

2014-15 NEW YORK STATE EXECUTIVE BUDGET

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

MEMORANDUM IN SUPPORT

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MEMORANDUM IN SUPPORT

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

AN ACT to amend the highway law and to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to the consolidated local street and highway improvement program (CHIPS), suburban highway improvement program (SHIPS), multi-modal and Marchiselli programs; and to repeal certain provisions of chapter 329 of the laws of 1991 relating thereto (Part A); to amend part F of chapter 56 of the laws of 2011 permitting authorized state entities to utilize the design-build method for infrastructure projects, in relation to allowing authorized local entities to utilize the design-build method for infrastructure projects, and in relation to the effectiveness thereof (Part B); to amend part U1 of chapter 62 of the laws of 2003 amending the vehicle and traffic law and other laws relating to increasing certain motor vehicle transaction fees, in relation to the effectiveness thereof; to amend chapter 84 of the laws of 2002, amending the state finance law relating to the costs of the department of motor vehicles, in relation to permanently authorizing payment of department of motor vehicle costs from the dedicated highway and bridge trust fund; to amend the transportation law, in relation to disposition of revenues; to amend the highway law, in relation to disposition of fees charged in connection with outdoor advertising on highways; and to amend the state finance law, in relation to the dedication of revenues and the costs of rail and truck regulation (Part C); to amend chapter 58 of the laws of 2013, relating to the hours of operation of the department of motor vehicles and providing for the repeal of such provisions upon expiration thereof, in relation to the effectiveness thereof (Part D); to amend the vehicle and traffic law and the state finance law, in relation to the authorization of the department of motor vehicles to provide the accident prevention course internet program; to amend chapter 751 of the laws of 2005, amending the insurance law and the vehicle and traffic law, relating to establishing the accident prevention course internet technology pilot program, in relation to the effectiveness thereof; and to repeal certain provisions of the vehicle and traffic law relating thereto (Part E); to amend the vehicle and traffic law, in relation to complying with federal requirements relating to medical certifications of commercial driver's license holders (Part F); to amend the public authorities law, in relation to toll collection regulations; to amend the public officers law, in relation to electronic toll collection data; to amend the vehicle and traffic law, in relation to liability of vehicle owners for toll collection violations; to amend the penal law, in relation to theft of services; and to amend chapter 774 of the laws of 1950, relating to agreeing with the state of New Jersey with respect to rules and regulations governing traffic on vehicular crossings operated by the port of New York authority, in relation to tolls and other charges (Part G); to amend chapter

67 of the laws of 1992, amending the environmental conservation law relating to pesticide product registration timetables and fees, in relation to the effective date thereof; and to amend the environmental conservation law, in relation to pesticide registration fees and reporting (Part H); to amend the environmental conservation law, the penal law, the vehicle and traffic law and the general obligations law, in relation to authorizing crossbow hunting, landowner liability, printing contracts for hunting and fishing guides, issuance of distinctive "I love New York" plates, fees and general powers and duties of the department of environmental conservation; and to repeal subdivisions 11 and 16 of section 11-0901 of the environmental conservation law relating thereto (Part I); to amend the agriculture and markets law, in relation to granting, suspending or revoking licenses for food processing establishments (Part J); 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 K); 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 L); to amend the agriculture and markets law and the public authorities law, in relation to requiring power transfer switches on gas stations located within one half mile from a strategic upstate highway (Part M); 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 N); to amend the business corporation law and the not-for-profit corporation law, in relation to the transmission of incorporation certificates to county clerks (Part O); to amend the executive law, in relation to the national registry fee (Part P); to authorize the department of health to finance certain activities with revenues generated from an assessment on cable television companies (Part Q); to amend the public service law, in relation to authorizing the department of public service to increase program efficiencies; and to repeal certain provisions of the public service law relating thereto (Part R); to amend the public service law, in relation to the temporary state energy and utility service conservation assessment (Part S); to amend the insurance law, in relation to unauthorized providers of health services and the examination of providers of health services (Part T); to amend the insurance law, the public health law and the financial services law, in relation to establishing protections to prevent surprise medical bills including network adequacy requirements, claim submission requirements, access to out-of-network care and prohibition of excessive emergency charges (Part U); to amend the insurance law, in relation to licensing title insurance agents, closers and solicitors; grants the superintendent of financial services the authority to require title insurance agents, closers, and solicitor applicants to submit to fingerprinting; and to repeal certain provisions of such law relating thereto (Part V); 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 W); to amend chapter 584 of the laws of 2011, amending the public authorities law relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, in relation to the effectiveness thereof (Part X); to amend the public health law, in relation to fees in connection with certain health care facility financings; and to repeal section 2976-a of the public authorities law relating thereto (Part Y); to amend the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part Z); and 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 AA)

PURPOSE:

This bill contains provisions needed to implement the Transportation, Economic Development and Environmental Conservation portions of the 2014-15 Executive Budget.

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

Part A – Allow the Department of Transportation to make payments to municipalities from appropriations for the Consolidated Local Street and Highway Improvement Program, Suburban Highway Improvement Program, Multi-Modal and Marchiselli programs

Purpose:

This bill would allow the Department of Transportation (DOT) to provide funding to municipalities from appropriations for annual Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli programs and to make payments provided in the 1996 Multi-Modal program and previous Suburban Highway Improvement Program (SHIPS) authorizations.

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

This bill would allow DOT to make payments for capital aid programs to counties, cities, towns and villages in the first instance from a budget appropriation rather than from

bond sales. Under existing law, these payments would otherwise be delayed while a bond sale was being consummated.

The new annual authorizations of the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli programs will be appropriated in the 2014-15 Executive Budget for \$438 million and \$39.7 million, respectively. Previously authorized but unpaid amounts for CHIPS of \$156 million and Marchiselli of \$240 million will also be appropriated. Additionally, the remaining unpaid authorizations for the 1996 Multi-Modal program and the Suburban Highway Improvement Program (SHIPS) will be appropriated for \$49 million and \$1.7 million, respectively.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget because it will allow DOT to make timely local capital aid payments to counties, cities, towns and villages without risk of bond issuance delays.

Effective Date:

This bill takes effect immediately.

Part B – Make the Infrastructure Investment Act permanent and extend the provisions to certain local entities

Purpose:

This bill would make permanent the provisions of the Infrastructure Investment Act signed into law in 2011 and would extend the statute to all counties and those cities, towns and villages with populations over 50,000.

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

This bill would enable certain state agencies and authorities to continue to award a contract to a single entity for both the design and construction (design-build) aspects of a project in order to optimize quality, cost and efficiency.

Since signed into law in 2011, the Infrastructure Investment Act (the Act) has been used by the Department of Transportation (DOT) to procure eleven contracts for bridge and deck replacements, and highway, bridge and rail station rehabilitation that resulted in 40 projects totaling \$858 million. The Thruway Authority used the design-build procurement process for the \$3.9 billion contract for the New NY Bridge, replacing the Tappan Zee Bridge, and the Bridge Authority awarded a \$549,000 project to replace HVAC and perform asbestos abatement on two buildings at their Mid-Hudson Bridge facility.

The design-build procurement method has accelerated DOT projects by at least a year and resulted in \$1 billion of savings on the New NY Bridge project alone.

This bill would also extend the current provisions of the Act to all counties, and to certain cities, towns and villages with populations over 50,000.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget because the Infrastructure Investment Act allows agencies to award a design and construction contract to a single entity for a project to optimize cost, quality and efficiency.

Effective Date:

This bill takes effect immediately.

Part C – Consolidate two existing Special Revenue Funds within the Dedicated Highway and Bridge Trust Fund (DHBTF), and makes technical corrections to two expiration dates in existing law

Purpose:

This bill consolidates the Rail Safety Inspection Account and the Transportation Regulation Account into the Dedicated Highway and Bridge Trust Fund (DHBTF) by redirecting the revenues of those accounts into the DHBTF with the intent of funding rail inspections and truck inspections from DHBTF appropriations beginning in 2014-15.

This bill would also extend, by one day, the authorizations for: 1) the DHBTF and Dedicated Mass Transportation Trust Fund (DMTTF) to continue to receive approximately \$235 million annually of Department of Motor Vehicles (DMV) and other revenues; and 2) the DHBTF to continue to disburse funds for the expenses of the DMV.

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

This bill would consolidate the activities funded by the Rail Safety Inspection Account and the Transportation Regulation Account within the DHBTF, thereby reducing the number of accounts and increasing programmatic flexibility. Revenues from these SROs would henceforth be deposited into the DHBTF, and would therefore contribute to maintaining the Fund's debt service coverage ratio.

This bill amends Sections 94, 135, 144, and 145 of Transportation Law and Section 88 of Highway Law by altering the disposition of revenues from the Rail Safety Inspection Account and the Transportation Regulation Account to the DHBTF. Section 89-b of the

State Finance Law is also modified, both to dedicate the revenues and to allow the expenses of these programs to be spent from the DHBTF.

Additionally, this bill also makes two technical corrections, to conform the law to legislative intent:

First, it would extend, by one day, authority for the DHBTF and the DMTTF to continue to receive various DMV and other revenues that were initially increased and directed to the DHBTF and DMTTF in 2003 and 2005, and most recently extended to the beginning of March 31, 2015. This bill amends Section 13 of Part U1 of chapter 62 of the laws of 2003, as amended, to extend authority to receive these revenues to April 1, 2015, the end of the fiscal year. Absent this extender, the DHBTF and DMTTF could lose a small portion of \$235 million in annual revenues attributable to March 31, 2015.

The bill would also extend, by one day, authority for the DHBTF to continue to fund DMV operations. This authority began in 2002, and was most recently extended to the beginning of March 31, 2015. This bill amends Section 2 of Part B of Chapter 84 of the Laws of 2002, as amended, to extend this ability to pay for DMV expenses to April 1, 2015, the end of the fiscal year. Absent this extender, all DMV spending from the DHBTF would be unauthorized as of March 31, 2015.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget to reduce the number of accounts, improve programmatic flexibility, as well as make technical corrections to avoid the lapsing of certain revenue collections.

Effective Date:

This bill takes effect immediately.

Part D – Make permanent the authorization of the Department of Motor Vehicles to serve the public on Saturdays

Purpose:

This bill would make the authorization of the Department of Motor Vehicles (DMV) to serve the public on Saturdays permanent. Legislation enacted in 2013 permitted DMV to conduct a two year pilot program.

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

This bill would amend Part D of Chapter 58 of the Laws of 2013 to continue to permit the Commissioner of DMV to designate certain branch offices to be open to serve the public and transact business on Saturdays.

Saturday hours have proven popular with customers. By continuing to offer DMV services on Saturdays, the DMV will be able to both give customers the flexibility of obtaining such services during non-working hours and also reduce waiting times during the week.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget in order to continue to achieve the goals of DMV's customer service initiative. DMV is continuing to combine the use of advanced technology and best practices in customer service in order to reduce office wait times, make DMV more customer friendly, increase the percentage of transactions through alternate service channels, and provide overall improved customer experience. Failure to enact this bill will result in the program expiring on March 29, 2015.

Effective Date:

This bill takes effect immediately.

Part E – Make permanent the authorization of the Department of Motor Vehicles to provide the Accident Prevention Course Internet Program

Purpose:

This bill would make permanent the authorization of the Department of Motor Vehicles (DMV) to provide the Accident Prevention Course Internet Program, also known as the Internet Point Insurance Reduction Program (IPIRP). The IPIRP program is a pilot program which was implemented in 2009, and is due to expire on May 18, 2014.

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

This bill would make the pilot program permanent and dispense with the current requirement that an applicant to run an IPIRP course must have previous experience in providing such a course.

The purpose of the course is to allow motorists to take the accident prevention course via the Internet or other technologies for the purposes of granting point and insurance premium reduction benefits.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget, because failure to do so would result in the State losing approximately \$1.6 million annually as a result of the program expiring on May 18, 2014.

Effective Date:

This bill takes effect May 18, 2014.

Part F – Bring New York State into compliance with federal requirements relating to medical certifications of commercial driver's license holders

Purpose:

This bill would amend the Vehicle and Traffic Law (VTL) to facilitate New York State's compliance with federal requirements that call for certain restrictions to appear on commercial driver's licenses (CDL).

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

Federal Motor Carrier Safety Administration (FMCSA) rules require that certain restrictions appear on a CDL holder's license. For example, if a CDL holder has been issued a medical variance (which exempts the individual from certain medical requirements), then that fact must be reflected by indicating a federally mandated "V" restriction on the CDL and in the license records. Similarly, federal specifications require that a "K" restriction, which is applicable to CDL holders who engage in intrastate operation, must be indicated on the CDL and in the license records. Implicit in these requirements is the principle that CDLs must not only reflect certain applicable restrictions, but they should not reflect restrictions that are invalid. For example, if a CDL holder previously had a "K" restriction on her license, meaning she engages only in intrastate operation, and then takes a job requiring interstate operation, she would need to amend her license to remove the "K" restriction. The deadline for New York State's full compliance is January 30, 2014.

This bill would amend the VTL to induce CDL holders to keep their license restrictions up to date so that New York State remains in compliance with federal requirements and eligible for federal aid. Section 1 of the bill amends VTL section 510-a to allow the Commissioner to suspend a CDL not less than 30 days after notice if the holder fails to amend the license to add or remove a license restriction as directed by the Commissioner. Section 2 of the bill amends VTL section 509 to make it a traffic infraction for a CDL holder to operate a commercial motor vehicle with a CDL that is missing necessary restrictions or which reflects inappropriate or improper restrictions.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget because failure to do so could result in the loss of up to \$65 million in federal highway funding and \$8 million in FMCSA program funding.

Effective Date:

This bill takes effect immediately.

Part G – Strengthen enforcement measures against persistent toll violators

Purpose:

This bill would strengthen the enforcement regimen for collecting tolls and increase penalties against persistent toll violators.

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

This bill would strengthen the ability of New York's four authorities that operate toll facilities—the Thruway Authority, the Metropolitan Transportation Authority, the Bridge Authority, and the Port Authority—to effectively manage and enforce the collection of tolls throughout the State. Toll violators cost the tolling authorities tens of millions of dollars each year, and the current law is outdated and ineffective in enforcing against persistent violators. Some persistent violators owe in excess of \$100,000 in tolls and fees.

The bill would promote compliance with toll regulations by, among other things, the following:

- Vehicle owners would be required to pay the full amount of any evaded tolls in addition to administrative fees and penalties.
- Graduated monetary penalties would be increased as follows:
 - First violation, \$100 (currently \$50) or twice the toll evaded, whichever is greater.
 - Second violation within 18 months, \$200 (currently \$100) or five times the toll evaded, whichever is greater.
 - Third violation within 18 months, \$300 (currently \$150) or ten times the toll evaded, whichever is greater.
- The bill would reduce the number of failures to appear or pay a penalty that trigger suspension of a vehicle registration from five times within 18 months to three times within 18 months.
- The bill would increase the penalties for intentionally obscuring a license plate at a toll facility from a current range of \$25-\$200 to a range of \$100-\$500.
- The bill would make the act of intentionally evading a toll the crime of "Theft of Services" under the Penal Law, which is a class A misdemeanor.

In addition, the bill would allow the Commissioner of Motor Vehicles to enter into reciprocal agreements with other states to increase coordination in combatting toll evasion. To protect the privacy of all users of toll facilities, the bill would make clear that any data or images produced by an electronic toll collection system would be exempt from disclosure under FOIL.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget. While this bill would have no State fiscal impact, it would increase revenue for toll assessing public authorities through enhanced collection of evaded toll revenues.

Effective Date:

This bill takes effect 120 days after it becomes law.

Part H – Make permanent the pesticide product registration fees and the timeframes for pesticide product registration review and streamlines pesticide reporting requirements

Purpose:

This bill would make permanent pesticide product registration fees and the time frames for review of pesticide product registration applications, in addition to streamlining the reporting requirements, creating less of an administrative burden on the Department of Environmental Conservation (DEC).

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

This legislation would make permanent the specific timeframes that ensure the registration of pesticides in a timely manner, and the fees that fund the expedited review process. It would also require reporting of all sales of each pesticide by county for the entire calendar year, rather than only certain sales and applications of pesticides, and require that DEC annually publish a summary of pesticide sales on its website. This method of reporting would ultimately provide more accurate data on pesticides sales and, in turn, on pesticide use across the state, lessen the reporting burden on applicators and significantly reduce the number of records needed to be maintained and data entered by DEC.

Existing law that establishes the pesticide product review time frames is scheduled to sunset July 1, 2014. Existing law establishing the current fees also is scheduled to sunset on July 1, 2014 and absent this legislation the fee would revert to \$50 for all pesticide products from the current \$600 and \$620 fees, resulting in a loss of approximately \$3.8 million in revenue to the Environmental Protection Fund (EPF) and the Environmental Regulatory Account (ERA). The pesticide product review time frames

and fees were originally established in 1993 and were reauthorized in 1996, 1999, 2002, 2005, 2008 and 2011. The fees were increased to their current level in 2009.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget because it has a fiscal impact on the financial plan and without this legislation there would be a loss of approximately \$3.8 million per year in annual fee revenue.

Effective Date:

This bill takes effect immediately and will be in full force and effect on and after April 1, 2014.

Part I – Implement Open for Fishing and Hunting II by enhancing New York’s fish and wildlife program, including authorizing the use of crossbows, creating 3- and 5-year hunting, fishing and trapping licenses, reducing 7-day fishing license fees, authorizing promotional reduced license fees and 6 additional free fishing days, increasing the availability of private property for recreational activities; and authorizing distinctive license plates

Purpose:

This bill would amend the Environmental Conservation Law, the General Obligations Law (GOL), and the Vehicle and Traffic Law to enhance hunting and fishing and other outdoor opportunities, including:

- authorizing the Department of Environmental Conservation (DEC) to offer promotional reduced cost licenses up to ten days per year and to designate up to eight free sport fishing days per year;
- creating three- and five-year hunting, fishing and trapping licenses, and reducing the price of a seven-day fishing license;
- authorizing DEC to establish regulations allowing individuals to hunt big game or small game with a crossbow;
- reducing the distance from an occupied structure from 500 feet to 150 feet for discharge of a crossbow or longbow;
- allowing DEC to subcontract the production of hunting and fishing guides;
- clarifying the liability of owners, lessees and occupants whose property is used by the public for recreational activities; and eliminating or reducing initial fees for distinctive license plates issued to holders of certain sporting licenses and State Parks Empire Passes.

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

Crossbows were previously authorized for use during the regular big game firearm hunting season but these provisions expired on December 31, 2012. Re-authorizing the use of crossbows, including during archery season, would expand outdoor recreation opportunities while also providing additional revenue to the Conservation Fund.

Under existing GOL provisions, owners, lessees and occupants have no duty to keep their premises safe for persons engaging in a specified list of recreational activities on their property. This bill would clarify that owners, lessees and occupants receive this protection from liability when the public uses their lands for any recreational activity. The bill also clarifies that entities and persons that develop or maintain trails or other recreational facilities for use by the public are “occupants” and receive the same liability protection. These amendments will protect landowners while at the same expand the availability of private property for recreational activities. In addition, the bill would reduce from 500 feet to 150 feet the distance a person must be from an occupied structure when discharging a crossbow or longbow. This would maintain a safe distance for engaging in the sport while making available for hunting more lands in suburban areas, which would increase hunting opportunities, and help manage locally over-abundant deer populations.

To encourage increased license sales, this bill would create three- and five-year hunting, fishing and trapping licenses, reduce the fee for resident and non-resident seven-day fishing licenses, and authorize DEC to offer reduced cost licenses for special promotions up to ten days per year and six additional free sport fishing days per year.

Additionally, this bill would authorize the creation of distinctive “I Love NY” license plates that would promote the sale of lifetime hunting and fishing licenses and parks vehicle access passes, also known as Empire Passports, and offer a one-time free or reduced fee distinctive plate.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget because it will reduce certain hunting and fishing license fees and authorize three and five year licenses and distinctive license plates at reduced charges. Revenue losses from fee reductions are expected to be offset by increased license sales from expanded participation in hunting and fishing programs. An appropriation of \$2.5 million is included in the 2014-15 Executive Budget to protect against any unexpected revenue losses to the Conservation Fund.

Effective Date:

This bill takes effect immediately.

Part J – Authorize the Department of Agriculture and Markets to withhold the renewal of a food processing license to establishments that have outstanding penalties of \$2,400 or more

Purpose:

This bill would provide the Department of Agriculture and Markets with express statutory authority to not renew a food processing license for establishments that have outstanding penalties or judgments arising out of critical violations of the Agriculture and Markets Law (“AML”) that total \$2,400 or more.

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

This bill will permit the Department to more effectively enforce its penalties against food processing establishments that are repeat offenders and incentivize those establishments to comply with the AML and the Department’s regulations and improve their sanitary conditions.

The bill covers those establishments which have been penalized for critical deficiencies and have not paid \$2,400 or more in outstanding penalty assessments or judgments (usually 3 or more separate penalties). The Department would be given the authority to withhold the renewal of a food processing license, and, instead, grant a 60-day provisional license, with the opportunity for the applicant to make payment, enter into a payment agreement or request an administrative hearing. Should the applicant pay or enter into a payment agreement, or prevail at hearing, the provisional license would convert into a two-year license, running from the date of the issuance of the provisional license. In the event that the applicant does not pay or enter into a payment agreement, or the Department prevails at hearing, the provisional license would terminate and the license would not be renewed.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget because it would enable the Department to more effectively regulate food processing establishments, thereby protecting public health and safety, and would result in approximately \$100,000 in additional revenues per year from increased penalty collections, as contemplated in the financial plan.

Effective Date:

This bill takes effect immediately.

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

Purpose:

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

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

The bill would authorize NYSERDA to finance its research, development and demonstration, and policy and planning programs, and to finance the Department of Environmental Conservation’s climate change program, from a special assessment on gas corporations and electric corporations. This special assessment is in addition to Section 18-a of the Public Service Law which authorizes the Department of Public Service to assess gas corporations and electric corporations for expenses related to administering Public Service Law programs. This bill has been proposed annually as an Article VII provision, and a similar bill was last enacted as Part P of Chapter 58 of the Laws of 2013. Without this authorization, NYSERDA and DEC could not continue to implement necessary programs in the 2014-15 State Fiscal Year.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget because it authorizes the collection of assessments to fund NYSERDA’s research, development and demonstration, and policy and planning programs and, as set forth in the appropriation, DEC's climate change program. This special assessment supports a \$16.2 million appropriation included in NYSERDA's budget for these programs.

Effective Date:

This bill takes effect immediately.

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

Purpose:

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

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

This bill authorizes and directs the Comptroller to receive for deposit to the credit of the General Fund a payment of up to \$913,000 from NYSERDA from unrestricted corporate funds. The \$913,000 transfer would help offset New York State's debt service requirements relating to the Western New York Nuclear Service Center (West Valley). Chapter 58 of the Laws of 2013 provided a similar one year authorization.

Budget Implications:

The \$913,000 transfer authorized by this legislation is necessary to implement the 2014-15 Executive Budget and State Financial Plan.

Effective Date:

This bill takes effect immediately.

Part M – Require retail gasoline outlets located in strategic locations in upstate New York to have emergency back-up power capacity

Purpose:

In accordance with the recommendations of the NYS Ready Commission, this bill would require that all retail gasoline outlets near strategic highways and evacuation routes in upstate New York have emergency back-up power capacity to ensure that such outlets can continue to provide fuel during a long-term electricity outage.

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

In 2011 and 2012, Hurricane Irene, Tropical Storm Lee and Superstorm Sandy resulted in billions of dollars in damage to roads, buildings and infrastructure, and caused disruptions in the distribution and supply of motor fuels that affected the well-being of

New Yorkers and created economic disruption. In the case of Superstorm Sandy, some downstate motorists were unable to obtain fuel for several weeks. The NYS Ready Commission, established to explore ways to ensure critical systems and services are prepared for future natural disasters and other emergencies, recommended, among other things, that retail gasoline outlets located in strategic locations have emergency back-up power capacity, which would ensure they could continue to sell fuel during a critical electric outage.

In 2013, the State enacted legislation establishing downstate gas station back-up power standards and creating a grant program to fund the installation of transfer switches and, at the option of gas station owners, permanently affixed generators. This bill would similarly require that upstate retail gasoline outlets in strategic locations have back-up power capacity. In the case of upstate, the identified gas stations would be limited to those located on, or within a half-mile of an exit on, strategic highways.

Specifically, this bill would amend Section 192-h of the Agriculture and Markets Law to require that all retail gasoline outlets near strategic upstate highways — I-87, I-90, I-84, I-88, I-86/State Route 17, I-81, I-390 and I-190 — and evacuation routes in the upstate region be prewired with an appropriate transfer switch for using an alternate generated power source independent of the local electrical utility system which is capable of providing adequate electricity to operate all dispensers, dispensing equipment, life safety systems and payment-acceptance equipment during a general power outage or declared energy or fuel supply emergency. In a declared energy emergency, identified gas stations that lose power would be required to deploy and install a generator within 24 hours; gas stations would have the option of developing their own deployment plan, participating in a State-organized generator pool or installing a permanently fixed generator on the premises.

This bill would also amend Section 1854 of the Public Authorities Law to authorize the New York State Energy Research & Development Authority (NYSERDA) to provide grants to upstate retail gasoline outlets for prewiring and purchasing permanent on-site alternate generated power sources, and to provide upstate retail gasoline operators access to a pool of generators to be administered by NYSERDA.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget. Using approximately \$3.1 million in federal Sandy recovery funds and other available sources, NYSERDA would be authorized to provide grants to upstate retail gasoline outlets for the costs of prewiring and the purchase of permanent on-site alternate generated power sources. Retail gasoline outlets would be eligible to receive up to \$10,000 for the installation of a transfer switch, or up to \$13,000 for the installation of a transfer switch and purchase of an alternate generated power source.

Effective Date:

This bill takes effect immediately.

Part N – Extend for one year the authority of the Secretary of State to charge increased fees for expedited handling of documents

Purpose:

This bill would extend for one year provisions of law permitting the Secretary of State to charge fees for certain expedited or “special” handling of documents issued by or requested from the Department's Division of Corporations. The fees for expedited handling are necessary to reimburse the Department of State for increased administrative costs associated with expedited handling.

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

The provision of the Executive Law currently authorizing the Secretary of State to charge fees for certain expedited handling services expires on March 31, 2014. Historically, this statute has been extended annually to coincide with the enactment of the Budget.

Budget Implications:

The 2014-15 Executive Budget assumes that expedited handling fees will be enacted because the costs associated with expedited handling are greater than those for processing standard requests, and the Division of Corporations will continue to offer expedited handling in 2014-15. Failure to enact this legislation will result in annual revenue losses of approximately \$4.5 million, and the Department would bear the additional costs related to expedited service without supporting revenues.

Effective Date:

This bill takes effect March 31, 2014.

Part O – Authorize the Department of State to send copies of incorporation certificates to each county clerk electronically

Purpose:

The Department of State (DOS) is required to mail a copy of a company's Certificate of Incorporation papers to county clerks of those counties in which the entity maintains or will maintain an office. This bill would authorize the Department to send these records electronically.

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

Granting the Department the authority to scan and send the documents electronically to county clerks would create operational efficiencies and savings from decreased costs of paper and postage for DOS while maintaining the original intent of the law, ensuring that copies of a company's incorporation documents are available to the public not only in Albany but also in the county where the company has its office.

Budget Implications:

For the 2014-15 Executive Budget, the State Financial Plan assumes \$200,000 in recurring savings resulting from transmitting copies of these documents electronically rather than mailing paper copies to counties.

Effective Date:

This bill takes effect immediately.

Part P – Authorize the State to charge the fee required by federal law for including real estate appraisers on the federal National Registry of real appraisers

Purpose:

This bill would permit the Department of State (DOS) to charge the fee required in federal statute for inclusion of a real estate appraiser on the National Registry.

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

Federal law requires that all state-licensed real estate appraisers that perform appraisals in federally-related transactions be on the National Registry administered by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, a Federal agency. The law also sets a fee for being placed on the National Registry and mandates that the state agency responsible for licensing real estate appraisers in each state must collect that fee from each licensee. In New York, the responsible agency is DOS. The Dodd-Frank Act stipulates that the fee for inclusion on the National Registry is \$40, but State statute permits DOS to collect only \$25 from licensees. This legislation would align New York law with Federal law, allowing DOS to charge the correct National Registry fee.

Recently, the Appraisal Subcommittee submitted a comment draft to DOS finding that New York State is out of compliance with the Federal law, because State statute does not authorize the collection and transmission of the full registry fee on behalf of and to the federal government. This legislation will ensure compliance with Federal statute.

Failure to comply could jeopardize the legitimacy of real estate appraisals performed in New York.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget. Failure to pass this legislation would maintain the disparity of Federal and State fees for the National Registry and would lead to a cost of approximately \$38,000.

Effective Date:

This bill takes effect immediately.

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

Purpose:

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

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

The bill would authorize certain expenditures of DOH as eligible expenses of the Department of Public Service (DPS). Section 217 of the Public Service Law authorizes DPS to assess cable television companies for DPS costs associated with the regulation of cable television companies. Further, this bill also makes DOH public service education expenses that are charged to the special revenue cable television account eligible for this funding. Chapter 58 of the Laws of 2013 provided similar authorization for State Fiscal Year 2013-14.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget which assumes the recovery of public service education expenses incurred by DOH.

Effective Date:

This bill takes effect immediately.

Part R -- Authorize the Department of Public Service to increase efficiencies, reduce spending, and ease the administrative burden for three programs: Telecommunications Regulation, Shared Metering, and Cable Franchising

Purpose:

This bill would authorize the Public Service Commission (PSC) to streamline the process for overseeing telephone corporations, reviewing violations of the shared metering law, and confirming cable franchises. These streamlining initiatives would allow PSC and the Department of Public Service (DPS) to improve administrative efficiencies and more effectively prioritize resources.

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

The bill would authorize the PSC, after notice and hearing, to not apply certain regulatory provisions to telephone corporations and services, if it determines that such provisions are not necessary to ensure just and reasonable rates, charges and practices, and consumer protection and that it will serve the public interest by, including but not limited to, promoting competitive market conditions and increased competition among telephone corporations.

The bill would also amend the shared metering law by reducing the punitive assessment on landlords where a shared metering condition follows a customer complaint or is discovered by a utility. Currently, in these situations, the landlord is billed and the tenant is credited: 1) the estimated amount, up to six years, of the shared area charges, and 2) 12 months of charges for service measured by the shared meter, including usage by the tenant. This second provision is thought to be excessive as landlords frequently petition for a reduction in the billed charges. This bill would continue the first provision while reducing the additional assessment to 25 percent of the charges for service measured by the shared meter for twelve months.

Finally, the bill would streamline the confirmation of cable franchises, and renewals and amendments by establishing a process that subjects franchises to the PSC's minimum franchising standards, rather than requiring PSC approval. A full review may be invoked if the PSC determines that the public interest requires a deeper analysis of the franchise. The PSC would retain approval over transfers of franchises.

Enactment of this bill would allow PSC and DPS to increase efficiencies and reduce administrative burdens and spending within the department. The realized savings would allow DPS to redeploy both personal and non-personal service resources to other mission critical responsibilities.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget because the State Financial Plan assumes \$846,000 in recurring savings resulting from the streamlining of these programs.

Effective Date:

This bill takes effect immediately, provided that sections three, four and five of the bill apply to franchises filed after its effective date.

Part S -- Eliminate the assessment on industrial utility customers and accelerate the phase out for all other utility customers

Purpose:

In accordance with the recommendations of the New York State Tax Relief Commission, this bill would reduce the Public Service Law § 18-a(6) Temporary State Energy and Utility Service Conservation Assessment (Temporary Assessment) by a total of \$200 million per year by eliminating the assessment on industrial utility customers and accelerating the phase out for all other utility customers.

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

The Temporary Assessment is assessed against electric, gas, water and steam utilities, and the costs are passed on to customers through a surcharge on utility bills. Under current law, the assessment, which is deposited to the General Fund, will be phased out beginning in 2014-15 and will expire on March 31, 2017. Estimated revenues from the current law are \$432 million in 2014-15, \$360 million in 2015-16, and \$326 million in 2016-17.

Consistent with the recommendations of the Tax Relief Commission established by Governor Cuomo, this bill would reduce the total amount billed to utilities for the Temporary Assessment by \$200 million per year starting in 2014-15 compared to the current phase out. Specifically, the bill would eliminate the assessment for electric customer accounts with a monthly peak demand of one thousand kilowatts or more in the last preceding calendar year and gas customer accounts with an annual consumption in the last preceding calendar year of one hundred thousand dekatherms or more, and all customers of municipal electric and gas utilities and water works corporations. Additionally, the assessment would be reduced for all remaining utility customers (i.e., primarily residential and commercial customers of gas, electric and steam utilities, including electric customers of the Long Island Power Authority).

By reducing the Temporary Assessment by \$200 million per year, this bill would provide needed relief to all utility ratepayers. In particular, eliminating the assessment on

customers with high energy use benefits those entities for which utility payments are a significant cost of doing business, and will help grow manufacturing in New York State.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget and will result in lost General Fund revenue of \$200 million per year, starting in 2014-15 and continuing through 2016-17.

Effective Date:

This bill takes effect immediately.

Part T -- Enhance consumer protection through no-fault automobile insurance fraud reform

Purpose:

This bill would amend the Insurance Law to provide enhanced consumer protections through no-fault automobile insurance fraud reform.

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

Under the Insurance Law, a person who sustains an injury arising from the use or operation of a motor vehicle may receive up to \$50,000 in benefits for expenses incurred as a result of the accident, regardless of responsibility. In many cases, no-fault insurers directly reimburse providers of health services, assuming that a licensed professional actually rendered the treatment and that the treatment was medically necessary. However, it is possible for unscrupulous providers to abuse the system and submit false or exaggerated claims allowing the provider or patient to illegally or fraudulently benefit from the accident. In order to curb abuses to the no-fault insurance system, this bill would, among other things:

- Empower the Superintendent of the Department of Financial Services to prohibit a provider of health services from demanding or requesting payment for health services rendered under Article 51 of the Insurance Law if, after notice and hearing, the Superintendent determines that the provider has engaged in fraudulent activities;
- Authorize the Superintendent to levy civil fines of up to \$10,000 for each fraudulent offense; and
- Permit the Superintendent to make an unannounced examination or audit of any provider of health services that demands or requests payment for health services rendered under Article 51 of the Insurance Law.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget, because the bill's provisions would provide consumers the potential to save money on car insurance premiums that would result in a positive economic and fiscal benefit to the State.

Effective Date:

This bill takes effects immediately, provided, however, that sections one and two of the bill take effect 60 days following enactment.

Part U -- Enhance insurance coverage for out-of-network health care services

Purpose:

The purpose of this bill is to enhance consumer protections with regard to insurance coverage for out-of-network health care services.

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

The Department of Financial Services (DFS) regularly receives complaints from consumers with “surprise” bills from out-of-network health care providers. These bills contribute to medical debt, which is the primary cause of personal bankruptcy. Consumers trying to make the right economic decisions are often thwarted by a lack of transparency in the system; too often insured patients who do everything in their power to use in-network doctors and hospitals nonetheless receive surprise bills from specialists or other providers who the patient did not know were out-of-network. This bill would, among other things:

- Institute "hold harmless" protections for consumers in all emergency situations, and in non-emergency situations where required disclosures are not made;
- Require insurers to properly disclose information to consumers when they are shopping for coverage or when they are preparing to utilize services;
- Establish a dispute resolution process to help mediate all out-of-network claims disputes; and
- Require insurers to provide access to out-of-network health care providers if the insurer does not have an in-network provider with the appropriate training and experience to meet the health care needs of the insured.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget. The bill could generate fewer instances where insureds receive unexpected medical bills they cannot afford to pay resulting in these bills being financed with public moneys.

Effective Date:

This bill takes effect immediately upon enactment.

Part V -- Provide for the licensure of title insurers doing business in New York State

Purpose:

The purpose of this bill is to empower the Department of Financial Services (DFS) to license title insurance agents, closers, and solicitors.

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

Effective regulation of the title insurance industry is vital to the public interest since most people who buy, sell or refinance their homes or other real estate will need to purchase title insurance. Currently, there are no licensing requirements for title insurance agents, closers, and solicitors in New York State. This bill would provide for the licensure of these entities in order to discourage dishonest practices and ensure consistency throughout the industry. Additionally, the bill would empower the Superintendent of DFS to revoke or suspend the license of any agent who violates Insurance Law or is otherwise deemed untrustworthy or incompetent.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget. The current lack of adequate regulation increases the risk of dishonest conduct by title insurance agents, closers, and solicitors in New York State. Such conduct can manifest itself in, among other things, excessive charges and fees charged to homebuyers. By regulating the industry, the bill may result in positive financial benefits for the State by making it possible for more consumers to purchase homes. Further, it is estimated that new licensing fees associated with the licensing of title insurance agents will generate approximately \$80,000 in annual revenue for the State.

Effective Date:

This bill takes effect 180 days after its enactment.

Part W -- Extend the authorization for the Dormitory Authority of the State of New York to enter into certain design and construction management agreements

Purpose:

This bill would extend for one year the authorization of the Dormitory Authority of the State of New York (DASNY) to enter into a design and construction management agreement with the Department of Environmental Conservation (DEC) and the Office of Parks, Recreation and Historic Preservation (OPRHP).

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

Currently, DASNY is authorized to enter into management agreements with DEC and OPRHP to provide design and construction services. This bill would extend the sunset for the authorization from April 1, 2014 to April 1, 2015, allowing DASNY to continue current agreements beyond the April 1, 2014 sunset date.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget, portions of which appropriate funding to DEC and Parks for capital purposes requiring DASNY services.

Effective Date:

This bill takes effect immediately.

Part X -- Extend the authority of the Dormitory Authority of the State of New York to establish one or more subsidiaries for certain purposes

Purpose:

This bill would extend for two years the Dormitory Authority's (DASNY) statutory authorization to form one or more subsidiaries for the purpose of limiting the potential liability of the Authority when exercising its powers and duties in pursuit of remedies against a borrower that has defaulted in its obligations under a loan agreement or mortgage with DASNY.

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

Chapter 561 of the Laws of 2010 authorized DASNY to form a subsidiary in connection with the exercise of remedies against North General Hospital, a borrower that had defaulted on a loan from DASNY and filed for bankruptcy under Chapter 11 of the

Bankruptcy Code. Chapter 561 enabled DASNY to create a subsidiary for the purpose of taking title to North General's mortgaged property, in satisfaction of DASNY's security interest, to insulate DASNY and its assets from any potential liability that could arise from accepting title to this property. The current authorization, which was enacted in 2012, expires on July 1, 2014.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget. While the bill would have no fiscal impact on the State, enactment of the legislation would protect DASNY from potential liabilities should a borrower file for bankruptcy.

Effective Date:

This bill takes effect immediately.

Part Y -- Eliminate the fee charged for loans provided to certain health care facilities

Purpose:

This bill would eliminate the fee charged by the Commissioner of Health in connection with certain health care facility financings by a public benefit corporation.

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

Current law provides that the Commissioner of Health is required to charge a fee for bonds or other obligations issued by the Dormitory Authority of the State of New York (DASNY) to finance or refinance the cost of a project approved by the Commissioner. As a result of the fee levied, many DASNY health care clients are financing or refinancing through local development corporations or commercial taxable loans, where the payment of the fee is not required. Eliminating the fee would allow for DASNY to be competitive with those public benefit corporations for health care facility loans.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget. While this bill would have no direct state fiscal impact, eliminating the fees places DASNY in parity and competitive with local development companies. Further, this bill would reduce transaction costs for health care clients that utilize DASNY for project financing.

Effective Date:

This bill takes effect immediately.

Part Z -- Extend the authorization of the New York State Urban Development Corporation to administer the Empire State Economic Development Fund

Purpose:

This bill would extend the authorization of the New York State Urban Development Corporation (UDC) to administer the Empire State Economic Development Fund (EDF) for an additional year.

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

Section 16-m of the UDC Act authorizes UDC to provide financial assistance through the EDF. This authorization has been renewed annually since 2012 and is currently set to expire on July 1, 2014.

The bill would provide for the smooth administration of the EDF, UDC's primary economic development program. Extending the sunset date until July 1, 2015 will permit UDC to fulfill prior commitments made through the EDF and to make new assistance available to businesses and other stakeholders throughout the State without interruption.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget, which includes new appropriations and reappropriations to support the EDF.

Effective Date:

This bill takes effect immediately.

Part AA -- Extend the general loan powers of the New York State Urban Development Corporation

Purpose:

This bill would extend the general loan powers of the New York State Urban Development Corporation (UDC) for an additional year.

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

Chapter 393 of the Laws of 1994 provides UDC with the general power to make loans. This authorization has been renewed annually since 1997 and is currently set to expire on July 1, 2014.

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

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget, which assumes that UDC will provide certain economic development assistance through loans. Absent this legislation, the UDC could not fund approved loans made through economic programs lacking specific statutory authorization.

Effective Date:

This bill takes effect April 1, 2014.

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