

**FY 2018 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 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 disposition of revenues (Part A); to amend the vehicle and traffic law, in relation to divisible load permits (Part B); to amend the state finance law and the transportation law, in relation to enhancing the ability of the state to enforce state and federal law concerning the safety of public transportation systems under the oversight of the public transportation safety board (Part C); to amend the vehicle and traffic law in relation to compliance with new federal regulations and strengthening requirements for motor carriers (Part D); to amend the penal law, in relation to including the use of any highway, parkway, road, bridge or tunnel without payment of the lawful toll or charge as a theft of services; and to amend the vehicle and traffic law, in relation to liability of vehicle owners for toll collection violations and the penalty imposed upon the operator of a vehicle with an altered or obscured license plate while on a toll highway, bridge or tunnel (Part E); to amend the vehicle and traffic law and the state finance law, in relation to allocation of three million dollars of assessments from the city of New York to the general fund (Part F); to amend the vehicle and traffic law, the insurance law, the executive law, the tax law, and the state finance law, in relation to the regulation of transportation network company services; to establish the New York State TNC Accessibility Task Force; to establish the transportation network company driver's injury compensation fund; and to establish the local transit assistance fund (Part G); to amend the vehicle and traffic law, in relation to the waiver of non-driver identification card fees for crime victims (Part H); to amend the vehicle and traffic law, in relation to the reinstatement fee for non-residents (Part I); to amend the vehicle and traffic law, in relation to increasing

fees for original and duplicate certificates of title (Part J); to amend the vehicle and traffic law, in relation to additional fees for certain identification cards (Part K); to amend the vehicle and traffic law, in relation to the definition of "drug", the scope of the written test, the suspension of a license for driving while impaired by drugs, the license sanctions for refusing to submit to a chemical test and prohibiting the use of mobile telephones and portable electronic devices when a vehicle is not in motion and by persons under 18 (Part L); 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 M); 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 N); to amend chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure trust fund, in relation to the minority and women-owned business enterprise program (Part O); to amend the infrastructure investment act, in relation to the definition of an authorized entity that may utilize design-build contracts, and in relation to the effectiveness thereof (Part P); 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 Q); to amend the business corporation law, the cooperative corporations law, the executive law, the general associations law, the general business law, the limited liability company law, the not-for-profit corporation law, the partnership law, the private housing finance law, the arts and cultural affairs law, the real property law and the tax law, in relation to streamlining the process by which service of process is served against a corporate or other entity with the secretary of state; and to repeal certain provisions of the real property law relating thereto (Part R); to amend the real property law, in relation to streamlining the licensing

process for real estate professionals (Part S); to amend the environmental conservation law and the executive law, in relation to local waterfront revitalization (Part T); to amend the executive law, in relation to the chairperson of the state athletic commission (Part U); authorizing utility and cable television assessments to provide funds to the department of health from cable television assessment revenues and to the departments of agriculture and markets, environmental conservation, office of parks, recreation and historic preservation, and state from utility assessment revenues (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 making permanent certain authority of the dormitory authority of the state of New York (Part W); to amend the insurance law, in relation to administrative supervision (Part X); to amend the banking law, the insurance law, and the financial services law in relation to the enforcement of the banking, insurance, and financial services laws against unlicensed participants (Part Y); to amend the banking law, in relation to the licensing and regulation of student loan servicers (Part Z); to amend the banking law, in relation to protecting vulnerable adults from financial exploitation (Part AA); to amend the financial services law, in relation to the disqualification of bad actors from continued participation in the banking and insurance industries (Part BB); to amend the banking law, in relation to the regulation and authorization of certain lending circle programs (Part CC); to amend the state finance law, in relation to creating a paid family leave risk adjustment fund (Part DD); to amend the banking law, in relation to licensed lenders (Part EE); to amend the real property action and proceedings law and civil practice law and rules, in relation to reverse mortgages (Part FF); to amend the financial services law, in relation to assessments to defray operating expenses of the department (Subpart A); to amend the insurance law, in relation to the distribution of assets (Subpart B); and to amend the insurance law, in relation to insurers deemed to be in a hazardous financial condition (Subpart C)(Part



GG); to amend the navigation law, in relation to establishing the New York environmental protection and spill remediation account (Part HH); to amend the environmental conservation law, the state finance law, the public authorities law, and the soil and water conservation districts law, in relation to the implementation of the "clean water infrastructure act of 2017"; and to repeal certain provisions of the environmental conservation law and the state finance law relating thereto (Part II); to amend the state finance law and the environmental conservation law, in relation to environmental protection fund deposits and transfers (Part JJ); to amend the environmental conservation law, in relation to the donation of excess food and recycling of food scraps (Part KK); to amend the public authorities law and the public officers law, in relation to the sharing of employees, services and resources by the power authority of the state of New York, canal corporation and department of transportation (Part LL); and to authorize the energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY programs, as well as the department of environmental conservation's climate change program and the department of agriculture and markets' Fuel NY program, from an assessment on gas and electric corporations (Part MM)

**PURPOSE:**

This bill contains provisions needed to implement the Transportation, Economic Development and Environmental Conservation portions of the FY 2018 Executive Budget.

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

**Part A – Extends the disposition of certain revenues to the Public Transportation Operating Account**

**Purpose:**

This bill would extend the disposition of Transportation and Transmission Tax revenues to the Public Transportation Operating Assistance account.

Summary of Provisions and Statement in Support:

Of the Transportation and Transmission Tax collected in Sections 183 and 184 of the Tax Law, 20 percent accrues to the Dedicated Highway and Bridge Trust Fund and 80 percent accrues to the Mass Transit Operating Assistance Fund (MTOA). The MTOA has two sub-funds: the Metropolitan Mass Transit Operating Assistance Account (MMTOA), providing aid to downstate transit systems, and the Public Transportation Operating Assistance Account (PTOA), which provides aid to upstate systems.

Before FY 2013, the entire MTOA amount of these tax revenues was deposited in MMTOA. Beginning in FY 2013 (Part P of Chapter 59 of 2012), 80 percent of these revenues that accrue to MTOA were statutorily divided as follows: 54 percent to MMTOA and 26 percent to PTOA. Part B of Chapter 58 of 2013 extended this disposition of revenues through March 31, 2018. This bill removes that sunset date.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because Upstate transit systems funded by PTOA require a sustained source of revenue, enabling the State to make reasonable decisions regarding recurring aid levels to those systems.

Effective Date:

This bill would take effect immediately.

**Part B - Increase the Cap on Divisible Load Permits**

Purpose:

This bill would amend the Vehicle and Traffic Law to increase the cap on the number of divisible load permits the Department of Transportation may issue from 25,000 to 35,000 incrementally over the next ten years.

Summary of Provisions and Statement in Support:

The Vehicle and Traffic Law currently caps the number of divisible load permits that the Department may issue at 25,000 permits. The Department would reach the cap during 2017 according to current new permit application trends. This legislation would raise the cap from 25,000 to 35,000 incrementally over the course of the next ten years. Without this revision, the Department would not be allowed to issue new divisible load permits unless it reinstates an antiquated resource-intensive "lottery system."

This bill would also allow for civil penalties to be imposed if a permit holder is in violation of any posted weight restriction. The Department's management of the State's highway

infrastructure requires compliance with divisible load permitting requirements and, in particular, the number of axles required to safely transport heavier loads.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because it would increase estimated revenues by \$720,000 in FY 2018 and by \$10.8 million over the next five years. With the current cap, the Department generates nearly \$18M annually from the divisible load permitting program.

Effective Date:

This bill would take effect immediately.

**Part C - Enhance Public Transportation Safety Board (PTSB) Enforcement Power**

Purpose:

This bill would enhance the Public Transportation Safety Board (PTSB) ability to enforce State and Federal law relating to the safety of public transportation systems currently under PTSB oversight.

Summary of Provisions and Statement in Support:

This bill would amend the State Finance Law and the Transportation Law to comply with new Federal law requirements (49 USC § 5329) and ensure the annual award of funding from the Federal Transit Administration (FTA) for providing State Safety Oversight (SSO) services. The Department of Transportation (DOT) currently provides safety oversight through the Public Transportation Safety Board (PTSB); however, the FTA has determined that the current State law does not provide the PTSB with sufficient enforcement power.

This bill would give the PTSB the ability to issue orders to public transportation providers enforceable by the suspension of payments of Statewide Mass Transportation Operating Assistance (STOA) and other State aid. This would bring the New York SSO program into compliance with the new federal requirements.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because the State must have an oversight program that is compliant with 49 USC § 5329 in order to meet the eligibility requirements for FTA SSO grant funding, estimated to be \$2.4 million annually.

Effective Date:

This bill would take effect immediately.

**Part D - Compliance with Federal Requirements for Truck Size and Weight Provisions and Suspension of Vehicle Registrations for Carriers Placed Out-of-Service**

Purpose:

This bill would amend the Vehicle and Traffic Law (VTL) to strengthen requirements for motor carriers and to align with new Federal regulations.

Summary of Provisions and Statement in Support:

The Fixing America's Surface Transportation Act (FAST Act) became effective on December 4, 2015. The FAST Act imposed a number of truck-related size and weight provisions, which now necessitate amendments to the Vehicle and Traffic Law to ensure compliance with Federal regulations (23 CFR 658). Among them are changes in the maximum length of a stinger-steered auto carrier (extended from 75' to 80' with increased overhangs) and the creation of a maximum length (no less than 82') for tow away trailer transporter combinations.

Additionally, certain VTL provisions are not aligned with Federal requirements that require motor carriers that have a current Federal out-of-service order to have their plates suspended by the State's vehicle registration authority. This bill would align the VTL with Federal requirements to authorize the Department of Transportation to request that the Department of Motor Vehicles (DMV) suspend plates for Federal out-of-service orders.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because compliance with Federal requirements regarding motor carriers would maintain the State's eligibility for \$10M annually in Federal commercial vehicle safety funds.

Effective Date:

This bill would take effect immediately.

**Part E - Maximize the collection of tolls owed to public authorities**

Purpose:

This bill would maximize the collection of tolls owed to public authorities such as MTA Bridges and Tunnels, the Port Authority of New York and New Jersey, the New York State Thruway Authority and the New York State Bridge Authority.

Summary of Provisions and Statement in Support:

As tolling authorities increasingly convert to cashless, all-electronic tolling, robust toll violation enforcement methods are needed to deter toll evasion and protect revenue streams that support capital and operating expenses.

Penal Law § 165.15(3) establishes the crime of theft of services and makes it a misdemeanor to obtain public transportation services while intentionally avoiding the payment of lawful charges by the use of force, intimidation, stealth, deception or mechanical tampering, or by unjustifiable failure or refusal to pay. Section 1 of this bill would amend Penal L. § 165.15(3) to specify that use of any highway, parkway, road, bridge or tunnel while intentionally avoiding tolls in the same fashion qualifies as a theft of services misdemeanor.

Vehicle and Traffic Law § 510(3)(d) allows DMV to suspend or revoke the vehicle registrations of owners who persistently violate toll collection rules of New York toll authorities. Under a recently adopted regulation (15 NYCRR § 127.14), DMV would suspend New York registrations of owners who have failed to pay such tolls and violation fees on at least five separate days within eighteen months. However, no provision allows DMV to suspend registrations of vehicles registered in other states who fail to pay tolls and violation fees when using New York facilities. Section 2 of the bill would add § 518 to the Vehicle and Traffic Law to authorize DMV to enter into reciprocal agreements with other states and Canadian provinces. This change would allow for mutual enforcement of laws to target persistent toll violators that seek to avoid enforcement authorities by leaving jurisdictional borders.

Vehicle and Traffic Law § 402 prohibits motor vehicles from being operated on public highways without a license plate or with a concealed, obscured or obstructed license plate and imposes fines of \$25-\$200 for violation of the same. Section 3 of this bill would amend § 402(1) by specifically prohibiting drivers from operating motor vehicles while on toll roads with altered or obscured license plates (a tactic often used by toll evaders), and imposes fines of \$100-\$500.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because it would prevent or mitigate the revenue loss that might otherwise occur as a result of upgrading toll collection systems for all-electronic, open-road tolling of vehicles.

Effective Date:

This bill would take effect immediately.

**Part F - Assess an additional three million dollars annually to the New York City Traffic Violations Bureau to cover the State's administrative expenses of the program**

Purpose:

This bill would charge an additional \$3 million annually to the New York City Traffic Violations Bureau to cover the State's expenses for administering the program. The additional assessment would be directed to the General Fund to cover information technology expenses that were consolidated as part of the Information Technology Services budget.

Summary of Provisions and Statement in Support:

This bill would allocate \$3 million dollars to the General Fund from New York City's adjudication assessment to cover the Department of Motor Vehicles' expenses associated with administering New York City's Traffic Adjudication program, thereby reducing the amount of revenue that New York City would receive from traffic fines collected by the State.

This bill amends section 227 and section 1803 of the Vehicle and Traffic Law and section 99-a of State Finance Law by altering the disposition of revenues from the Traffic Adjudication assessment and redirecting \$3 million to the General Fund.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget to achieve an additional \$3 million in revenue to the General Fund.

Effective Date:

This bill would take effect immediately.

**Part G - Provide access to important and enhanced transportation options for residents and visitors throughout the State, while ensuring the safety, reliability, and cost-effectiveness of those services within the State of New York**

Purpose:

This bill would provide access to transportation network company (TNC) services throughout the state of New York for residents and visitors and ensure the safety, reliability, and cost-effectiveness of those services.

Summary of Provisions and Statement in Support:

This bill would amend the Vehicle and Traffic Law, the Insurance Law, the Executive Law, the General Municipal Law, State Finance Law, and the Tax Law, in relation to the regulation of transportation network company services. It would also establish the New York State TNC Accessibility Task Force.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because it creates the opportunity for TNCs to provide ride-sharing outside of New York City. Based off of the estimate of 15,000 drivers, costs in FY 2018 are \$916,000 and \$843,000 recurring. Estimated revenues for FY 2018 are \$16 million and \$32 million recurring.

Effective Date:

This bill would take effect on the ninetieth day after it shall have become law; provided that the amendments to subdivision 1 of section 171-a of the tax law made by section fourteen of this act shall not affect the expiration of such subdivision and shall expire therewith, when upon such date the provisions of section fifteen of this act shall take effect.

**Part H - Waive fees for a replacement non-driver identification card for crime victims whose cards are lost or destroyed as a result of the crime**

Purpose:

This bill would provide for the waiver of fees for a replacement non-driver identification (NDID) card for crime victims whose cards are lost or destroyed as a result of the crime.

Summary of Provisions and Statement in Support:

This bill would amend section 491 of the Vehicle and Traffic Law to waive fees for a replacement non-driver identification card for crime victims whose card was lost or destroyed as a result of a crime.

Extending the fee waiver to non-driver crime victims provides equity with drivers who are the victims of crimes. Doing so gives all crime victims the same courtesy regardless of whether they are holders of driver's licenses, permits or non-driver identification cards.

Budget Implications:

The negative fiscal impact should be minimal because fees would be waived for non-driver identification replacement cards only in the limited situation where the card is lost

or destroyed as a result of a crime. In fiscal year 2015-16, 11,696 NDIDs would have been issued for no fee, resulting in a revenue loss of \$93,565.

Effective Date:

The bill would take effect one hundred twenty days after enactment.

**Part I - Increases the reinstatement fee from \$25 to \$100 for non-residents seeking to have their driving privileges restored**

Purpose:

This bill would increase the reinstatement fee from \$25 to \$100 for non-residents seeking to have driving privileges restored.

Summary of Provisions and Statement in Support:

This bill amends section 503 of the Vehicle and Traffic Law (VTL) to provide that non-residents seeking to have their privilege to operate a motor vehicle in New York after revocation must pay a reinstatement fee of \$100. Such fee would also apply to revocations issued pursuant to sections 510, 1192-a, 1193, or 1194 under the VTL.

Currently, a New York state resident license restoration reapplication fee is \$100.00, and a non-resident, reinstatement fee is \$25.00. This proposal makes the re-application fee upon revocations issued pursuant to VTL §§ 510, 1192-a, 1193, and 1194 the same for both residents and non-residents, and also applies such fee to non-residents whose licenses are revoked for driving after consuming alcohol under the Zero Tolerance Law.

Budget Implications:

In fiscal year 2015-16, there were 13,903 state resident applications for license restorations, resulting in \$1,390,300 in revenue. The total number of out-of-state applications to reinstate driving privileges was 2,937, generating \$73,425 in revenue, for a total of \$1,463,725.

The state stands to gain an estimated \$220,275 in additional revenue.

Effective Date:

The bill would take effect one hundred twenty days after receiving Executive approval.



**Part J - Increases the certificate of title fee from \$50 dollars to \$75 dollars, and the duplicate certificate of title fee from \$20 dollars to \$40 dollars to adjust for inflation**

Purpose:

This bill would increase the certificate of title fee for vehicles from \$50 dollars to \$75 dollars, and the duplicate certificate of title fee from \$20 dollars to \$40 dollars to adjust for inflation.

Summary of Provisions and Statement in Support:

This bill would amend section 2125 of the Vehicle and Traffic Law by increasing the certificate of title and the duplicate certificate of title fees by an inflationary basis. The certificate of title fee would be increased by \$25 dollars and the duplicate certificate of title would be increased by \$20 dollars.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because it would potentially raise up to a total of \$81 million dollars in additional revenue. Based on the 3 million new titles issued and the 294,000 duplicate titles issued in FY 2016, new titles would generate an additional \$75 million dollars, and duplicate titles would generate an additional \$5.9 million dollars.

Effective Date:

This bill would take effect immediately.

**Part K - To provide funding for the issuance of REAL ID documents by the Department of Motor Vehicles**

Purpose:

This bill would provide funding for the issuance of REAL ID documents by the Department of Motor Vehicles.

Summary of Provisions and Statement in Support:

No later than October 2020, domestic air travelers will need a REAL ID-compliant document, or otherwise present another acceptable form of Federal identification such as a passport, for domestic air travel. It is estimated that approximately 11 million New Yorkers would seek a Real ID compliant driver license or non-driver ID. Due to the law's increased identity verification and documentation requirements, issuing a Real ID compliant document would be an extremely complex DMV transaction, requiring the

most training and highest level of security review. The fee would cover the additional DMV personnel and IT resources needed to serve customers beginning October 2017.

This bill would add a new paragraph (f) to subdivision 2 of section 491 of the Vehicle and Traffic Law (VTL) to add a five dollar fee for non-driver identification cards (NDID) that are marked as REAL ID NDIDs, and add a new paragraph (f-2) to subdivision 2 of section 503 of the VTL to add a five dollar fee for driver's licenses, renewals or amendments of such licenses that are marked as REAL ID licenses.

#### Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget as revenue generated from the five dollar fee charged for each new Real ID document would fund the additional DMV employees needed to serve the expected influx of customers seeking a Real ID. Fee revenues would also support additional IT resources needed to scan and store the increased volume of identification verification documents that are required.

#### Effective Date:

The bill would take effect immediately.

### **Part L - Addresses highway safety to stem the rise in highway deaths by providing enforcement tools to reduce fatalities, change roadway behavior, and make work zones safe for workers and motorists**

#### Purpose:

This bill would address highway safety by providing enforcement tools to reduce fatalities, change roadway behavior, and make work zones safer for workers and motorists.

#### Summary of Provisions and Statement in Support:

This bill would amend the Vehicle and Traffic Law in order to better protect drivers, pedestrians and workers on New York's roadways.

Under current law, a driver can only be charged with Driving While Ability Impaired by drugs when the drug appears on the Public Health Law's schedule of banned substances. However, the schedule does not include many of the boutique or synthetic drugs that are illicitly manufactured and in persistent stages of change. In order to address this issue, the bill would amend the definition of "drug" to close a loophole in the law that lets impaired drivers escape punishment.

Second, in order to enhance safety for everyone using New York's roads, the bill would include making bicycle and pedestrian safety a focus within the scope of the written test to obtain a license to drive.

Third, the bill would close a loophole used by convicted Driving While Impaired offenders to avoid the requirement of an ignition interlock device.

Fourth, the bill would increase the revocation period for the refusal to take a chemical test.

Fifth, the bill would close a loophole that allows drivers to use electronic devices on the roadway if the vehicle is not in motion. It would also prohibit, under any circumstances, the use of mobile telephones and portable electronic devices by persons under 18 while operating a motor vehicle.

Lastly, the bill would require all passengers in a motor vehicle to wear a safety belt.

#### Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because it would provide enforcement tools to change behaviors, and reduce the number of highway fatalities by minimizing driver error. This bill would make bicycle and pedestrian safety a focus in licensing, close a current loophole in the law for impaired drivers by clearly defining the term "drug", prohibit the use of electronic devices by drivers under the age of 18 while a vehicle is not in motion, and change the law to require that all occupants of a passenger vehicle be buckled in.

#### Effective Date:

This bill would take effect on first day of October after it shall have become a law.

### **Part M - 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.

#### Summary of Provisions and Statement in Support:

Section 16-m of the UDC Act authorizes the 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, 2017.

The bill would provide for the continued administration of the EDF, the UDC's primary economic development program. Extending the sunset date until July 1, 2018 would permit the 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 FY 2018 Executive Budget, which includes new appropriations and reappropriations to support the EDF.

Effective Date:

This bill would take effect immediately.

**Part N - 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.

Summary of Provisions and Statement in Support:

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, 2017.

Absent enactment of this bill, UDC would 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 FY 2018 Executive Budget, which assumes that UDC would 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, 2017.

**Part O - Extends the effectiveness of provisions of law relating to participation by minority and women-owned business enterprises in state contracts**

Purpose:

This bill would extend the effectiveness of provisions of law relating to participation by minority and women-owned business enterprises (MWBE) in state contracts for an additional one year.

Summary of Provisions and Statement in Support:

Article 15-A of the Executive Law authorizes the Department of Economic Development's Division of Minority and Women-owned Business Development to promote employment and business opportunities on state contracts for minorities and women owned businesses. Under this statute, state agencies are charged with establishing employment and business participation goals for minorities and women. This authorization and the requirements of these program expire on December 31, 2017. This bill would extend the sunset provision by one year to December 31, 2018.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget, which includes reappropriations to support the MWBE program and the MWBE Disparity Study.

Effective Date:

This bill would take effect immediately.

**Part P - Extend the Infrastructure Investment Act and expand the definition of an authorized entity that may utilize design-build contracts**

Purpose:

This bill would make the Infrastructure Investment Act (the Act) permanent, and expand the set of authorized entities that may utilize design-build contracts to include all state agencies, authorities, and counties outside of New York City.

Summary of Provisions and Statement in Support:

This bill would expand the provisions of the Act to enable all State agencies and public authorities, as well as counties outside of New York City, 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. The types of capital projects for which design-build contracts can be used would be amended to be consistent with the existing definition of "capital asset" in State Finance Law.

Since it was initially signed in 2011, the Act has been used by the Department of Transportation to procure contracts for bridge and deck replacements and highway, bridge and rail station rehabilitation totaling \$1.37 billion. 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.

The Act is currently set to expire in 2017; this bill would make it permanent.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because the design-build contracting processes authorized by this bill would foster enhanced quality and allow for additional process and procedural efficiencies relative to the construction of State infrastructure projects. These benefits would result in lower initial construction costs as well as reduced long term maintenance and rehabilitation costs for projects constructed using design-build.

Effective Date:

This bill would take effect immediately.

**Part Q - 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 increased fees for the expedited handling of documents issued by or requested from the Department's Division of Corporations. The increased fees for expedited handling are necessary to reimburse the Department of State for increased administrative costs associated with expedited handling.

Summary of Provisions and Statement in Support:

The Executive Law currently authorizing the Secretary of State to charge increased fees for expedited handling expires on March 31, 2017. Historically, this statute has been extended annually to coincide with the enactment of the Budget.

Budget Implications:

The FY 2018 Executive Budget assumes that expedited handling fees would be enacted since the costs associated with expedited handling are greater than traditional requests. Failure to enact this legislation would result in annual revenue losses of approximately \$4.5 million, forcing the Department to bear the additional costs related to expedited services without supporting revenues.

Effective Date:

This bill would take effect immediately.

**Part R - Place responsibility for mailing a copy of service of process on plaintiffs rather than the Department of State (DOS).**

Purpose:

Under existing law, persons or entities suing corporations may serve the attendant legal papers upon the Secretary of State (Secretary) as an agent for the defendant corporate entity. The Secretary must then mail a copy of the process documents to the defendant entity. This bill would require that plaintiffs serve these papers on the Secretary and the defendant entity at the same time.

Summary of Provisions and Statement in Support:

Requiring the plaintiff to serve copies of process documents on the defendant entity directly, rather than through the Department of State (DOS), removes an unnecessary administrative burden on DOS.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget as the State Financial Plan assumes \$600,000 in recurring savings resulting from no longer mailing paper copies of process to defendants.

Effective Date:

This bill would take effect 120 days following enactment.

**Part S - Assess a five dollar fee to cover the cost of producing an identification card for real estate license applicants**

Purpose:

Licensed real estate agents operating in New York State are required to have, and show upon request, a pocket identification card. Currently, the Department of Motor Vehicles (DMV) produces these cards and the Department of State (DOS) pays for the production costs. This proposal would enable DOS to recoup these costs by assessing a five dollar fee on the real estate agent applicant.

Summary of Provisions and Statement in Support:

This bill would require individual real estate agents to cover the cost of processing and producing an identification card, rather than DOS; thereby, helping to mitigate a costly burden.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget as the State Financial Plan assumes \$460,000 in recurring revenue to offset the cost of processing and producing the identification card.

Effective Date:

This bill would take effect immediately.

**Part T - Increase the State match for the Local Waterfront Revitalization Program from 50 to 75 percent**

Purpose:

The Department of State's Local Waterfront Revitalization Program (LWRP) helps communities re-imagine and revitalize areas to attract new development opportunities and invigorate new economic growth engines. This bill would allow the amount of the Environmental Protection Fund's matching requirement for the LWRP to increase from 50 percent to 75 percent for all projects.

Summary of Provisions and Statement in Support:

New York State has made significant progress in recent years to revitalize local waterfront areas. Nevertheless, some localities are unable to benefit from the Program because they do not possess the financial resources to meet the State's 50 percent match requirement. This proposal would afford greater flexibility for LWRP applicants to meet the local share of the project costs (at 25%) and increase public-private partnerships in advancing projects during challenging fiscal times.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget. Many communities are unable to put forth proposals for LWRP consideration as they fall short of the State's 50 percent required match. Increasing the State match for the LWRP Program would increase the opportunities for municipalities to revitalize their communities. Revitalizing localities catalyzes economic development in underserved areas which, in turn, drives economic benefits to the State.

Effective Date:

This bill would take effect immediately upon enactment.



**Part U - Removes the Chairperson of the New York State Athletic Commission (NYSAC) from the list of salaried state officers.**

Purpose:

This bill would amend Executive Law to remove the New York State Athletic Commission (NYSAC) Chair from the list of salaried officers in Executive Law.

Summary of Provisions and Statement in Support:

Under the Executive law, the Chairperson of the NYSAC is listed as a salaried State officer and prescribed a specific salary level. Accordingly, the Chair must be paid a full annual salary regardless of the level of direct operational involvement in the Commission. This bill would remove the salary requirement for the Chair to provide flexibility in the compensation structure for the Chair and operation of the Commission.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget. Flexibility in the compensation structure for the Chairperson would ensure that existing State resources are utilized most efficiently in the operation of the Commission.

Effective Date:

This bill would take effect immediately.

**Part V - Authorize expenses of the Department of Health to be reimbursed by a cable television assessment, and expenses of the Office of Parks, Recreation and Historic Preservation, and of the departments of Agriculture and Markets, Environmental Conservation, and State, to be reimbursed by a utility assessment**

Purpose:

This bill would authorize certain state agencies to finance public health campaigns and utility oversight related costs from assessments on cable television companies and public utilities, respectively.

Summary of Provisions and Statement in Support:

Sections one through four would authorize utility oversight related expenditures of the Departments of Agriculture and Markets, Environmental Conservation, State, and the Office of Parks, Recreation and Historic Preservation as eligible expenses of utility assessment revenues.

Section five would authorize certain expenditures of the Department of Health as eligible expenses for cable television assessment revenues.

Section 18-a of the Public Service Law (PSL) authorizes the Department of Public Service (DPS) to assess public utilities for costs associated with the regulation of utilities. PSL § 217 authorizes the DPS to assess cable television companies for costs associated with the regulation of cable television companies.

This bill would ensure that the affected agencies would be able to expend utility assessment funds on agency activities related to utility oversight and public health initiatives. Chapter 59 of the Laws of 2008 provided similar authorizations.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because the bill ensures the recovery of public health and utility oversight expenses incurred by the Departments of Health, Agriculture and Markets, Environmental Conservation, and State, and the Office of Parks, Recreation and Historic Preservation.

Effective Date:

This bill would take effect immediately.

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

Purpose:

This bill would permanently authorize the Dormitory Authority of the State of New York (DASNY) to enter into design and construction management agreements with the Department of Environmental Conservation (DEC) and the Office of Parks, Recreation and Historic Preservation (OPRHP).

Summary of Provisions and Statement in Support:

DASNY is currently authorized to enter into management agreements with DEC and OPRHP to provide design and construction services until April 1, 2017. This bill would make such authorization permanent.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget, portions of which appropriate funding to DEC and OPRHP for capital purposes requiring DASNY services.

Effective Date:

This bill would take effect immediately.

**Part X - Provides the Superintendent of the Department of Financial Services (DFS) authorization to order failing insurers into administrative supervision proceedings**

Purpose:

This bill would empower the Superintendent of Financial Services to order a troubled insurer into an administrative supervision proceeding, which would restrict the insurer from engaging in certain activities during the period the supervision was in place.

Summary of Provisions and Statement in Support:

Under current law, there is only one explicit tool for managing the potential harm caused by a failing insurer – a rehabilitation or liquidation court proceeding under Article 74 of the Insurance Law. The Article 74 tool is inflexible and can be inadequate to address the unique issues presented by a failing insurer.

The bill would amend the Insurance Law to enhance the Superintendent’s authority to address the challenges posed by troubled insurers. Under the proposal, the Superintendent would have the explicit authority to order an insurer into an “administrative supervision” proceeding.

The National Association of Insurance Commissioners recognized the need for such flexibility and developed and published an “Administrative Supervision Model Act.” That model act explicitly grants an insurance commissioner the right at his or her discretion to install an administrative supervisor and limit the insurer’s ability to undertake certain activities. A majority of the states have enacted similar legislation or regulations. This proposal provides the statutory changes for New York to do so as well.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget and provide a tool to mitigate adverse impacts of failing insurers on policyholders and New York consumers.

Effective Date:

This bill would take effect immediately.

**Part Y - Enhance enforcement powers of the Superintendent of Financial Services in relation to illegal and unlicensed activity in the Insurance and Banking Industries**

### Purpose:

This bill would amend the Insurance Law, the Banking Law and the Financial Services Law to augment the Department of Financial Services' (DFS) enforcement authority in the banking and insurance industries.

### Summary of Provisions and Statement in Support:

Bolstering the punitive recourse for bad actors in the Insurance Industry would help deter malfeasance. Currently, the maximum penalty for most violations of the Insurance Law is currently only \$1,000 per offense.

This bill would amend the Insurance Law to increase the fine for violation from \$1,000 per offense to the greater of \$10,000 per offense or twice the damages or economic gain attributable to the violation.

This bill would also amend the Banking Law, the Insurance Law, and the Financial Services Law to empower the Superintendent to initiate, prosecute and retain control over a civil action to recover monetary penalty or to enforce a DFS order, or, at the Superintendent's discretion, to refer such action to the Attorney General for prosecution. Additionally, the legislation would allow the enforcement of these laws against unlicensed individuals or businesses as if the individuals or businesses were actually licensed.

Currently, the Superintendent has very limited ability to enforce any injunctive orders that he or she may issue through a civil action and most civil actions are initiated and controlled by the Attorney General, not DFS. Allowing the Superintendent to retain control over the initiation and prosecution of a civil action that collects a monetary penalty or enforces injunctive relief against a regulated entity is a natural consequence of DFS's status as the regulator of the Insurance and Banking industries.

Although unlicensed actors can be sanctioned by DFS for operating without a license, any other violations of the Insurance, Banking, and Financial Services laws committed by unlicensed individuals and businesses are typically not subject to sanction. This can leave a regulatory gap that would dampen DFS' enforcement authority. Empowering the Superintendent to take action against unlicensed individuals or businesses as if the individuals or businesses were actually licensed would help close this regulatory gap.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget. Malfeasance in the Insurance and Banking Industries can be hazardous to all New York consumers. Fraudulent activity creates uncertainty in the markets, which is reflected in higher costs for consumers of Financial Services. This bill would arguably result in reduced industry malfeasance and would therefore help to constrain financial services costs for all New York businesses and consumers.

Effective Date:

This bill would take effect immediately.

**Part Z - Empower the Superintendent of the Department of Financial Services (DFS) to license and regulate student loan servicers**

Purpose:

Student loan servicers provide billing and other services related to federal student loans. This proposal would empower the Department of Financial Services to license and regulate the student loan servicer industry.

Summary of Provisions and Statement in Support:

Currently, the student loan servicer industry is an unregulated segment of the borrower marketplace. As such, it can be plagued with inconsistent standards placing student consumers at risk. A 2015 study conducted by the Consumer Financial Protection Bureau found that borrowers were experiencing significant problems with student loan servicers, including: lost paperwork, misapplied payments, and inaccessibility to affordable payment options to avoid default.

This bill would require student loan servicers to be licensed by the Department of Financial Services and would establish a regulatory framework for the industry in the state. Through the regulation of the student loan servicing industry, this bill would create homogeneity and accountability to ensure protections for all consumers with student loan debt in New York State.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget. Volatile and opaque student loan marketplaces put the financial well-being of all student borrowers at risk, which can be a costly and administratively onerous burden to the State.

Effective Date:

This bill would take effect on the one hundred eightieth day after it shall have become a law.

**Part AA - Empower banking institutions to protect vulnerable adults from financial exploitation**

### Purpose:

This proposal would amend the Banking Law to place a hold on the bank account of a vulnerable adult if there is a reasonable basis to believe that the adult is a victim of actual or attempted financial exploitation.

### Summary of Provisions and Statement in Support:

Financial exploitation of seniors and other vulnerable adults is a serious and growing problem. Approximately five million older Americans are financially exploited each year. In New York State alone, the number of referrals to Adult Protective Services involving financial exploitation allegations increased more than 35 percent between 2010 and 2014.

Although banking institutions have various protocols and operational procedures to combat fraud and other criminal activity, the absence of immunity provisions, and the complexity of elder abuse cases, have deterred banking institutions from applying transaction holds when likely warranted.

This bill would establish a framework for banking institutions to quickly respond to financial exploitation. Specifically, the bill would authorize banks to deploy a transaction hold on the account of a vulnerable adult when there is reasonable basis to suspect financial exploitation and a transaction hold appears necessary for asset protection. During the course of the transaction hold, the account holder would have access to account funds to meet ongoing housing, living, and emergency expenses.

The bill would also provide a banking institution with immunity from civil, criminal, and administrative sanctions for good faith actions relating to application of these new provisions. Additionally, it would allow the Department of Financial Services to develop a financial exploitation certification program for banking institutions to bolster training and education in financial exploitation.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget. Financial exploitation can be devastating to consumers, but is particularly harmful to seniors, many of whom live on fixed incomes without the ability to offset significant financial losses. This proposal would help protect a vulnerable population, while mitigating costly burdens to the State.

### Effective Date:

This bill would take effect on the one hundred eightieth day after it shall have become a law.

## **Part BB - Empower the Superintendent of the Department of Financial Services (DFS) to ban the continued involvement of bad actors from the banking and insurance industries**

### Purpose:

This bill would amend the Financial Services Law to disqualify an individual operating under a DFS license, or employed by a DFS licensee, from serving as an owner, director, trustee, officer, employee, member or partner of a DFS-regulated business or from holding a DFS-issued license if, after a hearing, the Superintendent finds that the individual has committed a disqualifying event that is of such severity as to have a direct bearing on the individual's fitness or ability to continue to participate in the financial services industry.

### Summary of Provisions and Statement in Support:

Unlike the Federal Laws and regulations applicable to the banking and securities industries, there is no disqualification rule in State law that would preclude bad actors from continuing to participate in the insurance or banking industries. Empowering the Superintendent to prohibit such individuals from doing business in the State would better protect New Yorkers from illegal and predatory business practices. The bill would define "disqualifying event" consistent with the analogous federal laws and regulations applicable to the banking and securities industries.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget. Nefarious banking and insurance practices put the financial well-being of all New Yorkers in jeopardy. Allowing the Superintendent to ban bad actors from operating in these industries would discourage fraudulent waste. Eliminating waste and protecting the assets of all New Yorkers safeguards the economic interests of the State.

### Effective Date:

This bill would take effect on January 1, 2018.

## **Part CC - Require "lending circles" to register with the Department of Financial Services (DFS).**

### Purpose:

This legislation would amend the Banking Law to create a limited exception to licensing requirements, such that nonprofit organizations that exclusively facilitate zero-interest, no-fee, and credit building loans may operate in New York.

### Summary of Provisions and Statement in Support:

Many New Yorkers lack access to responsibly underwritten, high-quality credit products, partly because they lack a positive credit history, or any credit history at all. In a May 2015 report, the Consumer Financial Protection Bureau found that 19 million Americans were “unscorable” because they lacked sufficient credit histories, while another 26 million Americans were “credit invisible” because they lacked any credit history.

Credits building “lending circles” are designed to help these individuals establish a positive credit history. Borrowers can obtain zero-interest, no-fee loans from these nonprofit organizations that may be used for a variety of purposes, such as addressing financial problems or investing in small businesses. Most importantly, borrowers would build positive credit histories as the law would require nonprofit lenders to report to a nationwide consumer reporting agency as a condition of registration. These benefits would improve the borrower’s financial health and economic well-being.

This proposal would allow lending circles to operate in New York without a license but under the supervision of the Department of Financial Services. The bill would require such organizations to register with the Department, receive approval to operate and file annual reports on lending activities. Any nonprofit organization approved pursuant to this new section would be prohibited from paying any net earnings to a private shareholder or individual or receiving any commissions in connection with its lending activities.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget. Facilitating and regulating lending circles would help establish or improve credit for many New Yorkers that lack access to responsibly underwritten, high-quality credit products and foster financial education among borrowers. These benefits improve consumers' financial health and economic well-being which, in turn, can spur positive economic activity that helps to mitigate costly burdens to the State.

### Effective Date:

This bill would take effect 180 days after enactment.

## **Part DD - Establish a Risk Adjustment Paid Family Leave Fund**

### Purpose:

To establish a fund, which would facilitate the Superintendent of Financial Service’s ability to implement a risk adjustment mechanism if such a mechanism is included in the rating structure for paid family leave benefits coverage.



Summary of Provisions and Statement in Support:

Section 4235(n)(1) of the Insurance Law authorizes the Superintendent of Financial Services, in consultation with the Chair of the Workers' Compensation Board, to determine whether family leave benefit coverage is experience or community-rated. If a determination is made to community rate such coverage, the coverage may be subject to a risk adjustment mechanism. This proposal would establish a fund held in the sole custody of the Superintendent that would facilitate the implementation of a risk adjustment mechanism. Monies deposited into or paid out of the fund would not be deemed funds of the State.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget. This bill would establish an appropriate fiscal mechanism to implement community-rated adjustments in support of paid family leave benefits coverage.

Effective Date:

This bill would take effect immediately.

**Part EE - Allow the Department of Financial Services (DFS) to better regulate the business practices of online lenders**

Purpose:

This bill would amend the Banking Law to require any online lender making non-business loans of less than \$25,000 or business loans of less than \$50,000 to be licensed by the Department of Financial Services (DFS). It would also clarify the meaning of the phrase "making loans in New York" to more closely track the business practices of online lenders.

Summary of Provisions and Statement in Support:

The increased prevalence of predatory online lending highlights the need to provide DFS with enhanced authority to protect consumers. First, this bill would require lenders making non-business loans of less than \$25,000 or business loans of less than \$50,000, regardless of the interest rate imposed, to be licensed by DFS. Second, the bill would expand the definition of "making loans" in New York to not only apply to online lenders who solicit loans, but also online lenders who arrange or otherwise facilitate funding of loans, and making, acquisition or facilitation of the loan to individuals in New York. This would increase DFS' enforcement capabilities and ensure that all types of online lenders are appropriately regulated.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget. Gaps in the State's current regulatory authority create opportunities for predatory online lending that can jeopardize a borrower's financial position. The bill would provide DFS with additional authority to protect consumers and help mitigate costly burdens on the State that can result from personal financial stresses.

Effective Date:

This bill would take effect on January 1, 2018.

**Part FF - Protect consumers utilizing reverse mortgage products**

Purpose:

This bill would expand consumer protections afforded to users of more traditional mortgage products to include reverse mortgages.

Summary of Provisions and Statement in Support:

Reverse mortgages allow homeowners to turn their home equity into cash, which may offer necessary cash flow to allow homeowners, particularly elderly homeowners, to stay in their homes.

Under current law, the borrower and the lender must engage in a settlement conference in advance of proceeding to trial on a foreclosure proceeding. Settlement conferences are an important tool in preventing foreclosure as they provide an opportunity for a lender and a borrower to reach a mutually agreeable resolution without having to proceed to a trial.

However, lenders are not required to engage in settlement conferences for reverse mortgage borrowers. This bill would require that such settlement conferences be conducted to avoid unnecessary foreclosure proceedings against homeowners with reverse mortgages.

Budget Implications:

Home foreclosures resulting from improper consumer protections in the reverse mortgage industry can lead to considerable financial hardship for New York consumers. These hardships tax the well-being of consumers as well as put constraints on administrative and economic State resources. Better consumer protections would reduce the administrative burden on the State while also helping to ensure financial security for all New Yorkers. Accordingly, enactment of this bill is necessary to implement the FY 2018 Executive Budget.

Effective Date:

This bill would take effect immediately upon enactment.

**Part GG - Amendments to the Department of Financial Services (DFS) assessment provisions, distribution rules for insurance companies and determining factors relating to insurers reserve standards**

Purpose:

The bill would make conforming changes and clarify the applicability of certain provisions in the Financial Services Law and the Insurance Law relating to DFS assessments, distribution rules for insurance companies and insurer reserve standards.

Summary of Provisions and Statement in Support:

Subpart A would amend Financial Services Law section 206 to allow assessments against persons regulated under Financial Services law to fund the operating expenses of DFS attributable to such licensees.

Subpart B would amend Article 74 of the Insurance Law to explicitly reference all insurers in the Article and also to amend the distribution rules for life insurance companies to conform to a United States Supreme Court decision.

Subpart C would amend the Insurance Law section 1104(a) to make technical changes. It would also amend section 1104(c) of the Insurance Law to permit the Superintendent of Financial Services to take certain actions against an insurer if the Superintendent determines that the insurer's surplus to policyholders is not adequate in relation to the insurer's outstanding liabilities or to its financial needs. Enforcement actions may also be pursued if the Superintendent otherwise determines that the continued operation of the insurer might be deemed to be hazardous to the insurer's policyholders, creditors, or to the general public.

Collectively, these changes and enhancements would enhance the Superintendent's regulatory authority and safeguard consumers.

Budget Implications:

Enabling DFS to properly assess for any operational expenses of the Agency is necessary to implement the FY 2018 Executive Budget. Additionally, updating standards that assess the financial stability of insurers would help protect New Yorkers from unsure marketplaces. Stability in the markets lowers costs to consumers as well as reduces an administrative burden to the State.

Effective Date:

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

**Part HH - Amend Navigation Law to establish a new capital account, the New York Environmental Protection and Spill Remediation Account**

Purpose:

This bill would establish a new capital account, to be known as the New York Environmental Protection and Spill Remediation Account, in order to appropriately classify certain oil spill remediation expenses that are capital in nature. Such expenses are currently charged to the New York Environmental Protection and Spill Compensation Fund ("Oil Spill Fund"), a special revenue fund.

Summary of Provisions and Statement in Support:

This bill would create a new miscellaneous capital fund within Navigation Law, the New York Environmental Protection and Spill Remediation Account. This account would fund capital costs related to oil spill remediation; investigation; and response, and would be supported by existing license fees collected from petroleum facilities. As with the existing Oil Spill Fund, the State Comptroller would be the administrator of this new fund.

This bill would ensure capital expenses currently charged to the Oil Spill Fund are appropriately classified as capital and charged to the new fund. Because the Oil Spill Fund pays for similar cleanup, investigation, and remediation activities as the State Superfund, which is a capital fund, such expenses should be similarly classified.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget.

Effective Date:

This bill would be effective immediately and shall be deemed to have been in full force and effect on and after April 1, 2017.

**Part II - Enact the Clean Water Infrastructure Act of 2017**

Purpose:

This bill would amend the Environmental Conservation Law, the State Finance Law, the Public Authorities Law, the Navigation Law and the Public Health Law, in relation to implementing the Clean Water Infrastructure Act of 2017.

Summary of Provisions and Statement in Support:

Over the next 20 years, New York State will face the nation's third largest need for drinking water and waste water infrastructure investments. This legislation and the associated inclusion of \$2 billion in funding in the FY 2018 Executive budget would improve municipal drinking water and waste water infrastructure while also protecting water at its source.

The bill would add a new Title 33 to Article 15 of Environmental Conservation Law (ECL) to authorize source water protection projects. This new title would enable the Department of Environmental Conservation (DEC) to provide financial assistance to municipalities, not-for-profit corporations and soil and water conservation districts to acquire land for the purposes of protecting water at its source.

The bill would add a new section 1113 to the Public Health Law to authorize the Department of Health (DOH) to award grants, within available funding, to municipalities for the purpose of replacing lead service lines used to supply drinking water, with priority given to low income communities, as determined by DOH.

This bill would add a new Title 12 to Article 27 of Environmental Conservation Law (ECL), relating to the cleanup and abatement of certain solid waste sites and drinking water contamination. Title 12 would require the owner or operator of a solid waste site to cooperate with remedial measures deemed necessary by DEC for the mitigation and cleanup of solid waste, and permit DEC to implement measures to mitigate and clean up solid waste after making all reasonable efforts to identify and compel the owner or operator to cooperate. Title 12 would also permit DEC to implement measures to ensure that safe drinking water is expeditiously made available and require the owner or operator of the source of drinking water contamination to investigate, develop and implement a plan to remediate the source of contamination.

Title 12 would also require that all necessary and reasonable expenses of mitigation and cleanup of a solid waste site be paid by the person who owned, operated or maintained the site, or by the solid waste and drinking water response account, a new fund established by this bill. This new account would be available to assess, investigate, mitigate and monitor solid waste sites, mitigate drinking water contamination, support enforcement, and fund 75 percent of eligible design and construction for the investigation, cleanup and mitigation of a municipally owned solid waste site or to respond to drinking water contamination at a municipally owned site. A portion of the \$2 billion appropriation that supports the Clean Water Infrastructure Act of 2017 can be transferred to this new fund for these purposes. The creation of this new fund would enable the State to collect cost recoveries from parties found responsible for contaminating drinking water or waste water.

The bill would add a new section 1285-s to the Public Authorities Law to authorize the Environmental Facilities Corporation to establish a “New York State Regional Water Infrastructure Grants Program” to provide State assistance to municipalities for drinking water and waste water infrastructure projects that have a regional impact or demonstrated efficiencies.

Finally, the bill would amend section 52-0303(4) of the Environmental Conservation Law related to the existing Technical Assistance Grants (TAG) program, to allow certain municipalities to be eligible for these grants, which are currently only available to eligible not-for-profit corporations. Technical Assistance Grants are used to obtain technical assistance in interpreting information related to hazardous waste at an inactive hazardous waste site.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget. A new \$2 billion capital appropriation is included in the budget, which provides the resources to implement this bill and combat new and existing challenges linked to water quality.

Effective Date:

This bill would take effect immediately.

**Part JJ - Makes technical changes to the Environmental Protection Fund (EPF)**

Purpose:

This bill would make technical changes to State Finance and Environmental Conservation laws to authorize revenue transfers to the Climate Change Mitigation and Adaptation Account, and direct the deposit of Bottle Bill revenues to the Environmental Protection Fund (EPF).

Summary of Provisions and Statement in Support:

The 2017 Enacted Budget intended to accommodate transfers to a new “Climate Change Mitigation and Adaptation Account” from the Environmental Protection Transfer Account; however, enabling language was absent from the enacted budget legislation. Additionally, language directing the deposit of Bottle Bill revenues to the EPF is not reflective of Financial Plan requirements, necessitating corrective action.

This bill would provide for the addition of the Climate Change Mitigation and Adaption Account as an eligible account to receive funds, transferred by the Comptroller from the Environmental Protection Transfer Account, upon the request of the Director of the Budget. It also clarifies amounts to be deposited to credit the EPF from Bottle Bill revenues, and corrects the beginning date of such deposits.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget.

Effective Date:

This bill would take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2017.

**Part KK - Reduce and sustainably manage food waste by requiring large food waste generators to divert excess edible food to food banks and food scraps to organics recycling facilities**

Purpose:

This bill would phase in a requirement for high volume food waste generators to divert excess food and food scraps to food banks, animal feed operations, anaerobic digesters, or other composting and organics recycling facilities.

Summary of Provisions and Statement in Support:

Beginning January 1, 2021, this bill would require certain high volume generators of food waste to divert excess edible food and food scraps to food banks, animal feed operations, composting facilities, anaerobic digesters, or other organics recycling facilities.

The bill's provisions would apply to high volume food waste generators such as manufacturers, supermarkets, large restaurants, higher educational institutions and healthcare facilities that produce an annual average of two tons per week or more of excess food and food scraps at a single location. Elementary and secondary schools would be exempt from this bill, as would designated food scraps generators located in a city with a population greater than one million people that requires organics diversion.

This bill would also prohibit transporters and transfer stations from landfilling or combusting food scraps collected from designated generators and directs such entities to ensure that food scraps are brought to an organics recycler. Furthermore, beginning January 1, 2021, solid waste combustion facilities and landfills will not be permitted to accept food scraps from designated food scrap generators.

The bill would authorize the Department of Environmental Conservation (DEC) to oversee food waste in New York State. DEC would be responsible for assessing the capacity of organics recyclers, issuing temporary waivers, publishing a listing of organics recycling facilities, and producing educational materials. This bill would also authorize DEC to issue temporary waivers based on a petition by a designated food scraps generator demonstrating that its unique circumstances would be unduly onerous.

This bill would reduce food waste by requiring large volume food waste generators to divert excess food to food banks and to recycle and compost food scraps. Enactment of this bill would help curtail hunger and address food insecurity, and would also reduce methane emissions, a harmful greenhouse gas caused by degrading food.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget. To facilitate implementation of this legislation, the Environmental Protection Fund would provide grants to expand and establish food diversion and composting programs for excess food and food waste.

Effective Date:

This bill would be effective immediately.

**Part LL - Authorize shared service agreements between the Power Authority of the State of New York, Canal Corporation and Department of Transportation**

Purpose:

This bill authorizes the sharing of employees, services and resources through shared services agreements (SSAs) between the Power Authority of the State of New York (NYPA), the Canal Corporation and the Department of Transportation (DOT).

Summary of Provisions and Statement in Support:

This bill would authorize the sharing of employees, services and resources through SSAs between DOT, NYPA and the Canal Corporation to (i) address an emergency situation, (ii) address extreme weather conditions, and (iii) provide services and assistance to support the operation and maintenance of the Canal System and related infrastructure. This bill also authorizes SSAs to include provisions for providing defense and indemnity obligations between the parties.

Chapter 58 of the Laws of 2015 provided a similar SSA authorization between DOT and the Thruway Authority, of which the Canal Corporation was previously a subsidiary. Chapter 54 of the Laws of 2016 transferred the Canal Corporation to NYPA, therefore, NYPA is seeking a similar authorization.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because it provides NYPA the opportunity to seek operating efficiencies, as well as the authority to seek DOT's expertise and technical assistance in support of operation and maintenance of the Canal System and its related infrastructure.



Effective Date:

This bill would take effect immediately.

**Part MM - Authorize the New York State Energy Research and Development Authority to finance a portion of its energy research, development and demonstration program, and its energy policy and planning program, as well as the Department of Environmental Conservation's climate change program and the Department of Agriculture and Markets' Fuel NY 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 and electric corporations.

Summary of Provisions and Statement in Support:

The bill would authorize NYSERDA to finance its energy research, development and demonstration program, its energy policy and planning program, the Department of Environmental Conservation's (DEC) climate change program and the Department of Agriculture and Markets' (AGM) Fuel NY program, from a special assessment on gas and electric corporations. This special assessment is in addition to the special assessment under Section 18-a of the Public Service Law which authorizes the Department of Public Service to assess gas and electric corporations for expenses related to administering Public Service Law programs.

A similar bill has been proposed annually as an Article VII provision, and was last enacted as Part J of Chapter 58 of the Laws of 2016. Without this authorization, NYSERDA, DEC and AGM would not be able to continue to implement necessary programs in the 2018 State Fiscal Year.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget because it authorizes the collection of assessments in an amount not to exceed \$19.7 million that would fund NYSERDA's energy research, development and demonstration program and its energy policy and planning program, as well as DEC's climate change program and AGM's Fuel NY program.

Effective Date:

This bill would take effect immediately

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