificate of incorporation includes a certification that consent of
the commissioner of education to the incorporation of such institution
or association has been obtained. No individual, association, partnership, company or corporation not authorized by special charter from the legislature of this state or by charter from the regents to operate a museum, or arboretum shall knowingly use, advertise or transact business under the names "museum," or "arboretum," or any name, title or descriptive material indicating or tending to imply that said individual, association, partnership, company or corporation conducts, carries on, or is such a business when it is not, or that it is authorized to operate as such, unless the right to do so has been granted by the regents or the commissioner in writing. Any violation of this paragraph shall be a misdemeanor. Notwithstanding any other provision of this section, an individual, association, partnership, company or corporation doing business under any of such names on the effective date of this paragraph may come into compliance with this paragraph by obtaining consent of the regents or the commissioner within one year of such effective date.

§ 14. Paragraph (c) of subdivision 2 of section 130 of the general business law, as amended by chapter 316 of the laws of 2005, is amended to read as follows:

(c) No corporation, limited partnership or limited liability company shall use or file a certificate for the use of any name or designation to carry on or conduct or transact business in this state which consists of or includes a word or words the use of which is prohibited or restricted by subparagraphs three through eleven of paragraph (a) of section three hundred one of the business corporation law or subparagraphs three through nine of paragraph (a) of section three hundred one and paragraph (w) of section four hundred four of the not-for-profit corporation law, or paragraph three of subdivision (a) of section
121:102 of the partnership law, or subdivisions (d) through (i) of
section two hundred four of the limited liability company law, respec-
tively, [without having obtained any necessary] unless such certificate
includes a certification that such consents or approvals which would
permit the use of the word or words pursuant to such laws has been
obtained, or where required by statute, such certificate has consents or
approvals endorsed thereon or are annexed thereto.

§ 15. Subdivision 11 of section 130 of the general business law, as
added by chapter 316 of the laws of 2005, is amended to read as follows:
11. Notwithstanding any other provision of this section, an education
corporation may not file a certificate under this section with the
secretary of state, unless such certificate includes a certification
that the consent of the board of regents [is endorsed on or annexed thereto] has been obtained. Nothing in this subdivision shall invali-
date a certificate lawfully filed by an education corporation pursuant
to this section prior to the effective date of this subdivision.

§ 16. Subdivision (f) of section 204 of the limited liability company
law, as amended by chapter 155 of the laws of 2012, is amended to read
as follows:
(f) shall not contain the following words, or any abbreviation
or derivative thereof:

  acceptance   guaranty
  annuity      indemnity
  assurance    insurance
  attorney     investment
  bank         lawyer
  benefit      loan
  bond         mortgage
unless the [approval of the superintendent of financial services is attached to the] articles of organization include a certification that approval of the superintendent of financial services has been obtained or unless the word "doctor" or "lawyer" or an abbreviation or derivative thereof is used in a context that clearly denotes a purpose other than the practice of law or medicine;

§ 17. Subdivisions (g) and (i) of section 204 of the limited liability company law, subdivision (i) as added by chapter 316 of the laws of 2005, are amended to read as follows:

(g) shall not, unless [the approval of the state department of social services is attached to] the articles of organization or application for authority include a certification that the approval of the state department of social services has been obtained, contain the word "blind" or "handicapped." Such approval shall be granted by the state department of social services if in its opinion the word "blind" or "handicapped" as used in the limited liability company's proposed name will not tend to mislead or confuse the public into believing that the limited liability company is organized for charitable or nonprofit purposes related to the blind or the handicapped; and

(i) shall not, unless the articles of organization or application for authority include a certification that the consent of the commissioner of education has been obtained, contain the following terms: "school," "education," "elementary," "secondary," "kindergarten," "prekindergar-
ten," "preschool," "nursery school," "museum," "history," "historical,"?
"historical society," "arboretum," "library," "college," "university" or
other term restricted by section two hundred twenty-four of the educa-
tion law; "conservatory," "academy," or "institute" or any abbreviation
or derivative of such terms[, shall have endorsed thereon or annexed
thereto the consent of the commissioner of education].
§ 18. Section 209 of the limited liability company law is amended to
read as follows:
§ 209. Filing with the department of state. A signed articles of
organization and any signed certificate of amendment or other certif-
icates filed pursuant to this chapter or of any judicial decree of
amendment or cancellation shall be delivered to the department of state.
If the instrument that is delivered to the department of state for
filing complies as to form with the requirements of law and the filing
fee required by any statute of this state in connection therewith has
been paid, the instrument shall be filed and indexed by the department
of state. The department of state shall not review such articles or
certificates for legal sufficiency; its review shall be limited to
determining that the form has been completed. Upon the written notifica-
tion to the department of state by any state official, department,
board, agency or other body that a domestic limited liability company or
foreign authorized limited liability company has failed to obtain the
consent or approval of such state official, department, board, agency or
other body for any certificate or instrument, the limited liability
company's authority to carry on, conduct or transact business in this
state shall be suspended. Such suspension shall be annulled upon the
filing of a certificate of amendment with the required consent or
approval annexed thereto.
§ 19. Clause (B) of subparagraph 5 of paragraph (a) of section 301 of the not-for-profit corporation law, as amended by chapter 155 of the laws of 2012, is amended to read as follows:

(B) Shall not contain any of the following words, or any abbreviation or derivative thereof:

- acceptance
- fidelity
- mortgage
- annuity
- finance
- savings
- assurance
- guaranty
- surety
- bank
- indemnity
- title
- bond
- insurance
- trust
- casualty
- investment
- underwriter
- doctor
- lawyer
- endowment
- loan

unless [the approval of the superintendent of financial services is attached to] the certificate of incorporation, or application for authority or amendment thereof[,] includes a certification that the approval of the superintendent of financial services has been obtained, or [that] unless the word "doctor", or "lawyer", or the phrase "state police" or "state trooper" or an abbreviation or derivation thereof,
[may be] is used only in the name of a corporation the membership of
which is composed exclusively of doctors, lawyers, state policemen or
state troopers, respectively.

§ 20. Section 404 of the not-for-profit corporation law, as amended by
chapter 139 of the laws of 1993, paragraph (b) as amended by section 4
of part D of chapter 58 of the laws of 2006, paragraphs (c), (k) and (l)
as further amended by section 104 of part A of chapter 62 of the laws of
2011, paragraphs (a), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l),
(m), (n) and (r) as relettered by chapter 431 of the laws of 1993, para-
graph (g) as separately amended by chapter 201 of the laws of 1993,
paragraphs (o), (p) and (t) as amended by section 79 of part A of chap-
ter 58 of the laws of 2010, paragraph (q) as amended by chapter 198 of
the laws of 2010, paragraph (u) as amended by chapter 558 of the laws of
1999, paragraph (v) as added by chapter 598 of the laws of 2000 and as
further amended by section 104 of part A of chapter 62 of the laws of
2011, paragraph (w) as amended by chapter 316 of the laws of 2005, is
amended to read as follows:

§ 404. Approvals and consents.

(a) Every certificate of incorporation which includes among its
purposes the formation of a trade or business association shall have
endorsed thereon or annexed thereto the consent of the attorney-general.

(b) (1) Every certificate of incorporation which includes among its
purposes the care of destitute, delinquent, abandoned, neglected or
dependent children; the establishment or operation of any adult care
facility, or the establishment or operation of a residential program for
victims of domestic violence as defined in subdivision four of section
four hundred fifty-nine-a of the social services law, or the placing-out
or boarding-out of children or a home or shelter for unmarried mothers,
excepting the establishment or maintenance of a hospital or facility providing health-related services as those terms are defined in article twenty-eight of the public health law and a facility for which an operating certificate is required by articles sixteen, nineteen, twenty-two and thirty-one of the mental hygiene law; or the solicitation of contributions for any such purpose or purposes, shall [have endorsed thereon or annexed thereto] include a certification that the approval of the commissioner of the office of children and family services, or with respect to any adult care facility, the commissioner of health, of such purpose has been obtained.

(2) A corporation whose statement of purposes specifically includes the establishment or operation of a child day care center, as that term is defined in section three hundred ninety of the social services law, shall provide a certified copy of the certificate of incorporation, each amendment thereto, and any certificate of merger, consolidation or dissolution involving such corporation to the office of children and family services within thirty days after the filing of such certificate, amendment, merger, consolidation or dissolution with the department of state. This requirement shall also apply to any foreign corporation filing an application for authority under section thirteen hundred four of this chapter, any amendments thereto, and any surrender of authority or termination of authority in this state of such corporation.

(c) Every certificate of incorporation which includes among the purposes of the corporation, the establishment, maintenance and operation of a hospital service or a health service or a medical expense indemnity plan or a dental expense indemnity plan as permitted in article forty-three of the insurance law, shall [have endorsed thereon or annexed thereto] include a certification that the approval of the super-
intendent of financial services and the commissioner of health of such
purpose has been obtained.

d) Every certificate of incorporation which includes a purpose for
which a corporation might be chartered by the regents of the university
of the State of New York shall [have endorsed thereon or annexed there-
to] include a certification that the consent of the commissioner of
education to such purpose has been obtained.

e) Every certificate of incorporation of a cemetery corporation,
except those within the exclusionary provisions of section 1503 (Ceme-
tery corporations) shall [have endorsed thereon or annexed thereto]
include a certification that the approval of the cemetery board of such
purpose has been obtained.

(f) Every certificate of incorporation of a fire corporation shall
[have endorsed thereon or annexed thereto] include a certification that
the approval, signed and acknowledged, of the authorities of each city,
village, town or fire district in which the corporation proposes to act,
of such purpose has been obtained. Such authorities shall be: in a city,
the mayor; in a village, a majority of the trustees; in a town, a major-
ity of the members of the town board; in a fire district, a majority of
the fire commissioners. The members of the town board of a town, or the
trustees of a village, shall not consent to the formation of a fire
corporation as hereinbefore provided, until such board shall have held a
public hearing on the question of whether the fire company should be
incorporated. The notice shall be published at least once in each week
for two successive weeks in the official newspaper published in the
county in which such fire corporation intends to locate, prior to the
regular meeting of such board designated by the chairman of the board to
consider the matter. Such notice shall contain the name of the proposed
company, the names of the persons signing the certificate of incorporation, a brief description of the territory to be protected by the fire company and that all persons interested shall be heard. If no newspaper is published in the county the publication of the notice shall be in a newspaper in an adjoining county selected by the chairman of such board. All expenses in connection with such publication shall be borne by the parties making the application and paid before the hearing.

(g) Every certificate of incorporation of a corporation for prevention of cruelty to animals shall [have endorsed thereon or annexed thereto] include a certification that the approval of the American Society for the Prevention of Cruelty to Animals of such purpose has been obtained, or, if such approval be withheld thirty days after application therefor, a certified copy of an order of a justice of the supreme court of the judicial district in which the office of the corporation is to be located, dispensing with such approval, granted upon eight days' notice to such society.

(h) Every certificate of incorporation of a Young Men's Christian Association shall [have endorsed thereon or annexed thereto] include a certification that the approval of the chairman of the national board of Young Men's Christian Associations of such purpose has been obtained.

(i) Every certificate of incorporation which indicates that the proposed corporation is to solicit funds for or otherwise benefit the armed forces of the United States or of any foreign country, or their auxiliaries, or of this or any other state or any territory, shall [have endorsed thereon or annexed thereto] include a certification that the approval of the chief of staff of such purpose has been obtained.

(j) Every certificate of incorporation which includes among its purposes the organization of wage-earners for their mutual betterment,
protection and advancement; the regulation of hours of labor, working conditions, or wages; or the performance, rendition or sale of services as labor consultant, labor-management advisor, negotiator, arbitrator, or specialist; and every certificate of incorporation in which the name of the proposed corporation includes "union", "labor", "council" or "industrial organization", or any abbreviation or derivative thereof in a context that indicates or implies that the corporation is formed for any of the above purposes, shall have endorsed thereon or annexed thereto a certification that the approval of the industrial board of appeals of such purpose has been obtained. The board shall make such inquiry into the purposes of the proposed corporation as it shall deem advisable and shall order a hearing if necessary to determine whether or not such purposes are in all respects consistent with public policy and the labor law. Notice of the time and place of hearing shall be given to the applicants and such other persons as the board may determine.

(k) Every certificate of incorporation for a corporation which has as its exclusive purpose the promotion of the interests of savings bank life insurance or the promotion of the interests of member banks may, if the certificate includes a certification that approval of the superintendent of financial services has been obtained, use as a part of the corporate name any of the words or phrases, or any abbreviation or derivative thereof, set forth in subparagraph (5) of paragraph (a) of section 301 (Corporate name; general).

(l) Every certificate of incorporation for a corporation which has as its exclusive purpose the creation of an association of licensed insurance agents, licensed insurance brokers, or licensed insurance underwriters and every application for authority of a foreign corporation
which is an independent laboratory engaged in testing for public safety,
or which has as its purpose the advancement of corporate, governmental,
and institutional risk and insurance management, or which has as its
exclusive purpose the creation of an association of insurers, each of
which is duly licensed in this state or, if it does no business or is
not licensed in this state, is duly licensed in another state or foreign
jurisdiction may, if the certificate includes a certification that
approval of the superintendent of financial services [is endorsed there-
on or annexed thereto] has been obtained, use as a part of the corporate
name any of the words or phrases, or any abbreviation or derivative
thereof, set forth in subparagraph (5) of paragraph (a) of section 301
(Corporate name; general).

(m) Every certificate of incorporation in which the name of the
proposed corporation includes the name of a political party shall [have
endorsed thereon or annexed thereto] include a certification that the
consent of the chairman of the county committee of such political party
of the county in which the office of the corporation is to be located
has been obtained, except in cases where the supreme court finds that
the withholding of such consent of the county chairman is unreasonable.

(n) Every certificate of incorporation in which the name of the
proposed corporation includes the words "American Legion," shall [have
endorsed thereon or annexed thereto] include a certification that the
approval of the Department of New York, the American Legion, duly
acknowledged by its commander or adjutant has been obtained.

(o) Every certificate of incorporation which includes among its corpo-
rate purposes or powers the establishment or maintenance of any hospi-
tal, as defined in article twenty-eight of the public health law, or the
solicitation of contributions for any such purpose, or purposes, shall
include a certification that the approval of the public health and health planning council of such purpose has been obtained.

(q) Every certificate of incorporation which includes among its corporate purposes or powers the establishment, or operation of a facility for which an operating certificate from the commissioner of mental health is required by article thirty-one of the mental hygiene law, or the solicitation of contributions for any such purpose, shall [have endorsed thereon or annexed thereto] include a certification that the approval of the commissioner of mental health of such purpose has been obtained.

(r) Every certificate of incorporation of a health maintenance organization as defined in article forty-four of the public health law and organized pursuant thereto and pursuant to this chapter, shall [have endorsed thereon or annexed thereto] include a certification that the consent of the commissioner of health to such purpose has been obtained.

(t) Every certificate of incorporation which includes among its purposes and powers the establishment or maintenance of a hospital or facility providing health related services, as those terms are defined in article twenty-eight of the public health law, or the solicitation of contributions for any such purpose or two or more of such purposes, shall [have endorsed thereon] include a certification that the approval
of the public health and health planning council of such purpose has been obtained.

(u) Every certificate of incorporation which includes among the purposes of the corporation, the establishment or operation of a substance abuse, substance dependence, alcohol abuse, alcoholism, or chemical abuse or dependence program, or the solicitation of contributions for any such purpose, shall [have endorsed thereon or annexed thereto] include a certification that the consent of the commissioner of the office of alcoholism and substance abuse services to its filing by the department of state to such purpose has been obtained.

(v) Every certificate of incorporation which includes among the purposes of the corporation, the establishment, maintenance and operation of a nonprofit property/casualty insurance company, pursuant to article sixty-seven of the insurance law, shall [have endorsed thereon or annexed thereto] include a certification that the approval of the superintendent of financial services of such purpose has been obtained.

(w) Every certificate of incorporation in which the name of the proposed corporation includes the terms: "school," "education," "elementary," "secondary," "kindergarten," "prekindergarten," "preschool," "nursery school," "museum," "history," "historical," "historical society," "arboretum," "library," "college," "university" or other term restricted by section two hundred twenty-four of the education law; "conservatory," "academy," or "institute," or any abbreviation or derivative of such terms, shall [have endorsed thereon or annexed thereto] include a certification that the consent of the commissioner of education has been obtained.

§ 21. Paragraphs (a) and (b) of section 804 of the not-for-profit corporation law, as amended by chapter 139 of the laws of 1993, subpara-
graph (i) of paragraph (a) as amended by chapter 198 of the laws of
2010, are amended to read as follows:

(a) (i) A certificate of amendment shall not be filed if the amendment
adds, changes or eliminates a purpose, power or provision the inclusion
of which in a certificate of incorporation requires consent or approval
of a governmental body or officer or any other person or body, or if the
amendment changes the name of a corporation whose certificate of incor-
poration had such consent or approval endorsed thereon or annexed there-

required by statute, such consent or approval is endorsed on or annexed
to or the certificate of amendment includes a certification that such

(b) The department of state shall not file a certificate of amendment
reviving the existence of a corporation unless the certificate includes
a certification that the required consent or approval of a governmental
body or officer or any other person or body [required to be endorsed on
or annexed to the certificate of incorporation of a corporation formed
for similar purposes, is attached thereto] has been obtained, or, if
notice to the attorney-general was required prior to the filing of its certificate of incorporation, the certificate of amendment should indicate that such notice has been given as required by law.

§ 22. Section 909 of the not-for-profit corporation law, as amended by section 6 of part D of chapter 58 of the laws of 2006, is amended to read as follows:

§ 909. Consent to filing.

If the purposes of any constituent or consolidated corporation would require the approval or consent of any governmental body or officer or any other person or body under section 404 (Approvals and consents) no certificate of merger or consolidation shall be filed pursuant to this article unless the certificate includes a certification that such approval of or consent [is endorsed thereon or annexed thereto] to such purpose has been obtained or where required by statute, such approval or consent is endorsed thereon or annexed thereto. A corporation whose statement of purposes specifically includes the establishment or operation of a child day care center, as that term is defined in section three hundred ninety of the social services law, shall provide a certified copy of any certificate of merger or consolidation involving such corporation to the office of children and family services within thirty days after the filing of such merger or consolidation with the department of state.

§ 23. Paragraph (a) of section 1003 of the not-for-profit corporation law is amended by adding two new subparagraphs 8 and 9 to read as follows:

(8) A certification that the consent of the department of taxation and finance to the dissolution has been obtained.
(9) With respect to any corporation that has done business in the city of New York and incurred liability for any tax or charge under chapter six, seven, eight, ten, eleven, twelve, thirteen, fourteen, twenty-one, twenty-four, twenty-five or twenty-seven of title eleven of the administrative code of the city of New York, a certification that consent of the commissioner of finance of the city of New York to the dissolution has been obtained.

§ 24. Paragraph (a) of section 1004 of the not-for-profit corporation law, as amended by chapter 201 of the laws of 2009, is amended to read as follows:

(a) [The department of state shall not file a certificate of dissolution unless the consent of the state department of taxation and finance to the dissolution is attached thereto.] Upon filing the certificate, the corporation is dissolved.

§ 25. Paragraph (b) of section 1004 of the not-for-profit corporation law is REPEALED.

§ 26. Subparagraph 8 of paragraph (a) and paragraph (c) of section 1304 of the not-for-profit corporation law, subparagraph 8 of paragraph (a) as renumbered by chapter 590 of the laws of 1982, are amended to read as follows:

(8) A statement that the foreign corporation has not, since its incorporation or since the date its authority to conduct activities in this state was last surrendered, done any act in this state, except as set forth in paragraph (b) of section 1301 (Authorization of foreign corporations); or in lieu of such statement a certification that the consent of the state tax commission to the filing of the application [shall be attached thereto] has been obtained.
(c) If the application for authority sets forth any purpose or activity for which a domestic corporation could be formed only with the consent or approval of any governmental body or officer, or other person or body under section 404 (Approvals and consents), such application shall include a certification that the consent to or approval [shall be endorsed thereon or annexed thereto] of such purpose has been obtained, or where required by statute, such approval or consent is endorsed thereon or annexed thereto.

§ 27. Paragraph (c) of section 1309 of the not-for-profit corporation law, as added by chapter 961 of the laws of 1972, is amended to read as follows:

(c) A certificate of amendment of application for authority shall not be filed, if the amendment adds, changes or eliminates a purpose, power or provision the inclusion of which in an application for authority requires consent or approval of any governmental body or officer or other person or body, or if the amendment changes the name of a corporation whose application for authority had such consent or approval endorsed thereon or annexed thereto, unless such amendment includes a certification that such consent to or approval [is endorsed on or annexed to the certificate of amendment] of application for authority has been obtained, or where required by statute, such approval or consent is endorsed thereon or annexed thereto.

§ 28. Paragraph (a) of section 1311 of the not-for-profit corporation law is amended by adding a new paragraph 7 to read as follows:

(7) A certification that consent of the department of taxation and finance to the surrender of authority has been obtained.

§ 29. Paragraph (c) of section 1311 of the not-for-profit corporation law is REPEALED and paragraph (d) is relettered paragraph (c).
§ 30. Paragraph (b) of section 1505 of the not-for-profit law, as added by chapter 871 of the laws of 1977, is amended to read as follows:

(b) Cemetery board endorsement. Every certificate of incorporation of a cemetery corporation, except those within the exclusionary provisions of section fifteen hundred three, shall [have endorsed thereon or annexed thereto] include a certification that the approval of the cemetery board as required in subdivision (e) of section four hundred four of this chapter has been obtained.

§ 31. Subparagraphs (A) and (B) of paragraph 3 of subdivision (a) of section 121-102 of the partnership law, subparagraph (A) as amended by chapter 316 of the laws of 2005, subparagraph (B) as amended by chapter 155 of the laws of 2012, are amended to read as follows:

(A) may not contain the following phrases or any abbreviation or derivative thereof:

board of trade state trooper
chamber of commerce tenant relocation
community renewal urban development
state police urban relocation

Every certificate of limited partnership in which the name of the proposed limited partnership includes the terms: "school," "education," "elementary," "secondary," "kindergarten," "prekindergarten," "preschool," "nursery school," "museum," "history," "historical," "historical society," "arboretum," "library," "college," "university" or other term restricted by section two hundred twenty-four of the education law; "conservatory," "academy," or "institute," or any abbreviation or derivative of such terms, shall [have endorsed thereon or annexed thereto] include a certification that the consent of the commissioner of education has been obtained.
(B) may not contain the following words, or any abbreviation or derivative thereof:

- acceptance
- indemnity
- annuity
- insurance
- assurance
- investment
- bank
- lawyer
- benefit
- loan
- bond
- mortgage
- casualty
- savings
- doctor
- surety
- endowment
- title
- fidelity
- trust
- finance
- underwriter
- guaranty

Unless the [approval of the superintendent of financial services is attached to the] certificate of limited partnership includes a certification that the approval of the superintendent of financial services has been obtained; or unless the word "doctor" or "lawyer" or an abbreviation or derivative thereof is used in a context which clearly denotes a purpose other than the practice of law or medicine.

§ 32. Subparagraph (C) of paragraph 3 of subdivision (a) of section 121-102 of the partnership law, as added by chapter 264 of the laws of 1991, is amended to read as follows:

(C) shall not, unless [the approval of the state department of social services is attached to] the certificate of limited partnership or application for authority or amendment thereof includes a certification that the approval of the state department of social services has been obtained, contain the word "blind" or "handicapped". Such approval shall
be granted by the state department of social services if in its opinion
the word "blind" or "handicapped" as used in the limited partnership
name proposed will not tend to mislead or confuse the public into
believing that the limited partnership is organized for charitable or
nonprofit purposes related to the blind or the handicapped.
§ 33. Section 121-206 of the partnership law, as added by chapter 950
of the laws of 1990, is amended to read as follows:
§ 121-206. Filing with the department of state. A signed certificate
of limited partnership and any signed certificates of amendment or other
certificates filed pursuant to this article or of any judicial decree of
amendment or cancellation shall be delivered to the department of state.
If the instrument which is delivered to the department of state for
filing complies as to form with the requirements of law and the filing
fee required by any statute of this state in connection therewith has
been paid, the instrument shall be filed and indexed by the department
of state. Upon the written notification to the department of state by
any state official, department, board, agency or other body that a
domestic limited partnership or foreign authorized limited partnership
has failed to obtain the consent or approval of such state official,
department, board, agency or other body for any certificate or instru-
ment, the limited partnership's authority to carry on, conduct or trans-
act business in this state shall be suspended. Such suspension shall be
annulled upon the filing of a certificate of amendment with the required
consent or approval annexed thereto.
§ 34. Section 14 of the private housing finance law, as amended by
chapter 544 of the laws of 1961, is amended to read as follows:
§ 14. Consent of commissioner to incorporation. Whenever any such
certificate shall be presented to the secretary of state, [he] the
secretary shall not file such certificate unless [there shall accompany the same a] the certificate includes a certification that a certificate of the commissioner that he consents to the filing of such certificate has been obtained; nor shall any amendment to the certificate of incorporation be filed unless it [is accompanied by] includes a certification that a certificate of the commissioner consenting thereto has been obtained. If a company has entered into a contract with a municipality for the construction of a municipally aided project, the commissioner shall not issue a certificate consenting to an amendment of the certificate of incorporation of such company, unless the supervising agency has given its written consent to such amendment.

§ 35. Subdivision 5 of section 573 of the private housing finance law, as amended by chapter 410 of the laws of 1984, is amended to read as follows:

5. The secretary of state shall not file the certificate of incorporation of any such corporation or any amendment thereto unless the certificate includes a certification that the consent or approval of the commissioner or the supervising agency, as the case may be, [is affixed thereon or attached thereto] has been obtained. Consent to the filing of such certificate of incorporation shall be based upon findings by the commissioner or supervising agency as to the character and competence of the sponsor.

§ 36. Subdivision 1 of section 2801-a of the public health law, as amended by section 57 of part A of chapter 58 of the laws of 2010, is amended to read as follows:

1. No hospital, as defined in this article, shall be established except with the written approval of the public health and health planning council. No certificate of incorporation of a business membership
or not-for-profit corporation shall hereafter be filed which includes among its corporate purposes or powers the establishment or operation of any hospital, as defined in this article, or the solicitation of contributions for any such purpose, or two or more of such purposes, except with the written approval of the public health and health planning council, and when otherwise required by law of a justice of the supreme court, [endorsed on or annexed to] the certificate of incorporation includes a certification that such written approval has been obtained. No articles of organization of a limited liability company established pursuant to the New York limited liability company law which includes among its powers or purposes the establishment or operation of any hospital as defined in this article, shall be filed with the department of state except [upon] when the articles of organization include a certification that the approval of the public health and health planning council has been obtained.

§ 37. Section 41 of the transportation corporations law, as amended by chapter 782 of the laws of 1969, is amended to read as follows:

§ 41. Municipal consent to incorporation. No certificate of incorporation of a water-works corporation shall be filed unless [there be annexed thereto a] the certificate includes a certification that consent to the formation of the corporation, signed and acknowledged by the local authorities of each municipality named in such certificate has been obtained. Such authorities shall be: in a city, a majority of the members of the board or body having charge of the water supply, or if there be no such board or body, a majority of the members of the local legislative body; in a village, a majority of the members of the board of trustees; in a town outside of a village, the town superintendent of highways and a majority of the members of the town board. Such consent
to the formation of the corporation shall not be granted by said local
authorities until ten days prior notice in writing of the application
for such consent and until an engineering plan for proposed water system
specifying location and size and type of wells, pumps, distribution
mains and other facilities of the water supply and/or distribution
system is furnished by the water works corporation to the local authori-
ties and to the county water authority, and to the county water district
if there be such authority or district where the proposed corporation
seeks to operate; and until said authority or district has reported in
writing to the municipality named in the certificate of incorporation
its recommendations as to whether or not such consent should be granted,
setting forth the reasons for such recommendation and a finding as to
whether the proposed water supply and/or distribution system is reason-
ably comparable to standards of a county-wide water system and suitable
for eventual integration with such county-wide water system. Said report
shall be filed with such municipality on or before the tenth day after
the giving of the notice aforesaid.

§ 38. Subdivision 1 of section 116 of the transportation corporations
law, as amended by chapter 828 of the laws of 1970, is amended to read
as follows:

1. No certificate of incorporation of a sewage-works corporation shall
be filed unless [there be annexed thereto] the certificate includes a
certification that a certificate or certificates duly executed in behalf
of the local governing bodies of the city, town or village, as the case
may be, in which any part of a sewer system provided by such corporation
is situate and, in the county of Suffolk, an additional certificate duly
executed in behalf of the county sewer agency, consenting to the forma-
tion of the corporation for the area described in such certificate has been obtained.

§ 39. This act shall take effect immediately; provided however that section twenty-three of this act shall take effect on the sixtieth day after it shall have become a law.

SUBPART C

Section 1. Paragraph (a) of section 602 of the business corporation law is amended to read as follows:

(a) Meetings of shareholders may be held at such place, within or without this state, as may be fixed by or under the by-laws, or if not so fixed, at the office of the corporation in this state. Except as provided in the by-laws, shareholders may participate in a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting.

§ 2. Paragraph (b) of section 402 of the limited liability company law is amended to read as follows:

(b) Except as provided in the operating agreement, any member may vote in person [or], by proxy, or by electronic means.

§ 3. Paragraphs (a) and (c) of section 603 of the not-for-profit corporation law, paragraph (c) as amended by chapter 961 of the laws of 1972, are amended to read as follows:

(a) Meetings of members may be held at such place, within or without this state, as may be fixed by or under the by-laws or, if not so fixed, at the office of the corporation in this state. Except as provided in
the by-laws, members may participate in a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting.

(c) Special meetings of the members may be called by the board and by such person or persons as may be authorized by the certificate of incorporation or the by-laws. In any case, such meetings may be convened by the members entitled to cast ten per cent of the total number of votes entitled to be cast at such meeting, who may, in writing, demand the call of a special meeting specifying the date and month thereof, which shall not be less than two nor more than three months from the date of such written demand. The secretary of the corporation upon receiving the written demand shall promptly give notice of such meeting, or if he fails to do so within five business days thereafter, any member signing such demand may give such notice. The meeting shall be held at the place fixed in the by-laws or, if not so fixed, at the office of the corporation. Except as provided in the by-laws, members may participate in a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting.

§ 4. Paragraph (b) of section 121-405 of the partnership law, as added by chapter 950 of the laws of 1990, is amended to read as follows:

(b) A partnership agreement may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any general partners, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person [or], by proxy, or by electronic
means or any other matter with respect to the exercise of any such right
to vote.

§ 5. This act shall take effect immediately.

SUBPART D

Section 1. Section 401 of the business corporation law, as amended by
chapter 900 of the laws of 1974, is amended to read as follows:

§ 401. Incorporators.

One or more natural persons [of the age of] at least eighteen years
[or over] of age or any partnership, limited liability company, or
corporation, singly or jointly with others, may act as incorporators of
a corporation to be formed under this chapter.

§ 2. Subdivisions (a) and (b) of section 203 of the limited liability
company law, subdivision (a) as amended by chapter 470 of the laws of
1997, is amended to read as follows:

(a) One or more natural persons at least eighteen years of age or any
partnership, limited liability company, singly or jointly with others,
may act as an organizer or organizers to form a limited liability compa-
ny by (i) preparing the articles of organization of such limited liabil-
ity company in accordance with subdivision (e) of this section, (ii)
executing such articles of organization in accordance with section two
hundred seven of this article and (iii) filing such articles, entitled
"Articles of organization of... (name of limited liability company)
under section two hundred three of the Limited Liability Company Law,"
in accordance with section two hundred nine of this article.

(b) An organizer may, but need not be, a member of the limited liabil-
ity company that he [or], she or it forms.
§ 3. Section 401 of the not-for-profit corporation law, as amended by chapter 901 of the laws of 1974, is amended to read as follows:

§ 401. Incorporators.

One or more natural persons at least eighteen years of age or any partnership, limited liability company, or corporation, singly or jointly with others, may act as incorporators of a corporation to be formed under this chapter.

§ 4. This act shall take effect immediately.

SUBPART E

Section 1. Section 19 of the general associations law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

§ 19. Service of process. Service of process against an association upon the secretary of state shall be made by personally delivering to and leaving with [him] the secretary of state or a deputy [secretary of state or an associate attorney, senior attorney or attorney in the corporation division of the department of state, duplicate copies of such process], or with any person authorized by the secretary of state to receive such service at the office of the department of state in the city of Albany, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. [At the time of such service the plaintiff shall pay a fee of forty dollars to the secretary of state which shall be a taxable disbursement. If the cost of registered mail for transmitting a copy of the process shall exceed two dollars, an additional fee equal to such excess shall be paid at the time of the service of such process.] The secretary of state shall [forthwith] promptly send by certified registered mail one of such
copies of such process to the association at the address fixed for that purpose, as herein provided. If the action or proceeding is instituted in a court of limited jurisdiction, service of process may be made in the manner provided in this section if the cause of action arose within the territorial jurisdiction of the court and the office of the defendant, as set forth in its statement filed pursuant to section eighteen of this chapter, is within such territorial jurisdiction.

§ 2. This act shall take effect immediately.

SUBPART F

Section 1. Subdivision 1 of section 180 of the tax law, as amended by section 42 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

1. (a) Imposition. Every stock corporation incorporated under any law of this state and every corporation formed under the business corporation law of this state shall pay a tax of \[\text{one-twentieth of one per centum}\] ten dollars upon \[\text{the amount of the par value of all}\] the shares [with a par value] which it is authorized to issue [and a tax of five cents on each share without a par value which it is authorized to issue], and a like tax upon any shares subsequently authorized[, except as hereinafter provided] or changed.

(b) [Changes with respect to shares. (1) Every corporation which shall change shares with par value into shares without par value shall pay a tax of five cents for each share without par value resulting from such change, less \[\text{one-twentieth of one per centum of the par value on the shares with par value so changed.}\]
(2) Every corporation which shall change shares without par value into shares with par value shall pay a tax of one-twentieth of one per centum upon the amount of the par value of the shares resulting from such change, less five cents with respect to each share without par value so changed.

(3) Every corporation which shall change shares without par value into shares without par value shall pay a tax of five cents for each share without par value resulting from such change, less five cents with respect to each share without par value so changed, and less five cents with respect to each share without par value not authorized previous to such change but resulting from such change and issued pursuant to the terms upon which such change is made, provided such change is effected after the expiration of five years from the date of the filing of a certificate of incorporation pursuant to the stock corporation law or the business corporation law or a certificate of amendment to effect the change provided for in subparagraph five of paragraph c of subdivision two of section thirty-five of the stock corporation law or in subparagraph eleven of paragraph (b) of section eight hundred one of the business corporation law.

(4) Every corporation which shall change shares with par value into both shares with par value and shares without par value shall pay a tax of one-twentieth of one per centum upon the amount of the par value of the shares with par value resulting from such change plus five cents for each share without par value resulting from such change, less one-twentieth of one per centum of the par value of the shares with par value so changed.

(5) Every corporation which shall change shares without par value into both shares with par value and shares without par value shall pay a tax
of one-twentieth of one per centum upon the amount of the par value of
the shares with par value resulting from such change plus five cents for
each share without par value resulting from such change, less five cents
with respect to each share without par value so changed.

(c) Minimum tax. Provided, that in no case shall a tax under this
section be less than ten dollars.

(d) Payment. Such tax shall be due and payable upon the incorporation
of such corporation and upon any subsequent authorization, increase of
par value or change of shares. [Except in the case of a railroad corpo-
ration, neither the secretary of state nor county clerk shall file any
certificate of incorporation, or of amendment increasing capital stock,
or the number of par value of shares, or a certificate of merger or
consolidation, or certificate of change or authorization of shares, or
give any certificate to any such corporation until such tax has been
paid, and no stock corporation or corporation formed under the business
corporation law shall have or exercise any corporate franchise or
powers, or carry on business in this state until such tax shall have
been paid.

(e) Mergers and consolidations. In case of the merger or the
consolidation of existing corporations into a single corporation, a new
corporation resulting from such consolidation or a constituent corpo-
ration surviving such merger or consolidation shall be required to pay
the tax hereinbefore provided for, only if it is incorporated under the
laws of this state[, and then only upon the taxable amount of its capi-
tal stock or shares in excess of the aggregate amount of capital stock
or shares of such of the constituent corporations as were organized
under the laws of this state].
[(f)] (d) Special corporations. This section shall not apply to state and national banks and trust companies or to building, mutual loan, accumulating fund and cooperative associations. [A railroad corporation need not pay such tax at the time of filing its certificate of incorporation, but shall pay the same before the public service commission shall grant a certificate, as required by the railroad law, authorizing the construction of the road as proposed in its articles of association, and such certificate shall not be granted by the public service commission until it is furnished with a receipt for such tax from the secretary of state. If the board of railroad commissioners or public service commission shall have heretofore granted, or the public service commission shall hereafter grant, such certificate and upon an appeal from the determination of such board of railroad commissioners or public service commission, such certificate has been or may hereafter be denied, the state treasurer shall refund the amount of tax so paid to the railroad corporation or corporations by which such tax was paid, upon proof of payment being presented and appropriation being made therefor.]

§ 2. Subdivision 2 of section 180 of the tax law, as amended by chapter 685 of the laws of 1938, is amended to read as follows:

2. The tax imposed by this section shall be collected by the state officer in whose office the original certificate of incorporation or [certificate of increase of amount of capital stock or certificate of increase of number or par value of shares or consolidation agreement, or] certificate changing or authorizing shares, as the case may be, is required by law to be filed, and such state officer shall[, except in the case of the certificate of incorporation of a railroad corporation,] collect such tax before filing such certificate and shall note the payment of such tax thereon and shall issue a receipt therefor.
§ 3. Subdivision 1 of section 181 of the tax law, as amended by section 43 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

1. (a) Definition. As used in this section, the term "corporation" includes a joint-stock company or association and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by certificate or other written instrument.

(b) Imposition. Every foreign corporation, except banking corporations as defined in paragraph one, two, three, four, five, six, seven or eight of subsection (a) of section fourteen hundred fifty-two of this chapter, fire, marine, casualty and life insurance companies, co-operative fraternal insurance companies, and building and loan associations, doing business in this state, shall pay a license fee of [one-twentieth of one per centum] ten dollars on its issued [par value] capital stock employed within this state [and five cents on each share of its capital stock without par value employed within this state] and a like tax upon any capital stock subsequently authorized or changed for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state. [The first payment pursuant to this section shall not be less than ten dollars.]

(c) [Recomputation based on changes. In any case where a change is made in the capital share structure of a corporation, or the amount of capital stock employed in this state is increased, the fee shall be recomputed on the basis of such change or increase, and there shall be credited against the fee, as recomputed, the amount of any fee that may have been previously paid pursuant to this section, but, if the fee previously paid exceeds the fee as recomputed, there shall be no refund.]
(d) Apportionment. The measure of the amount of capital stock employed in this state shall be such a portion of the issued capital stock as the gross assets, exclusive of obligations issued by the United States and cash on hand and on deposit, employed in business by such corporation within this state, bear to the gross assets, exclusive of obligations issued by the United States and cash on hand and on deposit, wherever employed in business by such corporation, except that the amount of capital stock employed in this state by a corporation subject to tax under article nine-A of this chapter shall be that proportion of its capital stock which is equal to the proportion of its business, investment and subsidiary capital allocable within the state pursuant to the provisions of said article. The capital of a corporation invested in the stock of another corporation shall be deemed to be assets located where the assets of the issuing corporation, other than patents, copyrights, trade-marks, contracts and good will, are located.

(e) Procedures and collection. The amount of capital upon which such license fees shall be paid shall be fixed by the commissioner, who shall have the same authority to examine the books and records in this state of such foreign corporations, and the employees thereof as such commissioner has in the case of domestic corporations, and the commissioner shall have the same power to issue a warrant for the collection of such license fees, as now exists with regard to domestic corporations.

(f) Article nine-A taxpayers. Notwithstanding any other provision of this section, every foreign corporation subject to tax under article nine-A of this chapter shall also be subject to the license fee imposed by this section for the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing
property in this state in a corporate or organized capacity, or of main-
taining an office in this state.

§ 4. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivi-
sion, 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 judg-
ment 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.

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

§ 2. Severability clause. If any clause, sentence, paragraph, subdivi-
sion, 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 judg-
ment 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.

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