

STATE OF NEW YORK

7509--B

IN SENATE

January 18, 2018

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

AN ACT intentionally omitted (Part A); intentionally omitted (Part B); intentionally omitted (Part C); intentionally omitted (Part D); to amend the general municipal law, the education law, the state finance law, the real property tax law and the tax law, in relation to making technical corrections to various statutes impacting property taxes; and to repeal subsection (bbb) of section 606 of the tax law, section 3-d of the general municipal law and section 2023-b of the education law, relating thereto (Part E); intentionally omitted (Part F); to amend the real property tax law, in relation to assessment ceilings; and to amend chapter 475 of the laws of 2013, amending the real property tax law relating to assessment ceilings for local public utility mass real property, in relation to the effectiveness thereof (Part G); to amend the tax law and the administrative code of the city of New York, in relation to extending the statute of limitations for assessing tax on amended returns (Part H); to amend the tax law, in relation to providing for employee wage reporting consistency between the department of taxation and finance and the department of labor (Part I); to amend the tax law, in relation to sales and compensating use taxes imposed on food and beverages sold by restaurants and similar establishments (Part J); to amend the tax law, in relation to allowing sharing with the comptroller information regarding unwarranted fixed and final debt (Part K); intentionally omitted (Part L); intentionally omitted (Part M); intentionally omitted (Part N); intentionally omitted (Part O); to amend the tax law, in relation to the empire state child credit (Part P); to amend the tax law, in relation to extending the hire a veteran credit for an additional two years (Part Q); to amend the labor law and the tax law, in relation to enhancing the New York youth jobs program (Part R); intentionally omitted (Part S); intentionally omitted (Part T); intentionally omitted (Part U); intentionally omitted (Part V); to amend the tax law, in relation to exempting from sales and use tax certain veterinary drugs and medi-

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

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cines and removing the refund/credit therefor (Part W); to amend the tax law, in relation to providing relief from sales tax liability for certain partners of a limited partnership and members of a limited liability company (Part X); intentionally omitted (Part Y); to amend part A of chapter 61 of the laws of 2017, amending the tax law relating to the imposition of sales and compensating use taxes in certain counties, in relation to extending the revenue distribution provisions for the additional rates of sales and use tax of Genesee, Monroe, Onondaga and Orange counties (Part Z); intentionally omitted (Part AA); intentionally omitted (Part BB); intentionally omitted (Part CC); intentionally omitted (Part DD); to amend the racing, pari-mutuel wagering and breeding law, in relation to adjusting the franchise payment, and authorizing night races under certain circumstances; creating an equine drug testing advisory committee; and providing for the repeal of certain provisions upon the expiration thereof (Part EE); to amend the racing, pari-mutuel wagering and breeding law, in relation to providing funds for the aftercare of retired horses (Part FF); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and to amend chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part GG); intentionally omitted (Part HH); to amend the tax law, in relation to commissions paid to the operator of a video lottery facility; to repeal certain provisions of such law relating thereto; providing for the repeal of certain provisions upon expiration thereof (Part II); to amend the tax law and the administrative code of the city of New York, in relation to addressing changes made to the internal revenue code by Public Law 115-97 (Part JJ); to amend the tax law and the administrative code of the city of New York, in relation to federal gross income and federal deductions allowed pursuant to the internal revenue code (Part KK); intentionally omitted (Part LL); intentionally omitted (Part MM); to amend the real property tax law, in relation to establishing the senior capped real property school tax rate; and to amend the tax law, in relation to increasing the property tax relief credit (Part NN); to amend chapter 97 of the laws of 2011, amending the general municipal law and the education law relating to establishing limits upon school district and local government tax levies, in relation to eliminating the expiration of and making permanent certain provisions thereof (Part OO); to amend the tax law, in relation to tax on the furnishing of utility services (Part PP); to amend the public service law, in relation to certain costs and expenses (Part QQ); to amend the tax law, in relation to increasing the exemption for pensions and annuities for certain persons (Part RR); to amend the legislative law, in relation to requiring assent of two-thirds of the members for any bill that enacts or increases tax revenues (Part SS); to amend the state finance law, in relation to establishing a spending cap and increasing the maximum capacity of the rainy day fund (Part TT); to amend the tax law, in relation to establishing a credit for customers of certain private

water utilities, in relation to requiring a feasibility study relating to the Jericho Water District; and providing for the repeal of such provisions upon the expiration thereof (Part UU); to amend the tax law and the administrative code of the city of New York, in relation to business income base and certain small business taxpayers (Part VV); to amend the real property tax law, in relation to the STAR exemption for property owned by small businesses (Part WW); to amend the tax law, in relation to minimum wage reimbursement credit (Part XX); to amend the tax law, in relation to extending the minimum wage reimbursement credit to seasonal employees (Part YY); to amend the tax law, in relation to tax credits for qualified pass-through manufacturers (Part ZZ); to amend the real property tax law, in relation to providing an exemption for security cameras installed on real property owned by a public utility (Part AAA); to amend the tax law, in relation to providing an exemption for tangible personal property and services sold by a cemetery; in relation to establishing an amnesty program for cemetery corporations (Part BBB); to amend the tax law and the parks, recreation and historic preservation law, in relation to the tax credit for rehabilitation of historic properties (Part CCC); to amend the tax law, in relation to establishing a personal income tax credit to preceptor clinicians who provide preceptor instruction (Part DDD); to amend the tax law, in relation to a television writers' and directors' fees and salaries credit (Part EEE); to amend the tax law and the administrative code of the city of New York, in relation to making technical corrections thereto; to repeal subsection (i) of section 612 of the tax law relating to the elimination of the personal income tax deduction for percentage depletion; and to repeal certain provisions of the tax law relating thereto (Part FFF); to amend the tax law, in relation to the donation of a human organ (Part GGG); to amend the tax law, in relation to the musical and theatrical production credit; and to amend part HH of chapter 59 of the laws of 2014 amending the tax law relating to a musical and theatrical production credit, in relation to extending the effectiveness of such provisions (Part HHH); to amend the education law and the tax law, in relation to establishing the college debt freedom account pilot program (Part III); to amend the tax law, in relation to establishing a reduction of certain taxpayer's federal adjusted gross income, for state personal income tax purposes, for student loan interest payments made by the taxpayer (Part JJJ); to amend the tax law, in relation to establishing a residential fuel oil storage tank credit and to direct the office of temporary and disability assistance to establish a program to assist eligible households in the replacement of residential fuel oil storage tanks (Part KKK); to amend the tax law and the insurance law, in relation to credits for premiums paid for long-term care insurance policies (Part LLL); to amend the tax law, in relation to providing insurance corporations with a tax credit for investments made in rural business growth funds; and to amend the state finance law, in relation to establishing the New York agriculture and rural jobs fund (Part MMM); to amend the tax law, in relation to exempting school buses and certain equipment from sales and compensating use tax; and to amend the education law, in relation to the extension of certain transportation contracts (Part NNN); to amend the tax law and the education law, in relation to enacting the "education affordability act" (Part OOO); to amend the racing, pari-mutuel wagering and breeding law, in relation to the definition and licensing fees for dealer-controlled electronic table games (Part PPP); to amend the tax

law, in relation to the percentage of free play allowance credits (Part QQQ); to amend the racing, pari-mutuel wagering and breeding law and the penal law, in relation to allowing certain interactive poker games (Part RRR); to amend the general municipal law, in relation to participation in games of bingo by minors (Part SSS); to amend the tax law, in relation to the disposition of vender fees for the operation of video lottery gaming at certain race tracks (Part TTT); to amend the racing, pari-mutuel wagering and breeding law, in relation to the disposition of net revenues of regional off-track betting corporations to participating counties (Part UUU); to amend the racing, pari-mutuel wagering and breeding law, in relation to creating the racing fan advisory council (Part VVV); to amend the racing, pari-mutuel wagering and breeding law, in relation to establishing the advisory council on retired race horses, within the New York state gaming commission, and providing for its powers and duties (Part WWW); to amend the racing, pari-mutuel wagering and breeding law, in relation to regulation of sports betting (Part XXX); to amend the racing, pari-mutuel wagering and breeding law, in relation to funds held in trust by a franchised corporation for a recognized horsemen's organization to be used as collateral to secure workers' compensation insurance coverage (Part YYY); to amend the tax law, in relation to exempting coin-operated tire inflation equipment from sales and use taxes (Part ZZZ); to amend the real property tax law, in relation to extending certain provisions exempting lands devoted to agricultural or horticultural use from taxation (Part AAAA); to amend the education law and the tax law, in relation to expanding the New York state college choice tuition savings program to include costs of elementary and secondary education (Part BBBB); to amend the tax law, in relation to the imposition of tax on combative sport matches or exhibitions (Part CCCC); to amend the tax law, in relation to gifts for the New York state general fund (Part DDDD); to amend the tax law and the economic development law, in relation to the creation of the empire state digital gaming media production credit; and providing for the repeal of such provisions upon expiration thereof (Part EEEE); to amend the civil practice law and rules, in relation to enacting the "local government jobs and revenue protection act of 2018" (Part FFFF); and to amend the tax law, in relation to the disposition of a portion of sales taxes collected for hotel occupancy in cities having a population of one million or more (Part GGGG)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2018-2019
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through GGGG. The effective date for each partic-
5 ular provision contained within such Part is set forth in the last
6 section of such Part. Any provision in any section contained within a
7 Part, including the effective date of the Part, which makes a reference
8 to a section "of this act", when used in connection with that particular
9 component, shall be deemed to mean and refer to the corresponding
10 section of the Part in which it is found. Section three of this act sets
11 forth the general effective date of this act.

PART A

Intentionally Omitted

PART B

Intentionally Omitted

PART C

Intentionally Omitted

PART D

Intentionally Omitted

PART E

Section 1. Subsection (bbb) of section 606 of the tax law is REPEALED.

§ 1-a. Section 3-d of the general municipal law is REPEALED.

§ 1-b. Section 2023-b of the education law is REPEALED.

§ 2. The general municipal law is amended by adding a new section 3-d to read as follows:

§ 3-d. Certification of compliance with tax levy limit. 1. Upon the adoption of the budget of a local government unit, the chief executive officer or budget officer of such local government unit shall certify to the state comptroller and the commissioner of taxation and finance that the budget so adopted does not exceed the tax levy limit prescribed in section three-c of this article and, if the governing body of the local government unit did enact a local law or approve a resolution to override the tax levy limit, that such local law or resolution was subsequently repealed. Such certification shall be made in a form and manner prescribed by the state comptroller in consultation with the commissioner of taxation and finance.

2. Notwithstanding any other law to the contrary, if such a certification has been made and the actual tax levy of the local government unit exceeds the applicable tax levy limit, the excess amount shall be placed in reserve and used in the manner prescribed by subdivision six of section three-c of this article, even if a tax levy in excess of the tax levy limit had been authorized for the applicable fiscal year by a duly adopted local law or resolution.

3. Notwithstanding any provision of law to the contrary, every local government unit shall report both its proposed budget and its adopted budget to the office of the state comptroller at the time and in the manner as he or she may prescribe, whether or not such budget has been or will be certified as provided by this subdivision.

§ 3. The education law is amended by adding a new section 2023-b to read as follows:

§ 2023-b. Certification of compliance with tax levy limit. 1. Upon the adoption of the budget of an eligible school district, the chief executive officer of such school district shall certify to the state comptroller, the commissioner of taxation and finance and the commissioner that the budget so adopted does not exceed the tax levy limit prescribed by section two thousand twenty-three-a of this part. Such certification shall be made in a form and manner prescribed by the state comptroller in consultation with the commissioner of taxation and finance and the commissioner.

2. If such a certification has been made and the actual tax levy of the school district exceeds the applicable tax levy limit, the excess amount shall be placed in reserve and used in the manner prescribed by subdivision five of section two thousand twenty-three-a of this part, even if a tax levy in excess of the tax levy limit had been duly authorized for the applicable fiscal year by the school district voters.

3. Notwithstanding any provision of law to the contrary, every school district that is subject to the provisions of section two thousand twenty-three-a of this part shall report both its proposed budget and its adopted budget to the office of the state comptroller and the commissioner at the time and in the manner as they may prescribe, whether or not such budget has been or will be certified as provided by this subdivision.

§ 4. Subdivision 3 of section 97-rrr of the state finance law, as amended by section 1 of part F of chapter 59 of the laws of 2015, is amended to read as follows:

3. The monies in such fund shall be appropriated for school property tax exemptions granted pursuant to the real property tax law and payable pursuant to section thirty-six hundred nine-e of the education law~~, and for payments to the city of New York pursuant to section fifty-four-f of this chapter~~.

§ 5. Section 925-b of the real property tax law, as amended by chapter 161 of the laws of 2006, is amended to read as follows:

§ 925-b. Extension; certain persons sixty-five years of age or over. Notwithstanding any contrary provision of this chapter, or any general, special or local law, code or charter, the governing body of a municipal corporation other than a county may, by resolution adopted prior to the levy of any taxes on real property located within such municipal corporation, authorize an extension of no more than five business days for the payment of taxes without interest or penalty to any resident of such municipal corporation who has received an exemption pursuant to subdivision four of section four hundred twenty-five or four hundred sixty-seven of this chapter, or a credit pursuant to subsection (eee) of section six hundred six of the tax law, related to a principal residence located within such municipal corporation. If such an extension is granted, and any taxes are not paid by the final date so provided, those taxes shall be subject to the same interest and penalties that would have applied if no extension had been granted.

§ 6. Paragraph (d) of subdivision 1 of section 928-a of the real property tax law is relettered paragraph (f) and two new paragraphs (d) and (e) are added to read as follows:

(d) If the taxes of a city, town, village or school district are collected by a county official, the county shall have the sole authority to establish a partial payment program pursuant to this section with respect to the taxes so collected.

(e) If the taxes of a city, town, village or school district are not collected by a county official, but its tax bills are prepared by the county, or its tax collection accounting software is provided by the county, then before the city, town, village or school district may implement a partial payment program pursuant to this section, it must obtain written approval of the chief executive officer of the county or the county director of real property tax services.

§ 7. Subparagraph (B) of paragraph 7 of subsection (eee) of section 606 of the tax law, as amended by section 1 of part G of chapter 59 of the laws of 2017, is amended to read as follows:

(B) Notwithstanding any provision of law to the contrary, the names and addresses of individuals who have applied for or are receiving the credit authorized by this subsection may be disclosed to assessors ~~[and],~~ county directors of real property tax services, and municipal tax collecting officers. In addition, where an agreement is in place between the commissioner and the head of the tax department of another state, such information may be disclosed to such official or his or her designees. Such information shall be considered confidential and shall not be subject to further disclosure pursuant to the freedom of information law or otherwise.

§ 7-a. Paragraph (g) of subdivision 2 of section 425 of the real property tax law, as added by section 1 of part B of chapter 389 of the laws of 1997 and as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

(g) Computation and certification by commissioner. It shall be the responsibility of the commissioner to compute the exempt amount for each assessing unit in each county in the manner provided herein, and to certify the same to the assessor of each assessing unit and to the county director of real property tax services of each county. Such certification shall be made at least twenty days before the last date prescribed by law for the filing of the tentative assessment roll. Provided, however, that where school taxes are levied on a prior year assessment roll, or on a final assessment roll that was filed more than one year after the tentative roll was filed, such certification shall be made no later than fifteen days after the publication of the data needed to compute the base figure for the enhanced STAR exemption pursuant to clause (A) of subparagraph (vi) of paragraph (b) of this subdivision, and provided further, that upon receipt of such certification, the assessor shall thereupon be authorized and directed to correct the assessment roll to reflect the exempt amount so certified, or, if another person has custody or control of the assessment roll, to direct that person to make the appropriate corrections.

§ 8. Paragraph 6 of subsection (eee) of section 606 of the tax law is amended by adding a new subparagraph (A) to read as follows:

(A) A married couple may not receive a credit pursuant to this subsection on more than one residence during any given taxable year, unless living apart due to legal separation. Nor may a married couple receive a credit pursuant to this subsection on one residence while receiving an exemption pursuant to section four hundred twenty-five of the real property tax law on another residence, unless living apart due to legal separation.

§ 9. This act shall take effect immediately; provided, however, that section 3-d of the general municipal law, as added by section two of this act, shall expire and be deemed repealed on the same date and in the same manner as section 1 of part A of chapter 97 of the laws of 2011, expires and is deemed repealed, and provided that section 2023-b of the education law, as added by section three of this act, shall expire and be deemed repealed on the same date and in the same manner as section 2 of part A of chapter 97 of the laws of 2011, expires and is deemed repealed, and provided further that the amendments to paragraph 6 of subsection (eee) of section 606 of the tax law made by section eight of this act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2016.

REPEAL NOTE: Section 606(bbb) of the Tax Law, section 3-d of the General Municipal Law and section 2023-b of the Education Law collectively constituted the enabling legislation for the tax freeze credit

program. By the terms of those statutes, the tax freeze credit was only applicable to taxable years 2014, 2015 and 2016. Therefore, these provisions no longer serve a purpose, except for the reporting provisions, which facilitate the administration of the tax levy limit program and are being preserved in a reenacted section 3-d of the General Municipal Law and section 2023-b of the Education Law.

PART F

Intentionally Omitted

PART G

Section 1. Section 4 of chapter 475 of the laws of 2013, amending the real property tax law relating to assessment ceilings for local public utility mass real property, is amended to read as follows:

§ 4. This act shall take effect on the first of January of the second calendar year commencing after this act shall have become a law and shall apply to assessment rolls with taxable status dates on or after such date; provided, however, that this act shall expire and be deemed repealed [~~four~~] eight years after such effective date; and provided, further, that no assessment of local public utility mass real property appearing on the municipal assessment roll with a taxable status date occurring in the first calendar year after this act shall have become a law shall be less than ninety percent or more than one hundred ten percent of the assessment of the same property on the date this act shall have become a law.

§ 2. Subdivision 3 of section 499-kkkk of the real property tax law, as added by chapter 475 of the laws of 2013, is amended to read as follows:

3. (a) For assessment rolls with taxable status dates in each of the three calendar years including and following the year in which this section shall take effect, the commissioner shall establish no assessment ceiling that is less than ninety percent or more than one hundred ten percent of the assessment of such local public utility mass real property appearing on the municipal assessment roll with a taxable status date occurring in the second preceding calendar year from when this section shall take effect, except that the commissioner may establish assessment ceilings below the ninety percent level or above the one hundred ten percent level to take into account any change in level of assessment and/or to take into account any additions or retirements to public utility mass real property or litigation affecting the value or taxable status of the local public utility mass real property initiated prior to the effective date of this section.

(b) For assessment rolls with taxable status dates in the years two thousand eighteen, two thousand nineteen and two thousand twenty, the commissioner shall establish no assessment ceiling that is below the lower limit or above the upper limit specified in this paragraph, except that the commissioner may establish assessment ceilings below such lower limit or above such upper limit to take into account any change in level of assessment and/or to take into account any additions or retirements to public utility mass real property or litigation affecting the value or taxable status of the local public utility mass real property initiated prior to the effective date of this section.

(i) For assessment rolls with taxable status dates in two thousand eighteen, the assessment ceiling shall not be less than seventy-five

1 percent or more than one hundred twenty-five percent of the assessment
2 of such local public utility mass real property appearing on the municipi-
3 pal assessment roll with a taxable status date occurring in the year two
4 thousand thirteen.

5 (ii) For assessment rolls with taxable status dates in two thousand
6 nineteen, the assessment ceiling shall not be less than fifty percent or
7 more than one hundred fifty percent of the assessment of such local
8 public utility mass real property appearing on the municipal assessment
9 roll with a taxable status date occurring in the year two thousand thir-
10 teen.

11 (iii) For assessment rolls with taxable status dates in two thousand
12 twenty, the assessment ceiling shall not be less than twenty-five
13 percent or more than one hundred seventy-five percent of the assessment
14 of such local public utility mass real property appearing on the municipi-
15 pal assessment roll with a taxable status date occurring in the year two
16 thousand thirteen.

17 § 3. This act shall take effect immediately, provided, however, that
18 the amendments to subdivision three of section 499-kkkk of the real
19 property tax law made by section two of this act shall not affect the
20 repeal of such section and shall be deemed to be repealed therewith.

21 PART H

22 Section 1. Subsection (c) of section 683 of the tax law is amended by
23 adding a new paragraph 12 to read as follows:

24 (12) Amended returns. Except as otherwise provided in paragraph three
25 of this subsection, or as otherwise provided in this section where a
26 longer period of time may apply, if a taxpayer files an amended return,
27 an assessment of tax (if not deemed to have been made upon the filing of
28 the amended return), including recovery of a previously paid refund,
29 attributable to a change or correction on the amended return from a
30 prior return may be made at any time within one year after such amended
31 return is filed.

32 § 2. Subsection (c) of section 1083 of the tax law is amended by
33 adding a new paragraph 12 to read as follows:

34 (12) Amended returns. Except as otherwise provided in paragraph three
35 of this subsection, or as otherwise provided in this section where a
36 longer period of time may apply, if a taxpayer files an amended return,
37 an assessment of tax (if not deemed to have been made upon the filing of
38 the amended return), including recovery of a previously paid refund,
39 attributable to a change or correction on the amended return from a
40 prior return may be made at any time within one year after such amended
41 return is filed.

42 § 3. Subdivision (c) of section 11-1783 of the administrative code of
43 the city of New York is amended by adding a new paragraph 9 to read as
44 follows:

45 (9) Amended returns. Except as otherwise provided in paragraph three
46 of this subdivision, or as otherwise provided in this section where a
47 longer period of time may apply, if a taxpayer files an amended return,
48 an assessment of tax (if not deemed to have been made upon the filing of
49 the amended return), including recovery of a previously paid refund,
50 attributable to a change or correction on the amended return from a
51 prior return may be made at any time within one year after such amended
52 return is filed.

53 § 4. This act shall take effect immediately and shall apply to amended
54 returns filed on or after the effective date of this act.

1

PART I

2 Section 1. Paragraph 1 of subdivision (d) of section 658 of the tax
3 law, as amended by chapter 166 of the laws of 1991, is amended to read
4 as follows:

5 (1) The commissioner of taxation and finance may prescribe regulations
6 and instructions requiring returns of information to be made and filed
7 on or before February twenty-eighth of each year as to the payment or
8 crediting in any calendar year of amounts of six hundred dollars or more
9 to any taxpayer under this article. Such returns may be required of any
10 person, including lessees or mortgagors of real or personal property,
11 fiduciaries, employers, and all officers and employees of this state, or
12 of any municipal corporation or political subdivision of this state,
13 having the control, receipt, custody, disposal or payment of interest,
14 rents, salaries, wages, premiums, annuities, compensations, remunera-
15 tions, emoluments or other fixed or determinable gains, profits or
16 income, except interest coupons payable to bearer. Information required
17 to be furnished pursuant to paragraph four of subsection (a) of section
18 six hundred seventy-four on a quarterly combined withholding and wage
19 reporting return covering ~~[the last]~~ each calendar quarter of each year
20 and relating to tax withheld on wages paid by an employer to an employee
21 for ~~[the full]~~ each calendar ~~[year]~~ quarter, shall constitute the return
22 of information required to be made under this section with respect to
23 such wages.

24 § 2. Subparagraph (A) of paragraph 4 of subsection (a) of section 674
25 of the tax law, as amended by section 1 of subpart E of part VI of chap-
26 ter 57 of the laws of 2009, is amended to read as follows:

27 (A) All employers described in paragraph one of subsection (a) of
28 section six hundred seventy-one of this part, including those whose
29 wages paid are not sufficient to require the withholding of tax from the
30 wages of any of their employees, all employers required to provide the
31 wage reporting information for the employees described in subdivision
32 one of section one hundred seventy-one-a of this chapter, and all
33 employers liable for unemployment insurance contributions or for
34 payments in lieu of such contributions pursuant to article eighteen of
35 the labor law, shall file a quarterly combined withholding, wage report-
36 ing and unemployment insurance return detailing the preceding calendar
37 quarter's withholding tax transactions, such quarter's wage reporting
38 information, such quarter's withholding reconciliation information, such
39 quarter's unemployment insurance contributions, and such other related
40 information as the commissioner of taxation and finance or the commis-
41 sioner of labor, as applicable, may prescribe. ~~[In addition, the return~~
42 ~~covering the last calendar quarter of each year shall also include with-~~
43 ~~holding reconciliation information for such calendar year.]~~ Such returns
44 shall be filed no later than the last day of the month following the
45 last day of each calendar quarter.

46 § 3. Paragraph 3 of subsection (v) of section 685 of the tax law, as
47 amended by chapter 477 of the laws of 1998, is amended to read as
48 follows:

49 (3) Failure to provide complete and correct employee withholding
50 reconciliation information. In the case of a failure by an employer to
51 provide complete and correct ~~[annual]~~ quarterly withholding information
52 relating to individual employees on a quarterly combined withholding,
53 wage reporting and unemployment insurance return covering ~~[the last]~~
54 each calendar quarter of a year, such employer shall, unless it is shown
55 that such failure is due to reasonable cause and not due to willful

neglect, pay a penalty equal to the product of fifty dollars multiplied by the number of employees for whom such information is incomplete or incorrect; provided, however, that if the number of such employees cannot be determined from the quarterly combined withholding, wage reporting and unemployment insurance return, the commissioner may utilize any information in the commissioner's possession in making such determination. The total amount of the penalty imposed pursuant to this paragraph on an employer for any such failure for ~~the last~~ each calendar quarter of a year shall not exceed ten thousand dollars.

§ 4. This act shall take effect immediately and shall apply to calendar quarters beginning on or after January 1, 2019.

PART J

Section 1. Paragraph (i) of subdivision (d) of section 1105 of the tax law, as amended by chapter 405 of the laws of 1971 and subparagraph 3 as amended by section 1 of part DD of chapter 407 of the laws of 1999, is amended to read as follows:

(i) The receipts from every sale, other than sales for resale, of beer, wine or other alcoholic beverages or any other drink of any nature, or from every sale, other than sales for resale, of food and drink of any nature or of food alone, when sold in or by restaurants, taverns or other establishments in this state, or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers (except those receipts taxed pursuant to subdivision (f) of this section):

(1) in all instances where the sale is for consumption on the premises where sold;

(2) in those instances where the vendor or any person whose services are arranged for by the vendor, after the delivery of the food or drink by or on behalf of the vendor for consumption off the premises of the vendor, serves or assists in serving, cooks, heats or provides other services with respect to the food or drink; and

(3) in those instances where the sale is made through a vending machine that is activated by use of coin, currency, credit card or debit card (except the sale of drinks in a heated state made through such a vending machine) or is for consumption off the premises of the vendor, except where food (other than sandwiches) or drink or both are (A) sold in an unheated state and, (B) are of a type commonly sold for consumption off the premises and in the same form and condition, quantities and packaging, in establishments which are food stores other than those principally engaged in selling foods prepared and ready to be eaten.

§ 2. This act shall take effect June 1, 2018 and shall apply to sales made on and after such date.

PART K

Section 1. The tax law is amended by adding a new section 171-z to read as follows:

§ 171-z. Information sharing with the comptroller regarding unclaimed funds. 1. Notwithstanding any other law, the commissioner is authorized to release to the comptroller information regarding fixed and final unwarranted debts of taxpayers for purposes of collecting unclaimed funds from the comptroller to satisfy fixed and final unwarranted debts owed by taxpayers. For purposes of this section, the term "unwarranted debt" shall mean past-due tax liabilities, including unpaid tax, inter-

1 est and penalty, that the commissioner is required by law to collect and
2 that have become fixed and final such that the taxpayer no longer has
3 any right to administrative or judicial review and a warrant has not
4 been filed; and the term "taxpayer" shall mean any individual, corpo-
5 ration, partnership, limited liability partnership or company, partner,
6 member, manager, sole proprietorship, estate, trust, fiduciary or enti-
7 ty, who or which has been identified as owing taxes to the state. This
8 section shall not be deemed to abrogate or limit in any way the powers
9 and authority of the comptroller to set off debts owed the state from
10 unclaimed funds, under the constitution of the state or any other law.

11 2. The comptroller shall keep all information he or she obtains from
12 the commissioner confidential, and any employee, agent or representative
13 of the comptroller is prohibited from disclosing any taxpayer informa-
14 tion received under this section to anyone other than the commissioner
15 or staff of the department or staff of the department of audit and
16 control for the purposes described in this section.

17 § 2. This act shall take effect immediately.

18 PART L

19 Intentionally Omitted

20 PART M

21 Intentionally Omitted

22 PART N

23 Intentionally Omitted

24 PART O

25 Intentionally Omitted

26 PART P

27 Section 1. Paragraph (1) of subsection (c-1) of section 606 of the tax
28 law, as amended by section 1 of part L1 of chapter 109 of the laws of
29 2006, is amended to read as follows:

30 (1) A resident taxpayer shall be allowed a credit as provided herein
31 equal to the greater of one hundred dollars times the number of qualify-
32 ing children of the taxpayer or the applicable percentage of the child
33 tax credit allowed the taxpayer under section twenty-four of the inter-
34 nal revenue code for the same taxable year for each qualifying child.
35 Provided, however, in the case of a taxpayer whose federal adjusted
36 gross income exceeds the applicable threshold amount set forth by
37 section 24(b)(2) of the Internal Revenue Code, the credit shall only be
38 equal to the applicable percentage of the child tax credit allowed the
39 taxpayer under section 24 of the Internal Revenue Code for each qualify-
40 ing child. For the purposes of this subsection, a qualifying child shall
41 be a child who meets the definition of qualified child under section
42 24(c) of the internal revenue code and is at least four years of age.
43 The applicable percentage shall be thirty-three percent. For purposes
44 of this subsection, any reference to section 24 of the Internal Revenue
45 Code shall be a reference to such section as it existed immediately
46 prior to the enactment of Public Law 115-97.

§ 2. This act shall take effect immediately and shall apply to taxable years commencing on or after January 1, 2018.

PART Q

Section 1. Paragraphs (a) and (b) of subdivision 29 of section 210-B of the tax law, as amended by section 1 of part I of chapter 60 of the laws of 2016, are amended to read as follows:

(a) Allowance of credit. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand ~~nineteen~~ twenty-one, a taxpayer shall be allowed a credit, to be computed as provided in this subdivision, against the tax imposed by this article, for hiring and employing, for not less than one year and for not less than thirty-five hours each week, a qualified veteran within the state. The taxpayer may claim the credit in the year in which the qualified veteran completes one year of employment by the taxpayer. If the taxpayer claims the credit allowed under this subdivision, the taxpayer may not use the hiring of a qualified veteran that is the basis for this credit in the basis of any other credit allowed under this article.

(b) Qualified veteran. A qualified veteran is an individual:

(1) who served on active duty in the United States army, navy, air force, marine corps, coast guard or the reserves thereof, or who served in active military service of the United States as a member of the army national guard, air national guard, New York guard or New York naval militia; who was released from active duty by general or honorable discharge after September eleventh, two thousand one;

(2) who commences employment by the qualified taxpayer on or after January first, two thousand fourteen, and before January first, two thousand ~~eighteen~~ twenty; and

(3) who certifies by signed affidavit, under penalty of perjury, that he or she has not been employed for thirty-five or more hours during any week in the one hundred eighty day period immediately prior to his or her employment by the taxpayer.

§ 2. Paragraphs 1 and 2 of subsection (a-2) of section 606 of the tax law, as amended by section 2 of part I of chapter 60 of the laws of 2016, are amended to read as follows:

(1) Allowance of credit. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand ~~nineteen~~ twenty-one, a taxpayer shall be allowed a credit, to be computed as provided in this subsection, against the tax imposed by this article, for hiring and employing, for not less than one year and for not less than thirty-five hours each week, a qualified veteran within the state. The taxpayer may claim the credit in the year in which the qualified veteran completes one year of employment by the taxpayer. If the taxpayer claims the credit allowed under this subsection, the taxpayer may not use the hiring of a qualified veteran that is the basis for this credit in the basis of any other credit allowed under this article.

(2) Qualified veteran. A qualified veteran is an individual:

(A) who served on active duty in the United States army, navy, air force, marine corps, coast guard or the reserves thereof, or who served in active military service of the United States as a member of the army national guard, air national guard, New York guard or New York naval militia; who was released from active duty by general or honorable discharge after September eleventh, two thousand one;

(B) who commences employment by the qualified taxpayer on or after January first, two thousand fourteen, and before January first, two thousand ~~[eighteen]~~ twenty; and

(C) who certifies by signed affidavit, under penalty of perjury, that he or she has not been employed for thirty-five or more hours during any week in the one hundred eighty day period immediately prior to his or her employment by the taxpayer.

§ 3. Paragraphs 1 and 2 of subdivision (g-1) of section 1511 of the tax law, as amended by section 3 of part I of chapter 60 of the laws of 2016, are amended to read as follows:

(1) Allowance of credit. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand ~~[nineteen]~~ twenty-one, a taxpayer shall be allowed a credit, to be computed as provided in this subdivision, against the tax imposed by this article, for hiring and employing, for not less than one year and for not less than thirty-five hours each week, a qualified veteran within the state. The taxpayer may claim the credit in the year in which the qualified veteran completes one year of employment by the taxpayer. If the taxpayer claims the credit allowed under this subdivision, the taxpayer may not use the hiring of a qualified veteran that is the basis for this credit in the basis of any other credit allowed under this article.

(2) Qualified veteran. A qualified veteran is an individual:

(A) who served on active duty in the United States army, navy, air force, marine corps, coast guard or the reserves thereof, or who served in active military service of the United States as a member of the army national guard, air national guard, New York guard or New York naval militia; who was released from active duty by general or honorable discharge after September eleventh, two thousand one;

(B) who commences employment by the qualified taxpayer on or after January first, two thousand fourteen, and before January first, two thousand ~~[eighteen]~~ twenty; and

(C) who certifies by signed affidavit, under penalty of perjury, that he or she has not been employed for thirty-five or more hours during any week in the one hundred eighty day period immediately prior to his or her employment by the taxpayer.

§ 4. This act shall take effect immediately.

PART R

Section 1. Subdivision (c) of section 25-a of the labor law, as amended by section 1 of part AA of chapter 56 of the laws of 2015, is amended to read as follows:

(c) A qualified employer shall be entitled to a tax credit equal to

(1) ~~[five]~~ seven hundred fifty dollars per month for up to six months for each qualified employee the employer employs in a full-time job or ~~[two]~~ three hundred ~~[fifty]~~ seventy-five dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, (2) ~~[one-thousand]~~ fifteen hundred dollars for each qualified employee who is employed for at least an additional six consecutive months by the qualified employer in a full-time job or ~~[five]~~ seven hundred fifty dollars for each qualified employee who is employed for at least an additional six consecutive months by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified

1 employee is enrolled in high school full-time, and (3) an additional
2 [~~one thousand~~] fifteen hundred dollars for each qualified employee who
3 is employed for at least an additional year after the [~~first year of the~~
4 ~~employee's employment~~] completion of the time periods and satisfaction
5 of the conditions set forth in paragraphs one and two of this subdivi-
6 sion by the qualified employer in a full-time job or [~~five~~] seven
7 hundred fifty dollars for each qualified employee who is employed for at
8 least an additional year after the [~~first year of the employee's employ-~~
9 ~~ment~~] completion of the time periods and satisfaction of the conditions
10 set forth in paragraphs one and two of this subdivision by the qualified
11 employer in a part-time job of at least twenty hours per week or ten
12 hours per week when the qualified employee is enrolled in high school
13 full time. The tax credits shall be claimed by the qualified employer as
14 specified in subdivision thirty-six of section two hundred ten-B and
15 subsection (tt) of section six hundred six of the tax law.

16 § 2. Subdivisions (d), (e) and (f) of section 25-a of the labor law,
17 subdivisions (d) and (e) as amended by section 1 of subpart A of part N
18 of chapter 59 of the laws of 2017 and subdivision (f) as amended by
19 section 1 of part AA of chapter 56 of the laws of 2015, are amended to
20 read as follows:

21 (d) To participate in the program established under this section, an
22 employer must submit an application (in a form prescribed by the commis-
23 sioner) to the commissioner after January first, two thousand twelve but
24 no later than November thirtieth, two thousand twelve for program one,
25 after January first, two thousand fourteen but no later than November
26 thirtieth, two thousand fourteen for program two, after January first,
27 two thousand fifteen but no later than November thirtieth, two thousand
28 fifteen for program three, after January first, two thousand sixteen but
29 no later than November thirtieth, two thousand sixteen for program four,
30 after January first, two thousand seventeen but no later than November
31 thirtieth, two thousand seventeen for program five, after January first,
32 two thousand eighteen but no later than November thirtieth, two thousand
33 eighteen for program six, after January first, two thousand nineteen but
34 no later than November thirtieth, two thousand nineteen for program
35 seven, after January first, two thousand twenty but no later than Novem-
36 ber thirtieth, two thousand twenty for program eight, after January
37 first, two thousand twenty-one but no later than November thirtieth, two
38 thousand twenty-one for program nine, and after January first, two thou-
39 sand twenty-two but no later than November thirtieth, two thousand twen-
40 ty-two for program ten. The qualified employees must start their employ-
41 ment on or after January first, two thousand twelve but no later than
42 December thirty-first, two thousand twelve for program one, on or after
43 January first, two thousand fourteen but no later than December thirty-
44 first, two thousand fourteen for program two, on or after January first,
45 two thousand fifteen but no later than December thirty-first, two thou-
46 sand fifteen for program three, on or after January first, two thousand
47 sixteen but no later than December thirty-first, two thousand sixteen
48 for program four, on or after January first, two thousand seventeen but
49 no later than December thirty-first, two thousand seventeen for program
50 five, on or after January first, two thousand eighteen but no later than
51 December thirty-first, two thousand eighteen for program six, on or
52 after January first, two thousand nineteen but no later than December
53 thirty-first, two thousand nineteen for program seven, on or after Janu-
54 ary first, two thousand twenty but no later than December thirty-first,
55 two thousand twenty for program eight, on or after January first, two
56 thousand twenty-one but no later than December thirty-first, two thou-

1 sand twenty-one for program nine, and on or after January first, two
2 thousand twenty-two but no later than December thirty-first, two thou-
3 sand twenty-two for program ten. ~~[The commissioner shall establish~~
4 ~~guidelines and criteria that specify requirements for employers to~~
5 ~~participate in the program including criteria for certifying qualified~~
6 ~~employees, ensuring that the process established will minimize any undue~~
7 ~~delay in issuing the certificate of eligibility. Any regulations that~~
8 ~~the commissioner determines are necessary may be adopted on an emergency~~
9 ~~basis notwithstanding anything to the contrary in section two hundred~~
10 ~~two of the state administrative procedure act. Such requirements may~~
11 ~~include the types of industries that the employers are engaged in. The~~
12 ~~commissioner may give preference to employers that are engaged in demand~~
13 ~~occupations or industries, or in regional growth sectors, including but~~
14 ~~not limited to those identified by the regional economic development~~
15 ~~councils, such as clean energy, healthcare, advanced manufacturing and~~
16 ~~conservation. In addition, the commissioner shall give preference to~~
17 ~~employers who offer advancement and employee benefit packages to the~~
18 ~~qualified individuals.]~~ As part of such application, an employer must:

19 (1) agree to allow the department of taxation and finance to share its
20 tax information with the commissioner. However, any information shared
21 as a result of this agreement shall not be available for disclosure or
22 inspection under the state freedom of information law, and

23 (2) allow the commissioner and its agents and the department of taxa-
24 tion and finance and its agents access to any and all books and records
25 of employers the commissioner may require to monitor compliance.

26 (e) If, after reviewing the application submitted by an employer, the
27 commissioner determines that such employer is eligible to participate in
28 the program established under this section, the commissioner shall issue
29 the employer a preliminary certificate of eligibility that establishes
30 the employer as a qualified employer. The preliminary certificate of
31 eligibility shall specify the maximum amount of tax credit that the
32 employer ~~[will]~~ may be allowed to claim and the program year under which
33 it ~~[can]~~ may be claimed. The maximum amount of tax credit the employer
34 is allowed to claim shall be computed as prescribed in subdivision (c)
35 of this section.

36 (f) The commissioner shall annually publish a report. Such report must
37 contain the names and addresses of any employer issued a preliminary
38 certificate of eligibility under this section, ~~[and]~~ the ~~[maximum]~~
39 amount of New York youth works tax credit allowed to the qualified
40 employer as specified on ~~[such]~~ an annual final certificate of ~~[eligi-~~
41 ~~bility]~~ tax credit and any other information as determined by the
42 commissioner.

43 § 3. Section 25-a of the labor law is amended by adding three new
44 subdivisions (e-1), (e-2) and (e-3) to read as follows:

45 (e-1)(1) To receive an annual final certificate of tax credit, the
46 qualified employer must annually submit, on or before January thirty-
47 first of the calendar year subsequent to the payment of wages paid to an
48 eligible employee, a report to the commissioner, in a form prescribed by
49 the commissioner. The report must demonstrate that the employer has
50 satisfied all eligibility requirements and provided all the information
51 necessary for the commissioner to compute an actual amount of credit
52 allowed.

53 (2) After reviewing the report and finding it sufficient, the commis-
54 sioner shall issue an annual final certificate of tax credit. Such
55 certificate shall include, in addition to any other information the
56 commissioner determines is necessary, the following information:

1 (i) The name and employer identification number of the qualified
2 employer;

3 (ii) The program year for the corresponding credit award;

4 (iii) The actual amount of credit to which the qualified employer is
5 entitled for that calendar year or the fiscal year in which the annual
6 final certificate is issued, which actual amount cannot exceed the
7 amount of credit listed on the preliminary certificate but may be less
8 than such amount; and

9 (iv) A unique certificate number identifying the annual final certif-
10 icate of tax credit.

11 (e-2) In determining the amount of credit for purposes of the annual
12 final certificate of tax credit, the portion of the credit described in
13 paragraph one of subdivision (c) of this section shall be allowed for
14 the calendar year in which the wages are paid to the qualified employee,
15 the portion of the credit described in paragraph two of subdivision (c)
16 of this section shall be allowed for the calendar year in which the
17 additional six consecutive month period ends, and the portion of the
18 credit described in paragraph three of subdivision (c) of this section
19 shall be allowed for the calendar year in which the additional year of
20 consecutive employment ends after the completion of the time periods and
21 satisfaction of the conditions set forth in paragraphs one and two of
22 subdivision (c) of this section. If the qualified employer's taxable
23 year is a calendar year, the employer shall be entitled to claim the
24 credit as calculated on the annual final certificate of tax credit on
25 the calendar year return for which the annual final certificate of tax
26 credit was issued. If the qualified employer's taxable year is a fiscal
27 year, the employer shall be entitled to claim the credit as calculated
28 on the annual final certificate of tax credit on the return for the
29 fiscal year that encompasses the date on which the annual final certif-
30 icate of tax credit is issued.

31 (e-3) The commissioner shall establish guidelines and criteria that
32 specify requirements for employers to participate in the program includ-
33 ing criteria for certifying qualified employees, and issuing the prelim-
34 inary certificate of eligibility and annual final certificate of tax
35 credit. Such requirements may include the types of industries that the
36 employers are engaged in. The commissioner may give preference to
37 employers that are engaged in demand occupations or industries, or in
38 regional growth sectors, including but not limited to those identified
39 by the regional economic development councils, such as clean energy,
40 healthcare, advanced manufacturing and conservation. In addition, the
41 commissioner shall give preference to employers who offer advancement
42 and employee benefit packages to the qualified individuals.

43 § 4. Paragraph (a) of subdivision 36 of section 210-B of the tax law,
44 as amended by section 2 of part AA of chapter 56 of the laws of 2015, is
45 amended to read as follows:

46 (a) A taxpayer that has been certified by the commissioner of labor as
47 a qualified employer pursuant to section twenty-five-a of the labor law
48 shall be allowed a credit against the tax imposed by this article equal
49 to (i) ~~[five]~~ seven hundred fifty dollars per month for up to six months
50 for each qualified employee the employer employs in a full-time job or
51 ~~[two]~~ three hundred ~~[fifty]~~ seventy-five dollars per month for up to six
52 months for each qualified employee the employer employs in a part-time
53 job of at least twenty hours per week or ten hours per week when the
54 qualified employee is enrolled in high school full-time, (ii) ~~[one thou-~~
55 ~~sand]~~ fifteen hundred dollars for each qualified employee who is
56 employed for at least an additional six consecutive months by the quali-

1 fied employer in a full-time job or [~~five~~] seven hundred fifty dollars
2 for each qualified employee who is employed for at least an additional
3 six consecutive months by the qualified employer in a part-time job of
4 at least twenty hours per week or ten hours per week when the qualified
5 employee is enrolled in high school full-time, and (iii) an additional
6 [~~one thousand~~] fifteen hundred dollars for each qualified employee who
7 is employed for at least an additional year after the [~~first year of the~~
8 ~~employee's employment~~] completion of the time periods and satisfaction
9 of the conditions set forth in subparagraphs (i) and (ii) of this para-
10 graph by the qualified employer in a full-time job or [~~five~~] seven
11 hundred fifty dollars for each qualified employee who is employed for at
12 least an additional year after the [~~first year of the employee's employ-~~
13 ~~ment~~] completion of the time periods and satisfaction of the conditions
14 set forth in subparagraphs (i) and (ii) of this paragraph by the quali-
15 fied employer in a part-time job of at least twenty hours per week or
16 ten hours per week when the qualified employee is enrolled in high
17 school full-time. For purposes of this subdivision, the term "qualified
18 employee" shall have the same meaning as set forth in subdivision (b) of
19 section twenty-five-a of the labor law. The portion of the credit
20 described in subparagraph (i) of this paragraph shall be allowed for the
21 taxable year in which the wages are paid to the qualified employee, the
22 portion of the credit described in subparagraph (ii) of this paragraph
23 shall be allowed in the taxable year in which the additional six month
24 period ends, and the portion of the credit described in subparagraph
25 (iii) of this paragraph shall be allowed in the taxable year in which
26 the additional year after the first year of employment ends.

27 § 5. Paragraph (a) of subdivision 36 of section 210-B of the tax law,
28 as amended by section 4 of this act, is amended to read as follows:

29 (a) A taxpayer that has been certified by the commissioner of labor as
30 a qualified employer pursuant to section twenty-five-a of the labor law
31 and received an annual final certificate of tax credit from such commis-
32 sioner shall be allowed a credit against the tax imposed by this article
33 equal to [~~(i) seven hundred fifty dollars per month for up to six months~~
34 ~~for each qualified employee the employer employs in a full-time job or~~
35 ~~three hundred seventy-five dollars per month for up to six months for~~
36 ~~each qualified employee the employer employs in a part-time job of at~~
37 ~~least twenty hours per week or ten hours per week when the qualified~~
38 ~~employee is enrolled in high school full-time, (ii) fifteen hundred~~
39 ~~dollars for each qualified employee who is employed for at least an~~
40 ~~additional six consecutive months by the qualified employer in a full-~~
41 ~~time job or seven hundred fifty dollars for each qualified employee who~~
42 ~~is employed for at least an additional six consecutive months by the~~
43 ~~qualified employer in a part-time job of at least twenty hours per week~~
44 ~~or ten hours per week when the qualified employee is enrolled in high~~
45 ~~school full-time, and (iii) an additional fifteen hundred dollars for~~
46 ~~each qualified employee who is employed for at least an additional year~~
47 ~~after the completion of the time periods and satisfaction of the condi-~~
48 ~~tions set forth in subparagraphs (i) and (ii) of this paragraph by the~~
49 ~~qualified employer in a full-time job or seven hundred fifty dollars for~~
50 ~~each qualified employee who is employed for at least an additional year~~
51 ~~after the completion of the time periods and satisfaction of the condi-~~
52 ~~tions set forth in subparagraphs (i) and (ii) of this paragraph by the~~
53 ~~qualified employer in a part-time job of at least twenty hours per week~~
54 ~~or ten hours per week when the qualified employee is enrolled in high~~
55 ~~school full-time. For purposes of this subdivision, the term "qualified~~
56 ~~employee" shall have the same meaning as set forth in subdivision (b) of~~

~~section twenty-five-a of the labor law. The portion of the credit described in subparagraph (i) of this paragraph shall be allowed for the taxable year in which the wages are paid to the qualified employee, the portion of the credit described in subparagraph (ii) of this paragraph shall be allowed in the taxable year in which the additional six month period ends, and the portion of the credit described in subparagraph (iii) of this paragraph shall be allowed in the taxable year in which the additional year after the first year of employment ends]~~ the amount listed on the annual final certificate of tax credit issued by the commissioner of labor pursuant to section twenty-five-a of the labor law. If the qualified employer's taxable year is a calendar year, the employer shall be entitled to claim the credit as calculated on the annual final certificate of tax credit on the calendar year return for which the annual final certificate of tax credit was issued. If the qualified employer's taxable year is a fiscal year, the employer shall be entitled to claim the credit as calculated on the annual final certificate of tax credit on the return for the fiscal year that encompasses the date on which the annual final certificate of tax credit is issued. For the purposes of this subdivision, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law.

§ 6. Paragraph (c) of subdivision 36 of section 210-B of the tax law, as added by section 17 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(c) The taxpayer ~~[may]~~ shall be required to attach to its tax return its annual final certificate of ~~[eligibility]~~ tax credit issued by the commissioner of labor pursuant to section twenty-five-a of the labor law. In no event shall the taxpayer be allowed a credit greater than the amount of the credit listed on the annual final certificate of ~~[eligibility]~~ tax credit. Notwithstanding any provision of this chapter to the contrary, the commissioner and the commissioner's designees may release the names and addresses of any taxpayer claiming this credit and the amount of the credit earned by the taxpayer. Provided, however, if a taxpayer claims this credit because it is a member of a limited liability company or a partner in a partnership, only the amount of credit earned by the entity and not the amount of credit claimed by the taxpayer may be released.

§ 7. Paragraph 1 of subsection (tt) of section 606 of the tax law, as amended by section 3 of part AA of chapter 56 of the laws of 2015, is amended to read as follows:

(1) A taxpayer that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed a credit against the tax imposed by this article equal to (A) ~~[five]~~ seven hundred ~~fifty~~ fifty dollars per month for up to six months for each qualified employee the employer employs in a full-time job or ~~[two]~~ three hundred ~~[fifty]~~ seventy-five dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (B) ~~[one thousand]~~ fifteen hundred dollars for each qualified employee who is employed for at least an additional six consecutive months by the qualified employer in a full-time job or ~~[five]~~ seven hundred ~~fifty~~ fifty dollars for each qualified employee who is employed for at least an additional six consecutive months by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (C) an additional

1 ~~[one thousand]~~ fifteen hundred dollars for each qualified employee who
2 is employed for at least an additional year after the ~~[first year of the~~
3 ~~employee's employment]~~ completion of the time periods and satisfaction
4 of the conditions set forth in subparagraphs A and B of this subsection
5 by the qualified employer in a full-time job or ~~[five]~~ seven hundred
6 fifty dollars for each qualified employee who is employed for at least
7 an additional year after the ~~[first year of the employee's employment]~~
8 completion of the time periods and satisfaction of the conditions set
9 forth in subparagraphs A and B of this subsection by the qualified
10 employer in a part-time job of at least twenty hours per week or ten
11 hours per week when the qualified employee is enrolled in high school
12 full-time. A taxpayer that is a partner in a partnership, member of a
13 limited liability company or shareholder in an S corporation that has
14 been certified by the commissioner of labor as a qualified employer
15 pursuant to section twenty-five-a of the labor law shall be allowed its
16 pro rata share of the credit earned by the partnership, limited liabil-
17 ity company or S corporation. For purposes of this subsection, the term
18 "qualified employee" shall have the same meaning as set forth in subdi-
19 vision (b) of section twenty-five-a of the labor law. The portion of the
20 credit described in subparagraph (A) of this paragraph shall be allowed
21 for the taxable year in which the wages are paid to the qualified
22 employee, the portion of the credit described in subparagraph (B) of
23 this paragraph shall be allowed in the taxable year in which the addi-
24 tional six month period ends, and the portion of the credit described in
25 subparagraph (C) of this paragraph shall be allowed in the taxable year
26 in which the additional year after the first year of employment ends.

27 § 8. Paragraph 1 of subsection (tt) of section 606 of the tax law, as
28 amended by section 7 of this act, is amended to read as follows:

29 (1) A taxpayer that has been certified by the commissioner of labor as
30 a qualified employer pursuant to section twenty-five-a of the labor law
31 and received an annual final certificate of tax credit from such commis-
32 sioner shall be allowed a credit against the tax imposed by this article
33 equal to ~~[(A) seven hundred fifty dollars per month for up to six months~~
34 ~~for each qualified employee the employer employs in a full-time job or~~
35 ~~three hundred seventy five dollars per month for up to six months for~~
36 ~~each qualified employee the employer employs in a part time job of at~~
37 ~~least twenty hours per week or ten hours per week when the qualified~~
38 ~~employee is enrolled in high school full-time, and (B) fifteen hundred~~
39 ~~dollars for each qualified employee who is employed for at least an~~
40 ~~additional six consecutive months by the qualified employer in a full-~~
41 ~~time job or seven hundred fifty dollars for each qualified employee who~~
42 ~~is employed for at least an additional six consecutive months by the~~
43 ~~qualified employer in a part-time job of at least twenty hours per week~~
44 ~~or ten hours per week when the qualified employee is enrolled in high~~
45 ~~school full-time, and (C) an additional fifteen hundred dollars for each~~
46 ~~qualified employee who is employed for at least an additional year after~~
47 ~~the completion of the time periods and satisfaction of the conditions~~
48 ~~set forth in subparagraphs A and B of this subsection by the qualified~~
49 ~~employer in a full-time job or seven hundred fifty dollars for each~~
50 ~~qualified employee who is employed for at least an additional year after~~
51 ~~the completion of the time periods and satisfaction of the conditions~~
52 ~~set forth in subparagraphs A and B of this subsection by the qualified~~
53 ~~employer in a part-time job of at least twenty hours per week or ten~~
54 ~~hours per week when the qualified employee is enrolled in high school~~
55 ~~full-time]~~ the amount listed on the annual final certificate of tax
56 credit issued by the commissioner of labor pursuant to section twenty-

1 five-a of the labor law. A taxpayer that is a partner in a partnership,
2 member of a limited liability company or shareholder in an S corporation
3 that has ~~[been certified by]~~ received its annual final certificate of
4 tax credit from the commissioner of labor as a qualified employer pursu-
5 ant to section twenty-five-a of the labor law shall be allowed its pro
6 rata share of the credit earned by the partnership, limited liability
7 company or S corporation. ~~[For purposes of this subsection, the term~~
8 ~~"qualified employee" shall have the same meaning as set forth in subdivi-~~
9 ~~vision (b) of section twenty-five-a of the labor law. The portion of the~~
10 ~~credit described in subparagraph (A) of this paragraph shall be allowed~~
11 ~~for the taxable year in which the wages are paid to the qualified~~
12 ~~employee, the portion of the credit described in subparagraph (B) of~~
13 ~~this paragraph shall be allowed in the taxable year in which the addi-~~
14 ~~tional six month period ends, and the portion of the credit described in~~
15 ~~subparagraph (C) of this paragraph shall be allowed in the taxable year~~
16 ~~in which the additional year after the first year of employment ends.]~~
17 If the qualified employer's taxable year is a calendar year, the employ-
18 er shall be entitled to claim the credit as calculated on the annual
19 final certificate of tax credit on the calendar year return for which
20 the annual final certificate of tax credit was issued. If the qualified
21 employer's taxable year is a fiscal year, the employer shall be entitled
22 to claim the credit as calculated on the annual final certificate of tax
23 credit on the return for the fiscal year that encompasses the date on
24 which the annual final certificate of tax credit is issued. For the
25 purposes of this subsection, the term "qualified employee" shall have
26 the same meaning as set forth in subdivision (b) of section
27 twenty-five-a of the labor law.

28 § 9. Paragraph 3 of subsection (tt) of section 606 of the tax law, as
29 added by section 3 of part D of chapter 56 of the laws of 2011, is
30 amended to read as follows:

31 (3) The taxpayer ~~[may]~~ shall be required to attach to its tax return
32 its annual final certificate of ~~[eligibility]~~ tax credit issued by the
33 commissioner of labor pursuant to section twenty-five-a of the labor
34 law. In no event shall the taxpayer be allowed a credit greater than the
35 amount of the credit listed on the annual final certificate of ~~[eligi-~~
36 ~~bility]~~ tax credit. Notwithstanding any provision of this chapter to the
37 contrary, the commissioner and the commissioner's designees may release
38 the names and addresses of any taxpayer claiming this credit and the
39 amount of the credit earned by the taxpayer. Provided, however, if a
40 taxpayer claims this credit because it is a member of a limited liabil-
41 ity company, a partner in a partnership, or a shareholder in a subchap-
42 ter S corporation, only the amount of credit earned by the entity and
43 not the amount of credit claimed by the taxpayer may be released.

44 § 10. This act shall take effect immediately, provided however that
45 (i) section one of this act shall apply to tax years beginning on or
46 after January 1, 2018; (ii) sections four and seven of this act shall
47 apply to tax years beginning on or after January 1, 2018 and before
48 January 1, 2019; and (iii) sections two, three, five, six, eight, and
49 nine of this act shall take effect January 1, 2019 and shall apply to
50 tax years beginning on or after January 1, 2019.

51 PART S

52 Intentionally Omitted

53 PART T

Intentionally Omitted

PART U

Intentionally Omitted

PART V

Intentionally Omitted

PART W

Section 1. Subdivision (f) of section 1115 of the tax law, as amended by chapter 205 of the laws of 1968, is amended to read as follows:

(f) (1) Services rendered by a veterinarian licensed and registered as required by the education law which constitute the practice of veterinary medicine as defined in said law, including hospitalization for which no separate boarding charge is made, shall not be subject to tax under paragraph (3) of subdivision (c) of section eleven hundred five, but the exemption allowed by this subdivision shall not apply to other services provided by a veterinarian to pets and other animals, including, but not limited to, boarding, grooming and clipping. Articles of tangible personal property designed for use in some manner relating to domestic animals or poultry, when sold by such a veterinarian, shall not be subject to tax under subdivision (a) of section eleven hundred five or under section eleven hundred ten. However, the sale of any such articles of tangible personal property to a veterinarian shall not be deemed a sale for resale within the meaning of ~~paragraph~~ paragraph (4) of subdivision (b) of section eleven hundred one and shall not be exempt from retail sales tax.

(2) Drugs or medicine sold to or used by a veterinarian for use in rendering services that are exempt pursuant to paragraph one of this subdivision to livestock or poultry used in the production for sale of tangible personal property by farming, or sold to a person qualifying for the exemption provided for in paragraph six of subdivision (a) of this section for use by such person on such livestock or poultry.

§ 2. Subdivision (a) of section 1119 of the tax law, as amended by chapter 686 of the laws of 1986 and as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(a) Subject to the conditions and limitations provided for herein, a refund or credit shall be allowed for a tax paid pursuant to subdivision (a) of section eleven hundred five or section eleven hundred ten (1) on the sale or use of tangible personal property if the purchaser or user, in the performance of a contract, later incorporates that tangible personal property into real property located outside this state, (2) on the sale or use of tangible personal property purchased in bulk, or any portion thereof, which is stored and not used by the purchaser or user within this state if that property is subsequently reshipped by such purchaser or user to a point outside this state for use outside this state, (3) on the sale to or use by a contractor or subcontractor of tangible personal property if that property is used by him solely in the performance of a pre-existing lump sum or unit price construction contract, (4) on the sale or use within this state of tangible personal property, not purchased for resale, if the use of such property in this state is restricted to fabricating such property (including incorporat-

ing it into or assembling it with other tangible personal property), processing, printing or imprinting such property and such property is then shipped to a point outside this state for use outside this state, ~~[(5) on the sale to or use by a veterinarian of drugs or medicine if such drugs or medicine are used by such veterinarian in rendering services, which are exempt pursuant to subdivision (f) of section eleven hundred fifteen of this chapter, to livestock or poultry used in the production for sale of tangible personal property by farming or if such drugs or medicine are sold to a person qualifying for the exemption provided for in paragraph (6) of subdivision (a) of section eleven hundred fifteen of this chapter for use by such person on such livestock or poultry,~~ or (6) on the sale of tangible personal property purchased for use in constructing, expanding or rehabilitating industrial or commercial real property (other than property used or to be used exclusively by one or more registered vendors primarily engaged in the retail sale of tangible personal property) located in an area designated as an empire zone pursuant to article eighteen-B of the general municipal law, but only to the extent that such property becomes an integral component part of the real property. (For the purpose of clause (3) of the preceding sentence, the term "pre-existing lump sum or unit price construction contract" shall mean a contract for the construction of improvements to real property under which the amount payable to the contractor or subcontractor is fixed without regard to the costs incurred by him in the performance thereof, and which (i) was irrevocably entered into prior to the date of the enactment of this article or the enactment of a law increasing the rate of tax imposed under this article, or (ii) resulted from the acceptance by a governmental agency of a bid accompanied by a bond or other performance guaranty which was irrevocably submitted prior to such date.) Where the tax on the sale or use of such tangible personal property has been paid to the vendor, to qualify for such refund or credit, such tangible personal property must be incorporated into real property as required in clause (1) above, reshipped as required in clause (2) above, used in the manner described in clauses (3), (4)~~[(5)]~~ and (6) above within three years after the date such tax was payable to the tax commission by the vendor pursuant to section eleven hundred thirty-seven. Where the tax on the sale or use of such tangible personal property was paid by the applicant for the credit or refund directly to the tax commission, to qualify for such refund or credit, such tangible personal property must be incorporated into real property as required in clause (1) above, reshipped as required in clause (2) above, used in the manner described in clauses (3), (4)~~[(5)]~~ and (6) above within three years after the date such tax was payable to the tax commission by such applicant pursuant to this article. An application for a refund or credit pursuant to this section must be filed with such commission within the time provided by subdivision (a) of section eleven hundred thirty-nine. Such application shall be in such form as the tax commission may prescribe. Where an application for credit has been filed, the applicant may immediately take such credit on the return which is due coincident with or immediately subsequent to the time that he files his application for credit. However, the taking of the credit on the return shall be deemed to be part of the application for credit and shall be subject to the provisions in respect to applications for credit in section eleven hundred thirty-nine as provided in subdivision (e) of such section. With respect to a sale or use described in clause (3) above where a pre-existing lump sum or unit price construction contract was irrevocably entered into prior to the date of

1 the enactment of this article or the bid accompanied by the performance
2 guaranty was irrevocably submitted to the governmental agency prior to
3 such date, the purchaser or user shall be entitled to a refund or credit
4 only of the amount by which the tax on such sale or use imposed under
5 this article plus any tax imposed under the authority of article twenty-
6 nine exceeds the amount computed by applying against such sale or use
7 the local rate of tax, if any, in effect at the time such contract was
8 entered into or such bid was submitted.

9 In the case of the enactment of a law increasing the rate of tax
10 imposed by this article, the purchaser or user shall be entitled only to
11 a refund or credit of the amount by which the increased tax on such sale
12 or use imposed under this article plus any tax imposed under the author-
13 ity of article twenty-nine exceeds the amount computed by applying
14 against such sale or use the state and local rates of tax in effect at
15 the time such contract was entered into or such bid was submitted.

16 § 3. This act shall take effect June 1, 2018, and shall apply to sales
17 made and uses occurring on and after such date.

18 PART X

19 Section 1. Subdivision 1 of section 1131 of the tax law, as amended by
20 chapter 576 of the laws of 1994, is amended to read as follows:

21 (1) "Persons required to collect tax" or "person required to collect
22 any tax imposed by this article" shall include: every vendor of tangible
23 personal property or services; every recipient of amusement charges; and
24 every operator of a hotel. Said terms shall also include any officer,
25 director or employee of a corporation or of a dissolved corporation, any
26 employee of a partnership, any employee or manager of a limited liability
27 company, or any employee of an individual proprietorship who as such
28 officer, director, employee or manager is under a duty to act for such
29 corporation, partnership, limited liability company or individual
30 proprietorship in complying with any requirement of this article, or has
31 so acted; and any member of a partnership or limited liability company.
32 Provided, however, that any person who is a vendor solely by reason of
33 clause (D) or (E) of subparagraph (i) of paragraph (8) of subdivision
34 (b) of section eleven hundred one of this article shall not be a "person
35 required to collect any tax imposed by this article" until twenty days
36 after the date by which such person is required to file a certificate of
37 registration pursuant to section eleven hundred thirty-four of this
38 part.

39 § 2. Subdivision (a) of section 1133 of the tax law, as amended by
40 chapter 621 of the laws of 1967, is amended to read as follows:

41 (a) (1) Except as otherwise provided in paragraph two of this subdivi-
42 sion and in section eleven hundred thirty-seven of this part, every
43 person required to collect any tax imposed by this article shall be
44 personally liable for the tax imposed, collected or required to be
45 collected under this article. Any such person shall have the same right
46 in respect to collecting the tax from his customer or in respect to
47 nonpayment of the tax by the customer as if the tax were a part of the
48 purchase price of the property or service, amusement charge or rent, as
49 the case may be, and payable at the same time; provided, however, that
50 the tax commission shall be joined as a party in any action or proceed-
51 ing brought to collect the tax.

52 (2) Notwithstanding any other provision of this article: (i) The
53 commissioner shall grant the relief described in subparagraph (iii) of
54 this paragraph to a limited partner of a limited partnership (but not a

1 partner of a limited liability partnership) or a member of a limited
2 liability company if such limited partner or member demonstrates to the
3 satisfaction of the commissioner that such limited partner's or member's
4 ownership interest and the percentage of the distributive share of the
5 profits and losses of such limited partnership or limited liability
6 company are each less than fifty percent, and such limited partner or
7 member was not under a duty to act for such limited partnership or
8 limited liability company in complying with any requirement of this
9 article. Provided, however, the commissioner may deny an application for
10 relief to any such limited partner or member who the commissioner finds
11 has acted on behalf of such limited partnership or limited liability
12 company in complying with any requirement of this article or has been
13 convicted of a crime provided in this chapter or who has a past-due
14 liability, as such term is defined in section one hundred seventy-one-v
15 of this chapter.

16 (ii) Such limited partner or member must submit an application for
17 relief, on a form prescribed by the commissioner, and the information
18 provided in such application must be true and complete in all material
19 respects. Providing materially false or fraudulent information on such
20 application shall disqualify such limited partner or member for the
21 relief described in subparagraph (iii) of this paragraph, shall void any
22 agreement with the commissioner with respect to such relief, and shall
23 result in such limited partner or member bearing strict liability for
24 the total amount of tax, interest and penalty owed by their respective
25 limited partnership or limited liability company pursuant to this subdi-
26 vision.

27 (iii) A limited partner of a limited partnership or member of a limit-
28 ed liability company, who meets the requirements set forth in this para-
29 graph and whose application for relief is approved by the commissioner,
30 shall be liable for the percentage of the original sales and use tax
31 liability of their respective limited partnership or limited liability
32 company that reflects such limited partner's or member's ownership
33 interest of distributive share of the profits and losses of such limited
34 partnership or limited liability company, whichever is higher. Such
35 original liability shall include any interest accrued thereon up to and
36 including the date of payment by such limited partner or member at the
37 underpayment rate set by the commissioner pursuant to section eleven
38 hundred forty-two of this part, and shall be reduced by the sum of any
39 payments made by (A) the limited partnership or limited liability compa-
40 ny; (B) any person required to collect tax not eligible for relief; and
41 (C) any person required to collect tax who was eligible for relief but
42 had not been approved for relief by the commissioner at the time such
43 payment was made. Provided, however, such limited partner or member
44 shall not be liable for any penalty owed by such limited partnership or
45 limited liability company or any other partner or member of such limited
46 partnership or limited liability company. Any payment made by a limited
47 partner or member pursuant to the provisions of this paragraph shall not
48 be credited against the liability of other limited partners or members
49 of their respective limited partnership or limited liability company who
50 are eligible for the same relief; provided, however that the sum of the
51 amounts owed by all of the persons required to collect tax of a limited
52 partnership or limited liability company shall not exceed the total
53 liability of such limited partnership or limited liability company.

54 § 3. This act shall take effect immediately.

Intentionally Omitted

PART Z

Section 1. Section 2 of subpart R of part A of chapter 61 of the laws of 2017, amending the tax law relating to extending the expiration of the authorization to the county of Genesee to impose an additional one percent of sales and compensating use taxes, is amended to read as follows:

§ 2. Notwithstanding any other provision of law to the contrary, the one percent increase in sales and compensating use taxes authorized for the county of Genesee until November 30, [~~2019~~] 2020 pursuant to clause (20) of subparagraph (i) of the opening paragraph of section 1210 of the tax law, as amended by section one of this act, shall be divided in the same manner and proportion as the existing three percent sales and compensating use taxes in such county are divided.

§ 2. Section 2 of subpart Z of part A of chapter 61 of the laws of 2017, amending the tax law relating to the imposition of sales and compensating use taxes by the county of Monroe, is amended to read as follows:

§ 2. Notwithstanding the provisions of subdivisions (b) and (c) of section 1262 and section 1262-g of the tax law, net collections, as such term is defined in section 1262 of the tax law, derived from the imposition of sales and compensating use taxes by the county of Monroe at the additional rate of one percent as authorized pursuant to clause (25) of subparagraph (i) of the opening paragraph of section 1210 of the tax law, as amended by section one of this act, which are in addition to the current net collections derived from the imposition of such taxes at the three percent rate authorized by the opening paragraph of section 1210 of the tax law, shall be distributed and allocated as follows: for the period of December 1, 2017 through November 30, [~~2019~~] 2020 in cash, five percent to the school districts in the area of the county outside the city of Rochester, three percent to the towns located within the county, one and one-quarter percent to the villages located within the county, and ninety and three-quarters percent to the city of Rochester and county of Monroe. The amount of the ninety and three-quarters percent to be distributed and allocated to the city of Rochester and county of Monroe shall be distributed and allocated to each so that the combined total distribution and allocation to each from the sales tax revenues pursuant to sections 1262 and 1262-g of the tax law and this section shall result in the same total amount being distributed and allocated to the city of Rochester and county of Monroe. The amount so distributed and allocated to the county shall be used for county purposes. The foregoing cash payments to the school districts shall be allocated on the basis of the enrolled public school pupils, thereof, as such term is used in subdivision (b) of section 1262 of the tax law, residing in the county of Monroe. The cash payments to the towns located within the county of Monroe shall be allocated on the basis of the ratio which the population of each town, exclusive of the population of any village or portion thereof located within a town, bears to the total population of the towns, exclusive of the population of the villages located within such towns. The cash payments to the villages located within the county shall be allocated on the basis of the ratio which the population of each village bears to the total population of the villages located within the county. The term population as used in this section

1 shall have the same meaning as used in subdivision (b) of section 1262
2 of the tax law.

3 § 3. Section 3 of subpart EE of part A of chapter 61 of the laws of
4 2017, amending the tax law relating to extending the authorization of
5 the county of Onondaga to impose an additional rate of sales and compen-
6 sating use taxes, is amended to read as follows:

7 § 3. Notwithstanding any contrary provision of law, net collections
8 from the additional one percent rate of sales and compensating use taxes
9 which may be imposed by the county of Onondaga during the period
10 commencing December 1, 2018 and ending November 30, [~~2019~~ 2020, pursu-
11 ant to the authority of section 1210 of the tax law, shall not be
12 subject to any revenue distribution agreement entered into under subdi-
13 vision (c) of section 1262 of the tax law, but shall be allocated and
14 distributed or paid, at least quarterly, as follows: (i) 1.58% to the
15 county of Onondaga for any county purpose; (ii) 97.79% to the city of
16 Syracuse; and (iii) .63% to the school districts in accordance with
17 subdivision (a) of section 1262 of the tax law.

18 § 4. Section 2 of subpart GG of part A of chapter 61 of the laws of
19 2017, amending the tax law relating to extending the authority of the
20 county of Orange to impose an additional rate of sales and compensating
21 use taxes, is amended to read as follows:

22 § 2. Notwithstanding subdivision (c) of section 1262 of the tax law,
23 net collections from any additional rate of sales and compensating use
24 taxes which may be imposed by the county of Orange during the period
25 commencing December 1, 2017, and ending November 30, [~~2019~~ 2020, pursu-
26 ant to the authority of section 1210 of the tax law, shall be paid to
27 the county of Orange and shall be used by such county solely for county
28 purposes and shall not be subject to any revenue distribution agreement
29 entered into pursuant to the authority of subdivision (c) of section
30 1262 of the tax law.

31 § 5. This act shall take effect immediately and shall be deemed to
32 have been in full force and effect on June 29, 2017.

33 PART AA

34 Intentionally Omitted

35 PART BB

36 Intentionally Omitted

37 PART CC

38 Intentionally Omitted

39 PART DD

40 Intentionally Omitted

41 PART EE

42 Section 1. Subdivision 1 of section 208 of the racing, pari-mutuel
43 wagering and breeding law, as amended by chapter 140 of the laws of
44 2008, is amended to read as follows:

45 1. In consideration of the franchise and in accordance with its fran-
46 chise agreement, the franchised corporation shall remit to the state,

each year, no later than April fifth, a franchise fee payment. The franchise fee shall be calculated and equal to the lesser of paragraph (a) or (b) of this subdivision as follows: (a) adjusted net income, including all sources of audited generally accepted accounting principles net income as of December thirty-first (i) plus the amount of depreciation and amortization for such year as set forth on the statement of cash flows (ii) less the amount received by the franchised corporation for capital expenditures and (iii) less principal payments made for the repayment of debt; or (b) operating cash which is defined as cash available on December thirty-first (i) which excludes all restricted cash accounts, segregated accounts as per audited financial statements and cash on hand needed to fund the on-track pari-mutuel operations through the vault, (ii) less ~~[forty-five]~~ three hundred sixty-five days of operating expenses pursuant to generally accepted accounting principles which shall be an average calculated by dividing the current year's annual budget by the number of days in such year and multiplying that number by ~~[forty-five]~~ three hundred sixty-five.

§ 2. Section 203 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

§ 203. Right to hold race meetings and races. 1. Any corporation formed under the provisions of this article, if so claimed in its certificate of organization, and if it shall comply with all the provisions of this article, and any other corporation entitled to the benefits and privileges of this article as hereinafter provided, shall have the power and the right to hold one or more running race meetings in each year, and to hold, maintain and conduct running races at such meetings. At such running race meetings the corporation, or the owners of horses engaged in such races, or others who are not participants in the race, may contribute purses, prizes, premiums or stakes to be contested for, but no person or persons other than the owner or owners of a horse or horses contesting in a race shall have any pecuniary interest in a purse, prize, premium or stake contested for in such race, or be entitled to or receive any portion thereof after such race is finished, and the whole of such purse, prize, premium or stake shall be allotted in accordance with the terms and conditions of such race. Races conducted by a franchised corporation shall be permitted only between sunrise and sunset.

2. Notwithstanding any other provision of law to the contrary, a franchised corporation shall be permitted to conduct races after sunset at the Belmont Park racetrack, only on the main track in its current configuration, only if such races conclude before half past ten o'clock post meridian, and only if such races occur on Thursdays, Fridays or Saturdays. The franchised corporation shall coordinate with a harness racing association or corporation authorized to operate in Westchester county to ensure that the starting times of all such races are staggered.

3. A track first licensed after January first, nineteen hundred ninety, shall not conduct the simulcasting of thoroughbred races within district one, in accordance with article ten of this chapter on days that a franchised corporation is not conducting a race meeting. In no event shall thoroughbred races conducted by a track first licensed after January first, nineteen hundred ninety be conducted after eight o'clock post meridian.

§ 3. An advisory committee shall be established by the governor comprised of individuals with demonstrated interest in the performance

1 of thoroughbred and standardbred race horses to review the present
2 structure, operations and funding of equine drug testing and research
3 conducted pursuant to article nine of the racing, pari-mutuel wagering
4 and breeding law. At a minimum, the advisory committee established
5 pursuant to this section shall include among its membership: the presi-
6 dent or executive director of a horsemen's organization representing at
7 least fifty-one percent of the owners and trainers utilizing the facili-
8 ties of the franchised corporation; the president or executive director
9 of the statewide thoroughbred breeders association representing the
10 majority of breeders of registered thoroughbreds in New York state; the
11 president or executive director of a horsemen's organization represent-
12 ing at least fifty-one percent of the owners and trainers utilizing a
13 facility licensed to conduct racing pursuant to article three of the
14 racing, pari-mutuel wagering and breeding law; the president or execu-
15 tive director of the statewide Standardbred breeders association repres-
16 enting the majority of breeders of registered Standardbreds in New York
17 state; a representative of the franchised corporation established pursu-
18 ant to section two hundred six of the racing, pari-mutuel wagering and
19 breeding law; a representative of a corporation licensed to conduct
20 racing pursuant to article two of the racing, pari-mutuel wagering and
21 breeding law that is not a franchised corporation; two representatives
22 from separate corporations licensed to conduct racing pursuant to arti-
23 cle three of the racing, pari-mutuel wagering and breeding law; and a
24 representative from a state college within this state with an approved
25 equine science program. Recommendations shall be delivered to the
26 temporary president of the Senate, speaker of the Assembly and Governor
27 by December 1, 2018 regarding the future of such research, testing and
28 funding. Members of the board shall not be considered policymakers.

29 § 4. This act shall take effect immediately; provided, however, that
30 the amendments to section 203 of the racing, pari-mutuel wagering and
31 breeding law made by section two of this act shall expire and be deemed
32 repealed 4 years after the first night of racing conducted after sunset
33 pursuant to this act; provided that the New York Racing Association
34 shall notify the legislative bill drafting commission of the date of
35 such night of racing in order that the commission may maintain an accu-
36 rate and timely effective data base of the official text of the laws of
37 the state of New York in furtherance of effectuating the provisions of
38 section 44 of the legislative law and section 70-b of the public offi-
39 cers law.

40 PART FF

41 Section 1. Subdivision 2 of section 254 of the racing, pari-mutuel
42 wagering and breeding law is amended by adding a new paragraph h to read
43 as follows:

44 h. An amount as shall be determined by the fund, but not in excess of
45 three percent, to support and promote the ongoing care of retired New
46 York-bred horses in a manner that is consistent with rules adopted by
47 the fund, provided, however, that the fund shall not be required to make
48 any allocation for such purposes.

49 § 2. Subdivision 1 of section 332 of the racing, pari-mutuel wagering
50 and breeding law is amended by adding a new paragraph j to read as
51 follows:

52 j. An amount as shall be determined by the fund, but not in excess of
53 three percent, to support and promote the ongoing care of retired New
54 York-bred horses in a manner that is consistent with rules adopted by

the fund, provided, however, that the fund shall not be required to make any allocation for such purposes.

§ 3. This act shall take effect immediately.

PART GG

Section 1. Paragraph (a) of subdivision 1 of section 1003 of the racing, pari-mutuel wagering and breeding law, as amended by section 1 of part 00 of chapter 59 of the laws of 2017, is amended to read as follows:

(a) Any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of horse races on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for in this article may apply to the commission for a license so to do. Applications for licenses shall be in such form as may be prescribed by the commission and shall contain such information or other material or evidence as the commission may require. No license shall be issued by the commission authorizing the simulcast transmission of thoroughbred races from a track located in Suffolk county. The fee for such licenses shall be five hundred dollars per simulcast facility and for account wagering licensees that do not operate either a simulcast facility that is open to the public within the state of New York or a licensed racetrack within the state, twenty thousand dollars per year payable by the licensee to the commission for deposit into the general fund. Except as provided in this section, the commission shall not approve any application to conduct simulcasting into individual or group residences, homes or other areas for the purposes of or in connection with pari-mutuel wagering. The commission may approve simulcasting into residences, homes or other areas to be conducted jointly by one or more regional off-track betting corporations and one or more of the following: a franchised corporation, thoroughbred racing corporation or a harness racing corporation or association; provided (i) the simulcasting consists only of those races on which pari-mutuel betting is authorized by this chapter at one or more simulcast facilities for each of the contracting off-track betting corporations which shall include wagers made in accordance with section one thousand fifteen, one thousand sixteen and one thousand seventeen of this article; provided further that the contract provisions or other simulcast arrangements for such simulcast facility shall be no less favorable than those in effect on January first, two thousand five; (ii) that each off-track betting corporation having within its geographic boundaries such residences, homes or other areas technically capable of receiving the simulcast signal shall be a contracting party; (iii) the distribution of revenues shall be subject to contractual agreement of the parties except that statutory payments to non-contracting parties, if any, may not be reduced; provided, however, that nothing herein to the contrary shall prevent a track from televising its races on an irregular basis primarily for promotional or marketing purposes as found by the commission. For purposes of this paragraph, the provisions of section one thousand thirteen of this article shall not apply. Any agreement authorizing an in-home simulcasting experiment commencing prior to May fifteenth, nineteen hundred ninety-five, may, and all its terms, be extended until June thirtieth, two thousand [eighteen] nineteen; provided, however, that any party to such agreement may elect to terminate such agreement upon conveying written notice to all other parties of such agreement at least

1 forty-five days prior to the effective date of the termination, via
2 registered mail. Any party to an agreement receiving such notice of an
3 intent to terminate, may request the commission to mediate between the
4 parties new terms and conditions in a replacement agreement between the
5 parties as will permit continuation of an in-home experiment until June
6 thirtieth, two thousand [~~eighteen~~] nineteen; and (iv) no in-home simul-
7 casting in the thoroughbred special betting district shall occur without
8 the approval of the regional thoroughbred track.

9 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section
10 1007 of the racing, pari-mutuel wagering and breeding law, as amended by
11 section 2 of part 00 of chapter 59 of the laws of 2017, is amended to
12 read as follows:

13 (iii) Of the sums retained by a receiving track located in Westchester
14 county on races received from a franchised corporation, for the period
15 commencing January first, two thousand eight and continuing through June
16 thirtieth, two thousand [~~eighteen~~] nineteen, the amount used exclusively
17 for purses to be awarded at races conducted by such receiving track
18 shall be computed as follows: of the sums so retained, two and one-half
19 percent of the total pools. Such amount shall be increased or decreased
20 in the amount of fifty percent of the difference in total commissions
21 determined by comparing the total commissions available after July twen-
22 ty-first, nineteen hundred ninety-five to the total commissions that
23 would have been available to such track prior to July twenty-first,
24 nineteen hundred ninety-five.

25 § 3. The opening paragraph of subdivision 1 of section 1014 of the
26 racing, pari-mutuel wagering and breeding law, as amended by section 3
27 of part 00 of chapter 59 of the laws of 2017, is amended to read as
28 follows:

29 The provisions of this section shall govern the simulcasting of races
30 conducted at thoroughbred tracks located in another state or country on
31 any day during which a franchised corporation is conducting a race meet-
32 ing in Saratoga county at Saratoga thoroughbred racetrack until June
33 thirtieth, two thousand [~~eighteen~~] nineteen and on any day regardless of
34 whether or not a franchised corporation is conducting a race meeting in
35 Saratoga county at Saratoga thoroughbred racetrack after June thirtieth,
36 two thousand [~~eighteen~~] nineteen. On any day on which a franchised
37 corporation has not scheduled a racing program but a thoroughbred racing
38 corporation located within the state is conducting racing, every off-
39 track betting corporation branch office and every simulcasting facility
40 licensed in accordance with section one thousand seven (that have
41 entered into a written agreement with such facility's representative
42 horsemen's organization, as approved by the commission), one thousand
43 eight, or one thousand nine of this article shall be authorized to
44 accept wagers and display the live simulcast signal from thoroughbred
45 tracks located in another state or foreign country subject to the
46 following provisions:

47 § 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering
48 and breeding law, as amended by section 4 of part 00 of chapter 59 of
49 the laws of 2017, is amended to read as follows:

50 1. The provisions of this section shall govern the simulcasting of
51 races conducted at harness tracks located in another state or country
52 during the period July first, nineteen hundred ninety-four through June
53 thirtieth, two thousand [~~eighteen~~] nineteen. This section shall super-
54 sede all inconsistent provisions of this chapter.

55 § 5. The opening paragraph of subdivision 1 of section 1016 of the
56 racing, pari-mutuel wagering and breeding law, as amended by section 5

1 of part 00 of chapter 59 of the laws of 2017, is amended to read as
2 follows:

3 The provisions of this section shall govern the simulcasting of races
4 conducted at thoroughbred tracks located in another state or country on
5 any day during which a franchised corporation is not conducting a race
6 meeting in Saratoga county at Saratoga thoroughbred racetrack until June
7 thirtieth, two thousand [~~eighteen~~] ~~nineteen~~. Every off-track betting
8 corporation branch office and every simulcasting facility licensed in
9 accordance with section one thousand seven that have entered into a
10 written agreement with such facility's representative horsemen's organ-
11 ization as approved by the commission, one thousand eight or one thou-
12 sand nine of this article shall be authorized to accept wagers and
13 display the live full-card simulcast signal of thoroughbred tracks
14 (which may include quarter horse or mixed meetings provided that all
15 such wagering on such races shall be construed to be thoroughbred races)
16 located in another state or foreign country, subject to the following
17 provisions; provided, however, no such written agreement shall be
18 required of a franchised corporation licensed in accordance with section
19 one thousand seven of this article:

20 § 6. The opening paragraph of section 1018 of the racing, pari-mutuel
21 wagering and breeding law, as amended by section 6 of part 00 of chapter
22 59 of the laws of 2017, is amended to read as follows:

23 Notwithstanding any other provision of this chapter, for the period
24 July twenty-fifth, two thousand one through September eighth, two thou-
25 sand [~~seventeen~~] ~~eighteen~~, when a franchised corporation is conducting a
26 race meeting within the state at Saratoga Race Course, every off-track
27 betting corporation branch office and every simulcasting facility
28 licensed in accordance with section one thousand seven (that has entered
29 into a written agreement with such facility's representative horsemen's
30 organization as approved by the commission), one thousand eight or one
31 thousand nine of this article shall be authorized to accept wagers and
32 display the live simulcast signal from thoroughbred tracks located in
33 another state, provided that such facility shall accept wagers on races
34 run at all in-state thoroughbred tracks which are conducting racing
35 programs subject to the following provisions; provided, however, no such
36 written agreement shall be required of a franchised corporation licensed
37 in accordance with section one thousand seven of this article.

38 § 7. Section 32 of chapter 281 of the laws of 1994, amending the
39 racing, pari-mutuel wagering and breeding law and other laws relating to
40 simulcasting, as amended by section 7 of part 00 of chapter 59 of the
41 laws of 2017, is amended to read as follows:

42 § 32. This act shall take effect immediately and the pari-mutuel tax
43 reductions in section six of this act shall expire and be deemed
44 repealed on July 1, [~~2018~~] ~~2019~~; provided, however, that nothing
45 contained herein shall be deemed to affect the application, qualifica-
46 tion, expiration, or repeal of any provision of law amended by any
47 section of this act, and such provisions shall be applied or qualified
48 or shall expire or be deemed repealed in the same manner, to the same
49 extent and on the same date as the case may be as otherwise provided by
50 law; provided further, however, that sections twenty-three and twenty-
51 five of this act shall remain in full force and effect only until May 1,
52 1997 and at such time shall be deemed to be repealed.

53 § 8. Section 54 of chapter 346 of the laws of 1990, amending the
54 racing, pari-mutuel wagering and breeding law and other laws relating to
55 simulcasting and the imposition of certain taxes, as amended by section

1 8 of part 00 of chapter 59 of the laws of 2017, is amended to read as
2 follows:

3 § 54. This act shall take effect immediately; provided, however,
4 sections three through twelve of this act shall take effect on January
5 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-
6 ing law, as added by section thirty-eight of this act, shall expire and
7 be deemed repealed on July 1, ~~2018~~ 2019; and section eighteen of this
8 act shall take effect on July 1, 2008 and sections fifty-one and fifty-
9 two of this act shall take effect as of the same date as chapter 772 of
10 the laws of 1989 took effect.

11 § 9. Paragraph (a) of subdivision 1 of section 238 of the racing,
12 pari-mutuel wagering and breeding law, as amended by section 9 of part
13 00 of chapter 59 of the laws of 2017, is amended to read as follows:

14 (a) The franchised corporation authorized under this chapter to
15 conduct pari-mutuel betting at a race meeting or races run thereat shall
16 distribute all sums deposited in any pari-mutuel pool to the holders of
17 winning tickets therein, provided such tickets be presented for payment
18 before April first of the year following the year of their purchase,
19 less an amount which shall be established and retained by such fran-
20 chised corporation of between twelve to seventeen per centum of the
21 total deposits in pools resulting from on-track regular bets, and four-
22 teen to twenty-one per centum of the total deposits in pools resulting
23 from on-track multiple bets and fifteen to twenty-five per centum of the
24 total deposits in pools resulting from on-track exotic bets and fifteen
25 to thirty-six per centum of the total deposits in pools resulting from
26 on-track super exotic bets, plus the breaks. The retention rate to be
27 established is subject to the prior approval of the gaming commission.
28 Such rate may not be changed more than once per calendar quarter to be
29 effective on the first day of the calendar quarter. "Exotic bets" and
30 "multiple bets" shall have the meanings set forth in section five
31 hundred nineteen of this chapter. "Super exotic bets" shall have the
32 meaning set forth in section three hundred one of this chapter. For
33 purposes of this section, a "pick six bet" shall mean a single bet or
34 wager on the outcomes of six races. The breaks are hereby defined as the
35 odd cents over any multiple of five for payoffs greater than one dollar
36 five cents but less than five dollars, over any multiple of ten for
37 payoffs greater than five dollars but less than twenty-five dollars,
38 over any multiple of twenty-five for payoffs greater than twenty-five
39 dollars but less than two hundred fifty dollars, or over any multiple of
40 fifty for payoffs over two hundred fifty dollars. Out of the amount so
41 retained there shall be paid by such franchised corporation to the
42 commissioner of taxation and finance, as a reasonable tax by the state
43 for the privilege of conducting pari-mutuel betting on the races run at
44 the race meetings held by such franchised corporation, the following
45 percentages of the total pool for regular and multiple bets five per
46 centum of regular bets and four per centum of multiple bets plus twenty
47 per centum of the breaks; for exotic wagers seven and one-half per
48 centum plus twenty per centum of the breaks, and for super exotic bets
49 seven and one-half per centum plus fifty per centum of the breaks. For
50 the period June first, nineteen hundred ninety-five through September
51 ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be
52 three per centum and such tax on multiple wagers shall be two and one-
53 half per centum, plus twenty per centum of the breaks. For the period
54 September tenth, nineteen hundred ninety-nine through March thirty-
55 first, two thousand one, such tax on all wagers shall be two and six-
56 tenths per centum and for the period April first, two thousand one

1 through December thirty-first, two thousand [~~eighteen~~] nineteen, such
2 tax on all wagers shall be one and six-tenths per centum, plus, in each
3 such period, twenty per centum of the breaks. Payment to the New York
4 state thoroughbred breeding and development fund by such franchised
5 corporation shall be one-half of one per centum of total daily on-track
6 pari-mutuel pools resulting from regular, multiple and exotic bets and
7 three per centum of super exotic bets provided, however, that for the
8 period September tenth, nineteen hundred ninety-nine through March thir-
9 ty-first, two thousand one, such payment shall be six-tenths of one per
10 centum of regular, multiple and exotic pools and for the period April
11 first, two thousand one through December thirty-first, two thousand
12 [~~eighteen~~] nineteen, such payment shall be seven-tenths of one per
13 centum of such pools.

14 § 10. This act shall take effect immediately.

15 PART HH

16 Intentionally Omitted

17 PART II

18 Section 1. Subparagraphs (ii) and (iii) of paragraph 1 of subdivision
19 b of section 1612 of the tax law are REPEALED and a new subparagraph
20 (ii) is added to read as follows:

21 (ii) less a vendor's fee the amount of which is to be paid for serving
22 as a lottery agent to the track operator of a vendor track or the opera-
23 tor of any other video lottery gaming facility authorized pursuant to
24 section sixteen hundred seventeen-a of this article:

25 (A) when a vendor track is located within development zone one as
26 defined by section thirteen hundred ten of the racing, pari-mutuel
27 wagering and breeding law, at a rate of thirty-nine and one-half percent
28 of the total revenue wagered at the vendor track after payout for prizes
29 pursuant to this chapter;

30 (B) when a vendor track is located within development zone two as
31 defined by section thirteen hundred ten of the racing, pari-mutuel
32 wagering and breeding law, at a rate of forty-three and one-half percent
33 of the total revenue wagered at the vendor track after payout for prizes
34 pursuant to this chapter; provided, however, at a vendor track located
35 within fifteen miles of a destination resort gaming facility authorized
36 pursuant to article thirteen of the racing, pari-mutuel wagering and
37 breeding law shall receive a vendor fee at a rate of fifty-one percent
38 of the total revenue wagered at the vendor track after payout for prizes
39 pursuant to this chapter; and that at a vendor track located within
40 forty miles of a Native American class III gaming facility as defined in
41 25 U.S.C. § 2703 (8) shall receive a vendor fee at a rate of fifty-six
42 percent of the total revenue wagered at the vendor track after payout
43 for prizes pursuant to this chapter;

44 (C) when a video lottery facility is operated at Aqueduct racetrack,
45 at a rate of forty-seven percent of the total revenue wagered at the
46 video lottery gaming facility after payout for prizes pursuant to this
47 chapter; provided, however, upon the earlier of the designation of one
48 thousand video lottery devices as hosted pursuant to paragraph four of
49 subdivision a of section sixteen hundred seventeen-a of this article or
50 April first, two thousand nineteen, such rate shall be fifty percent of
51 the total revenue wagered at the video lottery gaming facility after
52 payout for prizes pursuant to this chapter;

1 (D) when a video lottery gaming facility is located in either Nassau
2 or Suffolk counties and is operated by a corporation established pursu-
3 ant to section five hundred two of the racing, pari-mutuel wagering and
4 breeding law, at a rate of forty-five percent of the total revenue
5 wagered at the video lottery gaming facility after payout for prizes
6 pursuant to this chapter;

7 (E) notwithstanding any provision of law to the contrary, when a
8 vendor track is located within region one or two of development zone
9 two, as such zone is defined in section thirteen hundred ten of the
10 racing, pari-mutuel wagering and breeding law, or is located within
11 region six of such development zone two and is located within Ontario
12 county, such vendor track shall be entitled to receive an additional
13 commission. The additional commission received by the vendor track
14 shall be calculated pursuant to subclause (I) of this clause.

15 (I) The additional commission is a percentage of the total revenue
16 wagered at the vendor track after payout for prizes pursuant to this
17 chapter. That percentage is calculated by subtracting the effective tax
18 rate on all gross gaming revenue paid by a gaming facility within the
19 same region as the vendor track from the education percentage. The
20 education percentage is ninety percent less the percentage of the vendor
21 track's vendor fee. For purposes of this clause, Seneca and Wayne coun-
22 ties shall be deemed to be located within region six of development zone
23 two.

24 (II) The additional commission paid pursuant to this subparagraph
25 shall be paid to a vendor track no later than sixty days after the close
26 of the fiscal year. The additional commission authorized by this clause
27 shall only be applied to revenue wagered at a vendor track while a
28 gaming facility in the same region as that vendor track is open and
29 operating pursuant to an operation certificate issued pursuant to
30 section thirteen hundred thirty-one of the racing, pari-mutuel wagering
31 and breeding law.

32 (F) notwithstanding any provision of law to the contrary, when a
33 vendor track is located within forty miles of a Native American class
34 III gaming facility as defined in 25 U.S.C. § 2703 (8), such vendor
35 track shall be entitled to receive an additional hold harmless commis-
36 sion. The additional hold harmless commission received by the vendor
37 track shall be calculated pursuant to subclause (I) of this clause.

38 (I) The additional hold harmless commission payable for any fiscal
39 year shall be an amount equal to the base vendor commission less the
40 current vendor fee. The base vendor commission is calculated by adding
41 together the vendor fee, marketing allowance, and vendor capital award,
42 that the facility received during the twelve-month period immediately
43 preceding June first, two thousand fifteen. For the purposes of this
44 calculation, a vendor fee shall exclude any distributions required by
45 paragraph two of this subdivision.

46 (II) The additional hold harmless commission paid pursuant to this
47 subparagraph shall be paid to a vendor track no later than sixty days
48 after the close of the fiscal year. The additional hold harmless commis-
49 sion authorized by this clause shall only be applied to revenue wagered
50 on and after April first, two thousand eighteen at a vendor track while
51 the Native American class III gaming facility as defined in 25 U.S.C. §
52 2703 (8) within forty miles of that vendor track is open and operating.

53 (G) notwithstanding any provision of law to the contrary, any opera-
54 tors of a vendor track or the operators of any other video lottery
55 gaming facility eligible to receive a capital award as of December thir-
56 ty-first, two thousand seventeen shall deposit from their vendor fee

1 into a segregated account an amount equal to four percent of the first
2 sixty-two million five hundred thousand dollars of revenue wagered at
3 the vendor track after payout for prizes pursuant to this chapter to be
4 used exclusively for capital investments, except for Aqueduct, which
5 shall deposit into a segregated account an amount equal to one percent
6 of all revenue wagered at the video lottery gaming facility after payout
7 for prizes pursuant to this chapter until the earlier of the designation
8 of one thousand video lottery devices as hosted pursuant to paragraph
9 four of subdivision a of section sixteen hundred seventeen-a of this
10 article or April first, two thousand nineteen, when at such time four
11 percent of all revenue wagered at the video lottery gaming facility
12 after payout for prizes pursuant to this chapter shall be deposited into
13 a segregated account for capital investments. Vendor tracks and video
14 lottery gaming facilities shall be permitted to withdraw funds for
15 projects approved by the commission to improve the facilities of the
16 vendor track or video lottery gaming facility which enhance or maintain
17 the video lottery gaming facility including, but not limited to hotels,
18 other lodging facilities, entertainment facilities, retail facilities,
19 dining facilities, events arenas, parking garages and other improvements
20 and amenities customary to a gaming facility, provided, however, the
21 vendor tracks and video lottery gaming facilities shall be permitted to
22 withdraw funds for unreimbursed capital awards approved prior to the
23 effective date of this subparagraph. Any proceeds from the divestiture
24 of any assets acquired through these capital funds or any prior capital
25 award must be deposited into this segregated account, provided that if
26 the vendor track or video lottery gaming facility ceases use of such
27 asset for gaming purposes or transfers the asset to a related party,
28 such vendor track or video lottery gaming facility shall deposit an
29 amount equal to the fair market value of that asset into the account. In
30 the event a vendor track or video lottery gaming facility ceases gaming
31 operations, any balance in the account along with an amount equal to the
32 value of all remaining assets acquired through this fund or prior capi-
33 tal awards shall be returned to the state for deposit into the state
34 lottery fund for education aid, except for Aqueduct, which shall return
35 to the state for deposit into the state lottery fund for education aid
36 all amounts in excess of the amount needed to fund a project pursuant to
37 an agreement with the operator to construct an expansion of the facili-
38 ty, hotel, and convention and exhibition space requiring a minimum capi-
39 tal investment of three hundred million dollars and any subsequent
40 amendments to such agreement. The comptroller or his legally authorized
41 representative is authorized to audit any and all expenditures made out
42 of these segregated capital accounts. Notwithstanding the preceding, a
43 vendor track located in Ontario county may withdraw up to two million
44 dollars from this account for the purpose of constructing a turf course
45 at the vendor track.

46 (H) Notwithstanding any provision of law to the contrary, free play
47 allowance credits authorized by the division pursuant to subdivision f
48 of section sixteen hundred seventeen-a of this article shall not be
49 included in the calculation of the total amount wagered on video lottery
50 games, the total amount wagered after payout of prizes, the vendor fees
51 payable to the operators of video lottery gaming facilities, fees paya-
52 ble to the division's video lottery gaming equipment contractors, or
53 racine support payments.

54 (I) Notwithstanding any provision of law to the contrary, the operator
55 of a vendor track or the operator of any other video lottery gaming
56 facility shall fund a marketing and promotion program out of the

1 vendor's fee. Each operator shall submit an annual marketing plan for
2 the review and approval of the commission and any other required docu-
3 ments detailing promotional activities as prescribed by the commission.
4 The commission shall have the right to reject any advertisement or
5 promotion that does not properly represent the mission or interests of
6 the lottery or its programs.

7 (J) Notwithstanding clause (G) of this subparagraph, the commission
8 shall be able to authorize a vendor track located within Oneida county,
9 within fifteen miles of a Native American class III gaming facility, and
10 who has maintained at least ninety percent of full-time equivalent
11 employees as they employed in the year two thousand sixteen, to withdraw
12 funds from the segregated account established in clause (G) of this
13 subparagraph up to an amount equal to four percent of the total revenue
14 wagered at the vendor track after payout for prizes pursuant to this
15 chapter each year, for operations.

16 § 2. This act shall take effect immediately; provided, however, clause
17 (J) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612
18 of the tax law as added by section one of this act shall expire and be
19 deemed repealed June 29, 2019.

20 PART JJ

21 Section 1. Subsection (a) of section 614 of the tax law, as amended by
22 chapter 170 of the laws of 1994, is amended to read as follows:

23 (a) Unmarried individual. For taxable years beginning after nineteen
24 hundred ninety-six, the New York standard deduction of a resident indi-
25 vidual who is not married nor the head of a household nor a surviving
26 spouse nor an individual [~~whose federal exemption amount is zero~~] who is
27 claimed as a dependent by another New York state taxpayer shall be seven
28 thousand five hundred dollars; for taxable years beginning in nineteen
29 hundred ninety-six, such standard deduction shall be seven thousand four
30 hundred dollars; for taxable years beginning in nineteen hundred nine-
31 ty-five, such standard deduction shall be six thousand six hundred
32 dollars; and for taxable years beginning after nineteen hundred eighty-
33 nine and before nineteen hundred ninety-five, such standard deduction
34 shall be six thousand dollars.

35 § 2. Section 612 of the tax law is amended by adding two new
36 subsections (w) and (x) to read as follows:

37 (w) Alimony modifications. (1) In the case of applicable alimony or
38 separate maintenance payments, the following modifications shall apply:

39 (A) There shall be subtracted from federal adjusted gross income any
40 applicable alimony or separate maintenance payments made by the taxpayer
41 during the taxable year.

42 (B) There shall be added to federal adjusted gross income any applica-
43 ble alimony or separate maintenance payments received by the taxpayer
44 during the taxable year.

45 (2) (A) The term "alimony or separate maintenance payments" means
46 payments as defined under section seventy-one of the internal revenue
47 code in effect immediately prior to the enactment of Public Law 115-97.

48 (B) The term "applicable alimony or separate maintenance payments"
49 means payments made under an alimony or separation instrument (as
50 defined in section seventy-one of the internal revenue code in effect
51 immediately prior to the enactment of Public Law 115-97) that was
52 executed after December thirty-first, two thousand eighteen, and any
53 divorce or separation instrument executed on or before such date and

modified after such date if the modification expressly provides that the amendments made by this section apply to such modification.

(x) Qualified moving expense reimbursement and moving expenses. (1) In the case of applicable qualified moving expense reimbursement and moving expenses, the following modifications shall apply:

(A) There shall be subtracted from federal adjusted gross income any applicable qualified moving expense reimbursement received by the taxpayer during the taxable year.

(B) There shall be subtracted from federal adjusted gross income any applicable moving expenses paid by the taxpayer during the taxable year.

(2) Applicable qualified moving expense reimbursement and moving expenses are those deductions as allowed by paragraph (g) of sections one hundred thirty-two and section two hundred seventeen, respectively, of the internal revenue code immediately prior to the enactment of Public Law 115-97.

§ 3. Subsection (a) of section 615 of the tax law, as amended by section 1 of part HH of chapter 57 of the laws of 2010, is amended to read as follows:

(a) General. If federal taxable income of a resident individual is determined by itemizing deductions or claiming the federal standard deduction from his or her federal adjusted gross income, he or she may elect to deduct his or her New York itemized deduction [~~in lieu of~~] or claim his or her New York standard deduction. The New York itemized deduction of a resident individual means the total amount of his or her deductions from federal adjusted gross income allowed, other than federal deductions for personal exemptions, as provided in the laws of the United States for the taxable year, as such deductions existed immediately prior to the enactment of Public Law 115-97 with the modifications specified in this section, except as provided for under subsections (f) and (g) of this section.

§ 4. Subdivision (a) of section 11-1714 of the administrative code of the city of New York, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

(a) Unmarried individual. For taxable years beginning after nineteen hundred ninety-six, the city standard deduction of a city resident individual who is not married nor the head of a household nor a surviving spouse nor an individual [~~whose federal exemption amount is zero~~] who is claimed as a dependent by another New York state taxpayer shall be seven thousand five hundred dollars; for taxable years beginning in nineteen hundred ninety-six, such standard deduction shall be seven thousand four hundred dollars; for taxable years beginning in nineteen hundred ninety-five, such standard deduction shall be six thousand six hundred dollars; and for taxable years beginning after nineteen hundred eighty-nine and before nineteen hundred ninety-five, such standard deduction shall be six thousand dollars.

§ 5. Section 11-1712 of the administrative code of the city of New York is amended by adding two new subdivisions (u) and (v) to read as follows:

(u) Alimony modifications. (1) In the case of applicable alimony or separate maintenance payments, the following modifications shall apply:

(A) There shall be subtracted from federal adjusted gross income any applicable alimony or separate maintenance payments made by the taxpayer during the taxable year.

(B) There shall be added to federal adjusted gross income any applicable alimony or separate maintenance payments received by the taxpayer during the taxable year.

(2) (A) The term "alimony or separate maintenance payments" means payments as defined under section seventy-one of the internal revenue code in effect immediately prior to the enactment of Public Law 115-97.

(B) The term "applicable alimony or separate maintenance payments" means payments made under an alimony or separation instrument (as defined in section seventy-one of the internal revenue code in effect immediately prior to the enactment of Public Law 115-97) that was executed after December thirty-first, two thousand eighteen, and any divorce or separation instrument executed on or before such date and modified after such date if the modification expressly provides that the amendments made by this section apply to such modification.

(v) Qualified moving expense reimbursement and moving expenses. (1) In the case of applicable qualified moving expense reimbursement and moving expenses, the following modifications shall apply:

(A) There shall be subtracted from federal adjusted gross income any applicable qualified moving expense reimbursement received by the taxpayer during the taxable year.

(B) There shall be subtracted from federal adjusted gross income any applicable moving expenses paid by the taxpayer during the taxable year.

(2) Applicable qualified moving expense reimbursement and moving expenses are those deductions as allowed by paragraph (g) of section one hundred thirty-two and section two hundred seventeen, respectfully, of the internal revenue code immediately prior to the enactment of Public Law 115-97.

§ 6. Subdivision (a) of section 11-1715 of the administrative code of the city of New York, as amended by section 5 of part HH of chapter 57 of the laws of 2010, is amended to read as follows:

(a) General. If federal taxable income of a city resident individual is determined by itemizing deductions or claiming the federal standard deduction from his or her federal adjusted gross income, such resident individual may elect to deduct his or her city itemized deduction [~~in lieu of~~] or claim his or her city standard deduction. The city itemized deduction of a city resident individual means the total amount of his or her deductions from federal adjusted gross income allowed, other than federal deductions for personal exemptions, as provided in the laws of the United States for the taxable year, as such deductions existed immediately prior to the enactment of Public Law 115-97 with the modifications specified in this section, except as provided for under subdivisions (f) and (g) of this section.

§ 7. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2018.

PART KK

Section 1. Paragraph (b) of subdivision 6-a of section 208 of the tax law, as amended by section 5-a of part T of chapter 59 of the laws of 2015, is amended to read as follows:

(b) "Exempt CFC income" means (i) except with respect to any income defined in subparagraphs (ii) and (iii) of this paragraph, the income required to be included in the taxpayer's federal gross income pursuant to subsection (a) of section 951 of the internal revenue code, received from a corporation that is conducting a unitary business with the taxpayer but is not included in a combined report with the taxpayer, and (ii) notwithstanding the provisions of paragraph (a) of subdivision six of this section, the income required to be included in the taxpayer's federal gross income pursuant to subsection (a) of such section 951 of

1 the internal revenue code by reason of subsection (a) of section 965 of
2 the internal revenue code, as adjusted by subsection (b) of section 965
3 of the internal revenue code, and without regard to subsection (c) of
4 such section, received from a corporation that is not included in a
5 combined report with the taxpayer, less, and (iii) notwithstanding the
6 provisions of paragraph (a) of subdivision six of this section, the
7 income required to be included in the taxpayer's federal gross income
8 pursuant to subsection (a) of section 951 of the internal revenue code,
9 without regard to the deduction under section 250 of the internal reven-
10 ue code, generated by a corporation that is not included in a combined
11 report with the taxpayer, less, in the discretion of the commissioner,
12 any interest deductions directly or indirectly attributable to that
13 income. In lieu of subtracting from its exempt CFC income the amount of
14 those interest deductions, the taxpayer may make a revocable election to
15 reduce its total exempt CFC income by forty percent. If the taxpayer
16 makes this election, the taxpayer must also make the elections provided
17 for in paragraph (b) of subdivision six of this section and paragraph
18 (c) of this subdivision. If the taxpayer subsequently revokes this
19 election, the taxpayer must revoke the elections provided for in para-
20 graph (b) of subdivision six of this section and paragraph (c) of this
21 subdivision. A taxpayer which does not make this election because it has
22 no exempt CFC income will not be precluded from making those other
23 elections.

24 § 1-a. Paragraph (b) of subdivision 5-a of section 11-652 of the
25 administrative code of the city of New York, as added by section 1 of
26 part D of chapter 60 of the laws of 2015, is amended to read as follows:

27 (b) "Exempt CFC income" means (i) except with respect to any income
28 defined in subparagraphs (ii) and (iii) of this paragraph, the income
29 required to be included in the taxpayer's federal gross income pursuant
30 to subsection (a) of section nine hundred fifty-one of the internal
31 revenue code, received from a corporation that is conducting a unitary
32 business with the taxpayer but is not included in a combined report with
33 the taxpayer, (ii) notwithstanding the provisions of paragraph (a) of
34 subdivision six of section two hundred eight of the tax law, the income
35 required to be included in the taxpayer's federal gross income pursuant
36 to subsection (a) of section 951 of the internal revenue code by reason
37 of subsection (a) of section 965 of the internal revenue code, as
38 adjusted by subsection (b) of section 965 of the internal revenue code,
39 and without regard to subsection (c) of such section, received from a
40 corporation that is not included in a combined report with the taxpayer,
41 and (iii) notwithstanding the provisions of paragraph (a) of subdivision
42 six of section two hundred eight of the tax law, the income required to
43 be included in the taxpayer's federal gross income pursuant to
44 subsection (a) of section 951 of the internal revenue code, without
45 regard to the deduction under section 250 of the internal revenue code,
46 generated by a corporation that is not included in a combined report
47 with the taxpayer, less, (iv) in the discretion of the commissioner of
48 finance, any interest deductions directly or indirectly attributable to
49 that income. In lieu of subtracting from its exempt CFC income the
50 amount of those interest deductions, the taxpayer may make a revocable
51 election to reduce its total exempt CFC income by forty percent. If the
52 taxpayer makes this election, the taxpayer must also make the elections
53 provided for in paragraph (b) of subdivision five of this section and
54 paragraph (c) of this subdivision. If the taxpayer subsequently revokes
55 this election, the taxpayer must revoke the elections provided for in
56 paragraph (b) of subdivision five of this section and paragraph (c) of

1 this subdivision. A taxpayer which does not make this election because
2 it has no exempt CFC income will not be precluded from making those
3 other elections.

4 § 2. Subparagraph 6 of paragraph (a) of subdivision 9 of section 208
5 of the tax law, as amended by section 4 of part A of chapter 59 of the
6 laws of 2014, is amended to read as follows:

7 (6) any amount treated as dividends pursuant to section seventy-eight
8 of the internal revenue code to the extent that such dividends are not
9 deducted under subparagraph (B)(ii) of paragraph (1) of subsection (a)
10 of section 250 of such code;

11 § 2-a. Subparagraph 2-a of paragraph (a) of subdivision 8 of section
12 11-652 of the administrative code of the city of New York, as added by
13 section 1 of part D of chapter 60 of the laws of 2015, is amended to
14 read as follows:

15 (2-a) any amounts treated as dividends pursuant to section seventy-
16 eight of the internal revenue code, to the extent that such dividends
17 are not deducted under subparagraph (B)(ii) of paragraph one of
18 subsection (a) of section 250 of such code;

19 § 3. Paragraph (b) of subdivision 9 of section 208 of the tax law is
20 amended by adding four new subparagraphs 23, 24, 25, and 26 to read as
21 follow:

22 (23) The amount of any federal deduction allowed pursuant to
23 subsection (c) of section 965 of the internal revenue code.

24 (24) The amount of the federal deduction allowed pursuant to subpara-
25 graph (B)(i) of paragraph one of subsection (a) of section 250 of the
26 internal revenue code.

27 (25) The amount disallowed as a deduction pursuant to paragraph one of
28 subsection (j) of section 163 of the internal revenue code.

29 (26) Any amount deducted by reason of a carry forward of disallowed
30 business interest pursuant to paragraph two of subsection (j) of section
31 163 of the internal revenue code.

32 § 3-a. Subparagraph 19 of paragraph (b) of subdivision 8 of section
33 11-652 of the administrative code of the city of New York, as added by
34 section 1 of part D of chapter 60 of the laws of 2015, is amended and
35 four new subparagraphs 20, 21, 22, and 23 are added to read as follows:

36 (19) the amount of any federal deduction for taxes imposed under arti-
37 cle twenty-three of the tax law[~~+~~];

38 (20) The amount of any federal deduction allowed pursuant to
39 subsection (c) of section 965 of the internal revenue code;

40 (21) The amount of the federal deduction allowed pursuant to subpara-
41 graph (B)(i) of paragraph one of subsection (a) of section 250 of the
42 internal revenue code;

43 (22) The amount disallowed as a deduction pursuant to paragraph one of
44 subsection (j) of section 163 of the internal revenue code;

45 (23) Any amount deducted by reason of a carry forward of disallowed
46 business interest pursuant to paragraph two of subsection (j) of section
47 163 of the internal revenue code.

48 § 4. Paragraph 1 of subsection (c) of section 1085 of the tax law, as
49 amended by section 13-a of part Q of chapter 60 of the laws of 2016, is
50 amended to read as follows:

51 (1) If any taxpayer fails to file a declaration of estimated tax under
52 article nine-A of this chapter, or fails to pay all or any part of an
53 amount which is applied as an installment against such estimated tax, it
54 shall be deemed to have made an underpayment of estimated tax. There
55 shall be added to the tax for the taxable year an amount at the under-
56 payment rate set by the commissioner pursuant to section one thousand

1 ninety-six of this article, or if no rate is set, at the rate of seven
2 and one-half percent per annum upon the amount of the underpayment for
3 the period of the underpayment but not beyond the fifteenth day of the
4 [~~third~~] fourth month following the close of the taxable year. Provided,
5 however, that, for taxable years beginning on or after January first,
6 two thousand seventeen and before January first, two thousand eighteen,
7 no amount shall be added to the tax with respect to the portion of such
8 tax related to the amount of any interest deductions directly or indi-
9 rectly attributable to the amount included in exempt CFC income pursuant
10 to subparagraph (ii) of paragraph (b) of subdivision six-a of section
11 two hundred eight of this chapter or the forty percent reduction of such
12 exempt CFC income in lieu of interest attribution if the election
13 described in paragraph (b) of subdivision six-a of such section is made.

14 The amount of the underpayment shall be, with respect to any installment
15 of estimated tax computed on the basis of either the preceding year's
16 tax or the second preceding year's tax, the excess of the amount
17 required to be paid over the amount, if any, paid on or before the last
18 day prescribed for such payment or, with respect to any other install-
19 ment of estimated tax, the excess of the amount of the installment which
20 would be required to be paid if the estimated tax were equal to ninety-
21 one percent of the tax shown on the return for the taxable year (or if
22 no return was filed, ninety-one percent of the tax for such year) over
23 the amount, if any, of the installment paid on or before the last day
24 prescribed for such payment. In any case in which there would be no
25 underpayment if "eighty percent" were substituted for "ninety-one
26 percent" each place it appears in this subsection, the addition to the
27 tax shall be equal to seventy-five percent of the amount otherwise
28 determined. No underpayment shall be deemed to exist with respect to a
29 declaration or installment otherwise due on or after the termination of
30 existence of the taxpayer.

31 § 4-a. Subdivision 3 of section 11-676 of the administrative code of
32 the city of new York, as amended by section 12 of part D of chapter 60
33 of the laws of 2015, is amended to read as follows:

34 3. Failure to file declaration or underpayment of estimated tax. If
35 any taxpayer fails to file a declaration of estimated tax under subchap-
36 ter two, three or three-A of this chapter, or fails to pay all or any
37 part of an amount which is applied as an installment against such esti-
38 mated tax, it shall be deemed to have made an underpayment of estimated
39 tax. There shall be added to the tax for the taxable year an amount at
40 the underpayment rate set by the commissioner of finance pursuant to
41 section 11-687 of this subchapter, or, if no rate is set, at the rate of
42 seven and one-half percent per annum upon the amount of the underpayment
43 for the period of the underpayment but not beyond the fifteenth day of
44 the [~~third~~] fourth month following the close of the taxable year.
45 Provided, however, that, for taxable years beginning on or after January
46 first, two thousand seventeen and before January first, two thousand
47 eighteen, no amount shall be added to the tax with respect to the
48 portion of such tax related to the amount of any interest deductions
49 directly or indirectly attributable to the amount included in exempt CFC
50 income pursuant to subparagraph (ii) of paragraph (b) of subdivision
51 six-a of section two hundred eight of the tax law or the forty percent
52 reduction of such exempt CFC income in lieu of interest attribution if
53 the election described in paragraph (b) of subdivision six-a of section
54 two hundred eight of the tax law is made. The amount of the underpayment
55 shall be, with respect to any installment of estimated tax computed on
56 the basis of the preceding year's tax, the excess of the amount required

1 to be paid over the amount, if any, paid on or before the last day
2 prescribed for such payment or, with respect to any other installment of
3 estimated tax, the excess of the amount of the installment which would
4 be required to be paid if the estimated tax were equal to ninety percent
5 of the tax shown on the return for the taxable year (or if no return was
6 filed, ninety percent of the tax for such year) over the amount, if any,
7 of the installment paid on or before the last day prescribed for such
8 payment. In any case in which there would be no underpayment if "eighty
9 percent" were substituted for "ninety percent" each place it appears in
10 this subdivision, the addition to the tax shall be equal to seventy-five
11 percent of the amount otherwise determined. No underpayment shall be
12 deemed to exist with respect to a declaration or installment otherwise
13 due on or after the termination of existence of the taxpayer.

14 § 4-b. Subparagraph 11 of paragraph (a) of subdivision 9 of section
15 208 of the tax law, as amended by section 4 of part A of chapter 59 of
16 the laws of 2014, is amended and a new paragraph (u) is added to read as
17 follows:

18 (11) the amount deductible pursuant to [~~paragraph~~] paragraphs (j) and
19 (u) of this subdivision; and

20 (u) A taxpayer shall be allowed a deduction in computing entire net
21 income for any FDIC premium paid or incurred by the taxpayer that is
22 disallowed as a deduction under subsection (r) of section 162 of the
23 internal revenue code.

24 § 4-c. Subparagraph 10 of paragraph (a) of subdivision 8 of section
25 11-652 of the administrative code of the city of New York, as amended by
26 section 1 of part D of chapter 60 of the laws of 2015, is amended and a
27 new paragraph (u) is added to read as follows:

28 (10) the amount deductible pursuant to [~~paragraph~~] paragraphs (j) and
29 (u) of this subdivision;

30 (u) A taxpayer shall be allowed a deduction in computing entire net
31 income for any FDIC premium paid or incurred by the taxpayer that is
32 disallowed as a deduction under subsection (r) of section 162 of the
33 internal revenue code.

34 § 5. This act shall take effect immediately and shall apply to taxable
35 years beginning on or after January 1, 2017.

36 PART LL

37 Intentionally omitted

38 PART MM

39 Intentionally omitted

40 PART NN

41 Section 1. The real property tax law is amended by adding a new
42 section 431 to read as follows:

43 § 431. Senior capped real property school tax rate. 1. (a) Residential
44 real property owned and occupied by one or more persons, each of whom is
45 seventy years of age or over on or before the taxable status date in
46 taxable year two thousand nineteen and meets each of the requirements
47 for the enhanced exemption for senior citizens set forth in section four
48 hundred twenty-five of this article, or residential real property owned
49 and occupied by husband and wife, one of whom is seventy years of age or

1 over and meets each of the requirements for the enhanced exemption for
2 senior citizens set forth in section four hundred twenty-five of this
3 article, shall be eligible for the capped real property school tax rate
4 set forth in this section, provided the school district, after public
5 hearing, adopts a resolution providing therefor. For purposes of this
6 subdivision, the term "capped real property school tax rate" shall mean
7 the real property school tax rate established on any taxable status date
8 in calendar year two thousand eighteen.

9 (b) Residential real property owned and occupied by one or more
10 persons, each of whom is sixty-five years of age or over on or before
11 the taxable status date in tax year two thousand twenty and meets each
12 of the requirements for the enhanced exemption for senior citizens set
13 forth in section four hundred twenty-five of this article, or residen-
14 tial real property owned and occupied by husband and wife, one of whom
15 is sixty-five years of age or over and meets each of the requirements
16 for the enhanced exemption for senior citizens set forth in section four
17 hundred twenty-five of this article, shall be eligible for the capped
18 real property school tax rate set forth in this section, provided the
19 school district, after public hearing, adopts a resolution providing
20 therefor. For purposes of this subdivision, the term "capped real
21 property school tax rate" shall mean the real property school tax rate
22 established on the taxable status date subsequent to the taxable status
23 date on which an eligible person attains the age of sixty-five years.

24 2. Any person eligible for the capped real property school tax rate
25 shall apply annually for such capped rate. Such application shall be
26 made in a manner and form determined by the state board and shall
27 require proof of the applicant's age. Such application shall be filed
28 with the local assessor on or before the taxable status date for such
29 district.

30 3. Beginning in the second year of qualifying for the capped real
31 property school tax rate established in subdivision one of this section,
32 the rate of tax owed by a person owning real property in year one of
33 qualifying for the capped real property school tax rate would be reduced
34 by the following schedule:

35 Year two: ten percent

36 Year three: twenty percent

37 Year four: thirty percent

38 Year five: forty percent

39 Year six: fifty percent

40 Year seven: sixty percent

41 Year eight: seventy percent

42 Year nine: eighty percent

43 Year ten: ninety percent

44 Year eleven and thereafter: one hundred percent

45 4. Every school district shall notify, or cause to be notified, each
46 person owning residential real property in the school district of the
47 provisions of this section. The provisions of this subdivision may be
48 met by a notice sent to such persons in substantially the following
49 form: "Residential real property owned by persons sixty-five years of
50 age or older may be eligible for a capped real property school tax rate.
51 To receive such capped rate, eligible owners of qualifying property must
52 file an application with their local assessor on or before the applica-
53 ble taxable status date. For further information, please contact your
54 local assessor."

55 5. A school district which provides a capped real property school tax
56 rate for persons sixty-five years of age or over pursuant to this

section shall be eligible for reimbursement by the department of education, as approved by the commissioner of education, in consultation with the commissioner of taxation and finance, for one hundred percent of the direct cost to such school district resulting from the implementation of this section. Such direct cost shall be calculated pursuant to regulations of the commissioner of education, in consultation with the commissioner of taxation and finance. A claim for such reimbursement shall be made by such school district in a manner and form prescribed by the commissioner of education.

§ 2. Paragraph 3 of subsection (n-1) of section 606 of the tax law, as added by section 1 of subpart B of part C of chapter 20 of the laws of 2015, is amended as follows:

(3) Amount of credit. (a) For the two thousand sixteen taxable year (i) for a taxpayer residing in real property located within the metropolitan commuter transportation district (MCTD) and outside the city of New York, the amount of the credit shall be \$130; (ii) for a taxpayer residing in real property located outside the MCTD, the amount of the credit shall be \$185.

(b) For the two thousand seventeen, two thousand eighteen and two thousand nineteen taxable years (i) For a taxpayer who owned and primarily resided in real property receiving the basic STAR exemption, the amount of the credit shall equal the STAR tax savings associated with such basic STAR exemption, multiplied by the following percentage:

| (A) for the two thousand seventeen taxable year: | |
|--|------------|
| Qualified Gross Income | Percentage |
| Not over \$75,000 | 28% |
| Over \$75,000 but not over \$150,000 | 20.5% |
| Over \$150,000 but not over \$200,000 | 13% |
| Over \$200,000 but not over \$275,000 | 5.5% |
| Over \$275,000 | No credit |

| (B) for the two thousand eighteen taxable year: | |
|---|------------|
| Qualified Gross Income | Percentage |
| Not over \$75,000 | 60% |
| Over \$75,000 but not over \$150,000 | 42.5% |
| Over \$150,000 but not over \$200,000 | 25% |
| Over \$200,000 but not over \$275,000 | 7.5% |
| Over \$275,000 | No credit |

(C) for the two thousand nineteen taxable year and thereafter:

| Qualified Gross Income | Percentage |
|---------------------------------------|--------------------------------|
| Not over \$75,000 | [85%] <u>100%</u> |
| Over \$75,000 but not over \$150,000 | [60%] <u>75%</u> |
| Over \$150,000 but not over \$200,000 | [35%] <u>43.75%</u> |
| Over \$200,000 but not over \$275,000 | [10%] <u>12.5%</u> |
| Over \$275,000 | No credit |

(c) For a taxpayer who owned and primarily resided in real property receiving the enhanced STAR exemption, the amount of the credit shall equal the STAR tax savings associated with such enhanced STAR exemption, multiplied by the following percentage:

| Taxable Year | Percentage |
|---|-------------------------------|
| two thousand seventeen | 12% |
| two thousand eighteen | 26% |
| two thousand nineteen <u>and thereafter</u> | [34%] <u>42.5%</u> |

(d) In no case may the amount of the credit allowed under this subsection exceed the school district taxes due with respect to the residence for that school year.

§ 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after such date.

PART OO

Section 1. Section 13 of part A of chapter 97 of the laws of 2011, amending the general municipal law and the education law relating to establishing limits upon school district and local government tax levies, as amended by section 18 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

§ 13. This act shall take effect immediately; provided, however, that sections two through eleven of this act shall take effect July 1, 2011 and shall first apply to school district budgets and the budget adoption process for the 2012-13 school year; and shall continue to apply to school district budgets and the budget adoption process for any school year beginning in any calendar year during which this act is in effect; provided further, that if section 26 of part A of chapter 58 of the laws of 2011 shall not have taken effect on or before such date then section ten of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2011, takes effect; provided further, that section one of this act shall first apply to the levy of taxes by local governments for the fiscal year that begins in 2012 and shall continue to apply to the levy of taxes by local governments for any fiscal year beginning in any calendar year during which this act is in effect[~~, provided, further, that this act shall remain in full force and effect at a minimum until and including June 15, 2020 and shall remain in effect thereafter only so long as the public emergency requiring the regulation and control of residential rents and evictions and all such laws providing for such regulation and control continue as provided in subdivision 3 of section 1 of the local emergency rent control act, sections 26-501, 26-502 and 26-520 of the administrative code of the city of New York, section 17 of chapter 576 of the laws of 1974 and subdivision 2 of section 1 of chapter 274 of the laws of 1946 constituting the emergency housing rent control law, and section 10 of chapter 555 of the laws of 1982, amending the general business law and the administrative code of the city of New York relating to conversions of residential property to cooperative or condominium ownership in the city of New York as such laws are continued by chapter 93 of the laws of 2011 and as such sections are amended from time to time~~].

§ 2. This act shall take effect immediately.

PART PP

Section 1. Paragraph (b) of subdivision 1 of section 186-a of the tax law, as amended by section 4 of part Y of chapter 63 of the laws of 2000, is amended to read as follows:

(b) a tax equal to (1) two and five-tenths percent on and after January first, two thousand through December thirty-first, two thousand, two and forty-five one hundredths percent from January first, two thousand one through December thirty-first, two thousand one, two and four-tenths percent from January first, two thousand two through December thirty-first, two thousand two, two and twenty-five one hundredths percent from January first, two thousand three through December thirty-first, two thousand three, two and one hundred twenty-five one thousandths percent

1 from January first, two thousand four through December thirty-first, two
2 thousand four and two percent [~~commencing~~] from January first, two thou-
3 sand five, through December thirty-first two thousand eighteen, one and
4 five-tenths percent from January first, two thousand nineteen through
5 December thirty-first, two thousand nineteen, one percent from January
6 first, two thousand twenty through December thirty-first, two thousand
7 twenty, five-tenths of a percent from January first, two thousand twen-
8 ty-one to December thirty-first, two thousand twenty-one, and zero
9 percent commencing January first, two thousand twenty-two and thereafter
10 of that portion of its gross income derived from the transportation,
11 transmission or distribution of gas or electricity by means of conduits,
12 mains, pipes, wires, lines or the like and (2) two and one-tenth percent
13 from January first, two thousand through December thirty-first, two
14 thousand, two percent from January first, two thousand one through
15 December thirty-first, two thousand one, one and nine-tenths percent
16 from January first, two thousand two through December thirty-first, two
17 thousand two, eighty-five one hundredths of one percent from January
18 first, two thousand three through December thirty-first, two thousand
19 three, four-tenths of one percent from January first, two thousand four
20 through December thirty-first, two thousand four and zero percent
21 commencing January first, two thousand five of all of its other gross
22 income, is hereby imposed upon every utility not taxed under paragraph
23 (a) of this subdivision doing business in this state which is subject to
24 the supervision of the state department of public service which has a
25 gross income for the year ending December thirty-first in excess of five
26 hundred dollars, except motor carriers or brokers subject to such super-
27 vision under the public service law; and
28 § 2. This act shall take effect immediately.

PART QQ

30 Section 1. Subdivisions 1 and 1-a of section 18-a of the public
31 service law, subdivision 1 as amended by section 2 of part NN of chapter
32 59 of the laws of 2009 and subdivision 1-a as added by section 2 of part
33 A of chapter 173 of the laws of 2013, are amended to read as follows:

34 1. All costs and expenses of the department and commission shall be
35 paid pursuant to appropriation on the certification of the chairman of
36 the department and upon the audit and warrant of the comptroller. The
37 state treasury shall be reimbursed therefore by payments to be made
38 thereto from all moneys collected pursuant to this chapter. [~~The~~] For
39 state fiscal years beginning prior to April 1, 2019, the total of such
40 costs and expenses shall be borne by the public utility companies
41 (including for the purposes of this section municipalities other than
42 municipalities as defined in section eighty-nine-1 of this chapter),
43 corporations (including the power authority of the state of New York),
44 and persons subject to the commission's regulation, to be assessed in
45 the manner provided in subdivisions two, three and four of this section
46 and section two hundred seventeen of this chapter. Provided however for
47 the state fiscal year that begins on April first, two thousand nineteen,
48 such assessment shall be in an amount that is fifty percent of the
49 amount calculated in subdivisions two, three and four of this section
50 and section two hundred seventeen of this chapter. Provided further for
51 state fiscal years that begin on and after April first, two thousand
52 twenty, the amount of such assessment calculated in subdivisions two,
53 three and four of this section and section two hundred seventeen of this

1 chapter shall be zero and all costs of the department and commission
2 shall be paid by the state treasury.

3 1-a. All costs and expenses of the department related to the depart-
4 ment's responsibilities under section three-b of this chapter shall be
5 paid pursuant to appropriation on the certification of the chairman of
6 the department and upon the audit and warrant of the comptroller. For
7 the state fiscal [~~year~~] years beginning on April first, two thousand
8 fourteen and [~~each state fiscal year thereafter~~] beginning prior to
9 April first, two thousand twenty, payments are to be made from all
10 moneys collected from the Long Island power authority pursuant to this
11 section. The total of such costs and expenses shall be assessed on such
12 authority in the manner provided in subdivisions two, three and four of
13 this section. Provided however for the state fiscal year that begins on
14 April first, two thousand nineteen, such assessment shall be in an
15 amount that is fifty percent of the amount calculated in subdivisions
16 two, three and four of this section. Provided further for state fiscal
17 years that begin on and after April first, two thousand twenty, the
18 amount of such assessment calculated in subdivisions two, three and four
19 of this section shall be zero and all costs of the department and
20 commission shall be paid by the state treasury.

21 § 2. This act shall take effect immediately.

22 PART RR

23 Section 1. Paragraph 3-a of subsection (c) of section 612 of the tax
24 law, as amended by section 3 of part I of chapter 59 of the laws of
25 2015, is amended to read as follows:

26 (3-a) Pensions and annuities received by an individual who has
27 attained the age of fifty-nine and one-half, not otherwise excluded
28 pursuant to paragraph three of this subsection, to the extent includible
29 in gross income for federal income tax purposes, but not in excess of
30 [~~twenty~~] twenty-five thousand dollars for any taxable year beginning on
31 or after January first, two thousand nineteen, thirty thousand dollars
32 for any taxable year beginning on or after January first, two thousand
33 twenty, thirty-five thousand dollars for any taxable year beginning on
34 or after January first, two thousand twenty-one, and forty thousand
35 dollars in each subsequent year, which are periodic payments attribut-
36 able to personal services performed by such individual prior to his
37 retirement from employment, which arise (i) from an employer-employee
38 relationship or (ii) from contributions to a retirement plan which are
39 deductible for federal income tax purposes. However, the term "pensions
40 and annuities" shall also include distributions received by an individ-
41 ual who has attained the age of fifty-nine and one-half from an individ-
42 ual retirement account or an individual retirement annuity, as defined
43 in section four hundred eight of the internal revenue code, and distrib-
44 utions received by an individual who has attained the age of fifty-nine
45 and one-half from self-employed individual and owner-employee retirement
46 plans which qualify under section four hundred one of the internal
47 revenue code, whether or not the payments are periodic in nature. Never-
48 theless, the term "pensions and annuities" shall not include any lump
49 sum distribution, as defined in subparagraph (D) of paragraph four of
50 subsection (e) of section four hundred two of the internal revenue code
51 and taxed under section six hundred three of this article. Where a
52 husband and wife file a joint state personal income tax return, the
53 modification provided for in this paragraph shall be computed as if they
54 were filing separate state personal income tax returns. Where a payment

1 would otherwise come within the meaning of the term "pensions and annui-
2 ties" as set forth in this paragraph, except that such individual is
3 deceased, such payment shall, nevertheless, be treated as a pension or
4 annuity for purposes of this paragraph if such payment is received by
5 such individual's beneficiary.

6 § 2. This act shall take effect immediately.

7 PART SS

8 Section 1. Section 52 of the legislative law is amended by adding a
9 new subdivision 5 to read as follows:

10 5. Assent of two-thirds. For any bill that enacts or increases a tax
11 revenue, the assent of two-thirds of the members elected to each branch
12 of the legislature shall be required for passage of such bill.

13 § 2. This act shall take effect immediately.

14 PART TT

15 Section 1. The state finance law is amended by adding a new article 17
16 to read as follows:

17 ARTICLE 17

18 ANNUAL SPENDING GROWTH CAP ACT

19 Section 244. Definitions.

20 245. Establishment of annual spending growth cap.

21 246. Provisions regarding declaration of emergency.

22 § 244. Definitions. As used in this article, the following terms shall
23 have the following meanings, unless otherwise specified:

24 1. "Annual spending growth cap" shall mean a percentage determined by
25 adding the inflation rates from each of the three calendar years imme-
26 diately prior to the commencement of a given fiscal year and then divid-
27 ing that sum by three.

28 2. "State operating funds spending" shall mean annual disbursements of
29 all governmental fund types included in the cash-basis financial plan of
30 the state, excluding disbursements from federal funds and capital
31 project funds.

32 3. "Inflation rate" shall mean the percentage change in the twelve-
33 month average of the consumer price index for all urban consumers as
34 published by the United States department of labor, bureau of labor
35 statistics or any successor agency for a given calendar year compared to
36 the prior calendar year.

37 4. "Executive budget" shall mean the budget submitted annually by the
38 governor pursuant to section one of article VII of the state constitu-
39 tion.

40 5. "State budget as enacted" shall mean the budget acted upon by the
41 legislature in a given fiscal year, as subject to section four of arti-
42 cle VII of the state constitution and section seven of article IV of the
43 state constitution.

44 6. "Emergency" shall mean an extraordinary, unforeseen, or unexpected
45 occurrence, or combination of circumstances, including but not limited
46 to a natural disaster, invasion, terrorist attack, or economic calamity.

47 § 245. Establishment of annual spending growth cap. 1. There is here-
48 by established an annual spending growth cap.

49 2. The governor shall not submit, and the legislature shall not act
50 upon, a budget that contains a percentage increase over the prior fiscal
51 year in state operating funds spending which exceeds the annual spending
52 growth cap.

3. The governor shall certify in writing that state operating funds spending in the executive budget does not exceed the annual spending growth cap. If final inflation rate data for the prior calendar year is not yet available at the time the governor submits his or her executive budget, he or she shall furnish a reasonable estimate of such prior calendar year inflation rate.

4. The comptroller shall provide, within five days of action by the legislature upon the budget, a determination as to whether the state operating funds spending as set forth in the state budget as enacted exceeds the annual spending growth cap.

5. If the comptroller finds that state operating funds spending as set forth in the state budget as enacted exceeds the annual spending growth cap, the governor shall take corrective action to ensure that funding is limited to the amount of the annual spending cap.

§ 246. Provisions regarding declaration of emergency. 1. Upon a finding of an emergency by the governor, he or she may declare an emergency by an executive order which shall set forth the reasons for such declaration.

2. Based upon such declaration, the governor may submit, and the legislature may authorize, by a two-thirds supermajority, a budget containing a percentage increase over the prior fiscal year in state operating funds spending that exceeds the annual spending growth cap.

§ 2. Subdivision 2 of section 92-cc of the state finance law, as amended by section 12-a of part I of chapter 60 of the laws of 2015, is amended to read as follows:

2. Such fund shall have a maximum balance not to exceed [~~five~~] ten per centum of the aggregate amount projected to be disbursed from the general fund during the fiscal year immediately following the then-current fiscal year. At the request of the director of the budget, the state comptroller shall transfer monies to the rainy day reserve fund up to and including an amount equivalent to seventy-five one-hundredths of one per centum of the aggregate amount projected to be disbursed from the general fund during the then-current fiscal year, unless such transfer would increase the rainy day reserve fund to an amount in excess of five per centum of the aggregate amount projected to be disbursed from the general fund during the fiscal year immediately following the then-current fiscal year, in which event such transfer shall be limited to such amount as will increase the rainy day reserve fund to such five per centum limitation.

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

PART UU

Section 1. Section 606 of the tax law is amended by adding a new subsection (ccc) to read as follows:

(ccc) Private water utility bill relief credit. (1) General. An individual taxpayer who is serviced by a private water utility, serving the towns of Hempstead and Oyster Bay located in the county of Nassau, shall be allowed a credit against the tax imposed by this article equal to the amount of any annual increase of such taxpayer's annual water bill directly ascribable to an increase in property taxes paid by such private water utility.

(2) Certification for credit allowance. The commissioner shall determine the procedure for certification for the credit authorized pursuant to this subsection.

§ 2. The public service commission, in conjunction with affected municipal corporations located in the county of Nassau, shall conduct a feasibility study of the practicality of Jericho Water District, located in the town of Oyster Bay, supplying water to any current customers of American Water services. Such study shall examine the potential costs to the Jericho Water District of serving these customers, the potential costs to Jericho Water District of acquiring the rights to serve these customers, the potential new water rates as a result of such transfer, and any other information deemed relevant by the affected municipal corporations. On or before December 31, 2018, the public service commission shall submit such feasibility study to the governor, temporary president of the senate, and speaker of the assembly. For purposes of this section, "municipal corporations" shall have the same meaning as such term is defined by section two of the general municipal law.

§ 3. This act shall take effect immediately; provided, however section one of this act shall apply to taxable years beginning on and after the first of January next succeeding the date on which it shall have become a law; provided, further, that this act shall expire and be deemed repealed December 31, 2021.

PART VV

Section 1. Subparagraph (iv) of paragraph (a) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(iv) (A) for taxable years beginning before January first, two thousand sixteen, if the business income base is not more than two hundred ninety thousand dollars the amount shall be six and one-half percent of the business income base; if the business income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) eighteen thousand eight hundred fifty dollars, (2) seven and one-tenth percent of the excess of the business income base over two hundred ninety thousand dollars but not over three hundred ninety thousand dollars and (3) four and thirty-five hundredths percent of the excess of the business income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars;

(B) for taxable years beginning on or after January first, two thousand nineteen, if the business income base is not more than four hundred thousand dollars the amount shall be four percent of the business income base; if the business income base is more than four hundred thousand dollars but not over five hundred thousand dollars the amount shall be the sum of (1) sixteen thousand dollars, (2) six and one-half percent of the excess of the business income base over four hundred thousand dollars but not over five hundred thousand dollars and (3) twenty percent of the excess of the business income base over four hundred fifty thousand dollars but not over five hundred thousand dollars;

(C) for taxable years beginning on or after January first, two thousand twenty, if the business income base is not more than four hundred thousand dollars the amount shall be two and one-half percent of the business income base; if the business income base is more than four hundred thousand dollars but not over five hundred thousand dollars the amount shall be the sum of (1) ten thousand dollars, (2) six and one-half percent of the excess of the business income base over four hundred thousand dollars but not over five hundred thousand dollars and (3) thirty-two percent of the excess of the business income base over four

1 hundred fifty thousand dollars but not over five hundred thousand
2 dollars.

3 § 2. Paragraph 39 of subsection (c) of section 612 of the tax law, as
4 added by section 1 of part Y of chapter 59 of the laws of 2013, is
5 amended to read as follows:

6 (39) (A) In the case of a taxpayer who is a small business or a
7 taxpayer who is a member, partner, or shareholder of a limited liability
8 company, partnership, or New York S corporation, respectively, that is a
9 small business, who or which has business income [~~and/or farm income~~] as
10 defined in the laws of the United States, an amount equal to [~~three~~]
11 five percent of the net items of income, gain, loss and deduction
12 attributable to such business [~~or farm~~] entering into federal adjusted
13 gross income, but not less than zero, for taxable years beginning after
14 two thousand [~~thirteen~~] eighteen, an amount equal to [~~three and three-~~
15 ~~quarters~~] ten percent of the net items of income, gain, loss and
16 deduction attributable to such business [~~or farm~~] entering into federal
17 adjusted gross income, but not less than zero, for taxable years begin-
18 ning after two thousand [~~fourteen~~] nineteen, and an amount equal to
19 [~~five~~] fifteen percent of the net items of income, gain, loss and
20 deduction attributable to such business [~~or farm~~] entering into federal
21 adjusted gross income, but not less than zero[, ~~for taxable years begin-~~
22 ~~ning after two thousand fifteen~~].

23 (B) In the case of a taxpayer who is a farm business or a taxpayer who
24 is a member, partner, or shareholder of a limited liability company,
25 partnership, or New York S corporation, respectively, that is a farm
26 business, who or which has farm income as defined by the laws of the
27 United States, an amount equal to twenty percent of the net items of
28 income, gain, loss and deduction attributable to such farm. The term
29 farm business shall mean a farm business that has net farm income of
30 less than five hundred thousand dollars.

31 (C) (i) For the purposes of this paragraph, the term small business
32 shall mean: (I) a sole proprietor [~~or a farm business who employs one or~~
33 ~~more persons during the taxable year and~~] who has net business income
34 [~~or net farm income~~] of less than [~~two hundred fifty~~] five hundred thou-
35 sand dollars; or (II) a limited liability company, partnership or New
36 York S corporation that during the taxable year has New York gross busi-
37 ness income attributable to a non-farm business that is greater than
38 zero but less than one million five hundred thousand dollars or net farm
39 income attributable to a farm business that is greater than zero but
40 less than five hundred thousand dollars. (ii) For purposes of this para-
41 graph, the term New York gross business income shall mean: (I) in the
42 case of a limited liability company or a partnership, New York source
43 gross income as defined in subparagraph (B) of paragraph three of
44 subsection (c) of section six hundred fifty-eight of this article, and,
45 (II) in the case of a New York S corporation, New York receipts included
46 in the numerator of the apportionment factor determined under section
47 two hundred ten-A of this chapter for the taxable year.

48 (D) To qualify for this modification in relation to a non-farm small
49 business that is a limited liability company, partnership or New York S
50 corporation, the taxpayer's income attributable to the net business
51 income from its ownership interests in non-farm limited liability compa-
52 nies, partnerships or New York S corporations must be less than five
53 hundred thousand dollars.

54 § 3. Paragraph 35 of subdivision (c) of section 11-1712 of the admin-
55 istrative code of the city of New York, as added by section 2 of part Y
56 of chapter 59 of the laws of 2013, is amended to read as follows:

(35) (A) In the case of a taxpayer who is a small business or a taxpayer who is a member, partner, or shareholder of a limited liability company, partnership, or New York S corporation, respectively, that is a small business, who or which has business income [~~and/or farm income~~] as defined in the laws of the United States, an amount equal to [~~three~~] fifteen percent of the net items of income, gain, loss and deduction attributable to such business [~~or farm~~] entering into federal adjusted gross income, but not less than zero[~~, for taxable years beginning after two thousand thirteen, an amount equal to three and three-quarters percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand fourteen, and an amount equal to five percent of the net items of income, gain, loss and deduction attributable to such business or farm entering into federal adjusted gross income, but not less than zero, for taxable years beginning after two thousand fifteen~~].

(B) In the case of a taxpayer who is a farm business or a taxpayer who is a member, partner, or shareholder of a limited liability company, partnership, or New York S corporation, respectively, that is a farm business, who or which has farm income as defined by the laws of the United States, an amount equal to twenty percent of the net items of income, gain, loss and deduction attributable to such farm. The term farm business shall mean a farm business that has net farm income of less than five hundred thousand dollars.

(C) (i) For the purposes of this paragraph, the term small business shall mean: (I) a sole proprietor [~~or a farm business who employs one or more persons during the taxable year and~~] who has net business income [~~or not farm income~~] of less than [~~two hundred fifty~~] five hundred thousand dollars; or (II) a limited liability company, partnership or New York S corporation that during the taxable year has New York gross business income attributable to a non-farm business that is greater than zero but less than one million five hundred thousand dollars or net farm income attributable to a farm business that is greater than zero but less than five hundred thousand dollars. (ii) For purposes of this paragraph, the term New York gross business income shall mean: (I) in the case of a limited liability company or a partnership, New York source gross income as defined in subparagraph (B) of paragraph three of subsection (c) of section six hundred fifty-eight of the tax law, and, (II) in the case of a New York S corporation, New York receipts included in the numerator of the apportionment factor determined under section two hundred ten-A of the tax law for the taxable year.

(D) To qualify for this modification in relation to a non-farm small business that is a limited liability company, partnership or New York S corporation, the taxpayer's income attributable to the net business income from its ownership interests in non-farm limited liability companies, partnerships or New York S corporations must be less than five hundred thousand dollars.

§ 4. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2019.

PART WW

Section 1. Subdivision 3 of section 425 of the real property tax law, as added by section 1 of part B of chapter 389 of the laws of 1997, paragraph (a) as amended by chapter 264 of the laws of 2000, paragraph (b-1) as added by section 1 of part FF of chapter 57 of the laws of

2010, paragraph (d) as amended by chapter 564 of the laws of 2015, paragraph (e) as added by section 2 of part W of chapter 57 of the laws of 2008, and paragraph (f) as added by section 1 of part B of chapter 59 of the laws of 2012, is amended to read as follows:

3. Eligibility requirements. (a) Property use. To qualify for exemption pursuant to this section, the property must be a one, two or three family residence, a farm dwelling, small business or residential property held in condominium or cooperative form of ownership. If the property is not an eligible type of property, but a portion of the property is partially used by the owner as a primary residence, that portion which is so used shall be entitled to the exemption provided by this section; provided that in no event shall the exemption exceed the assessed value attributable to that portion.

(b) Primary residence. The property must serve as the primary residence of one or more of the owners thereof, unless such property is owned by a small business as defined in paragraph (g) of this subdivision.

(b-1) Income. For final assessment rolls to be used for the levy of taxes for the two thousand eleven-two thousand twelve school year and thereafter, the parcel's affiliated income may be no greater than five hundred thousand dollars, as determined by the commissioner of taxation and finance pursuant to section one hundred seventy-one-u of the tax law, in order to be eligible for the basic exemption authorized by this section. As used herein, the term "affiliated income" shall mean the combined income of all of the owners of the parcel who resided primarily thereon on the applicable taxable status date, and of any owners' spouses residing primarily thereon. For exemptions on final assessment rolls to be used for the levy of taxes for the two thousand eleven-two thousand twelve school year, affiliated income shall be determined based upon the parties' incomes for the income tax year ending in two thousand nine. In each subsequent school year, the applicable income tax year shall be advanced by one year. The term "income" as used herein shall have the same meaning as in subdivision four of this section.

(c) Trusts. If legal title to the property is held by one or more trustees, the beneficial owner or owners shall be deemed to own the property for purposes of this subdivision.

(d) Farm dwellings not owned by the resident. (i) If legal title to the farm dwelling is held by an S-corporation or by a C-corporation, the exemption shall be granted if the property serves as the primary residence of a shareholder of such corporation.

(ii) If the legal title to the farm dwelling is held by a partnership, the exemption shall be granted if the property serves as the primary residence of one or more of the partners.

(iii) If the legal title to the farm dwelling is held by a limited liability company, the exemption shall be granted if the property serves as the primary residence of one or more of the owners.

(iv) Any information deemed necessary to establish shareholder, partner or owner status for eligibility purposes shall be considered confidential and exempt from the freedom of information law.

(e) Dwellings owned by limited partnerships. (i) If legal title to a dwelling is held by a limited partnership, the exemption shall be granted if the property serves as the primary residence of one or more of the partners, provided that the limited partnership which holds title to the property does not engage in any commercial activity, that the limited partnership was lawfully created to hold title solely for estate planning and asset protection purposes, and that the partner or partners who

1 primarily reside thereon personally pay all of the real property taxes
2 and other costs associated with the property's ownership.

3 (ii) Any information deemed necessary to establish partner status for
4 eligibility purposes shall be considered confidential and exempt from
5 the freedom of information law.

6 (f) Compliance with state tax obligations. The property's eligibility
7 for the STAR exemption must not be suspended pursuant to section one
8 hundred seventy-one-y of the tax law due to the past-due state tax
9 liabilities of one or more of its owners. Notwithstanding any provision
10 of law to the contrary, where a property's eligibility for a STAR
11 exemption has been suspended pursuant to such section, the following
12 provisions shall be applicable:

13 (i) The property shall be ineligible for a basic or enhanced STAR
14 exemption effective with the next school year commencing after the issu-
15 ance of notice by the department of the suspension of its eligibility
16 for the STAR exemption, even if the notice was issued after the applica-
17 ble taxable status date. If a STAR exemption has been granted to such a
18 property on a tentative or final assessment roll, the assessor or other
19 person having custody of that roll is hereby authorized and directed to
20 immediately remove that STAR exemption from the roll.

21 (ii) Any challenge to the factual or legal basis behind the suspension
22 of a property's eligibility for a STAR exemption pursuant to section one
23 hundred seventy-one-y of the tax law must be presented to the department
24 in the manner prescribed by such section. Neither an assessor nor a
25 board of assessment review has the authority to consider such a chal-
26 lenge.

27 (iii) The property shall remain ineligible for the STAR exemption
28 until the department notifies the assessor that the suspension of its
29 eligibility has been lifted. Once the assessor has been so notified, the
30 exemption may be resumed on a prospective basis only, provided that the
31 eligibility requirements of this section are otherwise satisfied.

32 (iv) In the case of a cooperative apartment or mobile home receiving a
33 STAR exemption pursuant to paragraph (k) or (l) of subdivision two of
34 this section, a suspension of a STAR exemption due to a taxpayer's past-
35 due state tax liabilities shall only apply to the STAR exemption on the
36 cooperative apartment or mobile home owned, or deemed to be owned, by
37 that taxpayer.

38 (g) Small businesses. (i) For the purposes of this subdivision, the
39 term "small business" shall mean a sole proprietor, a limited liability
40 company, partnership, or New York S-corporation, that during the taxable
41 year employs twenty persons or less and has a gross business income
42 and/or farm income of less than three hundred fifty thousand dollars
43 attributable to the business or a New York corporation that during the
44 taxable year employs twenty persons or less and has a business income
45 base of five hundred thousand dollars or less.

46 (ii) For purposes of this paragraph, the term New York gross business
47 income shall mean: (A) in the case of a limited liability company or a
48 partnership, New York source gross income as defined in subparagraph (B)
49 of paragraph three of subsection (c) of section six hundred fifty-eight
50 of the tax law; and (B) in the case of a New York S-corporation, New
51 York receipts included in the apportionment determined under section two
52 hundred ten-A of this chapter for the taxable year.

53 (iii) For purposes of this paragraph, the term business income base
54 shall mean in the case of a New York corporation, business income as
55 defined in subdivision eight of section two hundred eight of the tax
56 law.

§ 2. Clause (B) of subparagraph (vi) of paragraph (b) of subdivision 2 of section 425 of the real property tax law, as added by section 1 of part D-1 of chapter 57 of the laws of 2007, is amended to read as follows:

(B) The base figure for the basic STAR exemption shall be thirty thousand dollars. In the case of a small business as defined in paragraph (g) of subdivision three of this section, the base figure for the basic STAR exemption shall be: (I) ten thousand dollars in the two thousand nineteen--two thousand twenty school year; (II) twenty thousand dollars in the two thousand twenty--two thousand twenty-one school year; and (III) thirty thousand dollars in the two thousand twenty-one--two thousand twenty-two school year and thereafter.

§ 3. This act shall take effect immediately and shall apply to all taxable years beginning on and after January 1, 2019.

PART XX

Section 1. Section 38 of the tax law, as added by section 1 of part EE of chapter 59 of the laws of 2013, is renumbered section 44 and subdivisions (b) and (c) are amended to read as follows:

(b) An eligible employer is a corporation (including a New York S corporation), a sole proprietorship, a limited liability company or a partnership. [Am] For taxable years beginning on and after January first, two thousand fourteen and before January first, two thousand nineteen, an eligible employee is an individual who is (i) employed by an eligible employer in New York state, (ii) paid at the minimum wage rate as defined in article nineteen of the labor law during the taxable year by the eligible employer, (iii) between the ages of sixteen and nineteen during the period in which he or she is paid at such minimum wage rate by the eligible employer, and (iv) a student during the period in which he or she is paid at such minimum wage rate by the taxpayer. For taxable years beginning on and after January first, two thousand nineteen, an eligible employee is an individual who is (i) employed by an eligible employer in New York state, (ii) paid at a rate that does not exceed the minimum wage rate as defined in article nineteen of the labor law plus fifty cents during the taxable year by the eligible employer, (iii) between the ages of sixteen and nineteen during the period in which he or she is paid at such rate that does not exceed such minimum wage rate plus fifty cents by the eligible employer, and (iv) a student during the period in which he or she is paid at such rate that does not exceed such minimum wage rate plus fifty cents by the taxpayer.

(c) For taxable years beginning on or after January first, two thousand fourteen and before January first, two thousand fifteen, the amount of the credit allowed under this section shall be equal to the product of the total number of hours worked during the taxable year by eligible employees for which they were paid at the minimum wage rate as defined in article nineteen of the labor law and ~~[seventy-five]~~ seventy-five cents. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen, the amount of the credit allowed under this section shall be equal to the product of the total number of hours during the taxable year worked by eligible employees for which they were paid at such minimum wage rate and one dollar and thirty-one cents. For taxable years beginning on or after January first, two thousand sixteen and before January first, two thousand ~~nineteen~~ eighteen, the amount of the credit allowed under this section shall be equal to the product of the total number of hours

1 during the taxable year worked by eligible employees for which they were
2 paid at such minimum wage rate and one dollar and thirty-five cents. For
3 taxable years beginning on or after January first, two thousand nineteen
4 and before January first, two thousand twenty-two, the amount of the
5 credit allowed under this section shall be equal to the product of the
6 total number of hours during the taxable year worked by eligible employ-
7 ees for which they were paid at a rate that does not exceed such minimum
8 wage rate plus fifty cents and one dollar and thirty-five cents.

9 Provided, however, if the federal minimum wage established by federal
10 law pursuant to 29 U.S.C. section 206 or its successors is increased
11 above eighty-five percent of the minimum wage in article nineteen of the
12 labor law, the dollar amounts in this subdivision shall be reduced to
13 the difference between the minimum wage in article nineteen of the labor
14 law and the federal minimum wage. Such reduction would take effect on
15 the date that employers are required to pay such federal minimum wage.

16 § 2. This act shall take effect immediately and shall apply to taxable
17 years beginning on and after January 1, 2019.

PART YY

19 Section 1. Subdivision (b) of section 38 of the tax law, as added by
20 section 1 of part EE of chapter 59 of the laws of 2013, is amended to
21 read as follows:

22 (b) An eligible employer is a corporation (including a New York S
23 corporation), a sole proprietorship, a limited liability company or a
24 partnership. An eligible employee is an individual who is (i) employed
25 by an eligible employer in New York state, (ii) paid at the minimum wage
26 rate as defined in article nineteen of the labor law during the taxable
27 year by the eligible employer, (iii) between the ages of sixteen and
28 nineteen during the period in which he or she is paid at such minimum
29 wage rate by the eligible employer, ~~and~~ (iv) a student during the
30 period in which he or she is paid at such minimum wage rate by the
31 taxpayer, and (v) notwithstanding the provisions of paragraphs (iii) and
32 (iv) of this subdivision, an eligible employee shall also mean any
33 employee who meets the criteria set forth in paragraphs (i) and (ii) of
34 this subdivision who is temporarily employed for a period of ninety days
35 or less in a calendar year; provided, however, that the provisions of
36 this paragraph shall be applicable to taxable years beginning on and
37 after January first, two thousand nineteen.

38 § 2. This act shall take effect immediately and shall apply to taxable
39 years beginning on and after January 1, 2019.

PART ZZ

41 Section 1. Subsection (b) of section 612 of the tax law is amended by
42 adding a new paragraph 43 to read as follows:

43 (43) Any income, gain, loss and deduction, to the extent it is
44 included in federal adjusted gross income and is, combined, less than
45 zero, of an individual or trust from a qualified pass-through manufac-
46 turer, as defined in paragraph forty-four of subsection (c) of this
47 section.

48 § 2. Paragraph 39 of subsection (c) of section 612 of the tax law, as
49 added by section 1 of part Y of chapter 59 of the laws of 2013, is
50 amended and a new paragraph 44 is added to read as follows:

51 (39) In the case of a taxpayer who is a small business who has busi-
52 ness income and/or farm income as defined in the laws of the United

1 States, an amount equal to three percent of the net items of income,
2 gain, loss and deduction attributable to such business or farm entering
3 into federal adjusted gross income, but not less than zero, for taxable
4 years beginning after two thousand thirteen, an amount equal to three
5 and three-quarters percent of the net items of income, gain, loss and
6 deduction attributable to such business or farm entering into federal
7 adjusted gross income, but not less than zero, for taxable years begin-
8 ning after two thousand fourteen, and an amount equal to five percent of
9 the net items of income, gain, loss and deduction attributable to such
10 business or farm entering into federal adjusted gross income, but not
11 less than zero, for taxable years beginning after two thousand fifteen.
12 For the purposes of this paragraph, the term small business shall mean a
13 sole proprietor or a farm business who employs one or more persons
14 during the taxable year and who has net business income or net farm
15 income of less than two hundred fifty thousand dollars. For the purposes
16 of this paragraph, the term small business shall exclude any business
17 that is a qualified pass-through manufacturer, as defined in paragraph
18 forty-four of this subsection for the current tax year.

19 (44) (A) Any income, gain, loss and deduction, to the extent included
20 federal adjusted gross income and is, combined, greater than zero, of an
21 individual or trust from a qualified pass-through manufacturer. Income
22 from a qualified pass-through manufacturer shall not include an amount
23 representing reasonable compensation for an individual controlling ten
24 percent or more of the qualified business or entity.

25 (B) The qualified pass-through manufacturer may be organized as a sole
26 proprietorship, a partnership, a limited liability company electing to
27 be treated as a partnership or sole proprietorship, or an S corporation.

28 (C) For the purposes of this subsection, the term qualified pass-
29 through manufacturer shall mean a business that is a qualified New York
30 manufacturer, as defined by subparagraph (vi) of paragraph (a) of subdi-
31 vision one of section two hundred ten of this chapter, except that the
32 term "gross receipts" shall be replaced by "business receipts" in deter-
33 mining whether the business is "principally engaged" in manufacturing. A
34 qualified pass-through manufacturer shall not include a business that is
35 currently participating in the START-UP NY program.

36 § 3. Paragraph 2 of subsection (a) of section 606 of the tax law is
37 amended by adding a new subparagraph (B-1) to read as follows:

38 (B-1) Property placed in service during the tax year that is otherwise
39 eligible for the investment tax credit described in subparagraph (A) of
40 this paragraph, will not be eligible for the investment tax credit if
41 the use of the property is by a qualified pass-through manufacturer, as
42 defined in paragraph forty-four of subsection (c) of section six hundred
43 twelve of this article for the current tax year.

44 § 4. This act shall take effect immediately and shall apply to taxable
45 years beginning on and after January 1, 2019.

46 PART AAA

47 Section 1. The real property tax law is amended by adding a new
48 section 431 to read as follows:

49 § 431. Public utility security camera or device; exemption. 1. For
50 purposes of this section, the term "public utility" shall mean a public
51 service corporation, other electric service provider, fiber optics,
52 television cable, or any other telecommunication company subject to the
53 jurisdiction of the department of public service.

2. Any camera or interrelated devices or appurtenances installed on or otherwise utilizing property that a public utility assessed an ad valorem tax, or that such utility contributes to a payment in lieu of taxes agreement, whether or not such camera, interrelated devices or appurtenances are owned by the public utility, and installed for the purposes of providing any police force or public security office access to real time or recorded information, shall be exempt from real property or other ad valorem taxes, levies and assessments or payments in lieu of taxes contributions.

3. The office of real property tax services is hereby authorized and directed to promulgate rules and regulations necessary for the implementation of this section.

§ 2. This act shall take effect immediately and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after such date; provided, however, that the office of real property tax services shall promulgate rules and regulations necessary to effectuate this act prior to such effective date.

PART BBB

Section 1. Declaration of policy. The people of this state have a vital interest in the maintenance and preservation of cemetery corporations to prevent them from becoming a burden upon local governments and the community. The preservation of cemetery funds is vital to the long-term maintenance and preservation of these burial grounds to prevent abandonment and dilapidation. In order to preserve this order, and the uniqueness of cemetery corporations, clarifications of cemetery sales tax collections are necessary.

§ 2. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 7-a to read as follows:

(7-a) Tangible personal property and services sold by a cemetery for the exclusive use on the grounds and in the buildings of the cemetery corporation including but not limited to the additional services provided by a cemetery as defined in paragraph (b) of section fifteen hundred nine of the not-for-profit corporation law and for the maintenance and preservation of lots, plots and parts thereof.

§ 3. Subdivision (a) of section 1116 of the tax law is amended by adding a new paragraph 10 to read as follows:

(10) A cemetery corporation, as defined in paragraph (a) of section fifteen hundred two of the not-for-profit corporation law, including but not limited to those cemeteries regulated by the religious corporations law where it is the purchaser, user, or consumer, or where it is the vendor of services or property exclusively to be used on the grounds or buildings of the corporation.

§ 4. The tax law is amended by adding a new section 1149 to read as follows:

§ 1149. Amnesty program. (a) Notwithstanding the provisions of any other law to the contrary, there is hereby established an amnesty program as described herein, to be administered by the commissioner, to be effective for the period as prescribed by such commissioner, for all eligible taxpayers as described herein, owing any tax or surcharge imposed or formerly imposed by sections eleven hundred five and eleven hundred ten of this article, and administered by such commissioner.

(b) Such amnesty program shall apply to tax liabilities for the taxes set forth in sections eleven hundred five and eleven hundred ten of this

1 article for taxable periods ending or transactions or uses occurring on
2 or before December thirty first, two thousand eighteen.

3 (c) For purposes of the amnesty program established under this
4 section, an eligible taxpayer is a cemetery corporation as defined by
5 paragraph (a) of section fifteen hundred two of the not-for-profit
6 corporation law who or which has a tax liability with regard to one or
7 more of the designated taxes for the period of time described in subdi-
8 vision (b) of this section.

9 (d) The amnesty program established herein shall provide, that upon
10 application, including applicable returns, which application and returns
11 shall be in such form and submitted in such manner as prescribed by the
12 commissioner, by an eligible taxpayer, and upon payment in such form and
13 in such manner as prescribed by such commissioner, which payment shall
14 either accompany such application or be made within the time stated on a
15 bill issued by such commissioner to such taxpayer, of the amount of a
16 tax liability under one or more of the designated taxes with respect to
17 which amnesty is sought, such commissioner shall waive any applicable
18 penalties and interest (including the additional rate of interest
19 prescribed under section eleven hundred forty-five of this part). In
20 addition, no civil, administrative or criminal action or proceeding
21 shall be brought against such an eligible taxpayer relating to the tax
22 liability covered by such waiver. Failure to pay all such taxes by the
23 later of March fifteenth, two thousand nineteen, or the date prescribed
24 therefor on a bill issued by such commissioner, shall invalidate any
25 amnesty granted pursuant to the amnesty program established under this
26 section.

27 (e) Amnesty tax return forms shall be in a form, contain such informa-
28 tion and be submitted as prescribed by the commissioner and shall
29 provide for specifications by the applicant of the tax liability with
30 respect to which amnesty is sought. The applicant must also provide such
31 additional information as is required by such commissioner. Amnesty
32 shall be granted only with respect to the tax liabilities specified by
33 the taxpayer on such forms. Any return or report filed under the amnesty
34 program established herein is subject to verification and assessment as
35 provided by statute. If the applicant files a false or fraudulent tax
36 return or report, or attempts in any manner to defeat or evade a tax
37 under the amnesty program, amnesty shall be denied or rescinded.

38 (f) With respect to any existing installment payment agreement of an
39 eligible taxpayer, where such agreement applies to a tax liability with
40 respect to which amnesty is sought by such taxpayer, notwithstanding any
41 terms of such agreement to the contrary, such taxpayer, as a condition
42 of receiving amnesty, must pay any such liability in full by the later
43 of the last day of the prescribed amnesty period, or the date prescribed
44 therefor on a bill issued by the commissioner.

45 (g) The commissioner may promulgate regulations, issue forms and
46 instructions and take any and all other actions necessary to implement
47 the provisions of the amnesty program established under this section.
48 Such commissioner shall publicize the amnesty program provided for in
49 this section so as to maximize public awareness of and participation in
50 such program.

51 § 5. On or before February 28, 2021, the commissioner of taxation and
52 finance shall submit a report to the chairperson of the assembly ways
53 and means committee, the ranking minority member of the assembly ways
54 and means committee, the chairperson of the senate finance committee,
55 the ranking minority member of the senate finance committee and the
56 director of the budget regarding the amnesty program established pursu-

ant to this act. The report shall contain the following information as of the report cutoff date: (i) the gross revenue collected under each tax and the year or other applicable period for or during which the liability was incurred; (ii) the amount of money spent on advertising, notification, and outreach activities, by each activity, and a description of the form and content of such activities, by each activity; (iii) the amount paid by the department of taxation and finance for services and expenses related to the establishment of the amnesty program; and (iv) an estimate of the net revenue generated from the amnesty program.

§ 6. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2019.

PART CCC

Section 1. Subsection (oo) of section 606 of the tax law, as amended by chapter 239 of the laws of 2009, paragraph 1 as amended by chapter 472 of the laws of 2010, subparagraph (A) of paragraph 1 and paragraphs 4 and 5 as amended by section 1 of part F of chapter 59 of the laws of 2013, is amended to read as follows:

(oo) Credit for rehabilitation of historic properties. (1) (A) For taxable years beginning on or after January first, two thousand ten and before January first, two thousand ~~[twenty]~~ twenty-five, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to ~~[one hundred percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under subsection (a) (2) of section 47 of the federal internal revenue code]~~ twenty percent of the qualified rehabilitation expenditures with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars. For taxable years beginning on or after January first, two thousand ~~[twenty]~~ twenty-five, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the ~~[amount of credit allowed the taxpayer with respect to a certified historic structure under subsection (a)(2) of section 47 of the federal internal revenue code]~~ qualified rehabilitation expenditures with respect to a certified historic structure located within the state; provided, however, the credit shall not exceed one hundred thousand dollars. For purposes of this subsection the term "qualified rehabilitation expenditure" means any amount properly chargeable to capital account in connection with the certified rehabilitation of a qualified historic structure, and for property for which depreciation would be allowable under section 168 of the internal revenue code and which is (i) nonresidential real property, (ii) residential rental property, or (iii) an addition or improvement to nonresidential real property or residential rental property.

(B) If the taxpayer is a partner in a partnership or a shareholder of a New York S corporation, then the credit cap imposed in subparagraph (A) of this paragraph shall be applied at the entity level, so that the aggregate credit allowed to all the partners or shareholders of each such entity in the taxable year does not exceed the credit cap that is applicable in that taxable year.

(2) (A) Tax credits allowed pursuant to this subsection shall be allowed in the taxable year ~~[that the qualified rehabilitation is placed in service under section 167 of the federal internal revenue code]~~ in

1 which the final certification step of the certified rehabilitation is
2 completed as provided in subparagraph (C) of this paragraph.

3 (B) For purposes of this subsection the term "certified rehabili-
4 tation" means any rehabilitation of a certified historic structure which
5 has been approved and certified as being consistent with the standards
6 established by the commissioner of parks, recreation and historic pres-
7 ervation for rehabilitation by the office of parks, recreation and
8 historic preservation, a local government certified pursuant to section
9 101(c)(1) of the national historic preservation act or a local landmark
10 commission established pursuant to section ninety-six-a or one hundred
11 nineteen-dd of the general municipal law.

12 (C) A certified rehabilitation shall require:

13 (i) an initial certification that the structure meets the definition
14 of the term "certified historic structure";

15 (ii) a second certification, to be issued prior to construction,
16 certifying that the proposed rehabilitation work is consistent with
17 standards established by the commissioner of parks, recreation and
18 historic preservation for rehabilitation; and

19 (iii) a final certification issued when construction is completed,
20 certifying that the work was completed as proposed and that the costs
21 are consistent with the work completed. Such final certification shall
22 be acceptable as proof that the expenditures related to such
23 construction qualify as qualified rehabilitation expenditures for
24 purposes of the credit allowed under either subparagraph (A) or (B) of
25 paragraph one of this subsection.

26 (D) For purposes of this subsection the term "qualified historic
27 structure" means a certified historic structure located within New York
28 state which has been substantially rehabilitated. A certified historic
29 structure shall be considered substantially rehabilitated if the quali-
30 fied rehabilitation expenditures in relation to such structure total
31 five thousand dollars or more.

32 (E) For purposes of this subsection the term "certified historic
33 structure" means any building and its structural components which:

34 (i) is listed in the state or national register of historic places, or

35 (ii) is located in a state or national registered historic district
36 and is certified as being of historic significance in the district.

37 ~~(3) [If the credit allowed the taxpayer pursuant to section 47 of the~~
38 ~~internal revenue code with respect to a qualified rehabilitation is~~
39 ~~recaptured pursuant to subsection (a) of section 50 of the internal~~
40 ~~revenue code, a portion of the credit allowed under this subsection must~~
41 ~~be added back in the same taxable year and in the same proportion as the~~
42 ~~federal recapture]~~

43 (A) If, before the end of the two-year period begin-
44 ning on the date of the final certification referred to in subparagraph
45 (C) of paragraph two of this subsection, the taxpayer disposes of such
46 taxpayer's interest in a certified historic structure, or such certified
47 historic structure otherwise ceases to be eligible for the credit
48 allowed under this subsection, the taxpayer's tax imposed by this arti-
49 cle for the taxable year in which such disposition occurs shall be
50 increased by the recapture portion of the credit allowed under this
51 subsection for all prior taxable years with respect to such rehabili-
52 tation.

53 (B) For purposes of subparagraph (A) of this paragraph, the recapture
54 portion shall be the product of the amount of credit claimed by the
55 taxpayer multiplied by a fraction, the numerator of which is equal to
56 twenty-four less the number of months before the disposition or cessa-
tion of the structure occurred.

(4) If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(5) To be eligible for the credit allowable under this subsection the rehabilitation project shall be in whole or in part located within a census tract which is identified as being at or below one hundred percent of the state median family income as calculated as of ~~January~~ April first of each year using the most recent five year estimate from the American community survey published by the United States Census bureau. If there is a change in the most recent five year estimate, a census tract that qualified for eligibility under this subsection before information about the change was released shall remain eligible for a credit under this subsection for an additional eighteen months.

(6) Nothing contained in this subsection shall be construed to impose a duty on a local landmark commission established pursuant to section ninety-six-a or one hundred nineteen-dd of the general municipal law or a local government certified pursuant to section 101(c)(1) of the national historic preservation act to undertake any review or approval of an application for the certification of the rehabilitation of historic structures and of rehabilitation expenditures provided for in this subsection.

§ 2. Paragraph 2 of subsection (pp) of section 606 of the tax law, as added by chapter 547 of the laws of 2006, subparagraphs (A) and (B) as amended by section 1 of part V of chapter 59 of the laws of 2013, is amended to read as follows:

(2) (A) With respect to any particular residence of a taxpayer, the credit allowed under paragraph one of this subsection shall not exceed fifty thousand dollars for taxable years beginning on or after January first, two thousand ten and before January first, two thousand ~~twenty~~ twenty-five and twenty-five thousand dollars for taxable years beginning on or after January first, two thousand ~~twenty~~ twenty-five. In the case of a husband and wife, the amount of the credit shall be divided between them equally or in such other manner as they may both elect. If a taxpayer incurs qualified rehabilitation expenditures in relation to more than one residence in the same year, the total amount of credit allowed under paragraph one of this subsection for all such expenditures shall not exceed fifty thousand dollars for taxable years beginning on or after January first, two thousand ten and before January first, two thousand ~~twenty~~ twenty-five and twenty-five thousand dollars for taxable years beginning on or after January first, two thousand ~~twenty~~ twenty-five.

(B) For taxable years beginning on or after January first, two thousand ten and before January first, two thousand ~~twenty~~ twenty-five, if the amount of credit allowable under this subsection shall exceed the taxpayer's tax for such year, and the taxpayer's New York adjusted gross income for such year does not exceed sixty thousand dollars, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon. If the taxpayer's New York adjusted gross income for such year exceeds sixty thousand dollars, the excess credit that may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years. For taxable years beginning on or after January first, two thousand ~~twenty~~ twenty-five, if the amount of credit allow-

able under this subsection shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

§ 3. Subdivision 26 of section 210-B of the tax law, as added by section 17 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

26. Credit for rehabilitation of historic properties. (a) Application of credit. (i) For taxable years beginning on or after January first, two thousand ten, and before January first, two thousand ~~[twenty]~~ twenty-five, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to ~~[one hundred percent of the amount of credit allowed the taxpayer for the same taxable year with respect to a certified historic structure under subsection (c)(2) of section 47 of the internal revenue code]~~ twenty percent of the qualified rehabilitation expenditures with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars.

(ii) For taxable years beginning on or after January first, two thousand ~~[twenty]~~ twenty-five, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the ~~[amount of credit allowed the taxpayer for the same taxable year with respect to a certified historic structure under subsection (c)(3) of section 47 of the internal revenue code]~~ qualified rehabilitation expenditures with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed one hundred thousand dollars.

~~[(B)]~~ (b) If the taxpayer is a partner in a partnership or a shareholder in a New York S corporation, then the credit caps imposed in ~~[subparagraph (A)]~~ paragraph (a) of this ~~[paragraph]~~ subdivision shall be applied at the entity level, so that the aggregate credit allowed to all the partners or shareholders of each such entity in the taxable year does not exceed the credit cap that is applicable in that taxable year.

~~[(b)]~~ (c) Tax credits allowed pursuant to this subdivision shall be allowed in the taxable year ~~[that the qualified rehabilitation is placed in service under section 167 of the federal internal revenue code]~~ in which the final certification step of the certified rehabilitation is completed pursuant to subparagraph (C) of paragraph two of subsection (oo) of section six hundred six of this chapter.

~~[(c) If the credit allowed the taxpayer pursuant to section 47 of the internal revenue code with respect to a qualified rehabilitation is recaptured pursuant to subsection (a) of section 50 of the internal revenue code, a portion of the credit allowed under this subsection must be added back in the same taxable year and in the same proportion as the federal credit]~~ (d)(i) If, before the end of the two-year period beginning on the date of the final certification referred to in paragraph (b) of this subdivision, the taxpayer disposes of such taxpayer's interest in a certified structure, or such certified historic structure otherwise ceases to be eligible for the credit allowed under this subdivision, the taxpayer's tax imposed by this article for the taxable year in which such disposition occurs shall be increased by the recapture portion of the credit allowed under this paragraph for all prior taxable years with respect to such rehabilitation.

(ii) For purposes of subparagraph (i) of this paragraph, the recapture portion shall be the product of the amount of credit claimed by the taxpayer multiplied by a fraction, the numerator of which is equal to

twenty-four less the number of months before the disposition or cessation of the structure occurred.

~~[(d)]~~ (e) The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of the credit allowed under this subdivision for any taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit thus not deductible in such taxable year shall be treated as an overpayment of tax to be recredited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

~~[(e)]~~ (f) To be eligible for the credit allowable under this subdivision, the rehabilitation project shall be in whole or in part located within a census tract which is identified as being at or below one hundred percent of the state median family income as calculated as of January first of each year using the most recent five year estimate from the American community survey published by the United States Census bureau.

§ 4. Paragraphs 1, 2 and 3 of subdivision (y) of section 1511 of the tax law, as added by chapter 472 of the laws of 2010, subparagraph (A) of paragraph 1 as amended by section 4 of part F of chapter 59 of the laws of 2013, are amended to read as follows:

(1) (A) For taxable years beginning on or after January first, two thousand ten and before January first, two thousand ~~[twenty]~~ twenty-five, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to ~~[one hundred percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under subsection (a)(2) of section 47 of the federal internal revenue code]~~ twenty percent of the qualified rehabilitation expenditures with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars. For taxable years beginning on or after January first, two thousand ~~[twenty]~~ twenty-five, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the ~~[amount of credit allowed the taxpayer with respect to a certified historic structure under subsection (a)(2) of section 47 of the federal internal revenue code]~~ qualified rehabilitation expenditure with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed one hundred thousand dollars.

(B) If the taxpayer is a partner in a partnership, then the cap imposed in subparagraph (A) of this paragraph shall be applied at the entity level, so that the aggregate credit allowed to all the partners of such partnership in the taxable year does not exceed the credit cap that is applicable in that taxable year.

(2) Tax credits allowed pursuant to this subsection shall be allowed in the taxable year ~~[that the qualified rehabilitation is placed in service under section 167 of the federal internal revenue code]~~ in which the final certification step of the certified rehabilitation is completed pursuant to subparagraph (C) of paragraph two of subsection (oo) of section six hundred six of this chapter.

(3) ~~[If the credit allowed the taxpayer pursuant to section 47 of the internal revenue code with respect to a qualified rehabilitation is~~

~~recaptured pursuant to subsection (a) of section 50 of the internal revenue code, a portion of the credit allowed under this subsection in the taxable year the credit was claimed must be added back in the same taxable year and in the same proportion as the federal recapture]~~ (A) If, before the end of the two-year period beginning on the date of the final certification referred to in paragraph two of this subdivision, the taxpayer disposes of such taxpayer's interest in a certified structure, or such certified historic structure otherwise ceases to be eligible for the credit allowed under this subdivision, the taxpayer's tax imposed by this article for the taxable year in which such disposition occurs shall be increased by the recapture portion of the credit allowed under this paragraph for all prior taxable years with respect to such rehabilitation.

(B) For purposes of subparagraph (A) of this paragraph, the recapture portion shall be the product of the amount of credit claimed by the taxpayer multiplied by a fraction, the numerator of which is equal to twenty-four less the number of months before the disposition or cessation of the structure occurred.

§ 5. Subdivision 6 of section 13.15 of the parks, recreation and historic preservation law, as added by chapter 547 of the laws of 2006, is amended to read as follows:

6. The office may establish a fee or fees for its processing and review of applications for the certification of the rehabilitation of historic buildings and the approval of rehabilitation expenditures and related work pursuant to ~~[subsection]~~ subsections (oo) and (pp) of section six hundred six of the tax law. All revenues from these fees shall be deposited by the comptroller in the miscellaneous special revenue fund to be credited to the agency's patron services account and shall be used to support the office's historic preservation program. Nothing in this subdivision shall be construed to limit the ability of a local landmark commission established pursuant to section ninety-six-a or one hundred nineteen-dd of the general municipal law or a local government certified pursuant to section 101(c)(1) of the national historic preservation act to establish and charge fees for its processing and review of applications for the certification of the rehabilitation of historic buildings and the approval of rehabilitation expenditures.

§ 6. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2018.

PART DDD

Section 1. Section 606 of the tax law is amended by adding a new subsection (iii) to read as follows:

(iii) Clinical preceptorship credit. (1) General. A taxpayer who is a preceptor clinician who provides preceptor instruction as part of a clinical preceptorship shall be allowed a credit of one thousand dollars for each one hundred hours of such preceptor instruction; provided that the credit allowed pursuant to this subsection shall not exceed three thousand dollars during any taxable year.

(2) Definitions. As used in this subsection:

(A) The term "preceptor clinician" means a (i) physician licensed pursuant to article one hundred thirty-one of the education law, (ii) physician assistant licensed pursuant to article one hundred thirty-one-B of the education law, (iii) specialist assistant registered pursuant to article one hundred thirty-one-C of the education law, (iv)

1 certified registered nurse anesthetist certified by the education
2 department, (v) registered professional nurse licensed pursuant to
3 section sixty-nine hundred five of the education law, (vi) nurse practi-
4 tioner certified pursuant to section sixty-nine hundred ten of the
5 education law, (vii) clinical nurse specialist certified pursuant to
6 section sixty-nine hundred eleven of the education law, or (viii)
7 midwife licensed pursuant to article one hundred forty of the education
8 law, who, without the provision of any form of compensation therefor,
9 provides a clinical preceptorship or preceptorships including, but not
10 limited to, both community and in-patient facilities, during the taxable
11 year.

12 (B) The term "clinical preceptorship" means a preceptorship for a
13 student enrolled in a New York state based educational program approved
14 pursuant to title eight of the education law to become a physician,
15 physician assistant, specialist assistant, certified registered nurse
16 anesthetist, registered professional nurse, nurse practitioner, clinical
17 nurse specialist or midwife, and which preceptorship provides preceptor
18 instruction in family medicine, internal medicine, pediatrics, obstet-
19 rics and gynecology, emergency medicine, psychiatry or general surgery
20 under the supervision of a preceptor clinician.

21 (3) Application of credit. If the amount of the credit allowed under
22 this subsection for any taxable year exceeds the taxpayer's tax for such
23 year, the excess will be treated as an overpayment of tax to be credited
24 or refunded in accordance with the provisions of section six hundred
25 eighty-six of this article; provided, however, that no interest shall be
26 paid thereon.

27 § 2. This act shall take effect on the first of January next succeed-
28 ing the date on which it shall have become a law.

29 PART EEE

30 Section 1. The tax law is amended by adding a new section 24-b to read
31 as follows:

32 § 24-b. Television writers' and directors' fees and salaries credit.
33 (a)(1) A taxpayer which is a qualified film production company, or a
34 qualified independent film production company, or which is a sole
35 proprietor of or a member of a partnership which is a qualified film
36 production company or a qualified independent film production company,
37 and which is subject to tax under articles nine-A or twenty-two of this
38 chapter, shall be allowed a credit against such tax, pursuant to the
39 provisions referenced in subdivision (c) of this section, to be computed
40 as hereinafter provided.

41 (2) The amount of the credit shall be the product (or pro rata share
42 of the product, in the case of a member of a partnership) of thirty
43 percent and the qualified television writers' and directors' fees and
44 salaries costs paid or incurred in the production of a qualified film,
45 provided that: (i) the credit amount shall not exceed fifty thousand
46 dollars for qualified television writers' and directors' fees and sala-
47 ries claimed for such expenses incurred for the employment of any one
48 specific writer or director for the production of a single television
49 pilot or a single episode of a television series, and (ii) the credit
50 amount shall not exceed one hundred fifty thousand dollars for qualified
51 television writers' and directors' fees and salaries claimed for such
52 expenses incurred for the employment of any one specific writer or
53 director. The credit shall be allowed for the taxable year in which the
54 production of such qualified film is completed.

1 (3) No qualified television writers' and directors' fees and salaries
2 used by a taxpayer either as the basis for the allowance of the credit
3 provided for pursuant to this section or used in the calculation of the
4 credit provided pursuant to this section shall be used by such taxpayer
5 to claim any other credit allowed pursuant to this chapter.

6 (b) Definitions. As used in this section, the following terms shall
7 have the following meanings:

8 (1) "Qualified film production company" is a corporation, partnership,
9 limited partnership, or other entity or individual which or who is prin-
10 cipally engaged in the production of a qualified film and controls the
11 qualified film during production.

12 (2) "Qualified independent film production company" is a corporation,
13 partnership, limited partnership, or other entity or individual, that or
14 who (i) is principally engaged in the production of a qualified film
15 with a maximum budget of fifteen million dollars, (ii) controls the
16 qualified film during production, and (iii) either is not a publicly
17 traded entity, or no more than five percent of the beneficial ownership
18 of which is owned, directly or indirectly, by a publicly traded entity.

19 (3) "Qualified film" means a television film, television pilot and/or
20 each episode of a television series, regardless of the medium by means
21 of which the film, pilot or episode is created or conveyed.

22 (4) "Qualified television writers' and directors' fees and salaries"
23 means: (i) salaries or fees paid to a writer or director who receives an
24 on-air credit; (ii) for a non-credited writer, up to seventy-five thou-
25 sand dollars in salaries or fees per series of episodes. Provided that
26 in each case, such writer or director is a minority group member, as
27 defined in subdivision eight of section three hundred ten of the execu-
28 tive law, or a woman, and provided, further, that salaries or fees paid
29 to any writer or director who is a profit participant in the qualified
30 film shall not be eligible.

31 (5) "Writer" means a person who is: (i) engaged by a qualified film
32 production company or a qualified independent film production company to
33 write literary material (including making changes or revisions in liter-
34 ary material), when the company has the right by contract to direct the
35 performance of personal services in writing or preparing such material
36 or in making revisions, modifications or changes therein; or (ii)
37 engaged by the company and who performs services (at the company's
38 direction or with its consent) in writing or preparing such literary
39 material or making revisions, modifications, or changes in such materi-
40 al; and (iii) who reports to work regularly in a writers room located in
41 the state.

42 (6) "Literary material" shall be deemed to include stories, adapta-
43 tions, treatments, original treatments, scenarios, continuities, tele-
44 plays, screenplays, dialogue, scripts, sketches, plots, outlines, narra-
45 tive synopses, routines, narrations, and formats.

46 (7) "Writers room" means a room or physical location where writers
47 employed by a qualified film production company or qualified independent
48 film production company write or revise literary materials utilized in a
49 qualified film.

50 (8) "Director" means an individual employed or retained to direct the
51 production, as the word "direct" is commonly used in the motion picture
52 industry, and who would be classified as a director under the basic
53 agreement in place between the Association of Motion Picture and Tele-
54 vision Producers and the Director's Guild of America and who is a resi-
55 dent of New York.

1 (9) "Profit participant" is an individual who has negotiated for a
2 percentage of profits generated by a qualified film. Profit partic-
3 ipation does not include monies contractually required by collectively
4 bargained agreements for reuse of a qualified film on different plat-
5 forms over time.

6 (c) Cross-references. For application of the credit provided for in
7 this section, see the following provisions of this chapter:

8 (1) article 9-A: section 210-B: subdivision 53.

9 (2) article 22: section 606: subsection (v).

10 (d) Notwithstanding any provision of this chapter, (1) employees and
11 officers of the department of economic development and the department
12 shall be allowed and are directed to share and exchange information
13 regarding the credits applied for, allowed, or claimed pursuant to this
14 section and taxpayers who are applying for credits or who are claiming
15 credits, including information contained in or derived from credit claim
16 forms submitted to the department and applications for certification
17 submitted to the department of economic development, and (2) the commis-
18 sioner and the commissioner of the department of economic development
19 may release the names and addresses of any taxpayer claiming this credit
20 and the amount of the credit earned by the taxpayer. Provided, however,
21 if a taxpayer claims this credit because it is a member of a limited
22 liability company or a partner in a partnership, only the amount of
23 credit earned by the entity and not the amount of credit claimed by the
24 taxpayer may be released.

25 (e) Maximum amount of credits. (1) The aggregate amount of tax credits
26 allowed under this section, subdivision fifty-three of section two
27 hundred ten-B and subsection (v) of section six hundred six of this
28 chapter in any calendar year shall be five million dollars. Such aggre-
29 gate amount of credits shall be allocated by the department of economic
30 development among taxpayers in order of priority based upon the date of
31 filing an application for allocation of television writers' and direc-
32 tors' fees and salaries credit with such department. If the total amount
33 of allocated credits applied for in any particular year exceeds the
34 aggregate amount of tax credits allowed for such year under this
35 section, such excess shall be treated as having been applied for on the
36 first day of the subsequent year.

37 (2) The commissioner of economic development, after consulting with
38 the commissioner, shall promulgate regulations by October thirty-first,
39 two thousand eighteen to establish procedures for the allocation of tax
40 credits as required by subdivision (a) of this section. Such rules and
41 regulations shall include provisions describing the application process,
42 the due dates for such applications, the standards which shall be used
43 to evaluate the applications, the documentation that will be provided to
44 taxpayers to substantiate to the department the amount of tax credits
45 allocated to such taxpayers, and such other provisions as deemed neces-
46 sary and appropriate. Notwithstanding any other provisions to the
47 contrary in the state administrative procedure act, such rules and regu-
48 lations may be adopted on an emergency basis if necessary to meet such
49 October thirty-first, two thousand eighteen deadline.

50 (f) The department of economic development shall submit to the gover-
51 nor, the temporary president of the senate, and the speaker of the
52 assembly, an annual report to be submitted on February first of each
53 year evaluating the effectiveness of the television writers' and direc-
54 tors' fees and salaries tax credit provided by this section in stimulat-
55 ing the growth of diversity in the film industry in the state. Such
56 report shall include, but need not be limited to, the number of quali-

fied film production companies and/or qualified independent film production companies which received a television writers' and directors' fees and salaries credit, the credit amounts claimed by each qualified film production company and/or qualified independent film production company, as well as the impact on employment and the economy of the state. Such report shall be based on data available from the application filed with the department of economic development for allocation of television writers' and directors' fees and salaries credits. Notwithstanding any provision of law to the contrary, the information contained in the report shall be public information. The report may also include any recommendations of changes in the calculation or administration of the credit, and any other recommendation of the commissioner of the department of economic development regarding continuing modification, repeal of such act, and such other information regarding the act as the commissioner of the department of economic development may feel useful and appropriate.

§ 2. Section 210-B of the tax law is amended by adding a new subdivision 53 to read as follows:

53. Television writers' and directors' fees and salaries credit. (a) Allowance of credit. A taxpayer who is eligible pursuant to section twenty-four-b of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article.

(b) Application of credit. The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. Provided, however, that if the amount of the credit allowable under this subdivision for any taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, further, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

§ 3. Section 606 of the tax law is amended by adding a new subsection (v) to read as follows:

(v) Television writers' and directors' fees and salaries credit. (1) Allowance of credit. A taxpayer who is eligible pursuant to section twenty-four-b of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article.

(2) Application of credit. If the amount of the credit allowable under this subsection for any taxable year exceeds the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded as provided in section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

§ 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xlix) to read as follows:

(xlix) Television writers' and directors' fees and salaries credit under subsection (v)

Amount of credit for the sum of qualified television writers' and directors' salaries credit under subdivision fifty-three of section two hundred ten-B

§ 5. This act shall take effect immediately, and shall apply to taxable years beginning on or after January 1, 2019.

PART FFF

Section 1. Subsection (i) of section 612 of the tax law is REPEALED.

§ 2. Subdivision (i) of section 11-1712 of the administrative code of the city of New York, as amended by chapter 333 of the laws of 1987, is amended to read as follows:

(i) In the case of mines, oil and gas wells and other natural deposits, any allowance for percentage depletion pursuant to section six hundred thirteen or section six hundred thirteen A of the internal revenue code shall be added to federal adjusted gross income. However, with respect to the property as to which such addition to federal adjusted gross income is required, an allowance for depletion shall be subtracted from federal adjusted gross income in the amount that would be deductible under section six hundred eleven of such code if the deduction for an allowance for depletion were computed without reference to such section six hundred thirteen or section six hundred thirteen A.

~~[With respect to the computation of depletion pursuant to this subdivision, the basis for such computation shall be the basis for state income tax purposes provided for in subsection (i) of section six hundred twelve of the tax law.]~~ The portion of any gain from the sale or other disposition of such property having a higher adjusted basis for city income tax purposes than for federal income tax purposes, that does not exceed such difference in basis, shall be subtracted from federal adjusted gross income.

§ 3. Paragraph 10 of subsection (b) of section 612 of the tax law is REPEALED.

§ 4. Paragraph 13 of subsection (c) of section 612 of the tax law is REPEALED.

§ 5. Subsection 4 of section 618 of the tax law, as amended by section 9 of part C of chapter 25 of the laws of 2009, is amended to read as follows:

(4) There shall be added or subtracted (as the case may be) the modifications described in paragraphs (6)~~[(10)]~~, (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), (27), (29), (38) and (39) of subsection (b) and in paragraphs (11)~~[(13)]~~, (15), ~~[(19)]~~ (20), (21), (22), (23), (24), (25), (26) and (28) of subsection (c) of section six hundred twelve of this part.

§ 6. Subsection 4 of section 618 of the tax law, as separately amended by section 5 of part HH-1 of chapter 57 of the laws of 2008 and section 9 of part C of chapter 25 of the laws of 2009, is amended to read as follows:

(4) There shall be added or subtracted (as the case may be) the modifications described in paragraphs (6)~~[(10)]~~, (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), (27), ~~[(28)]~~ (29), (38) and (39) of subsection (b) and in paragraphs (11)~~[(13)]~~, (15), ~~[(19)]~~ (20), (21), (22), (23), (24), (25), (26) and (28) of subsection (c) of section six hundred twelve of this part.

§ 7. This act shall take effect immediately and shall apply to all taxable years beginning on or after January 1, 2019; provided that the amendments to subsection 4 of section 618 of the tax law made by section five of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 8 of chapter 782 of the laws of

1 1988, as amended, when upon such date the provisions of section six of
2 this act shall take effect.

3 PART GGG

4 Section 1. Paragraph 38 of subsection (c) of section 612 of the tax
5 law, as added by chapter 565 of the laws of 2006, is amended to read as
6 follows:

7 (38) An amount of up to ten thousand dollars if a taxpayer, while
8 living, donates one or more of his or her human organs to another human
9 being for human organ transplantation. For purposes of this paragraph,
10 "human organ" means all or part of a liver, pancreas, kidney, intestine,
11 lung, or bone marrow. A subtract modification allowed under this para-
12 graph shall be claimed in the taxable year in which the human organ
13 transplantation occurs.

14 (A) A taxpayer shall claim the subtract modification allowed under
15 this paragraph only once and such subtract modification shall be claimed
16 for only the following unreimbursed expenses which are incurred by the
17 taxpayer or spouse of the taxpayer, and related to the taxpayer's organ
18 donation:

- 19 (i) travel expenses;
20 (ii) lodging expenses; ~~and~~
21 (iii) lost wages~~[-]~~; and
22 (iv) child care costs;

23 (B) The subtract modification allowed under this paragraph shall not
24 be claimed by a part-year resident or a non-resident of this state.

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

27 PART HHH

28 Section 1. Subdivision (e) of section 24-a of the tax law, as added by
29 section 1 of part HH of chapter 59 of the laws of 2014, is amended to
30 read as follows:

31 (e) Maximum amount of credits. (1) The aggregate amount of tax credits
32 allowed under this section, subdivision forty-seven of section two
33 hundred ten-B and subsection (u) of section six hundred six of this
34 chapter in any calendar year shall be ~~four~~ six million dollars. Such
35 aggregate amount of credits shall be allocated by the department of
36 economic development among taxpayers in order of priority based upon the
37 date of filing an application for allocation of musical and theatrical
38 production credit with such department. If the total amount of allocated
39 credits applied for in any particular year exceeds the aggregate amount
40 of tax credits allowed for such year under this section, such excess
41 shall be treated as having been applied for on the first day of the
42 subsequent year.

43 (2) The commissioner of economic development, after consulting with
44 the commissioner, shall promulgate regulations by October thirty-first,
45 two thousand fourteen to establish procedures for the allocation of tax
46 credits as required by subdivision (a) of this section. Such rules and
47 regulations shall include provisions describing the application process,
48 the due dates for such applications, the standards which shall be used
49 to evaluate the applications, the documentation that will be provided to
50 taxpayers to substantiate to the department the amount of tax credits
51 allocated to such taxpayers, and such other provisions as deemed neces-
52 sary and appropriate. Such rules and regulations shall permit an appli-

cant for credits under this section to provide the required certifications by providing information and other documentation provided by a licensed auditor on behalf of the applicant. Notwithstanding any other provisions to the contrary in the state administrative procedure act, such rules and regulations may be adopted on an emergency basis if necessary to meet such October thirty-first, two thousand fourteen deadline.

§ 2. Section 5 of part HH of chapter 59 of the laws of 2014 amending the tax law relating to a musical and theatrical production credit, is amended to read as follows:

§ 5. This act shall take effect immediately, provided that section two of this act shall take effect on January 1, 2015, and shall apply to taxable years beginning on or after January 1, 2015, with respect to "qualified production expenditures" and "transportation expenditures" paid or incurred on or after such effective date, regardless of whether the production of the qualified musical or theatrical production commenced before such date, provided further that this act shall expire and be deemed repealed [~~4 years after such date~~] March 31, 2023.

§ 3. This act shall take effect immediately, provided, however, that the amendments to section 24-a of the tax law made by section one of this act shall not affect the repeal of such section and shall expire and be deemed to repeal therewith.

PART III

Section 1. The education law is amended by adding a new section 682 to read as follows:

§ 682. College debt freedom account pilot program. 1. There is hereby established the college debt freedom account pilot program. Such program shall permit employees of any employer jointly certified by the commissioner and the commissioner of taxation and finance pursuant to this section to deposit a portion of their pre-tax income pursuant to paragraph forty-four of subsection (c) of section six hundred twelve of the tax law, into an account solely intended for undergraduate student loan repayments. Certified employers shall receive a tax credit by contributing matching funds to an employee's student loan repayment account established pursuant to this section. Such contribution shall be minimally fifty percent of the employee's deposit and a maximum one hundred percent of the employee's deposit, up to twenty-five hundred dollars annually, per employee account. The annual maximum aggregate amount to be deposited per account by the employee and employer shall be five thousand dollars.

2. For the purposes of this section, "student loan" shall mean the cumulative total of the annual student loans covering the cost of attendance at an undergraduate college or university, and any interest thereon or as defined in subparagraph (i) of paragraph forty-four of subsection (c) of section six hundred twelve of the tax law.

3. Any employer which is a middle-sized business in this state, having between twenty and five hundred full-time employees, may submit an application to the commissioner for certification to participate in the program established pursuant to this section. The commissioner and the commissioner of taxation and finance shall jointly consider each application for certification submitted pursuant to this subdivision. Provided that not more than fifty employers shall be certified to participate in the program.

4. Employee student loan repayment accounts shall be established by an employee for deposit of funds to be used solely for repayment of student loans. Such accounts shall be managed by the higher education services corporation. All enrollees and certified participating employers shall provide the corporation with all necessary information in order to implement the provisions of this section.

5. Moneys in a student loan repayment account shall be available only for repayments of student loans. Any withdrawal or distribution from a student loan repayment account which violated the provisions of this subdivision shall be subject to a penalty of ten percent on any such withdrawal or distribution.

6. The commissioner and the commissioner of taxation and finance shall jointly promulgate rules and regulations necessary to implement the provisions of this section.

§ 2. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph 44 to read as follows:

(44) Payment not in excess of twenty-five hundred dollars actually paid by an eligible borrower employed by an employer certified pursuant to section six hundred eighty-two of the education law for student loan repayment, to the extent not deductible in determining federal adjusted gross income and not reimbursed. For the purposes of this paragraph, the following terms shall have the following meanings:

(i) "Student loans" shall mean any indebtedness incurred by the taxpayer for an undergraduate education loan in accordance with section 221 of the internal revenue code or as defined in subdivision two of section six hundred eighty-two of the education law.

(ii) "Eligible borrower" shall mean a taxpayer who has incurred indebtedness on student loans as defined in subparagraph (i) of this paragraph.

§ 3. Section 210-B of the tax law is amended by adding a new subdivision 53 to read as follows:

53. College debt freedom account program tax credit. (a) General. An employer certified pursuant to section six hundred eighty-two of the education law, who contributes matching funds towards an employee's undergraduate student loan repayments, shall be allowed a credit, to be computed as provided in this subdivision, against the tax imposed by this article, for contributions the employer deposits annually, up to twenty-five hundred dollars per employee per year.

(b) Amount of credit. The credit authorized by this subdivision shall be equal to the amount of the employer's contribution; provided that such contribution shall be a minimum of fifty percent and a maximum of one hundred percent of the employee's deposit to a student loan repayment account subject to the limits set forth in this subdivision.

§ 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xliv) to read as follows:

| | |
|---------------------------------|--------------------------------------|
| <u>(xliv) College debt</u> | <u>Amount of credit</u> |
| <u>freedom account</u> | <u>under subdivision fifty-three</u> |
| <u>program tax credit under</u> | <u>of section two hundred ten-B</u> |
| <u>subsection (ccc)</u> | |

§ 5. Section 606 of the tax law is amended by adding a new subsection (ccc) to read as follows:

(ccc) College debt freedom account program tax credit. (a) General. An employer, certified pursuant to section six hundred eighty-two of the education law, who contributes matching funds towards an employee's undergraduate student loan repayments, shall be allowed a credit, to be

1 computed as provided in this subsection, against the tax imposed by this
2 article, for contributions the employer deposits annually, up to twenty-
3 five hundred dollars per employee per year.

4 (b) Amount of credit. The credit authorized by this subsection shall
5 be equal to the amount of the employer contribution; provided that such
6 contribution shall be a minimum of fifty percent and a maximum of one
7 hundred percent of the employee's deposit to a student loan repayment
8 account subject to the limits set forth in this subsection.

9 § 6. Section 1511 of the tax law is amended by adding a new subdivi-
10 sion (dd) to read as follows:

11 (dd) College debt freedom account program tax credit. (1) General. An
12 employer, certified pursuant to section six hundred eighty-two of the
13 education law, who contributes matching funds towards an employee's
14 undergraduate student loan repayments, shall be allowed a credit, to be
15 computed as provided in this subdivision, against the tax imposed by
16 this article, for contributions the employer deposits annually, up to
17 twenty-five hundred dollars per employee per year.

18 (2) Amount of credit. The credit authorized by this subdivision shall
19 be equal to the amount of the employer's contribution; provided that
20 such contribution shall be a minimum of fifty percent and a maximum of
21 one hundred percent of the employee's deposit to a student loan repay-
22 ment account subject to the limits set forth in this subdivision.

23 § 7. Notwithstanding any provision of the tax law to the contrary, the
24 aggregate of tax expenditure and taxes forgone pursuant to sections two,
25 three, four, five and six of this act shall not exceed \$70,000,000. The
26 commissioner of taxation and finance shall immediately suspend all
27 deductions and credits established pursuant to such sections upon reach-
28 ing the \$70,000,000 threshold.

29 § 8. This act shall take effect on the sixtieth day after it shall
30 have become a law and shall apply to taxable years commencing on or
31 after January 1, 2019.

32 PART JJJ

33 Section 1. Subsection (c) of section 612 of the tax law is amended by
34 adding a new paragraph 44 to read as follows:

35 (44)(A) (i) For a taxpayer who files singly or as the head of a house-
36 hold with a federal adjusted income, without the deduction of any inter-
37 est paid on student loans, of not less than sixty-five thousand dollars
38 nor more than eighty thousand dollars, the difference between the inter-
39 est paid on student loans by the taxpayer, is an amount not to exceed
40 two thousand five hundred dollars, and the amount of such interest
41 deducted by such taxpayer to calculate his or her federal adjusted gross
42 income; and

43 (ii) For a taxpayer who files singly or as the head of a household
44 with a federal adjusted gross income of not less than eighty thousand
45 dollars, nor more than one hundred twenty-five thousand dollars, inter-
46 est, in an amount not to exceed two thousand five hundred dollars, paid
47 on indebtedness incurred from a student loan; and

48 (iii) For married taxpayers filing jointly with a federal adjusted
49 gross income, without the deduction of any interest paid on student
50 loans, of not less than one hundred thirty thousand dollars, nor more
51 than one hundred sixty thousand dollars, the difference between the
52 interest paid on student loans by the taxpayers, in an amount not to
53 exceed two thousand five hundred dollars, and the amount of such inter-

est deducted by such taxpayers to calculate their federal adjusted gross income; and

(iv) For married taxpayers filing jointly with a federal adjusted gross income of not less than one hundred sixty thousand dollars, nor more than two hundred fifty thousand dollars, interest, in an amount not to exceed two thousand five hundred dollars, paid on indebtedness incurred from a student loan.

(B) For the purposes of this paragraph, "student loan" shall have the same meaning as ascribed to such term by subparagraph (B) of paragraph forty-two of this subsection, as added by chapter four hundred fifty-six of the laws of two thousand seventeen.

§ 2. This act shall take effect immediately, and shall apply to taxable years commencing on or after January 1, 2019.

PART KKK

Section 1. Section 606 of the tax law is amended by adding a new subsection (p-1) to read as follows:

(p-1) Residential fuel oil storage tank credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article for the removal or permanent closure and installation of a below-ground or above-ground residential fuel oil storage tank used to provide heating fuel for single family, two family, three family and four family residences located in this state.

(2) Amount of credit. The amount of the credit shall be equal to the costs of removal or permanent closure of an existing below-ground or above-ground residential fuel oil tank and the purchase and installation costs of a new below-ground or above-ground residential fuel oil storage tank which is installed during the taxable year where such new tank is used in place of such formerly used below-ground or above-ground residential fuel oil tank which was removed or permanently closed during the taxable year, not to exceed five hundred dollars.

(3) Limitation. A credit allowed under this subsection may be allowed only once with respect to a particular residence.

(4) Carryover. If the amount of the credit allowable under this subsection exceeds the taxpayer's tax for any taxable year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(5) To qualify for the credit established by this subsection, a replacement fuel oil storage tank must be installed and shall be of a design approved by Underwriters Laboratories (U.L.), as follows:

(A) U.L. 80: A steel tank with a polyurethane exterior coating;

(B) U.L. 80: A steel tank with a double-bottom leak protection system, with or without a polyurethane exterior coating;

(C) U.L. 80 steel tank, without a polyurethane exterior coating, provided that such tank is located inside a sealed, leak-proof secondary containment structure listed to U.L. 2258 (non-metallic tub for oil tanks), wherein such structure has a volumetric capacity of 110% of the inside tank;

(D) U.L. 2558: A double wall tank consisting of an interior polyethylene tank placed inside a secondary liquid-tight metallic tank;

(E) U.L. 2558: A single wall or double wall fiberglass tank; or

(F) U.L. 58 and U.L. 1746-Part 1: A Steel Tank Institute P-3 tank with cathodic protection.

A standard unprotected single wall oil storage tank listed to U.L. 80 is not permitted as a replacement tank and will not be eligible for the tax credit provided herein.

§ 2. The office of temporary and disability assistance shall develop a program utilizing the heating energy assistance program (HEAP) to assist eligible households to remove/permanently close and replace existing fuel oil storage tanks and to promulgate such regulations and apply for such permissions and waivers from the United States government as may be necessary to do so. To qualify for assistance, a replacement fuel oil storage tank must be installed and shall be of a design as specified in paragraph (5) of subsection (p-1) of section 606 of the tax law.

§ 3. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2019.

PART LLL

Section 1. Subdivision 1 of section 190 of the tax law, as amended by section 102 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

1. General. A taxpayer shall be allowed a credit against the tax imposed by this article equal to ~~[twenty percent]~~ the following percentages of the premium paid during the taxable year for long-term care insurance or for a policy rider to a life insurance policy issued pursuant to subparagraph (C), (D), (E) or (F) of paragraph one of subsection (a) of section one thousand one hundred thirteen of the insurance law:

(a) forty percent if the insured is less than forty years of age at the end of the tax year for the first four policy years;

(b) thirty percent if the insured is less than fifty years of age, but forty or more years of age, at the end of the tax year for the first four policy years;

(c) twenty-five percent if the insured is less than fifty-five years of age, but fifty or more years of age, at the end of the tax year for the first four policy years; or

(d) twenty percent if the insured is fifty-five or more years of age at the end of the tax year, and for all other insureds who have had a policy for five years or more.

In order to qualify for such credit, the taxpayer's premium payment must be for the purchase of or for continuing coverage under a long-term care insurance policy that qualifies for such credit pursuant to section one thousand one hundred seventeen of the insurance law.

§ 2. Paragraph (a) of subdivision 14 of section 210-B of the tax law, as added by section 17 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(a) General. A taxpayer shall be allowed a credit against the tax imposed by this article equal to ~~[twenty percent]~~ the following percentages of the premium paid during the taxable year for long-term care insurance or for a policy rider to a life insurance policy issued pursuant to subparagraph (C), (D), (E) or (F) of paragraph one of subsection (a) of section one thousand one hundred thirteen of the insurance law:

(i) forty percent if the insured is less than forty years of age at the end of the tax year for the first four policy years;

(ii) thirty percent if the insured is less than fifty years of age, but forty or more years of age, at the end of the tax year for the first four policy years;

1 (iii) twenty-five percent if the insured is less than fifty-five years
2 of age, but fifty or more years of age, at the end of the tax year for
3 the first four policy years; or

4 (iv) twenty percent if the insured is fifty-five or more years of age
5 at the end of the tax year, and for all other insureds who have had a
6 policy for five years or more.

7 In order to qualify for such credit, the taxpayer's premium payment
8 must be for the purchase of or for continuing coverage under a long-term
9 care insurance policy that qualifies for such credit pursuant to section
10 one thousand one hundred seventeen of the insurance law.

11 § 3. Paragraph 1 of subsection (aa) of section 606 of the tax law, as
12 amended by section 1 of part P of chapter 61 of the laws of 2005, is
13 amended to read as follows:

14 (1) Residents. A taxpayer shall be allowed a credit against the tax
15 imposed by this article equal to [~~twenty percent~~] the following percent-
16 ages of the premium paid during the taxable year for long-term care
17 insurance or for a policy rider to a life insurance policy issued pursu-
18 ant to subparagraph (C), (D), (E) or (F) of paragraph one of subsection
19 (a) of section one thousand one hundred thirteen of the insurance law:

20 (A) forty percent if the insured is less than forty years of age at
21 the end of the tax year for the first four policy years;

22 (B) thirty percent if the insured is less than fifty years of age, but
23 forty or more years of age, at the end of the tax year for the first
24 four policy years;

25 (C) twenty-five percent if the insured is less than fifty-five years
26 of age, but fifty or more years of age, at the end of the tax year for
27 the first four policy years; or

28 (D) twenty percent if the insured is fifty-five or more years of age
29 at the end of the tax year, and for all other insureds who have had a
30 policy for five years or more.

31 In order to qualify for such credit, the taxpayer's premium payment
32 must be for the purchase of or for continuing coverage under a long-term
33 care insurance policy that qualifies for such credit pursuant to section
34 one thousand one hundred seventeen of the insurance law. If the amount
35 of the credit allowable under this subsection for any taxable year shall
36 exceed the taxpayer's tax for such year, the excess may be carried over
37 to the following year or years and may be deducted from the taxpayer's
38 tax for such year or years.

39 § 4. Paragraph 1 of subdivision (m) of section 1511 of the tax law, as
40 amended by section 21 of part B of chapter 58 of the laws of 2004, is
41 amended to read as follows:

42 (1) A taxpayer shall be allowed a credit against the tax imposed by
43 this article equal to [~~twenty percent~~] the following percentages of the
44 premium paid during the taxable year for long-term care insurance or for
45 a policy rider to a life insurance policy issued pursuant to subpara-
46 graph (C), (D), (E) or (F) of paragraph one of subsection (a) of section
47 one thousand one hundred thirteen of the insurance law:

48 (A) forty percent if the insured is less than fifty years of age at
49 the end of the tax year for the first four policy years;

50 (B) thirty percent if the insured is less than fifty years of age, but
51 forty or more years of age, at the end of the tax year for the first
52 four policy years;

53 (C) twenty-five percent if the insured is less than fifty-five years
54 of age, but fifty or more years of age, at the end of the tax year for
55 the first four policy years; or

1 (D) twenty percent if the insured is fifty-five or more years of age
2 at the end of the tax year, and for all other insureds who have had a
3 policy for five years or more.

4 In order to qualify for such credit, the taxpayer's premium payment
5 must be for the purchase of or for continuing coverage under a long-term
6 care insurance policy that qualifies for such credit pursuant to section
7 one thousand one hundred seventeen of the insurance law.

8 § 5. Paragraphs 1 and 2 of subsection (g) of section 1117 of the
9 insurance law, paragraph 1 as amended by chapter 417 of the laws of
10 2001, paragraph 2 as amended by section 12 of part E of chapter 63 of
11 the laws of 2000 and subparagraphs (A) and (B) of paragraph 2 as amended
12 by chapter 311 of the laws of 2002, are amended to read as follows:

13 (1) Except for certain group contracts described in paragraph four of
14 this subsection, in order for premium payments for long-term care insur-
15 ance, or for a policy rider to a life insurance policy issued pursuant
16 to subparagraph (C), (D), (E) or (F) of paragraph one of subsection (a)
17 of section one thousand one hundred thirteen of this article, to qualify
18 for purposes of section one hundred ninety, subdivision [~~twenty-five-a~~]
19 fourteen of section two hundred [~~ten~~] ten-B, subsection (aa) of section
20 six hundred six[~~, subsection (k) of section one thousand four hundred~~
21 ~~fifty-six~~] and subsection (m) of section one thousand five hundred elev-
22 en of the tax law, the long-term care insurance or such policy rider
23 must be approved by the superintendent pursuant to this subsection.
24 Prior to approving any such insurance or policy rider, the superinten-
25 dent shall conclude that it meets minimum standards, including minimum
26 loss ratio standards under this section or section three thousand two
27 hundred twenty-nine of this chapter and is a qualified long-term care
28 insurance contract as defined in section 7702B of the internal revenue
29 code.

30 (2) (A) No insurer, agent, broker, person, business or corporation
31 doing business in or into this state shall in any manner state, adver-
32 tise or claim that a long-term care insurance policy, or a policy rider
33 to a life insurance policy issued pursuant to subparagraph (C), (D),
34 (E), or (F) of paragraph one of subsection (a) of section one thousand
35 one hundred thirteen of this article, qualifies for purposes of the
36 above-referenced provisions of the tax law unless either: (i) the super-
37 intendent has issued a letter or other written instrument to the insurer
38 stating that the policy or policy rider has been determined to qualify
39 under this subsection, or (ii) the policy or policy rider qualifies
40 under paragraph four of this subsection without the need for approval by
41 the superintendent.

42 (B) Any policy or policy rider which is held out or purported to be a
43 long-term care insurance policy by any insurer, agent, broker, person,
44 business or corporation doing business in or into this state which has
45 not been determined by the superintendent to qualify and which does not
46 qualify under paragraph four of this subsection for purposes of the
47 above referenced provisions of the tax law shall so state clearly, legi-
48 bly and in close physical proximity to any description of the policy or
49 policy rider as a long-term care insurance policy that it does not so
50 qualify. This subsection shall also be deemed to cover any statement,
51 advertisement or claim concerning such policy by any insurer, agent,
52 broker, person, business or corporation doing business in or into this
53 state.

54 (C) Violation of this paragraph shall be considered a misrepresen-
55 tation under section [~~twenty-one~~] two thousand one hundred twenty-three
56 of this chapter.

§ 6. This act shall take effect immediately and shall apply to tax years beginning on or after January 1, 2019.

PART MMM

Section 1. The tax law is amended by adding a new section 44 to read as follows:

§ 44. New York agriculture and rural jobs credit. (a) Definitions. For the purpose of this section the following terms shall have the following meanings:

(1) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person. For the purposes of this division, a person is "controlled by" another person if the controlling person holds, directly or indirectly, the majority voting or ownership interest in the controlled person or has control over the day-to-day operations of the controlled person by contract or by law.

(2) "Closing date" means the date on which a rural business growth fund has collected all of the amounts specified by subparagraphs (A) and (B) of paragraph seven of subdivision (b) of this section.

(3) "Credit-eligible capital contribution" means an investment of cash by a person in a rural business growth fund that equals the amount specified on a tax credit certificate issued by the department under subparagraph (B) of paragraph six of subdivision (b) of this section. The investment shall purchase an equity interest in the rural business growth fund or purchase, at par value or premium, a debt instrument issued by the rural growth fund that meets all of the following criteria:

(A) The debt instrument has an original maturity date of at least five years after the date of issuance.

(B) The debt instrument has a repayment schedule that is not faster than a level principal amortization over five years.

(C) The debt instrument has no interest, distribution, or payment features dependent on the rural business growth fund's profitability or the success of the rural growth investments.

(4) "Eligible investment authority" means the amount stated on the notice issued under subparagraph (A) of paragraph six of subdivision (b) of this section certifying the rural business growth fund. At least sixty-five percent of a rural business growth fund's eligible investment authority shall be comprised of credit-eligible capital contributions.

(5) A business's "principal business operations" are in this state if at least eighty percent of the business's employees reside in this state, the individuals who receive eighty percent of the business's payroll reside in this state, or the business has agreed to use the proceeds of a rural growth investment to relocate at least eighty percent of its employees to this state or pay at least eighty percent of its payroll to individuals residing in this state.

(6) "Rural area" means either of the following:

(A) An area of the state not in a city or town that has a population of more than fifty thousand inhabitants according to the latest decennial census of the United States or in the urbanized area contiguous and adjacent to a city or town that has a population of more than fifty thousand inhabitants; or

(B) Any area determined to be "rural in character" by the under-secretary of agriculture for rural development within the United States department of agriculture.

(7) "Rural business concern" means an operating company that, at the time if the initial investment in the company by a rural business growth fund, has its principal business operations in this state, has fewer than two hundred fifty employees or not more than fifteen million dollars in net income for the preceding taxable year, and meets either of the following criteria:

(A) The business's principal business operations are located in a rural area; or

(B) The business produces or provides any goods or services normally used by farmers, ranchers, or producers and harvesters of aquatic products in their business operations, or to improve the welfare or livelihood of such persons, or is involved in the processing and marketing of agricultural products, farm supply, and input suppliers. For the purposes of this section, "net income" means federal adjusted gross income as required to be reported under the Internal Revenue Code less federal and state taxes imposed on or measured by income. Any business which is classified as a rural business concern at the time of the initial investment in said business by a rural business growth fund shall remain classified as a rural business concern and may receive follow-on investments from any rural business growth fund, and such follow-on investments shall be rural growth investments even though such business may not meet the definition of a rural business concern at the time of such follow-on investments.

(8) "Rural business growth fund" means an entity certified by the department under this section.

(9) "Rural growth investment" means any capital or equity investment in a rural business concern or any loan to a rural business concern with a term of at least one year.

(10) "Taxable year" when used in reference to an insurance company means the calendar year ending on the thirty-first day of December next preceding the day the annual report is required to be returned under subdivision (d) of this section.

(b) Certification. (1) On and after August first, two thousand eighteen, an applicant that has developed a business plan to invest in rural business concerns in this state and has successfully solicited private investors to make capital contributions in support of the plan may apply to the department for certification as a rural business growth fund. The application shall include all of the following:

(A) The total eligible investment authority sought by the applicant under the business plan;

(B) Documents and other evidence sufficient to prove, to the satisfaction of the department, that the applicant meets all of the following criteria: (i) The applicant or an affiliate of the applicant is licensed as a rural business investment company under 7 U.S.C. 2009cc, or as a small business investment company under 15 U.S.C. 681.

(ii) As of the date the application is submitted, the applicant has invested more than one hundred million dollars in operating companies, including at least fifty million dollars in operating companies located in rural areas. In computing investments under this division, the applicant may include investments made by affiliates of the applicant.

(C) An estimate of the number of jobs that will be created or retained in this state as a result of the applicant's rural growth investments;

(D) A revenue impact assessment for the applicant's proposed rural growth investments prepared by a nationally recognized third-party independent economic forecasting firm using a dynamic economic forecasting model. The revenue impact assessment shall analyze the applicant's

1 business plan over the ten years following the date the application is
2 submitted to the department.

3 (E) A signed affidavit from each investor successfully solicited by
4 the applicant to make a credit eligible capital contribution in support
5 of the business plan. Each affidavit shall include information suffi-
6 cient for the tax commissioner to identify the investor and shall state
7 the amount of the investor's credit-eligible capital contribution.

8 (F) A nonrefundable application fee of five thousand dollars.

9 (2) The department shall review and make a determination with respect
10 to each application submitted under paragraph one of this subdivision
11 within thirty days of receipt. The department shall review and make
12 determinations on the applications in the order in which the applica-
13 tions are received by the department. Applications received by the
14 department on the same day shall be deemed to have been received simul-
15 taneously. Except as provided in paragraph four of subdivision (c) of
16 this section, the department shall not approve more than one hundred
17 million dollars in eligible investment authority or more than sixty-five
18 million dollars in credit-eligible capital contributions.

19 (3) The department shall deny an application submitted under this
20 section if any of the following are true: (A) The application is incom-
21 plete.

22 (B) The application fee is not paid in full.

23 (C) The applicant does not satisfy all the criteria described in
24 subparagraph (B) of paragraph one of this subdivision.

25 (D) The revenue impact assessment submitted under subparagraph (D) of
26 paragraph one of this subdivision does not demonstrate that the appli-
27 cant's business plan will result in a positive economic impact on this
28 state over a ten-year period that exceeds the eligible investment
29 authority sought by the applicant.

30 (E) The credit-eligible capital contributions described in affidavits
31 submitted under subparagraph (E) of paragraph one of this subdivision do
32 not equal sixty-five percent of the total amount of eligible investment
33 authority sought under the applicant's business plan.

34 (F) The department has already approved the maximum amount of eligible
35 investment authority and credit-eligible capital contributions allowed
36 under paragraph two of this subdivision.

37 (4) If the department denies an application under paragraph three of
38 this subdivision, the department shall send notice of its determination
39 of the applicant. The notice shall include the reasons that the applica-
40 tion was denied. If the application was denied for any reason other than
41 the reason specified in subparagraph (F) of paragraph three of this
42 subdivision, the applicant may provide additional information to the
43 department to complete, clarify, or cure defects in the application.
44 The additional information must be submitted within thirty days after
45 the date the notice of denial was sent by the department. If the person
46 or entity submits additional information within thirty days, the depart-
47 ment shall reconsider the application within thirty days after receiving
48 such additional information. If after submission of additional informa-
49 tion, the department approves the application, then the submission date
50 shall be the date of the original submission of the application. If the
51 person or entity does not submit additional information within thirty
52 days after the notice of denial was sent, the applicant may submit a new
53 application with a new submission date at any time.

54 (5) Of approving multiple simultaneously submitted applications would
55 result in exceeding the overall eligible investment limit prescribed by
56 paragraph two of this subdivision, the department shall proportionally

1 reduce the eligible investment authority and the credit-eligible capital
2 contributions for each approved application as necessary to avoid
3 exceeding the limit.

4 (6) The department shall not deny a rural business growth fund appli-
5 cation or reduce the requested eligible investment authority for reasons
6 other than those described in paragraphs three and five of this subdivi-
7 sion. If the department approves such application, the department shall
8 issue all of the following notices: (A) To the applicant, a written
9 notice certifying that the applicant qualifies as a rural business
10 growth fund and specifying the amount of the applicant's eligible
11 investment authority; (B) To each investor whose affidavit was included
12 in the application, a tax credit certificate specifying the amount of
13 the investor's credit-eligible capital contribution; (C) To the commis-
14 sioner, a copy of each tax credit certificate issued under subparagraph
15 (B) of this paragraph.

16 (7) A rural business growth fund shall complete all of the following
17 within sixty days of receiving the certification issued under subpara-
18 graph (A) of paragraph six of this subdivision:

19 (A) Collect the credit-eligible capital contributions from each inves-
20 tor issued a tax credit certificate under subparagraph (B) of paragraph
21 six of this subdivision;

22 (B) Collect one or more investments of cash, which shall purchase an
23 equity interest in the rural growth fund or a debt instrument issued by
24 the rural growth fund at par value or premium, with a maturity date of
25 at least five years from the closing date that, when added to the
26 contributions collected under subparagraph (A) of this paragraph, equal
27 the fund's eligible investment authority. At least ten percent of the
28 fund's eligible investment authority shall be comprised of equity
29 investments contributed by affiliates of the rural business growth fund,
30 including employees, officers, and directors of such affiliates.

31 (C) Send to the department documentation sufficient to prove that the
32 amounts described in subparagraphs (A) and (B) of this paragraph have
33 been collected. If the rural business growth fund fails to fully comply
34 with this paragraph, the fund's certification shall lapse.

35 (8) Eligible investment authority and corresponding credit-eligible
36 capital contributions that lapse under paragraph seven of this subdivi-
37 sion do not count toward limits on total eligible investment authority
38 and credit-eligible capital contributions prescribed in paragraph two of
39 this subdivision. Once eligible investment authority has lapsed, the
40 department shall first award lapsed authority pro rata to each rural
41 business growth fund that was awarded less than the requested eligible
42 investment authority under paragraph five of this subdivision. Any
43 remaining eligible investment authority may be awarded by the department
44 to new applicants.

45 (9) Application fees submitted to the department pursuant to subpara-
46 graph (F) of paragraph one of this subdivision shall be credited to the
47 New York agriculture and rural jobs fund, created in section ninety-
48 nine-bb of the state finance law.

49 (c) Revocation of certification. (1) The department shall revoke a tax
50 credit certificate issued under subdivision (b) of this section if any
51 of the following occur with respect to a rural business growth fund
52 before the fund exits the program under paragraph five of this subdivi-
53 sion.

54 (A) The rural business growth fund in which the credit-eligible capi-
55 tal contribution was made does not invest sixty percent of its eligible
56 investment authority in rural growth investments in this state within

1 two years of the closing date and one hundred percent of its eligible
2 investment authority in rural growth investments in this state within
3 three years of the closing date.

4 (B) After investing one hundred percent of its eligible investment
5 authority in rural growth investments in this state, the rural business
6 growth fund fails to maintain that investment until the fifth anniver-
7 sary of the closing date, including the reinvestment of such investment.
8 For the purposes of this section, an investment is "maintained" even if
9 the investment is sold or repaid so long as the rural business growth
10 fund reinvests an amount equal to the capital returned or recovered by
11 the fund from the original investment, exclusive of any profits real-
12 ized, in other rural growth investments in this state within twelve
13 months of the receipt of such capital. Amounts received periodically by
14 a rural business growth fund shall be treated as continually invested in
15 rural growth investments if the amounts are reinvested in one or more
16 rural growth investments by the end of the following calendar year. A
17 rural business growth fund is not required to reinvest capital returned
18 from rural growth investments in the six months immediately preceding
19 the fifth anniversary of the closing date, and such rural growth invest-
20 ments shall be considered held continuously by the rural growth fund
21 through the fifth anniversary of the closing date.

22 (C) The rural business growth fund invests more than the greater of
23 seven million five hundred thousand dollars or twenty percent of its
24 eligible investment authority in the same rural business concern,
25 including amounts invested in affiliates of the rural business concern
26 but excluding amounts reinvested in the rural business growth fund with
27 repaid or redeemed rural business growth investments, provided such
28 reinvestments shall not count towards the requirement of subparagraph
29 (A) of this paragraph.

30 (D) The rural business growth fund makes a rural growth investment in
31 a rural business concern that directly or indirectly through an affil-
32 iate owns, has the right to acquire an ownership interest, make a loan
33 to, or make an investment in the rural business growth fund, an affil-
34 iate of the rural business growth fund, or an investor in the rural
35 business growth fund. This paragraph does not apply to investments in
36 publicly traded securities by a rural business concern or an owner or
37 affiliate of such concern.

38 (2) Before taking action under paragraph one of this subdivision, the
39 department shall notify the rural business growth fund of the reasons
40 for the pending action. If the rural business growth fund corrects the
41 violations, other than violations of subparagraph (D) of paragraph one
42 of this subdivision, outlined in the notice to the satisfaction of the
43 department within one hundred eighty days of the date of the notice was
44 sent, the department shall not revoke the tax credit certificates or
45 levy a fine.

46 (3) If the department revokes a tax credit certificate under paragraph
47 one of this subdivision, the commissioner shall make an assessment for
48 the amount of the credit claimed by the certificate holder before the
49 certificate was revoked. The commissioner shall make the assessment
50 within one year after the certificate has been revoked.

51 (4) If tax credit certificates are revoked under paragraph one of this
52 subdivision, the associated eligible investment authority and credit-el-
53 igible capital contributions do not count toward the limit on total
54 eligible investment authority and credit-eligible capital contributions
55 described by paragraph two of subdivision (b) of this section. The
56 department shall first award reverted authority pro rata to each rural

1 business growth fund that was awarded less than the requested eligible
2 investment authority under paragraph five of subdivision (b) of this
3 section. Any remaining eligible investment authority may be awarded by
4 the department to new applicants.

5 (5) (A) On or after the fifth anniversary of the closing date, a rural
6 business growth fund that has not committed any of the acts described in
7 paragraph one of this subdivision may apply to the department to exit
8 the program as a rural business growth fund and no longer be subject to
9 regulation under this section. The department shall respond to the
10 application within thirty days after receiving such application. In
11 evaluating such request the fact that no tax credit certificates have
12 been revoked with respect to the rural business growth fund shall be
13 sufficient evidence to prove that the fund is eligible to exit the
14 program. The department shall not unreasonably deny an application
15 submitted under this subdivision.

16 (B) The department shall send notice of its determination with respect
17 to an application submitted under subparagraph (A) of this paragraph to
18 the rural business growth fund. If the application is denied, the notice
19 shall include the reasons for the determination.

20 (C) The department shall not revoke a tax credit certificate due to
21 any actions of a rural business growth fund that occur after the date
22 the fund's application for exiting the program is approved under subpar-
23 agraph (A) of this paragraph.

24 (6) If the number of jobs created or retained by the rural business
25 concern that received rural growth investments from the rural business
26 growth fund is:

27 (A) Less than sixty percent of the number projected in the approved
28 rural business growth fund's business plan filed as part of its applica-
29 tion for certification under subdivision (b) of this section, then the
30 state shall receive twenty percent of any distribution or payment to an
31 equity holder in an approved rural business growth fund in excess of the
32 sum of the amount of equity capital invested in the fund by such equity
33 holder and an amount equal to any projected increase in the equity hold-
34 er's federal or state tax liability, including penalties and interest,
35 related to the equity holder's ownership, management, or operation of
36 the fund; or

37 (B) Greater than sixty percent but less than eighty percent of the
38 number projected in the approved rural business growth fund's business
39 plan filed as part of its application for certification under subdivi-
40 sion (b) of this section, then the state shall receive ten percent of
41 any distribution or payment to an equity holder in an approved rural
42 business growth fund in excess of the sum of the amount of equity capi-
43 tal invested in the fund by such equity holder and an amount equal to
44 any projected increase in the equity holder's federal or state tax
45 liability, including penalties and interest, related to the equity hold-
46 er's ownership, management, or operation of the fund.

47 (7) A rural business growth fund may, prior to making a rural growth
48 investment, request from the department a written determination as to
49 whether the business entity in which it proposes to invest qualifies as
50 a rural business concern.

51 (d) Reports. (1) Each rural business growth fund shall submit a report
52 to the department on or before the fifth business day after the second
53 and third anniversaries of the closing date. The report shall provide
54 documentation as to the rural growth investments made by the rural busi-
55 ness growth fund. Such documentation shall include the following:

1 (A) A bank statement of the rural business growth fund displaying each
2 rural growth investment;

3 (B) The name and location of each rural business concern in which the
4 rural business growth fund has made a rural growth investment, including
5 evidence that the business concern was qualified at the time the invest-
6 ment was made.

7 (2) On or before the last day of February of each year following the
8 year in which the report required under paragraph one of this subdivi-
9 sion is due, the rural business growth fund shall submit an annual
10 report to the department including the following:

11 (A) The number of employment positions created or retained as a result
12 of the fund's rural growth investments as of the last day of the preced-
13 ing calendar year;

14 (B) The average annual salary of the positions described in subpara-
15 graph (A) of this paragraph;

16 (C) Any other information required by the department.

17 (3) The department shall adopt rules necessary to implement this
18 subdivision.

19 § 2. Section 1511 of the tax law is amended by adding a new subdivi-
20 sion (dd) to read as follows:

21 (dd) Credit for certain investments to a rural business growth fund.

22 (1) There is hereby allowed a nonrefundable tax credit for taxpayers
23 that made a credit-eligible capital contribution to a rural business
24 growth fund and were issued a tax credit certificate under subparagraph
25 (B) of paragraph six of subdivision (b) of section forty-four of this
26 chapter. The credit may be claimed against the tax imposed by this arti-
27 cle and section one thousand one hundred twelve of the insurance law.
28 The credit may not be sold, transferred, or allocated to any entity
29 other than an affiliate of the taxpayer.

30 (2) On the closing date, the taxpayer shall earn a vested credit equal
31 to the amount of the taxpayer's credit-eligible capital contribution to
32 the rural business growth fund, as specified on the tax credit certifi-
33 cate. The taxpayer may claim up to twenty-five percent of the eligible
34 investment authority for the taxable year containing the third anniver-
35 sary date of the closing date, exclusive of amounts carried forward
36 pursuant to paragraph three of this subdivision. The taxpayer may claim
37 up to twenty percent of the eligible investment authority for the taxa-
38 ble years that include the fourth and fifth anniversary dates of the
39 closing date, exclusive of amounts carried forward pursuant to paragraph
40 three of this subdivision.

41 (3) If the amount of the credit for a taxable year exceeds the tax
42 otherwise due for that year, the excess shall be carried forward to
43 ensuing taxable years until fully used. A taxpayer claiming a credit
44 under this section shall submit a copy of the tax credit certificate
45 with the taxpayer's return for each taxable year for which the credit is
46 claimed.

47 § 3. The tax law is amended by adding a new section 187-q to read as
48 follows:

49 § 187-q. Credit for certain investments to a rural business growth
50 fund. 1. There is hereby allowed a nonrefundable tax credit for taxpay-
51 ers that made a credit-eligible capital contribution to a rural business
52 growth fund and were issued a tax credit certificate under subparagraph
53 (B) of paragraph six of subdivision (b) of section forty-four of this
54 chapter. The credit may be claimed against the tax imposed by this arti-
55 cle. The credit may not be sold, transferred, or allocated to any entity
56 other than an affiliate of the taxpayer.

2. On the closing date, the taxpayer shall earn a vested credit equal to the amount of the taxpayer's credit-eligible capital contribution to the rural business growth fund, as specified on the tax credit certificate. The taxpayer may claim up to twenty-five percent of the eligible investment authority for the taxable year containing the third anniversary date of the closing date, exclusive of amounts carried forward pursuant to subdivision three of this section. The taxpayer may claim up to twenty percent of the eligible investment authority for the taxable years that include the fourth and fifth anniversary dates of the closing date, exclusive of amounts carried forward pursuant to subdivision three of this section.

3. If the amount of the credit for a taxable year exceeds the tax otherwise due for that year, the excess shall be carried forward to ensuing taxable years until fully used. A taxpayer claiming a credit under this section shall submit a copy of the tax credit certificate with the taxpayer's return for each taxable year for which the credit is claimed.

§ 4. Section 210-B of the tax law is amended by adding a new subdivision 53 to read as follows:

53. Credit for certain investments to a rural business growth fund. (1) There is hereby allowed a nonrefundable tax credit for taxpayers that made a credit-eligible capital contribution to a rural business growth fund and were issued a tax credit certificate under subparagraph (B) of paragraph six of subdivision (b) of section forty-four of this chapter. The credit may be claimed against the tax imposed by this article. The credit may not be sold, transferred, or allocated to any entity other than an affiliate of the taxpayer.

(2) On the closing date, the taxpayer shall earn a vested credit equal to the amount of the taxpayer's credit-eligible capital contribution to the rural business growth fund, as specified on the tax credit certificate. The taxpayer may claim up to twenty-five percent of the eligible investment authority for the taxable year containing the third anniversary date of the closing date, exclusive of amounts carried forward pursuant to paragraph three of this subdivision. The taxpayer may claim up to twenty percent of the eligible investment authority for the taxable years that include the fourth and fifth anniversary dates of the closing date, exclusive of amounts carried forward pursuant to paragraph three of this subdivision.

(3) If the amount of the credit for a taxable year exceeds the tax otherwise due for that year, the excess shall be carried forward to ensuing taxable years until fully used. A taxpayer claiming a credit under this section shall submit a copy of the tax credit certificate with the taxpayer's return for each taxable year for which the credit is claimed.

§ 5. The state finance law is amended by adding a new section 99-bb to read as follows:

§ 99-bb. New York agriculture and rural jobs fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "New York agriculture and rural jobs fund".

2. Such fund shall consist of all application fees submitted pursuant to subparagraph (F) of paragraph one of subdivision (b) of section forty-four of the tax law, and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law.

3. Moneys of the fund, following appropriation by the legislature shall be expended only for the purposes of providing funding for the New

York agriculture and rural jobs credit set forth in section forty-four of the tax law. Moneys shall be paid out of the fund on the audit and warrant of the state comptroller on vouchers approved and certified by the commissioner of taxation and finance. Any interest received by the comptroller on moneys on deposit in the New York agriculture and rural jobs fund shall be retained in and become part of such fund.

§ 6. This act shall take effect April 1, 2019.

PART NNN

Section 1. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 45 to read as follows:

(45) School buses as such term is defined in section one hundred forty-two of the vehicle and traffic law, and parts, equipment, lubricants and fuel purchased and used in their operation.

§ 2. Paragraph a of subdivision 14 of section 305 of the education law, as amended by chapter 273 of the laws of 1999, is amended to read as follows:

a. All contracts for the transportation of school children, all contracts to maintain school buses owned or leased by a school district that are used for the transportation of school children, all contracts for mobile instructional units, and all contracts to provide, maintain and operate cafeteria or restaurant service by a private food service management company shall be subject to the approval of the commissioner, who may disapprove a proposed contract if, in his or her opinion, the best interests of the district will be promoted thereby. Except as provided in paragraph e of this subdivision, all such contracts involving an annual expenditure in excess of the amount specified for purchase contracts in the bidding requirements of the general municipal law shall be awarded to the lowest responsible bidder, which responsibility shall be determined by the board of education or the trustee of a district, with power hereby vested in the commissioner to reject any or all bids if, in his or her opinion, the best interests of the district will be promoted thereby and, upon such rejection of all bids, the commissioner shall order the board of education or trustee of the district to seek, obtain and consider new proposals. All proposals for such transportation, maintenance, mobile instructional units, or cafeteria and restaurant service shall be in such form as the commissioner may prescribe. Advertisement for bids shall be published in a newspaper or newspapers designated by the board of education or trustee of the district having general circulation within the district for such purpose. Such advertisement shall contain a statement of the time when and place where all bids received pursuant to such advertisement will be publicly opened and read either by the school authorities or by a person or persons designated by them. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the first publication of such advertisement and the date so specified for the opening and reading of bids. The requirement for competitive bidding shall not apply to an award of a contract for the transportation of pupils or a contract for mobile instructional units, if such award is based on an evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision. The requirement for competitive bidding shall not apply to annual, biennial, or triennial extensions of a contract nor shall the requirement for competitive bidding apply to quadrennial or quinquennial year extensions of a contract involving transportation of pupils, maintenance of school buses

1 or mobile instructional units secured either through competitive bidding
2 or through evaluation of proposals in response to a request for
3 proposals pursuant to paragraph e of this subdivision, when such exten-
4 sions (1) are made by the board of education or the trustee of a
5 district, under rules and regulations prescribed by the commissioner,
6 and, (2) do not extend the original contract period beyond five years
7 from the date cafeteria and restaurant service commenced thereunder and
8 in the case of contracts for the transportation of pupils, for the main-
9 tenance of school buses or for mobile instructional units, that such
10 contracts may be extended, except that power is hereby vested in the
11 commissioner, in addition to his or her existing statutory authority to
12 approve or disapprove transportation or maintenance contracts, (i) to
13 reject any extension of a contract beyond the initial term thereof if he
14 or she finds that amount to be paid by the district to the contractor in
15 any year of such proposed extension fails to reflect any decrease in the
16 regional consumer price index for the N.Y., N.Y.-Northeastern, N.J.
17 area, based upon the index for all urban consumers (CPI-U) during the
18 preceding twelve month period; and (ii) to reject any extension of a
19 contract after ten years from the date transportation or maintenance
20 service commenced thereunder, or mobile instructional units were first
21 provided, if in his or her opinion, the best interests of the district
22 will be promoted thereby. Upon such rejection of any proposed extension,
23 the commissioner may order the board of education or trustee of the
24 district to seek, obtain and consider bids pursuant to the provisions of
25 this section; and to reject any extension of a contract for transporta-
26 tion, or new contract, if he or she finds that the amount to be paid by
27 the district to the contractor in any year of such proposed contract
28 fails to reflect the savings realized from the sales tax exemption on
29 school buses, parts, equipment, lubricants and fuel used for school
30 purposes pursuant to paragraph forty-five of subdivision (a) of section
31 eleven hundred fifteen of the tax law. The board of education or the
32 trustee of a school district electing to extend a contract as provided
33 herein, may, in its discretion, increase the amount to be paid in each
34 year of the contract extension by an amount not to exceed the regional
35 consumer price index increase for the N.Y., N.Y.-Northeastern, N.J.
36 area, based upon the index for all urban consumers (CPI-U), during the
37 preceding twelve month period, provided it has been satisfactorily
38 established by the contractor that there has been at least an equivalent
39 increase in the amount of his or her cost of operation, during the peri-
40 od of the contract.

41 § 3. This act shall take effect immediately; provided, however that
42 section one of this act shall take effect on the first day of a quarter-
43 ly sales tax period as set forth in subdivision (b) of section 1136 of
44 the tax law, next succeeding December 1, 2018; and provided further,
45 that such exemption shall only apply to contracts executed or extended
46 after such date. Provided further, that the commissioner of taxation and
47 finance may take any action necessary for the timely implementation of
48 this act on or before the date on which it shall have become a law.

49 PART 000

50 Section 1. Short title. This act shall be known and may be cited as
51 the "education affordability act".

52 § 2. The tax law is amended by adding a new section 44 to read as
53 follows:

1 § 44. Education affordability tax credit. (a) Definitions. For the
2 purposes of this section, the following terms shall have the same defi-
3 nition as provided for in article twenty-five of the education law:

4 "Authorized contribution";
5 "Contribution";
6 "Educational program";
7 "Educational scholarship organization";
8 "Eligible pupil";
9 "Local education fund";
10 "Nonpublic school";
11 "Public education entity";
12 "Public school";
13 "Qualified contribution";
14 "Qualified educator";
15 "Qualified school";
16 "Scholarship"; and
17 "School improvement organization".

18 (b) Allowance of credit. A taxpayer subject to tax under article
19 nine-A or twenty-two of this chapter shall be allowed credit against
20 such tax, pursuant to the provisions referenced in subdivision (1) of
21 this section, with respect to qualified contributions made during the
22 taxable year.

23 (c) Amount of credit. For taxpayers whose federal adjusted gross
24 income is less than three hundred thousand dollars for the taxable year
25 during which such taxpayer made at least one qualified contribution, the
26 amount of the credit shall be ninety percent of the taxpayer's total
27 qualified contributions, capped at eight hundred seventy-five thousand
28 dollars. For taxpayers whose federal adjusted gross income is greater
29 than or equal to three hundred thousand dollars for the taxable year
30 during which such taxpayer made at least one qualified contribution, the
31 amount of credit shall be seventy-five percent of the taxpayer's total
32 qualified contributions, capped at eight hundred seventy-five thousand
33 dollars. A taxpayer that is a partner in a partnership, member of a
34 limited liability company or shareholder in an S corporation shall be
35 allowed to claim its pro rata share of the credit earned by the partner-
36 ship, limited liability company or S corporation, provided that such a
37 taxpayer shall not claim credit in excess of eight hundred seventy-five
38 thousand dollars.

39 (d) Information to be posted on the department's website. The commis-
40 sioner shall maintain on the department's website a running total of the
41 amount of available credit for which taxpayers may apply pursuant to
42 this section. Such running total shall be updated on a daily basis.
43 Additionally, the commissioner shall maintain on the department's
44 website a list of the school improvement organizations, local education
45 funds and educational scholarship organizations approved to issue
46 certificates of receipt pursuant to article twenty-five of the education
47 law. The commissioner shall also maintain on the department's website a
48 list of public education entities, school improvement organizations,
49 local education funds and educational scholarship organizations whose
50 approval to issue certificates of receipt has been revoked along with
51 the date of revocation.

52 (e) Applications for contribution authorization certificates. Prior to
53 making a contribution to a public education entity, school improvement
54 organization, local education fund, or educational scholarship organiza-
55 tion, the taxpayer shall apply to the department for a contribution
56 authorization certificate for such contribution. Such application shall

1 be in the form and manner prescribed by the department. The department
2 may allow taxpayers to make multiple applications on the same form,
3 provided that each contribution listed on such application shall be
4 treated as a separate application and that the department shall issue
5 separate contribution authorization certificates for each such applica-
6 tion.

7 (f) Contribution authorization certificates. 1. Issuance of certif-
8 icates. The commissioner shall issue contribution authorization certif-
9 icates in two phases. In phase one, which begins on the first day of
10 January and ends on the thirty-first day of January, the commissioner
11 shall accept applications for contribution authorization certificates.
12 Commencing after the fifth day of February, the commissioner shall issue
13 contribution authorization certificates for applications received during
14 phase one, provided that if the aggregate total of the contributions for
15 which applications have been received during phase one exceeds the
16 amount of the credit cap in subdivision (h) of this section, then phase
17 one of the credit cap application shall be allocated in two steps. In
18 step one, the allocation shall equal the contribution cap divided by the
19 total number of applications for contributions, rounded down to the
20 nearest cent. Each application requesting an amount which is less than
21 or equal to the allocation in step one shall receive the amount on their
22 application for contribution and the difference, which shall be referred
23 to as "excess distributions" for the purposes of this subdivision, shall
24 be available for allocation in step two. Each application requesting an
25 amount which exceeds the allocation in step one shall be allocated cred-
26 its in step two. In step two, if excess distributions equal zero then
27 each application shall receive the allocation amount from step one,
28 otherwise each application shall receive an amount equal to the sum of
29 the (i) the allocation amount in step one and (ii) a pro rata share of
30 aggregate excess distributions based on the difference between the
31 amount on their application for contribution and the allocation in step
32 one. For the purposes of this subdivision, multiple applications by the
33 same taxpayer shall be treated as one application. If the credit cap is
34 not exceeded, phase two commences on February twentieth and ends on
35 October thirty-first. During phase two the commissioner shall issue
36 contribution authorization certificates on a first-come first serve
37 basis based upon the date the department received the taxpayer's appli-
38 cation for such certificate. Contribution authorization certificates
39 for applications received during phase one shall be mailed no later than
40 the twentieth day of February. Contribution authorization certificates
41 for applications received during phase two shall be mailed within five
42 days of receipt of such applications.

43 2. Contribution authorization certificate contents. Each contribution
44 authorization certificate shall state (i) the date such certificate was
45 issued, (ii) the date by which the authorized contribution listed on the
46 certificate must be made, which shall be no later than December thirty-
47 first of the year for which the contribution authorization certificate
48 was issued, (iii) the amount of authorized contribution, (iv) the
49 certificate number, (v) the taxpayer's name and address, (vi) the name
50 and address of the public education entity, school improvement organiza-
51 tion, local education fund or educational scholarship organization to
52 which the taxpayer may make the authorized contribution, and (vii) any
53 other information that the commissioner deems necessary.

54 3. Notification of the issuance of a contribution authorization
55 certificate. Upon the issuance of a contribution authorization certif-
56 icate to a taxpayer, the commissioner shall notify the public education

1 entity, school improvement organization, local education fund or educa-
2 tional scholarship organization of the issuance of such contribution
3 authorization certificate. Such notification shall include (i) the
4 taxpayer's name and address, (ii) the date such certificate was issued,
5 (iii) the date by which the authorized contribution listed in the
6 notification must be made by the taxpayer, (iv) the amount of the
7 authorized contribution, (v) the contribution authorization certif-
8 icate's certificate number, and (vi) any other information that the
9 commissioner deems necessary.

10 (g) Certificate of receipt. 1. In general. No public education entity,
11 school improvement organization, local education fund, or educational
12 scholarship organization shall issue a certificate of receipt for any
13 contribution made by a taxpayer unless such public education entity,
14 school improvement organization, local education fund, or educational
15 scholarship organization has been approved to issue certificates of
16 receipt pursuant to article twenty-five of the education law. No public
17 education entity, school improvement organization, local education fund,
18 or educational scholarship organization shall issue a certificate of
19 receipt for a contribution made by a taxpayer unless such public educa-
20 tion entity, school improvement organization, local education fund, or
21 educational scholarship organization has received notice from the
22 department that the department issued a contribution authorization
23 certificate to the taxpayer for such contribution.

24 2. Timely contribution. If a taxpayer makes an authorized contribution
25 to the public education entity, school improvement organization, local
26 education fund, or educational scholarship organization set forth on the
27 contribution authorization certificate issued to the taxpayer no later
28 than the date by which such authorized contribution is required to be
29 made, such public education entity, school improvement organization,
30 local education fund, or educational scholarship organization shall,
31 within thirty days of receipt of the authorized contribution, issue to
32 the taxpayer a certificate of receipt; provided, however, that if the
33 taxpayer contributes an amount that is less than the amount listed on
34 the taxpayer's contribution authorization certificate, the taxpayer
35 shall not be issued a certificate of receipt for such contribution.

36 3. Certificate of receipt contents. Each certificate of receipt shall
37 state (i) the name and address of the issuing public education entity,
38 school improvement organization, local education fund, or educational
39 scholarship organization, (ii) the taxpayer's name and address, (iii)
40 the date for each contribution, (iv) the amount of each contribution and
41 the corresponding contribution authorization certificate number, (v) the
42 total amount of contributions, (vi) certificate of receipt number and
43 (vii) any other information that the commissioner may deem necessary.

44 4. Notification to the department for the issuance of a certificate of
45 receipt. Upon the issuance of a certificate of receipt, the issuing
46 public education entity, school improvement organization, local educa-
47 tion fund, or educational scholarship organization shall, within thirty
48 days of issuing the certificate of receipt, provide the department with
49 notification of the issuance of such certificate in the form and manner
50 prescribed by the department.

51 5. Notification to the department of the non-issuance of a certificate
52 of receipt. Each public education entity, school improvement organiza-
53 tion, local education fund, or educational scholarship organization that
54 received notification from the department pursuant to subdivision (f) of
55 this section regarding the issuance of a contribution authorization
56 certificate to a taxpayer shall, within thirty days of the expiration

1 date for such authorized contribution, provide notification to the
2 department for each taxpayer that failed to make the authorized contrib-
3 ution to such public education entity, school improvement organization,
4 local education fund, or educational scholarship organization in the
5 form and manner prescribed by the department.

6 6. Failure to notify the department. Within thirty days of the discov-
7 ery of the failure of any public education entity, school improvement
8 program, local education fund, or educational scholarship organization
9 to comply with the notification requirements prescribed by paragraphs
10 four and five of this subdivision, the commissioner shall issue a notice
11 of compliance failure to such entity, program, fund, or organization.
12 Such entity, program, fund, or organization shall have thirty days from
13 the date of such notice to make the notifications prescribed by para-
14 graphs four and five of this subdivision. Such period may be extended
15 for an additional thirty days upon the request of the entity, program,
16 fund, or organization. Upon the expiration of period for compliance set
17 forth in the notice prescribed by this paragraph, the commissioner shall
18 notify the commissioner of education that such entity, program, fund, or
19 organization failed to make the notifications prescribed by paragraphs
20 four and five of this subdivision.

21 (h) Credit cap. The maximum permitted credits under this section
22 available to all taxpayers for qualified contributions for calendar year
23 two thousand nineteen shall be one hundred fifty million dollars. In
24 calendar year two thousand twenty, the maximum permitted credits under
25 this section available to all taxpayers shall be two hundred twenty-five
26 million dollars plus any amounts that are required to be added to the
27 cap pursuant to subdivision (i) of this section. For calendar year two
28 thousand twenty-one and each calendar year thereafter, the maximum
29 permitted credits available to all taxpayers shall be three hundred
30 million dollars plus any amounts that are required to be added to the
31 cap pursuant to subdivision (i) of this section. The maximum permitted
32 credits under this section for qualified contributions shall be allo-
33 cated fifty percent to public education entities, school improvement
34 organizations, and local education funds and fifty percent to educa-
35 tional scholarship organizations.

36 (i) Additions to credit cap. Unissued certificates of receipt. Any
37 amounts for which the department receives notification of non-issuance
38 of a certificate of receipt shall be added to the cap prescribed in
39 subdivision (h) of this section for the immediately following year.

40 (j) Regulations. The commissioner is hereby authorized to promulgate
41 and adopt on an emergency basis regulations necessary for the implemen-
42 tation of this section.

43 (k) Written report. On or before the last day of June for each calen-
44 dar year, for the immediately preceding year, the commissioner and the
45 commissioner of education shall jointly submit a written report to the
46 governor, the temporary president of the senate, the speaker of the
47 assembly, the chairman of the senate finance committee and the chairman
48 of the assembly ways and means committee regarding the education afford-
49 ability tax credit. Such report shall contain information for articles
50 nine-A and twenty-two of this chapter, respectively, regarding: (i) the
51 number of applications received; (ii) the number of and aggregate value
52 of the contribution authorization certificates issued for contributions
53 to public education entities, school improvement organizations, local
54 education funds, and scholarship organizations, respectively; (iii) the
55 geographical distribution by county of (A) the applications for contrib-
56 ution authorization certificates, distribution by county of (B) the

public education entities, school improvement organizations, local education funds, and educational scholarship organizations listed on the issued contribution authorization certificates; and (iv) information, including geographical distribution by county, of the number of eligible pupils that received scholarships, the number of qualified schools attended by eligible pupils that received such scholarships, and the average value of scholarships received by such eligible pupils. The commissioner and designated employees of the department, the commissioner of education and designated employees of the state education department, shall be allowed and are directed to share and exchange information regarding the school improvement organizations, local education funds and educational scholarship organizations that applied for approval to be authorized to receive qualified contributions; and the public education entities, school improvement organizations, local education funds, and educational scholarship organizations authorized to issue certificates of receipt, including information contained in or derived from application forms and reports submitted to the commissioner of education.

(1) Cross references. For application of the credit provided for in this section, see the following provisions of this chapter:

1. Article 9-A: section 210-B; subdivision 53;

2. Article 22: section 606; subsections (i) and (ccc).

§ 3. Paragraph (b) of subdivision 9 of section 208 of the tax law is amended by adding a new subparagraph 23 to read as follows:

(23) The amount of any deduction allowed pursuant to section one hundred seventy of the internal revenue code for which a credit is claimed pursuant to subdivision fifty-three of section two hundred ten-B of this article.

§ 4. Section 210-B of the tax law is amended by adding a new subdivision 53 to read as follows:

53. Education affordability tax credit. (a) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-four of this chapter, against the tax imposed by this article.

(b) Application of credit. The credit allowed under this subdivision for any taxable year shall not reduce the tax due for that year to less than the higher of the amounts prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of credit allowed under this subdivision for qualified contributions for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the succeeding five years and may be deducted from the taxpayer's tax for such year or years.

§ 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xliv) to read as follows:

| | |
|-----------------------------------|------------------------------------|
| (xliv) Education affordability | Amount of credit under |
| tax credit under subsection (ccc) | subdivision fifty-three of section |
| | two hundred ten-B |

§ 6. Section 606 of the tax law is amended by adding two new subsections (w) and (w-1) to read as follows:

(w) Home-based instructional materials credit. (1) For taxable years beginning on or after January first, two thousand nineteen, a taxpayer shall be allowed a credit against the tax imposed by this article for the purchase of instructional materials approved by the education department for use in non-public home-based educational programs;

1 provided, that the amount of credit claimed does not exceed the lesser
2 of two hundred dollars or one hundred percent of the cost of such
3 purchases made by the taxpayer during the taxable year.

4 (2) A husband and wife who file separate returns for a taxable year in
5 which they could have filed a joint return may each claim only one-half
6 of the tax credit that would have been allowed for a joint return.

7 (3) If the amount of the credit allowed under this subsection for any
8 taxable year shall exceed the taxpayer's tax for such year, the excess
9 shall be treated as an overpayment of tax to be credited or refunded in
10 accordance with the provisions of section six hundred eighty-six of this
11 article, provided, however, that no interest shall be paid thereon.

12 (w-1) Instructional materials and supplies credit. (1) For taxable
13 years beginning on and after January first, two thousand nineteen, a
14 taxpayer shall be allowed a credit equal to the lesser of the amount
15 paid by the taxpayer during the taxable year for instructional materials
16 and supplies, or two hundred dollars; provided that the taxpayer is a
17 teacher or instructor in a qualified school, as defined in section
18 forty-four of this chapter, for at least nine hundred hours during a
19 school year. For purposes of this subsection, the term "materials and
20 supplies" means instructional materials or supplies that are used in the
21 classroom in any qualified school.

22 (2) A husband and wife who file separate returns for a taxable year in
23 which they could have filed a joint return may each claim only one-half
24 of the tax credit that would have been allowed for a joint return.

25 (3) If the amount of the credit allowed under this subsection for any
26 taxable year shall exceed the taxpayer's tax for such year, the excess
27 shall be treated as an overpayment of tax to be credited or refunded in
28 accordance with the provisions of section six hundred eighty-six of this
29 article, provided, however, that no interest shall be paid thereon.

30 § 7. Section 606 of the tax law is amended by adding a new subsection
31 (ccc) to read as follows:

32 (ccc) Education affordability tax credit. (1) Allowance of credit. A
33 taxpayer shall be allowed a credit to be computed as provided in section
34 forty-four of this chapter, against the tax imposed by this article.

35 (2) Application of credit. If the amount of the credit allowed under
36 this subsection for any qualified contributions for any taxable year
37 exceeds the taxpayer's tax for such year, the excess may be carried over
38 to the succeeding five years and may be deducted from the taxpayer's tax
39 for such year or years.

40 § 8. Subsection (c) of section 615 of the tax law is amended by adding
41 a new paragraph 10 to read as follows:

42 (10) The amount of any federal deduction for contributions made for
43 which a taxpayer claims a credit under subsection (ccc) of section six
44 hundred six of this article.

45 § 9. Section 606 of the tax law is amended by adding a new subsection
46 (iii) to read as follows:

47 (iii) Helping open opportunities to learn tax credit. (1) General. A
48 resident low and middle income taxpayer shall be allowed a credit, to be
49 computed as provided in paragraph three of this subsection, against the
50 tax imposed by this article for the qualified primary or secondary
51 education tuition expenses paid by the taxpayer during the taxable year.

52 (2) Definitions. For purposes of this subsection, the following terms
53 shall have the following meanings:

54 (A) "Resident low and middle income taxpayer" shall mean a taxpayer
55 who is a full-year resident of this state and whose federal taxable
56 income is equal to or less than seven hundred twenty percent of the

federal poverty guidelines, as promulgated annually by the United States department of health and human services, for the taxable year for which this credit is claimed.

(B) "Qualified primary or secondary education tuition expenses" shall mean the tuition required for the enrollment or attendance of an eligible student at a qualified school, as defined in section forty-four of this chapter. Provided, however, that any tuition payments made for such eligible student pursuant to the receipt of financial aid or one or more scholarships shall be excluded from the definition of the term "qualified primary or secondary education tuition expenses" for such eligible student.

(C) "Eligible student" shall mean any dependent of the taxpayer with respect to whom the taxpayer is allowed an exemption under section six hundred sixteen of this article for the taxable year who is enrolled in, and for whom qualified primary and secondary education tuition expenses have been paid for, kindergarten or grade one through twelve in a qualified school.

(3) Amount of credit. The amount of credit that a resident low and middle income taxpayer may claim for the qualified primary or secondary education tuition expenses paid for each eligible student shall equal the lesser of twelve percent of the total per pupil state public school expenditures or fifteen percent of the qualified primary or secondary education tuition expenses paid by the taxpayer during the taxable year for such eligible student. The total state public school expenditures shall equal the school aid, as reported in the state enacted budget financial plan for the taxable year in which the school year began, divided by the total number of students enrolled in kindergarten and grades one through twelve at public schools in this state as published by the department of education for such taxable year.

(4) Application of credit. If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(5) Husband and wife. In the case of a husband and wife who file a joint federal return, but who are required to determine their New York taxes separately, the credit allowed pursuant to this subsection may be applied against the tax imposed of either or divided between them as they may elect.

§ 10. The education law is amended by adding a new article 25 to read as follows:

ARTICLE 25

EDUCATION AFFORDABILITY PROGRAM

Section 1209. Short title.

1210. Definitions.

1211. Approval to issue certificates of receipt.

1212. Applications for approval to issue certificates of receipt.

1213. Application approval.

1214. Revocation of approval to issue certificates of receipt.

1215. Recordkeeping.

1216. Joint annual report.

1217. Commissioner; powers.

§ 1209. Short title. This article shall be known and may be cited as the "education affordability program".

1 § 1210. Definitions. As used in this article, the following terms
2 shall have the following meanings:

3 1. "Authorized contribution" means the contribution amount listed on
4 the contribution authorization certificate issued to a taxpayer.

5 2. "Contribution" means a donation paid by cash, check, electronic
6 funds transfer, debit card or credit card made by the taxpayer during
7 the tax year.

8 3. "Educational program" means an academic program of a public school
9 that enhances the curriculum, or provides or expands a pre-kindergarten
10 program or an after-school program to the public school. For purposes of
11 this definition, the instruction, materials, programs or other activ-
12 ities offered by or through an educational program may include, but are
13 not limited to, the following features: (a) instruction or materials
14 promoting health, physical education, and family and consumer sciences;
15 literary, performing and visual arts; mathematics, social studies, tech-
16 nology and scientific achievement; (b) instruction or programming to
17 meet the education needs of at-risk students or students with disabili-
18 ties, including tutoring or counseling; or (c) use of specialized
19 instructional materials, instructors or instruction not provided by a
20 public school.

21 4. "Educational scholarship organization" means a not-for-profit enti-
22 ty which (a) is exempt from taxation under paragraph three of subsection
23 (c) of section five hundred one of the internal revenue code, (b)
24 commits for the expenditure of at least ninety percent of the revenue
25 from qualified contributions received during the calendar year and any
26 income derived from qualified contributions for scholarships, (c) depos-
27 its and holds qualified contributions and any income derived from quali-
28 fied contributions in an account that is separate from the organiza-
29 tion's operating or other funds until such qualified contributions or
30 income are withdrawn for use, and (d) provides scholarships to eligible
31 pupils for use at no fewer than three qualified schools.

32 5. "Eligible pupil" means a child who (a) is a resident of this state,
33 (b) is school age in accordance with subdivision one of section thirty-
34 two hundred two of this chapter or who is four years of age on or before
35 December first of the year in which they are enrolled in a pre-kinder-
36 garten program, (c) attends or is about to attend a qualified school,
37 and (d) resides in a household that has a federal adjusted gross income
38 of five hundred thousand dollars or less, provided however, for house-
39 holds with three or more dependent children, such income level shall be
40 increased by ten thousand dollars per dependent child in excess of two,
41 not to exceed five hundred fifty thousand dollars.

42 6. "Local education fund" means a not-for-profit entity which (a) is
43 exempt from taxation under paragraph three of subsection (c) of section
44 five hundred one of the internal revenue code, (b) is established for
45 the purpose of supporting an educational program in at least one public
46 school, or public school district, (c) uses at least ninety percent of
47 the qualified contributions received during the calendar year and any
48 income derived from qualified contributions to support the public school
49 or schools or public school district or districts that such fund has
50 been established to support, and (d) deposits and holds qualified
51 contributions and any income derived from qualified contributions in an
52 account that is separate from the fund's operating or other funds until
53 such qualified contributions or income are withdrawn for use.

54 7. "Nonpublic school" means any not-for-profit pre-kindergarten
55 program or elementary, secondary sectarian or nonsectarian school
56 located in this state, other than a public school, that is providing

1 instruction at one or more locations to a student in accordance with
2 subdivision two of section thirty-two hundred four of this chapter.

3 8. "Public education entity" means a public school or a public school
4 district, provided that such public school, or public school district
5 deposits and holds qualified contributions and any income derived from
6 qualified contributions in an account that is separate from the public
7 school or public school district's operating or other funds until such
8 qualified contributions or income are withdrawn for use, and is approved
9 to issue certificates of receipt pursuant to this article.

10 9. "Public school" means any free elementary or secondary school in
11 this state guaranteed by article eleven of the constitution or charter
12 school authorized by article fifty-six of this chapter.

13 10. "Qualified contribution" means the authorized contribution made by
14 a taxpayer to the public education entity, school improvement organiza-
15 tion, local education fund, or educational scholarship organization that
16 is listed on the contribution authorization certificate issued to the
17 taxpayer and for which the taxpayer has received a certificate of
18 receipt from such entity, fund, or organization. A contribution does
19 not qualify if the taxpayer designates the taxpayer's contribution to an
20 entity or organization for the direct benefit of any particular or spec-
21 ified student.

22 11. "Qualified educator" means an individual who is a teacher or
23 instructor in a qualified school for at least nine hundred hours during
24 a school year.

25 12. "Qualified school" means a public school or nonpublic school.

26 13. "Scholarship" means an educational scholarship which provides a
27 tuition grant awarded to an eligible pupil to attend a qualified school
28 in an amount not to exceed the tuition charged to attend such school
29 less any other educational scholarship received by such eligible pupil
30 or his or her parent, parents or guardian for such eligible pupil's
31 tuition; provided, however, in the case of an eligible pupil attending a
32 public school in a public school district of which such pupil is not a
33 resident, the amount of the educational scholarship awarded may not
34 exceed the tuition charged by the public school pursuant to paragraph d
35 of subdivision four of section thirty-two hundred two of this chapter
36 less any other educational scholarship received by such eligible pupil
37 or his or her parent, parents or guardian for such eligible pupil's
38 tuition, but only if the public school district of which such pupil is a
39 resident is not required to pay for such tuition.

40 14. "School improvement organization" means a not-for-profit entity
41 which (i) is exempt from taxation under paragraph three of subsection
42 (c) of section five hundred one of the internal revenue code, (ii) uses
43 at least ninety percent of the qualified contributions received during
44 the calendar year and any income derived from such qualified contrib-
45 utions to assist public schools or public school districts located in
46 this state in their provision of educational programs, either by making
47 contributions to one or more public schools or public school districts
48 located in this state or providing educational programs to, or in
49 conjunction with, one or more public schools or public school districts
50 located in this state, (iii) deposits and holds qualified contributions
51 and any income derived from such qualified contributions in an account
52 that is separate from the organization's operating or other funds until
53 such qualified contributions or income are withdrawn for use, and (iv)
54 is approved to issue certificates of receipt pursuant to this article.
55 Such entity may allow the taxpayer to choose to donate to a program,

1 project or initiative identified by a qualified educator for use in a
2 public school.

3 § 1211. Approval to issue certificates of receipt. 1. Public schools
4 and public school districts. All public schools and public school
5 districts shall be approved to issue certificates of receipt provided,
6 that a public school or public school district shall not be approved if
7 either (a) the public school or public school district fails to deposit
8 and hold qualified contributions and any income derived from qualified
9 contributions in an account that is separate from the school or school
10 district's operating or other funds until such qualified contributions
11 or income are withdrawn for use, or (b) the commissioner has revoked
12 such approval for such public school or public school district pursuant
13 to section twelve hundred fourteen of this article.

14 2. School improvement organizations, educational scholarship organiza-
15 tions and local education funds. No school improvement organization,
16 educational scholarship organization or local education fund shall issue
17 any certificates of receipt without filing an application pursuant to
18 section twelve hundred twelve of this article and receiving approval
19 pursuant to section twelve hundred thirteen of this article.

20 § 1212. Applications for approval to issue certificates of receipt.
21 Each school improvement organization, educational scholarship organiza-
22 tion, and local education fund shall submit an application to the
23 commissioner for approval to issue certificates of receipt in the form
24 and manner prescribed by the commissioner; provided that such applica-
25 tion shall include: (a) submission of documentation that such school
26 improvement organization, local education fund or educational scholar-
27 ship organization has been granted exemption from taxation under para-
28 graph three of subsection (c) of section five hundred one of the inter-
29 nal revenue code; (b) the most recent annual financial audit, which
30 shall be completed by an independent certified public accountant and a
31 list of names and addresses of all members of the governing board of the
32 school improvement organization, local education fund or educational
33 scholarship organization; and (c) an educational scholarship organiza-
34 tion shall provide criteria for the awarding of scholarships to eligible
35 students. Neither the commissioner or the department shall require any
36 other information for such application except as authorized in this
37 article or by section forty-four of the tax law.

38 § 1213. Application approval. The commissioner shall review each
39 application to issue certificates of receipt pursuant to this article.
40 Approval or denial of an application shall be made within sixty days of
41 receipt of such application.

42 § 1214. Revocation of approval to issue certificates of receipt. The
43 commissioner, in consultation with the commissioner of taxation and
44 finance, may revoke the approval of a school improvement organization,
45 educational scholarship organization, local education fund, public
46 school or public school district to issue certificates of receipt upon a
47 finding that such organization, fund, school or school district has
48 violated this article or section forty-four of the tax law. These
49 violations shall include, but not be limited to, any of the following:
50 (a) failure to meet the requirements of this article or section forty-
51 four of the tax law, (b) the failure to maintain full and adequate
52 records with respect to the receipt of qualified contributions, (c) the
53 failure to supply such records to the commissioner or the department of
54 taxation and finance when requested by the department or the department
55 of taxation and finance, or (d) the failure to provide notice to the
56 department of taxation and finance of the issuance or nonissuance of

certificates of receipt pursuant to section forty-four of the tax law; provided however, that the commissioner shall not revoke approval pursuant to this section based upon a violation of the tax law unless the commissioner of taxation and finance agrees that revocation is warranted; and provided further that the commissioner shall not revoke approval pursuant to this section when the failure to comply is due to clerical error and not negligence or intentional disregard for the law. Within five days of the determination revoking approval, the commissioner shall provide notice of such revocation to the educational scholarship organization, school improvement organization, local education fund, public school, or public school district and to the department of taxation and finance.

§ 1215. Recordkeeping. Each school improvement organization, educational scholarship organization, local education fund, public school and public school district that issued at least one certificate of receipt shall maintain records including (a) notifications received from the department of taxation and finance, (b) notifications made to the department of taxation and finance, (c) copies of qualified contributions received, (d) copies of the deposit of such qualified contributions, (e) copies of issued certificates of receipt, (f) annual financial statements, (g) in the case of school improvement organizations, educational scholarship organizations and local education funds, the application submitted pursuant to section twelve hundred twelve of this article and the approval issued by the commissioner, and (h) any other information as prescribed by regulation promulgated by the commissioner.

§ 1216. Joint annual report. On or before the last day of June for each calendar year, the commissioner of taxation and finance and the commissioner, jointly, shall submit a written report as provided in subdivision (k) of section forty-four of the tax law.

§ 1217. Commissioner; powers. The commissioner shall promulgate on an emergency basis regulations necessary for the implementation of this section. The commissioner shall make any application required to be filed pursuant to this article available to applicants within sixty days of the effective date of this article.

§ 11. The education law is amended by adding a new section 1503-a to read as follows:

§ 1503-a. Power to accept and solicit gifts and donations. 1. All school districts organized by special laws or pursuant to the provisions of a general law are hereby authorized and empowered to accept gifts, donations, and contributions to the district and to solicit the same.

2. Notwithstanding any other provision of this chapter or of any other general or special law to the contrary, the receipt of such gifts, donations, contributions and other funds, and any income derived therefrom, shall be disregarded for the purposes of all apportionments, computations, and determinations of state aid.

§ 12. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

§ 13. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2019.

Section 1. Subdivision 41 of section 1301 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013, is amended and a new subdivision 43 is added to read as follows:

41. "Table game". A game, including dealer-controlled electronic table games, other than a slot machine, which is authorized by the commission to be played in a gaming facility.

43. "Dealer-controlled electronic table game". A table game operated by a live dealer in which the outcome is determined by the actions of the dealer, that uses electronics as part of the game's operation in connection with the collection and payoff of wagers, but not to determine the game outcome.

§ 2. Section 1348 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

§ 1348. Machine and table fees. In addition to any other tax or fee imposed by this article, there shall be imposed an annual license fee of five hundred dollars for each slot machine and table approved by the commission for use by a gaming licensee at a gaming facility; provided, however, that not sooner than five years after award of an original gaming license, the commission may annually adjust the fee for inflation. The fee shall be imposed as of July first of each year for all approved slot machines and ~~tables~~ table games, including dealer-controlled electronic table games, on that date and shall be assessed on a pro rata basis for any slot machine or table, including dealer-controlled electronic table games, approved for use thereafter.

Such assessed fees shall be deposited into the commercial gaming revenue fund established pursuant to section one thousand three hundred fifty-two of this article.

§ 3. This act shall take effect immediately.

PART QQQ

Section 1. Paragraph 3 of subdivision i of section 1617-a of the tax law, as amended by section 1 of part SS of chapter 60 of the laws of 2016, is amended to read as follows:

(3) For each video lottery facility, the annual value of the free play allowance credits authorized for use by the operator pursuant to this subdivision shall not exceed an amount equal to fifteen percent of the total amount wagered on video lottery games after payout of prizes provided, however, if a video lottery facility is located in development zone two as defined by section thirteen hundred ten of the racing, pari-mutuel wagering and breeding law, and the nearest commercial casino, as defined by section thirteen hundred one of the racing, pari-mutuel wagering and breeding law, is given a greater than fifteen percent free play allowance, the video lottery facility shall receive the same percentage of free play allowance credits as allowed to the nearest commercial casino. The gaming commission shall establish procedures to assure that free play allowance credits do not exceed such amount.

§ 2. This act shall take effect immediately.

PART RRR

Section 1. The racing, pari-mutuel wagering and breeding law is amended by adding a new article 15 to read as follows:

ARTICLE 15 INTERACTIVE GAMING

1 Section 1500. Legislative findings and purpose.

2 1501. Definitions.

3 1502. Authorization.

4 1503. Required safeguards/minimum standards.

5 1504. Scope of licensing review.

6 1505. State tax.

7 1506. Disposition of taxes.

8 § 1500. Legislative findings and purpose. The legislature hereby finds
9 and declares that: 1. Under the New York penal law a person engages in
10 gambling when he or she stakes or risks something of value upon the
11 outcome of a contest of chance or a future contingent event not under
12 his or her control or influence, upon an agreement or understanding that
13 he or she will receive something of value in the event of a certain
14 outcome.

15 2. A contest of chance is defined as any contest, game, gaming scheme
16 or gaming device in which the outcome depends in a material degree upon
17 an element of chance, notwithstanding that skill of the contestants may
18 also be a factor therein. (Subdivision 1 of section 225.00 of the penal
19 law). Thus, games of chance may involve some skill, but in those games
20 the level of skill does not determine the outcome regardless of the
21 degree of skill employed. See People v. Turner, 165 Misc. 2d 222, 224,
22 629 N.Y.S.2d 661, 662 (Crim. Ct. 1995). On the other hand, where a
23 contest pits the skill levels of the players against each other, New
24 York courts have found a game to be one of skill rather than chance. See
25 People v. Hunt, 162 Misc. 2d 70, 72, 616 N.Y.S.2d 168, 170 (Crim. Ct.
26 1994) ("Played fairly, skill rather than chance is the material compo-
27 nent of three-card monte.");

28 3. Poker in many instances has been defined as a game of skill and a
29 New York federal court in U.S. v. DiCristina, 886 F. Supp. 2d 164, 224,
30 assessed that under federal law poker was predominantly a game of skill;

31 4. New York courts have interpreted New York law to apply a more
32 rigorous test in identifying a "contest of chance" than is applied by
33 most states in this nation and the courts have found that where a
34 contest pits the skill levels of the players against each other, those
35 games are games of skill and not games of chance. Furthermore, the
36 courts have not limited the legislature's ability to determine that
37 certain forms of poker should fall outside the general definition of
38 gambling since those games are games of skill;

39 5. Texas Hold'em poker involves two cards dealt face down to each
40 player and then five community cards placed face-up by the dealer, a
41 series of three, then two additional single cards, with players deter-
42 mining whether to check, bet, raise or fold after each deal. Omaha
43 Hold'em poker is a similar game, in which each player is dealt four
44 cards and makes his or her best hand using exactly two of them, plus
45 exactly three of the five community cards. These games are considered to
46 be complex forms of poker which involve player strategy and decision-
47 making and which pit the skill levels of the players against each other.
48 As games of skill, these forms of poker do not fall under the definition
49 of gambling as prohibited by the penal law; and

50 6. The legislature further finds that as the internet has become an
51 integral part of society, and internet poker a major form of enter-
52 tainment for many consumers, any interactive gaming enforcement and
53 regulatory structure must begin from the bedrock premise that partic-
54 ipation in a lawful and licensed gaming industry is a privilege and not
55 a right, and that regulatory oversight is intended to safeguard the

1 integrity of the games and participants and to ensure accountability and
2 the public trust.

3 § 1501. Definitions. As used in this article, the following terms
4 shall have the following meanings:

5 1. "Authorized game" means Omaha Hold'em and Texas Hold'em poker, as
6 well as any other poker game that the commission determines is the mate-
7 rial equivalent of either of those, whether in a cash game or tourna-
8 ment.

9 2. "Authorized participants" means persons who are either physically
10 present in this state when placing a wager or who otherwise are permit-
11 ted by applicable law, as determined by the commission, to place a
12 wager. The intermediate routing of electronic data in connection with
13 interactive gaming shall not determine the location or locations in
14 which a wager is initiated, received or otherwise made.

15 3. "Core function" means any of the following: (a) the management,
16 administration or control of wagers on interactive gaming; (b) the
17 management, administration or control of the games with which those
18 wagers are associated; or (c) the development, maintenance, provision or
19 operation of an interactive gaming platform.

20 4. "Commission" means the New York state gaming commission.

21 5. "Covered asset" means any of the following categories of assets if
22 used in connection with the knowing and willful acceptance of any wager
23 from persons located in the United States of any form of interactive
24 gaming (including but not limited to poker) after December thirty-first,
25 two thousand six, that has not been affirmatively authorized by law of
26 the United States or of each state in which persons making such wager
27 were located: (a) any trademark, trade name, service mark or similar
28 intellectual property that was used to identify any aspect of the inter-
29 net website or of the operator offering the wagers or games to its
30 patrons; (b) any database or customer list of individuals residing in
31 the United States who placed such wagers; (c) any derivative of a data-
32 base or customer list described in paragraph (b) of this subdivision; or
33 (d) an asset used to provide a core function.

34 6. "Division" means the division of gaming, established under para-
35 graph (c) of subdivision two of section one hundred three of this chap-
36 ter.

37 7. "Interactive gaming" means the conduct of games through the use of
38 the internet or other communications technology that allows a person,
39 utilizing money, checks, electronic checks, electronic transfers of
40 money, credit cards, debit cards or any other instrumentality, to trans-
41 mit to a computer information to assist in the placing of a wager and
42 corresponding information related to the display of the game, game
43 outcomes or other similar information. The term does not include the
44 conduct of (a) non-gambling games that do not otherwise require a
45 license under state or federal law; or (b) games that occur entirely
46 among participants who are located on a licensed casino premises. For
47 purposes of this provision, "communications technology" means any method
48 used and the components employed by an establishment to facilitate the
49 transmission of information, including, without limitation, transmission
50 and reception by systems based on wire, cable, radio, microwave, light,
51 optics or computer data networks, including, without limitation, the
52 internet and intranets.

53 8. "Interactive gaming gross revenue" means the total of all sums paid
54 to a licensee from interactive gaming involving authorized participants,
55 less only the total of all sums paid out as winnings to patrons and
56 promotional gaming credits; provided, however, that the cash equivalent

1 value of any merchandise or other non-cash thing of value included in a
2 contest or tournament shall not be included in the total of all sums
3 paid out as winnings to players for purposes of determining interactive
4 gaming gross revenue.

5 (a) Neither amounts deposited with a licensee for purposes of interac-
6 tive gaming nor amounts taken in fraudulent acts perpetrated against a
7 licensee for which the licensee is not reimbursed shall be considered to
8 have been "paid" to the licensee for purposes of calculating interactive
9 gaming gross revenue.

10 (b) "Promotional gaming credit" includes bonuses, promotions and any
11 amount received by a licensee from a patron for which the licensee can
12 demonstrate that it or its affiliate has not received cash.

13 9. "Interactive gaming platform" means the combination of hardware,
14 software and data networks used to manage, administer or control wagers
15 on interactive gaming or the games with which those wagers are associ-
16 ated.

17 10. "Internet" means a computer network of interoperable packet-
18 switched data networks.

19 11. "Licensee" means a person who is licensed by the commission to
20 offer interactive gaming, using an interactive gaming platform to
21 authorized participants. A licensee may utilize multiple interactive
22 gaming platforms provided that each platform is approved by the commis-
23 sion.

24 12. "Omaha Hold'em poker" means the poker game marketed as Omaha
25 Hold'em poker or Omaha poker in which each player is dealt four cards
26 and must make his or her best hand using exactly two of them, plus
27 exactly three of the five community cards.

28 13. "Significant vendor" means any person who offers or who proposes
29 to offer any of the following services with respect to interactive
30 gaming: (a) a core function; (b) sale, licensing or other receipt of
31 compensation for selling or licensing a database or customer list of
32 individuals residing in the United States selected in whole or in part
33 because they placed wagers or participated in gambling games with or
34 through an internet website or operator (or any derivative of such a
35 database or customer list); (c) provision of any trademark, tradename,
36 service mark or similar intellectual property under which a licensee or
37 significant vendor identifies interactive games to customers; or (d)
38 provision of any product, service or asset to a licensee or significant
39 vendor in return for a percentage of interactive gaming revenue (not
40 including fees to financial institutions and payment providers for
41 facilitating a deposit or withdrawal by an authorized participant). The
42 term "significant vendor" shall not include a provider of goods or
43 services to a licensee that are not specifically designed for use and
44 not principally used in connection with interactive gaming.

45 14. "Texas Hold'em poker" means the type of poker marketed as Texas
46 Hold'em poker that involves two cards being dealt face down to each
47 player and then five community cards being placed face-up by the dealer,
48 a series of three then two additional single cards, with players having
49 the option to check, bet, raise or fold after each deal.

50 § 1502. Authorization. 1. The commission shall, within one hundred
51 eighty days of the date this article becomes law, promulgate regulations
52 to implement interactive gaming in this state and shall authorize up to
53 eleven licenses to operate interactive gaming involving authorized
54 participants, subject to the provisions of this article and other appli-
55 cable provisions of law.

1 2. Applicants eligible to apply for a license as an operator pursuant
2 to this article shall be those entities:

3 (a) licensed by the state pursuant to section sixteen hundred seven-
4 teen-a of the tax law to operate video lottery gaming and has experience
5 in the operation of interactive gaming by being licensed in a state with
6 comparable licensing requirements or guarantees acquisition of adequate
7 business competence and experience in the operation of interactive
8 gaming; or

9 (b) licensed by the state to operate a class III gaming facility
10 pursuant to article thirteen of this chapter and has experience in the
11 operation of interactive gaming by being licensed in a state with compa-
12 rable licensing requirements or guarantees acquisition of adequate busi-
13 ness competence and experience in the operation of interactive gaming.

14 3. The commission shall, to the extent practicable, issue licenses to
15 multiple applicants no sooner than one hundred eighty days after the
16 promulgation of regulations in order to ensure a robust and competitive
17 market for consumers and to prevent early licensees from gaining an
18 unfair competitive advantage.

19 4. No person may operate, manage or make available an interactive
20 gaming platform or act as a significant vendor with respect to interac-
21 tive gaming that is offered to persons located in this state unless
22 licensed by the commission pursuant to this article and only those games
23 authorized by the commission shall be permitted.

24 5. License applicants may form a partnership, joint venture or other
25 contractual arrangement in order to facilitate the purposes of this
26 article.

27 6. Any person found suitable by the commission may be issued a license
28 as an operator or significant vendor pursuant to this article. In deter-
29 mining suitability, the commission shall consider those factors it deems
30 relevant in its discretion, including but not limited to:

31 (a) Whether the applicant is a person of good character, honesty and
32 integrity;

33 (b) Whether the applicant is person whose prior activities, criminal
34 record, if any, reputation, habits and associations do not:

35 (i) pose a threat to the public interest or to the effective regu-
36 lation and control of interactive gaming; or

37 (ii) create or enhance the dangers of unsuitable, unfair or illegal
38 practices, methods and activities in the conduct of interactive gaming
39 or in the carrying on of the business and financial arrangements inci-
40 idental to such gaming;

41 (c) Whether the applicant is capable of and likely to conduct the
42 activities for which the applicant is licensed in accordance with the
43 provisions of this article, any regulations prescribed under this arti-
44 cle and all other applicable laws;

45 (d) Whether the applicant has or guarantees acquisition of adequate
46 business competence and experience in the operation of licensed gaming
47 or of interactive gaming in this state or in a state with comparable
48 licensing requirements;

49 (e) Whether the applicant has or will obtain sufficient financing for
50 the nature of the proposed operation and from a suitable source; and

51 (f) Whether the applicant:

52 (i) has at any time, either directly, or through another person whom
53 it owned, in whole or in significant part, or controlled:

54 (A) knowingly and willfully accepted or made available wagers on
55 interactive gaming (including poker) from persons located in the United
56 States after December thirty-first, two thousand six, unless such wagers

1 were affirmatively authorized by law of the United States or of each
2 state in which persons making such wagers were located; or

3 (B) knowingly facilitated or otherwise provided services with respect
4 to interactive gaming (including poker) involving persons located in the
5 United States for a person described in clause (A) of this subparagraph
6 and acted with knowledge of the fact that such wagers or interactive
7 gaming involved persons located in the United States; or

8 (ii) has purchased or acquired, directly or indirectly, in whole or in
9 significant part, a person described in subparagraph (i) of this para-
10 graph or will use that person or a covered asset in connection with
11 interactive gaming licensed pursuant to this article.

12 7. The commission further shall develop standards by which to evaluate
13 and approve interactive gaming platforms for use with interactive
14 gaming. Interactive gaming platforms must be approved by the commission
15 before being used by a licensee or significant vendor to conduct inter-
16 active gaming in this state.

17 8. The commission shall require all licensees to operate interactive
18 gaming to pay a one-time fee of ten million dollars. Such fee paid by
19 each licensee shall be applied to satisfy, in whole or in part, as
20 applicable, that licensee's tax obligation pursuant to section fifteen
21 hundred five of this article in sixty equal monthly installments, allo-
22 cated to each of the first sixty months of tax owed after the licensee
23 has begun operating interactive gaming pursuant to this article. No
24 amounts not required to be used to satisfy such tax obligation during
25 that period shall be allocated to payment of such tax obligation after
26 that period.

27 9. Licenses to operate interactive gaming issued by the commission
28 shall remain in effect for ten years.

29 10. The commission, by regulation, may authorize and promulgate any
30 rules necessary to implement agreements with other states, or authorized
31 agencies thereof (a) to enable patrons in those states to participate in
32 interactive gaming offered by licensees under this article or (b) to
33 enable patrons in this state to participate in interactive gaming
34 offered by licensees under the laws of those other states, provided that
35 such other state or authorized agency applies suitability standards and
36 review materially consistent with the provisions of this article.

37 11. Any regulations adopted pursuant to subdivision ten of this
38 section must set forth provisions that address:

39 (a) Any arrangements to share revenue between New York and any other
40 state or agency within another state; and

41 (b) Arrangements to ensure the integrity of interactive gaming offered
42 pursuant to any such agreement and the protection of patrons located in
43 this state.

44 12. The commission may delegate its responsibilities to administer the
45 provisions of this article to the division, as it sees fit, except for
46 its responsibilities to approve licenses.

47 § 1503. Required safeguards/minimum standards. The commission shall
48 require licensees to implement measures to meet the standards set out in
49 this section, along with such other standards that the commission in its
50 discretion may choose to require.

51 (a) Appropriate safeguards to ensure, to a reasonable degree of
52 certainty, that participants in interactive gaming are not younger than
53 twenty-one years of age.

54 (b) Appropriate safeguards to ensure, to a reasonable degree of
55 certainty, that participants in interactive gaming are physically

1 located within the state or such other jurisdiction that the commission
2 has determined to be permissible.

3 (c) Appropriate safeguards to protect, to a reasonable degree of
4 certainty, the privacy and online security of participants in interac-
5 tive gaming.

6 (d) Appropriate safeguards to ensure, to a reasonable degree of
7 certainty, that the interactive gaming is fair and honest and that
8 appropriate measures are in place to deter, detect and, to the extent
9 reasonably possible, to prevent cheating, including collusion, and use
10 of cheating devices, including use of software programs (sometimes
11 referred to as "bots") that make bets or wagers according to algorithms.

12 (e) Appropriate safeguards to minimize compulsive gaming and to
13 provide notice to participants of resources to help problem gamblers.

14 (f) Appropriate safeguards to ensure participants' funds are held in
15 accounts segregated from the funds of licensees and otherwise are
16 protected from corporate insolvency, financial risk or criminal or civil
17 actions against the licensee.

18 § 1504. Scope of licensing review. 1. In connection with any license
19 issued pursuant to this article, the licensee, significant vendor or
20 applicant shall identify and the commission shall review the suitability
21 of such licensee's, significant vendor's or applicant's owner, chief
22 executive officer, chief financial officer and any other officer or
23 employee who the commission deems is significantly involved in the
24 management or control of the licensee, significant vendor or applicant
25 or of the interactive gaming platform. "Owner" for purposes of this
26 provision means any person who directly or indirectly holds any benefi-
27 cial or ownership interest in the applicant of five percent or greater
28 or any amount of ownership that the commission determines to be signif-
29 icant ownership of the licensee, significant vendor, or applicant.

30 2. Institutional investors are subject to the provisions set out in
31 this section.

32 (a) An institutional investor holding under twenty-five percent of the
33 equity securities of a licensee's or significant vendor's (or appli-
34 cant's) holding or intermediary companies, shall be granted a waiver of
35 any investigation of suitability or other requirement if such securities
36 are those of a corporation, whether publicly traded or privately held,
37 and its holdings of such securities were purchased for investment
38 purposes only and it files a certified statement to the effect that it
39 has no intention of influencing or affecting the affairs of the issuer,
40 the licensee (or significant vendor or applicant, as applicable) or its
41 holding or intermediary companies; provided, however, that it shall be
42 permitted to vote on matters put to the vote of the outstanding security
43 holders. The commission may grant such a waiver to an institutional
44 investor holding a higher percentage of such securities upon a showing
45 of good cause and if the conditions specified above are met. Any insti-
46 tutional investor granted a waiver under this paragraph which subse-
47 quently determines to influence or affect the affairs of the issuer
48 shall provide not less than thirty days' notice of such intent and shall
49 file with the commission a request for determination of suitability
50 before taking any action that may influence or affect the affairs of the
51 issuer; provided, however, that it shall be permitted to vote on matters
52 put to the vote of the outstanding security holders. If an institutional
53 investor changes its investment intent, or if the commission finds
54 reasonable cause to believe that the institutional investor may be found
55 unsuitable, no action other than divestiture shall be taken by such
56 investor with respect to its security holdings until there has been

1 compliance with any requirements established by the commission, which
2 may include the execution of a trust agreement. The licensee (or signif-
3 icant vendor or applicant, as applicable) and its relevant holding,
4 intermediary or subsidiary company shall notify the commission imme-
5 diately of any information about, or actions of, an institutional inves-
6 tor holding its equity securities where such information or action may
7 impact upon the eligibility of such institutional investor for a waiver
8 pursuant to this paragraph.

9 (b) If at any time the commission finds that an institutional investor
10 holding any security of a holding or intermediary company of a licensee
11 or significant vendor or applicant, or, where relevant, of another
12 subsidiary company of a holding or intermediary company of a licensee or
13 significant vendor or applicant which is related in any way to the
14 financing of the licensee or significant vendor or applicant, fails to
15 comply with the terms of paragraph (a) of this section, or if at any
16 time the commission finds that, by reason of the extent or nature of its
17 holdings, an institutional investor is in a position to exercise such a
18 substantial impact upon the controlling interests of a licensee or
19 significant vendor or applicant that investigation and determination of
20 suitability of the institutional investor is necessary to protect the
21 public interest, the commission may take any necessary action otherwise
22 authorized under this article to protect the public interest.

23 (c) For purposes of this section, an "institutional investor" shall
24 mean any retirement fund administered by a public agency for the exclu-
25 sive benefit of federal, state, or local public employees; investment
26 company registered under the Investment Company Act of 1940 (15 U.S.C. §
27 80a-1 et seq.); collective investment trust organized by banks under
28 Part Nine of the Rules of the Comptroller of the Currency; closed end
29 investment trust; chartered or licensed life insurance company or prop-
30 erty and casualty insurance company; banking and other chartered or
31 licensed lending institution; investment advisor registered under The
32 Investment Advisors Act of 1940 (15 U.S.C. § 80b-1 et seq.); and such
33 other persons as the commission may determine for reasons consistent
34 with the public interest.

35 § 1505. State tax. Licensees engaged in the business of conducting
36 interactive gaming pursuant to this article shall pay a privilege tax
37 based on the licensee's interactive gaming gross revenue at a fifteen
38 percent rate.

39 § 1506. Disposition of taxes. The commission shall pay into the state
40 lottery fund all taxes imposed by this article; any interest and penal-
41 ties imposed by the commission relating to those taxes; all penalties
42 levied and collected by the commission; and the appropriate funds, cash
43 or prizes forfeited from interactive gaming.

44 § 2. Subdivision 1 of section 225.00 of the penal law is amended to
45 read as follows:

46 1. "Contest of chance" means any contest, game, gaming scheme or
47 gaming device in which the outcome depends [~~in a material degree~~]
48 predominantly upon an element of chance, notwithstanding that skill of
49 the contestants may also be a factor therein.

50 § 3. The penal law is amended by adding a new section 225.36 to read
51 as follows:

52 § 225.36 Interactive gaming offenses and exceptions.

53 1. The knowing and willful offering of unlicensed interactive gaming
54 to persons in this state, or the knowing and willful provision of
55 services with respect thereto, shall constitute a gambling offense under
56 this article.

2. Licensed interactive gaming activities under section fifteen hundred two of the racing, pari-mutuel wagering and breeding law shall not be a gambling offense under this article.

3. A person offering unlicensed interactive gaming to persons in this state shall be liable for all taxes set forth in section fifteen hundred five of the racing, pari-mutuel wagering and breeding law in the same manner and amounts as if such person were a licensee. Timely payment of such taxes shall not constitute a defense to any prosecution or other proceeding in connection with the interactive gaming except for a prosecution or proceeding alleging failure to make such payment.

§ 4. Severability clause. If any provision of this act or application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the act, but shall be confined in its operation to the provision thereof directly involved in the controversy in which the judgment shall have been rendered.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law.

PART SSS

Section 1. Section 486 of the general municipal law, as amended by section 6 of part MM of chapter 59 of the laws of 2017, is amended to read as follows:

§ 486. Participation by persons under the age of eighteen. No person under the age of eighteen years shall be permitted to play any game or games of bingo conducted pursuant to any license issued under this article unless accompanied by an adult. No person under the age of eighteen years shall be permitted to conduct, operate or assist in the conduct of any game of bingo conducted pursuant to any license issued pursuant to this article. Nothing in this section shall prevent a person sixteen years of age or older from performing ancillary non-gaming activities conducted in conjunction with any game of bingo conducted pursuant to any license pursuant to this article.

§ 2. This act shall take effect immediately.

PART TTT

Section 1. Subdivision f-1 of section 1612 of the tax law, as amended by chapter 175 of the laws of 2013, is amended to read as follows:

f-1. As consideration for operation of video lottery gaming facility located in the county of Nassau or Suffolk and operated by a corporation established pursuant to section five hundred two of the racing, pari-mutuel wagering and breeding law, the division shall cause the investment in the racing industry of the following percentages of the vendor fee to be deposited or paid as follows:

1. Two and three tenths percent of the total wagered after payout of prizes for the purpose of enhancing purses at Aqueduct racetrack, Belmont Park racetrack and Saratoga race course~~[, provided, however, that any amount that is in excess of the amount necessary to maintain purse support from video lottery gaming at Aqueduct racetrack, Belmont Park racetrack and Saratoga race course at the same level realized in two thousand thirteen, to be adjusted by the consumer price index for all urban consumers, as published annually by the United States department of labor, bureau of labor statistics, shall instead be returned to the commission]~~.

2. five tenths percent of the total wagered after payout of prizes for the appropriate breeding fund for the manner of racing at Aqueduct race-track, Belmont Park racetrack and Saratoga race course[~~, provided, however, that any amount that is in excess of the amount necessary to maintain payments from video lottery gaming at Aqueduct racetrack at the same level realized in two thousand thirteen, to be adjusted by the consumer price index for all urban consumers, as published annually by the United States department of labor, bureau of labor statistics, shall instead be returned to the commission~~].

3. one and three tenths percent of the total revenue wagered after payout of prizes to be deposited into an account of the franchised corporation established pursuant to section two hundred six of the racing, pari-mutuel wagering and breeding law to be used for capital expenditures in maintaining and upgrading Aqueduct racetrack, Belmont Park racetrack and Saratoga race course[~~, provided, however, that any amount that is in excess of the amount necessary to maintain payments for capital expenditures from video lottery gaming at Aqueduct racetrack at the same level realized in two thousand thirteen, to be adjusted by the consumer price index for all urban consumers, as published annually by the United States department of labor, bureau of labor statistics, shall instead be returned to the commission~~].

4. Nine tenths percent of the total revenue wagered after payout for prizes to be deposited into an account of the franchised corporation established pursuant to section two hundred six of the racing, pari-mutuel wagering and breeding law to be used for general thoroughbred racing operations at Aqueduct racetrack, Belmont Park racetrack and Saratoga race course[~~, provided, however, that any amount that is in excess of the amount necessary to maintain payments for general thoroughbred racing operations from video lottery gaming at Aqueduct racetrack at the same level realized in two thousand thirteen, to be adjusted by the consumer price index for all urban consumers, as published annually by the United States department of labor, bureau of labor statistics, shall instead be returned to the commission~~].

§ 2. This act shall take effect immediately.

PART UUU

Section 1. Subdivision 2 of section 516 of the racing, pari-mutuel wagering and breeding law is amended to read as follows:

2. After payment of all of the costs of the corporation's functions, net revenue remaining to the corporation shall be divided[~~, quarterly, not more than thirty days after the close of the calendar quarter~~], among the participating counties in accordance with the following provisions:

a. Each off-track betting corporation shall determine, at their organizational meeting, if such net revenue remaining to the corporation shall be divided to participating counties on an annual, bi-annual or quarterly basis, to be divided not more than thirty days after the close of the calendar year, the close of the bi-annual year (January-June and July-December) or calendar quarter;

b. Fifty percent of such revenue distributed among the participating counties on the basis of the proportion of the total off-track pari-mutuel wagering accepted by the corporation during the previous [~~calendar quarter~~] period that originated in the branch offices located in each participating county;

[b-] c. Fifty percent of such revenue on the basis of population, as defined as the total population in each participating county shown by the latest preceding decennial federal census completed and published as a final population count by the United States bureau of the census preceding the commencement of the calendar year in which such distribution is to be made; and

~~[e]~~ d. A participating county containing a city electing to participate in the management and revenues of a corporation under subdivision two of section five hundred two of this article shall distribute revenue received under paragraphs ~~[a]~~ b and ~~[b]~~ c of this subdivision to such city according to the proportion such city's population bears to the county's population.

§ 2. This act shall take effect immediately.

PART VVV

Section 1. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 103-a to read as follows:

S 103-a. Racing fan advisory council. There is hereby established a racing fan advisory council within the commission which will operate as follows:

1. The council shall be composed of five members. None of the members of the council shall be employees or officers of the commission or be paid employees, lobbyists, or officers of any licensed or franchised racetrack or off-track betting corporation or any nonprofit corporation which represents breeders or horsemen. Members shall be selected based on their long-term involvement and interest in, knowledge of, and devotion to the sport of horse racing as fans of the sport. Five persons shall be appointed by the executive director of the commission. One person shall be appointed upon the recommendation of the chairperson of the senate committee on racing, gaming and wagering, and one person shall be appointed by the chairperson of the assembly committee on racing and wagering.

2. The chairperson of the council shall be selected by the executive director of the commission. The deputy chairperson shall be selected by a majority vote of the council from among the persons appointed at the recommendation of the chairpersons of the designated legislative committees.

3. The members of the council shall serve for a period of five years with all terms beginning September first, two thousand sixteen. In the event of a vacancy occurring during a term of appointment by reason of death, resignation, disqualification or otherwise, such vacancy shall be filled for the unexpired term in the same manner as the original appointment.

4. The racing fan advisory council shall request and shall receive the assistance and cooperation of the commission in regard to receipt of information relating to horse racing and wagering in this state.

5. The racing fan advisory council shall:

(a) have as its mission the growth of the fan base related to the sport of horse racing;

(b) recommend procedures to ensure that the opinion of the fan is a central part of the regulation of horse racing;

(c) prepare an annual report, and any other reports it deems necessary, to the commission regarding the operation of the state's thoroughbred and harness racetracks and the state's off-track betting corporations;

(d) advise the commission on appropriate actions to encourage fan attendance and wagering at the state's thoroughbred and harness race-tracks and the state's off-track betting corporations;

(e) be authorized by the commission to enter upon the racetracks and their facilities regulated or controlled by the board during race times, and during periods of horse workouts, and during hours when members of the media are permitted to be present at the facilities;

(f) recommend changes to the rules of the commission and to the laws affecting horse racing;

(g) perform such other duties as may be increased by order of the commission;

(h) engage New York state's racing fan population on how to make the sport more appealing;

(i) recommend to the commission further procedures to make steward and presiding judge actions that impact the betting public more transparent; and

(j) work with relevant component industries to better educate the casual fan as to significant industry topics.

§ 2. This act shall take effect immediately; provided, however, that the members of the racing fan advisory council as created by resolution of the New York Gaming Commission dated September 1, 2016, shall be the initial members of the racing fan advisory council as established by this act.

PART WWW

Section 1. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 103-a to read as follows:

§ 103-a. Advisory council on retired race horses. 1. For the purposes of this section:

(a) "Council" means the advisory council on retired race horses established in this section.

(b) "Retired race horse" means (i) a New York-bred thoroughbred, as defined by subdivision three of section two hundred fifty-one of this chapter, which is no longer engaged in horse racing; (ii) a standardbred which meets the standard set forth in section three hundred thirty-four of this chapter, which is no longer engaged in horse racing; or (iii) any horse that is specifically bred for the intended purpose of thoroughbred or standardbred horse racing, but was never used in horse racing. The term retired race horse shall be broadly construed to include those horses that were actually used in racing and those that were bred and intended to be so used but were not so used.

2. There is hereby established in the commission the advisory council on retired race horses. The council shall be comprised of thirteen members. Such council shall have two ex-officio co-chairpersons, one of whom shall be the chair of the commission and the other of whom shall be the commissioner of agriculture and markets, or their designees. Five members shall be appointed by the governor, two members shall be appointed by the temporary president of the senate, two members shall be appointed by the speaker of the assembly, one member shall be appointed by the minority leader of the senate, and one member shall be appointed by the minority leader of the assembly. The members appointed to the council shall serve terms of five years; provided, however, that of the members initially appointed to the council: one member appointed by the governor and the member appointed by the minority leader of the senate shall serve terms of one year; one member appointed by the governor, one

1 member appointed by the temporary president of the senate and one member
2 appointed by the speaker of the assembly shall be appointed to terms of
3 two years; one member appointed by the governor and one member appointed
4 by the speaker of the assembly shall be appointed for terms of three
5 years; one member appointed by the governor and one member appointed by
6 the temporary president of the senate shall be appointed for terms of
7 four years; and one member appointed by the governor and the member
8 appointed by the minority leader of the assembly shall serve terms of
9 five years. All initially appointed members of the council shall be
10 appointed within one hundred twenty days of the effective date of this
11 section. The appointed members of such council shall be representative
12 of: (a) owners, breeders and trainers of standardbred and thoroughbred
13 horses, (b) persons with expertise in training horses for uses other
14 than racing, such as riding schools, steeplechase competitions, show
15 horse competitions and other recreational uses, (c) persons with experi-
16 ence in the potential farm applications or other rural, suburban or
17 urban economic business applications for horses, and (d) persons famil-
18 iar with the use of horses for recreational or therapeutic uses in
19 either private, public health, college, university or correctional
20 facility settings. Any vacancy on such council shall be filled by the
21 original appointing authority. Council members shall receive no compen-
22 sation for their services, but shall be reimbursed for actual and neces-
23 sary travel expenses incurred in the performance of their duties.

24 3. The mission of the council is to identify and make recommendations
25 to promote the productive use of retired race horses and to increase the
26 number of such horses made available for such uses and so used. The
27 council shall develop and identify new and innovative ideas and methods
28 that can utilize private and public funding sources or public/private
29 partnerships to place retired race horses in such productive and benefi-
30 cial uses, and to increase both the number of horses so used and the
31 scale and variety of such uses.

32 4. The council shall be responsible for:

33 (a) promoting the proper care and treatment of retired race horses in
34 a humane and productive manner;

35 (b) advising the commission, the department of agriculture and
36 markets, the New York state thoroughbred breeding and development fund
37 and the agriculture and New York state breeding development fund on ways
38 to promote the humane care and treatment of such horses after their
39 racing careers are over via public policies, funding allocations and
40 specific courses of action that can be taken to reduce the number of
41 race track fatalities and injuries during the conduct of race meets and
42 training;

43 (c) explore the possibility of developing a limited retired race horse
44 tracking system to obtain useful information on the uses and ultimate
45 placement of such horses after their racing careers have ended. Such
46 information may be shared with the commission, the department of agri-
47 culture and markets, the New York state thoroughbred breeding and devel-
48 opment fund, and the agriculture and New York state breeding development
49 fund so as to assist such entities in their duties to ensure the humane
50 care and treatment of retired race horses, and to develop strategies to
51 enhance the humane and productive use of such horses after their racing
52 careers have ended; and

53 (d) the development of strategies to minimize the abandonment and
54 unnecessary slaughter of such retired race horses.

55 5. The council shall investigate, study and make recommendations on
56 the feasibility of promoting the reuse of retired race horses in a

1 manner that expands the number of potential opportunities for the
2 productive future use of such animals and for activities such as, but
3 not limited to:

4 (a) promoting and facilitating a larger market for the purchase and
5 sale of retired race horses;

6 (b) promoting the expanded therapeutic use of such horses in the
7 medical, psychological, or rehabilitative care or treatment of patients;

8 (c) the expansion of the use of horses at federal, state, and local
9 correctional facilities and youth detention facilities to train the
10 inmates thereof for careers, after their release, in the racing indus-
11 try, in the care of horses for recreational purposes, or as large animal
12 veterinary assistants or technicians;

13 (d) supporting the work of the Performance Horse Registry of the
14 United States Equestrian Federation to help to market and sell a higher
15 volume of such horses by informing prospective purchasers of the pedi-
16 grees of the horses under consideration and the suitability of the hors-
17 es for the prospective purchasers' intended uses;

18 (e) supporting existing or establishing new standardbred and thorough-
19 bred adoption programs that may be supported by private donations or
20 racing industry funding sources;

21 (f) studying and ultimately promoting the alteration of current race
22 horse training regimens so that retired race horses can more readily be
23 retrained for other economically viable uses;

24 (g) developing and promoting college, university, secondary school,
25 BOCES, correctional or other educational internship programs to supply
26 students to staff programs that promote the maintenance of retired race
27 horses or that facilitate the marketability of retired race horses;

28 (h) facilitating the retraining and financing of the retraining of
29 retired race horses to be used for other purposes; and

30 (i) other potential uses for retired race horses.

31 6. Not later than two years after the effective date of this section
32 and every two years thereafter, the council shall report to the gover-
33 nor, the legislature, the commission, the department of agriculture and
34 markets, the New York state thoroughbred breeding and development fund,
35 and the agriculture and New York state breeding development fund on its
36 activities, findings, and recommendations.

37 § 2. This act shall take effect immediately.

38 PART XXX

39 Section 1. Section 1367 of the racing, pari-mutuel wagering and breed-
40 ing law, as added by chapter 174 of the laws of 2013, is amended to read
41 as follows:

42 § 1367. Sports wagering. 1. As used in this section:

43 (a) "Affiliate" means any off-track betting corporation, franchised
44 corporation, or race track licensed pursuant to this chapter, or an
45 operator of video lottery gaming at Aqueduct licensed pursuant to
46 section sixteen hundred seventeen-a of the tax law, which has a mobile
47 sports wagering agreement with a casino pursuant to section thirteen
48 hundred sixty-seven-a of this title;

49 (b) "Agent" means an entity that is party to a contract with a
50 licensed gaming facility authorized to operate a sports pool and is
51 approved by the commission to operate a sports pool on behalf of such
52 licensed gaming facility;

53 (c) "Authorized sports bettor" means an individual who is physically
54 present in this state when placing a sports wager, who is not a prohib-

ited sports bettor, that participates in sports wagering offered by a casino. The intermediate routing of electronic data in connection with mobile sports wagering shall not determine the location or locations in which a wager is initiated, received or otherwise made;

(d) "Casino" means a licensed gaming facility at which gambling is conducted pursuant to the provisions of this article or the agent of such licensed gaming facility;

~~(b)~~ (e) "Commission" means the commission established pursuant to section one hundred two of this chapter;

~~(e)~~ (f) "Collegiate sport or athletic event" means a sport or athletic event offered or sponsored by or played in connection with a public or private institution that offers educational services beyond the secondary level;

(g) "Global risk management" means the direction, management, consultation and/or instruction for purposes of managing risks associated with sports wagering conducted pursuant to this section and includes the setting and adjustment of betting lines, point spreads, or odds and whether to place layoff bets as permitted by this section;

~~(d)~~ (h) "High school sport or athletic event" means a sport or athletic event offered or sponsored by or played in connection with a public or private institution that offers education services at the secondary level;

(i) "Horse racing event" means any sport or athletic event conducted in New York state subject to the provisions of articles two, three, four, five, six, nine, ten and eleven of this chapter, or any sport or athletic event conducted outside of New York state, which if conducted in New York state would be subject to the provisions of this chapter;

(j) "In-play sports wager" means a sports wager placed on a sports event after the sports event has begun and before it ends;

(k) "Layoff bet" means a sports wager placed by a casino sports pool with another casino sports pool;

(l) "Minor" means any person under the age of twenty-one years;

(m) "Mobile sports wagering platform" or "platform" means the combination of hardware, software, and data networks used to manage, administer, or control sports wagering and any associated wagers accessible by any electronic means including mobile applications and internet websites;

(n) "Official league data" means statistics, results, outcomes, and other data relating to a sporting event that have been obtained from the relevant sports governing body or an entity expressly authorized by the sports governing body to provide such information to casinos;

(o) "Operator" means a casino which has elected to operate a sports pool;

~~(e)~~ (p) "Professional sport or athletic event" means an event at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in such event;

(q) "Prohibited sports bettor" means:

(i) any officer or employee of the commission;

(ii) any principal or key employee of a casino or affiliate, except as may be permitted by the commission for good cause shown;

(iii) any casino gaming or non-gaming employee at the casino that employs such person and at any affiliate that has an agreement with that casino;

(iv) any contractor, subcontractor, or consultant, or officer or employee of a contractor, subcontractor, or consultant, of a casino if

1 such person is directly involved in the operation or observation of
2 sports wagering, or the processing of sports wagering claims or
3 payments;

4 (v) Any person subject to a contract with the commission if such
5 contract contains a provision prohibiting such person from participating
6 in sports wagering;

7 (vi) Any spouse, child, brother, sister or parent residing as a member
8 of the same household in the principal place of abode of any of the
9 foregoing persons at the same casino where the foregoing person is
10 prohibited from participating in sports wagering;

11 (vii) any individual with access to non-public confidential informa-
12 tion about sports wagering;

13 (viii) any amateur or professional athlete if the sports wager is
14 based on any sport or athletic event overseen by the athlete's sports
15 governing body;

16 (ix) any sports agent, owner or employee of a team, player and umpire
17 union personnel, and employee referee, coach or official of a sports
18 governing body, if the sports wager is based on any sport or athletic
19 event overseen by the individual's sports governing body;

20 (x) any individual placing a wager as an agent or proxy for an other-
21 wise prohibited sports bettor; or

22 (xi) any minor;

23 ~~[(f)]~~ (r) "Prohibited sports event" means any [collegiate sport or
24 ~~athletic event that takes place in New York or a sport or athletic event~~
25 ~~in which any New York college team participates regardless of where the~~
26 ~~event takes place]~~ high school sport or athletic event;

27 ~~[(g)]~~ (s) "Sports event" means any professional sport or athletic
28 event and any collegiate sport or athletic event, except a prohibited
29 sports event or a horse racing event;

30 ~~[(h)]~~ (t) "Sports governing body" means the organization that
31 prescribes final rules and enforces codes of conduct with respect to a
32 sporting event and participants therein;

33 (u) "Sports pool" means the business of accepting wagers on any sports
34 event by any system or method of wagering; [and

35 ~~(i)]~~ (v) "Sports wager" means cash or cash equivalent that is paid by
36 an authorized sports bettor to a casino to participate in sports wager-
37 ing offered by such casino;

38 (w) "Sports wagering" means wagering on sporting events or any portion
39 thereof, or on the individual performance statistics of athletes partic-
40 ipating in a sporting event, or combination of sporting events, by any
41 system or method of wagering, including, but not limited to, in-person
42 communication and electronic communication through internet websites and
43 mobile device applications. The term "sports wagering" shall include,
44 but is not limited to, single-game bets, teaser bets, parlays, over-un-
45 der bets, moneyline, pools, exchange wagering, in-game wagering, in-play
46 bets, proposition bets and straight bets;

47 (x) "Sports wagering gross revenue" means: (i) the amount equal to the
48 total of all sports wagers not attributable to prohibited sports events
49 that an operator collects from all players, less the total of all sums
50 not attributable to prohibited sports events paid out as winnings to all
51 sports bettors, however, that the total of all sums paid out as winnings
52 to sports bettors shall not include the cash equivalent value of any
53 merchandise or thing of value awarded as a prize, or (ii) in the case of
54 exchange wagering pursuant to this section, the commission on winning
55 sports wagers by authorized sports bettors retained by the operator. The
56 issuance to or wagering by authorized sports bettors at a casino of any

promotional gaming credit shall not be taxable for the purposes of determining sports wagering gross revenue;

(y) "Sports wagering lounge" means an area wherein a sports pool is operated;

(z) "Tier one sports wager" means a sports wager that is determined solely by the final score or final outcome of the sports event and placed before the sports event has begun;

(aa) "Tier two sports wager" means an in-play sports wager; and

(bb) "Tier three sports wager" means a sports wager that is neither a tier one nor a tier two sports wager.

2. No gaming facility may conduct sports wagering until such time as there has been a change in federal law authorizing such or upon a ruling of a court of competent jurisdiction that such activity is lawful.

3. (a) In addition to authorized gaming activities, a licensed gaming facility may when authorized by subdivision two of this section operate a sports pool upon the approval of the commission and in accordance with the provisions of this section and applicable regulations promulgated pursuant to this article. The commission shall hear and decide promptly and in reasonable order all applications for a license to operate a sports pool, shall have the general responsibility for the implementation of this section and shall have all other duties specified in this section with regard to the operation of a sports pool. The license to operate a sports pool shall be in addition to any other license required to be issued to operate a gaming facility. No license to operate a sports pool shall be issued by the commission to any entity unless it has established its financial stability, integrity and responsibility and its good character, honesty and integrity.

No later than five years after the date of the issuance of a license and every five years thereafter or within such lesser periods as the commission may direct, a licensee shall submit to the commission such documentation or information as the commission may by regulation require, to demonstrate to the satisfaction of the executive director of the commission that the licensee continues to meet the requirements of the law and regulations.

(b) A sports pool shall be operated in a sports wagering lounge located at a casino. The lounge shall conform to all requirements concerning square footage, design, equipment, security measures and related matters which the commission shall by regulation prescribe.

(c) The operator of a sports pool shall establish or display the odds at which wagers may be placed on sports events.

(d) An operator shall accept wagers on sports events only from persons physically present in the sports wagering lounge, or through mobile sports wagering offered pursuant to section thirteen hundred sixty-seven-a of this title. A person placing a wager shall be at least twenty-one years of age.

(e) An operator may also accept layoff bets as long as the authorized sports pool places such wagers with another authorized sports pool or pools in accordance with regulations of the commission. A sports pool that places a layoff bet shall inform the sports pool accepting the wager that the wager is being placed by a sports pool and shall disclose its identity.

(f) An operator may utilize global risk management pursuant to the approval of the commission.

(g) An operator shall not admit into the sports wagering lounge, or accept wagers from, any person whose name appears on the exclusion list.

1 ~~[(f)]~~ (h) The holder of a license to operate a sports pool may
2 contract with ~~[an entity]~~ one or more agents to conduct any or all
3 aspects of that operation, or the operation of mobile sports wagering
4 offered pursuant to section thirteen hundred sixty-seven-a of this
5 title, including but not limited to brand, marketing and customer
6 service, in accordance with the regulations of the commission. ~~[That~~
7 ~~entity]~~ Each agent shall obtain a license as a casino vendor enterprise
8 prior to the execution of any such contract, and such license shall be
9 issued pursuant to the provisions of section one thousand three hundred
10 twenty-seven of this article and in accordance with the regulations
11 promulgated by the commission.

12 ~~[(g)]~~ (i) If any provision of this article or its application to any
13 person or circumstance is held invalid, the invalidity shall not affect
14 other provisions or applications of this article which can be given
15 effect without the invalid provision or application, and to this end the
16 provisions of this article are severable.

17 4. (a) All persons employed directly in wagering-related activities
18 conducted within a sports wagering lounge shall be licensed as a casino
19 key employee or registered as a gaming employee, as determined by the
20 commission. All other employees who are working in the sports wagering
21 lounge may be required to be registered, if appropriate, in accordance
22 with regulations of the commission.

23 (b) Each operator of a sports pool shall designate one or more casino
24 key employees who shall be responsible for the operation of the sports
25 pool. At least one such casino key employee shall be on the premises
26 whenever sports wagering is conducted.

27 5. Except as otherwise provided by this article, the commission shall
28 have the authority to regulate sports pools and the conduct of sports
29 wagering under this article to the same extent that the commission regu-
30 lates other gaming. No casino shall be authorized to operate a sports
31 pool unless it has produced information, documentation, and assurances
32 concerning its financial background and resources, including cash
33 reserves, that are sufficient to demonstrate that it has the financial
34 stability, integrity, and responsibility to operate a sports pool. In
35 developing rules and regulations applicable to sports wagering, the
36 commission shall examine the regulations implemented in other states
37 where sports wagering is conducted and shall, as far as practicable,
38 adopt a similar regulatory framework. The commission shall promulgate
39 regulations necessary to carry out the provisions of this section,
40 including, but not limited to, regulations governing the:

41 (a) amount of cash reserves to be maintained by operators to cover
42 winning wagers;

43 (b) acceptance of wagers on a series of sports events;

44 (c) maximum wagers which may be accepted by an operator from any one
45 patron on any one sports event;

46 (d) type of wagering tickets which may be used;

47 (e) method of issuing tickets;

48 (f) method of accounting to be used by operators;

49 (g) types of records which shall be kept;

50 (h) use of credit and checks by patrons;

51 (i) the process by which a casino may place a layoff bet;

52 (j) the use of global risk management;

53 (k) type of system for wagering; and

54 ~~[(j)]~~ (l) protections for a person placing a wager.

55 6. Each operator shall adopt comprehensive house rules governing
56 sports wagering transactions with its ~~[patrons]~~ authorized sports

1 bettors. The rules shall specify the amounts to be paid on winning
2 wagers and the effect of schedule changes. The house rules, together
3 with any other information the commission deems appropriate, shall be
4 conspicuously displayed in the sports wagering lounge and included in
5 the terms and conditions of the account wagering system, and copies
6 shall be made readily available to patrons.

7 7. (a) Each casino that offers sports wagering shall annually submit a
8 report to the commission no later than the twenty-eighth of February of
9 each year, which shall include the following information:

10 (i) the total amount of sports wagers received from authorized sports
11 bettors;

12 (ii) the total amount of prizes awarded to authorized sports bettors;

13 (iii) the total amount of sports wagering gross revenue received by
14 the casino;

15 (iv) the total amount contributed to the sport betting integrity fund
16 pursuant to subdivision eight of this section;

17 (v) the total amount of wagers received on each sports governing
18 body's sporting events;

19 (vi) the total number of authorized sports bettors that requested to
20 exclude themselves from sports wagering; and

21 (vii) any additional information that the commission deems necessary
22 to carry out the provisions of this article.

23 (b) Upon the submission of such annual report, to such extent that the
24 commission deems it to be in the public interest, the commission shall
25 be authorized to conduct a financial audit of any casino, at any time,
26 to ensure compliance with this article.

27 (c) The commission shall annually publish a report based on the aggre-
28 gate information provided by all casinos pursuant to paragraph (a) of
29 this subdivision, which shall be published on the commission's website
30 no later than one hundred eighty days after the deadline for the
31 submission of individual reports as specified in such paragraph (a).

32 8. (a) Within thirty days of the end of each calendar quarter, a casi-
33 no offering sports wagering shall remit to the commission a sports
34 wagering integrity fee of up to one-quarter of one percent of the amount
35 wagered on sports events, however, in no case shall the integrity fee be
36 greater than two percent of the casino's sports wagering gross revenue.
37 The fee shall be remitted on a form as the commission may require, on
38 which the casino shall identify the percentage of wagering during the
39 reporting period attributable to each sport governing body's sports
40 events.

41 (b) No later than the thirtieth of April of each year, a sports
42 governing body may submit a claim for disbursement of the integrity
43 funds remitted by casinos in the previous calendar year in pro rata
44 proportion of the total amount wagered on their respective sports events
45 to reimburse the sports governing body for expenses incurred for integ-
46 egrity operations. Eligible expenses shall include, but not be limited
47 to, integrity monitoring expenses, expenses incurred related to integri-
48 ty investigations, public relations expenses associated with integrity
49 issues, and any other eligible expenses approved by the commission.

50 (c) Each sports governing body which receives in excess of fifty-thou-
51 sand dollars annually from the integrity fee shall annually submit a
52 report to the commission no later than the twenty-eighth of February of
53 each year, which shall include the following information:

54 (i) the total amount of integrity fund reimbursement received from New
55 York;

1 (ii) a detailed summary of the final dispositions of integrity inves-
2 tigations where it was determined that misconduct took place;

3 (iii) any additional information that the commission deems necessary
4 to carry out the provisions of this article.

5 (d) Upon the submission of such annual report, to such extent that the
6 commission deems it to be in the public interest, the commission shall
7 be authorized to conduct a financial audit of any sports governing body,
8 at any time, to ensure compliance with this article.

9 (e) The commission shall annually publish a report based on the aggre-
10 gate information provided by all sports governing bodies pursuant to
11 paragraph (c) of this subdivision, which shall be published on the
12 commission's website no later than one hundred eighty days after the
13 deadline for the submission of individual reports as specified in para-
14 graph (c) of this subdivision.

15 (f) At the end of the year, any unclaimed integrity fee revenue shall
16 be distributed to the sports governing bodies which were approved to
17 receive funding, on a pro rata basis.

18 9. For the privilege of conducting sports wagering in the state, casin-
19 os shall pay a tax equivalent to eight and one-half percent of their
20 sports wagering gross revenue.

21 10. The commission shall pay into the commercial gaming revenue fund
22 established pursuant to section ninety-seven-nnnn of the state finance
23 law eighty-five percent of the state tax imposed by this section; any
24 interest and penalties imposed by the commission relating to those
25 taxes; all penalties levied and collected by the commission; and the
26 appropriate funds, cash or prizes forfeited from sports wagering. The
27 commission shall pay into the commercial gaming fund five percent of the
28 state tax imposed by this section to be distributed for problem gambling
29 education and treatment purposes pursuant to paragraph a of subdivision
30 five of section ninety-seven-nnnn of the state finance law. The commis-
31 sion shall pay into the commercial gaming fund five percent of the state
32 tax imposed by this section to be distributed for the cost of regulation
33 pursuant to paragraph c of subdivision five of section ninety-seven-nnnn
34 of the state finance law. The commission shall pay into the commercial
35 gaming fund five percent of the state tax imposed by this section to be
36 distributed in the same formula as market origin credits pursuant to
37 section one hundred fifteen-b of this chapter. The commission shall
38 require at least monthly deposits by the casino of any payments pursuant
39 to subdivision nine of this section, at such times, under such condi-
40 tions, and in such depositories as shall be prescribed by the state
41 comptroller. The deposits shall be deposited to the credit of the state
42 commercial gaming revenue fund. The commission shall require a monthly
43 report and reconciliation statement to be filed with it on or before the
44 tenth day of each month, with respect to gross revenues and deposits
45 received and made, respectively, during the preceding month.

46 11. The commission may perform audits of the books and records of a
47 casino, at such times and intervals as it deems appropriate, for the
48 purpose of determining the sufficiency of tax payments. If a return
49 required with regard to obligations imposed is not filed, or if a return
50 when filed or is determined by the commission to be incorrect or insuf-
51 ficient with or without an audit, the amount of tax due shall be deter-
52 mined by the commission. Notice of such determination shall be given to
53 the casino liable for the payment of the tax. Such determination shall
54 finally and irrevocably fix the tax unless the casino against whom it is
55 assessed, within thirty days after receiving notice of such determi-

1 nation, shall apply to the commission for a hearing in accordance with
2 the regulations of the commission.

3 12. Nothing in this section shall apply to interactive fantasy sports
4 offered pursuant to article fourteen of this chapter. Nothing in this
5 section authorizes any entity that conducts interactive fantasy sports
6 offered pursuant to article fourteen of this chapter to conduct sports
7 wagering unless it separately qualifies for, and obtains, authorization
8 pursuant to this section.

9 13. A casino that is also licensed under article three of this chap-
10 ter, and must maintain racing pursuant to paragraph (b) of subdivision
11 one of section thirteen hundred fifty-five of this chapter, shall be
12 allowed to offer pari-mutuel wagering on horse racing events in accord-
13 ance with their license under article three of this chapter. Notwith-
14 standing subparagraph (ii) of paragraph c of subdivision two of section
15 one thousand eight of this chapter, a casino located in the city of
16 Schenectady shall be allowed to offer pari-mutuel wagering on horse
17 racing events, provided such wagering is conducted by the regional off-
18 track betting corporation in such region as the casino is located. Any
19 other casino shall be allowed to offer pari-mutuel wagering on horse
20 racing events, provided such wagering is conducted by the regional off-
21 track betting corporation in such region as the casino is located. Any
22 physical location where pari-mutuel wagering on horse racing events is
23 offered by a casino and conducted by a regional off-track betting corpo-
24 ration in accordance with this subdivision shall be deemed to be a
25 branch location of the regional off-track betting corporation in accord-
26 ance with section one thousand eight of this chapter. In the event that
27 the commission approves the location of self-service mobile sports
28 betting kiosks on the premises of affiliates in accordance with para-
29 graph (d) of subdivision five of section thirteen hundred sixty-seven-a
30 of this chapter, such kiosks shall not be allowed to offer pari-mutuel
31 wagering on horse racing events.

32 14. A sports governing body may notify the commission that it desires
33 to restrict, limit, or exclude wagering on its sporting events by
34 providing notice in the form and manner as the commission may require.
35 Upon receiving such notice, the commission shall review the request in
36 good faith, seek input from the casinos on such a request, and if the
37 commission deems it appropriate, promulgate regulations to restrict such
38 sports wagering. If the commission denies a request, the sports govern-
39 ing body shall be afforded notice and the right to be heard and offer
40 proof in opposition to such determination in accordance with the regu-
41 lations of the commission. Offering or taking wagers contrary to
42 restrictions promulgated by the commission is a violation of this
43 section. In the event that the request is in relation to an emergency
44 situation, the executive director of the commission may temporarily
45 prohibit the specific wager in question until the commission has the
46 opportunity to issue temporary regulations addressing the issue.

47 15. (a) The commission shall designate the division of the state
48 police to have primary responsibility for conducting, or assisting the
49 commission in conducting, investigations into abnormal betting activity,
50 match fixing, and other conduct that corrupts a betting outcome of a
51 sporting event or events for purposes of financial gain.

52 (b) The commission and casinos shall cooperate with investigations
53 conducted by sports governing bodies or law enforcement agencies,
54 including but not limited to providing or facilitating the provision of
55 account-level betting information and audio or video files relating to
56 persons placing wagers; provided, however, that the casino be required

1 to share any personally identifiable information of an authorized sports
2 bettor with a sports governing body only pursuant to an order to do so
3 by the commission or a law enforcement agency or court of competent
4 jurisdiction.

5 (c) Casinos shall immediately report to the commission any information
6 relating to:

7 (i) criminal or disciplinary proceedings commenced against the casino
8 in connection with its operations;

9 (ii) abnormal betting activity or patterns that may indicate a concern
10 with the integrity of a sporting event or events;

11 (iii) any potential breach of the relevant sports governing body's
12 internal rules and codes of conduct pertaining to sports wagering, as
13 they have been provided by the sports governing body to the casino;

14 (iv) any other conduct that corrupts a betting outcome of a sporting
15 event or events for purposes of financial gain, including match fixing;
16 and

17 (v) suspicious or illegal wagering activities, including use of funds
18 derived from illegal activity, wagers to conceal or launder funds
19 derived from illegal activity, using agents to place wagers, using
20 confidential non-public information, and using false identification.

21 The commission shall also immediately report information relating to
22 conduct described in subparagraphs (ii), (iii) and (iv) of this para-
23 graph to the relevant sports governing body.

24 (d) Casinos shall maintain the confidentiality of information provided
25 by a sports governing body to the casino, unless disclosure is required
26 by this section, the commission, other law, or court order.

27 16. Casinos shall use whatever data source they deem appropriate for
28 determining the result of sports wagering involving tier one sports
29 wagers. Casinos shall only use official league data in all sports wager-
30 ing involving tier two sports wagers, if the relevant sports governing
31 body possesses a feed of official league data, and makes such feed
32 available for purchase by the casinos. A sports governing body may noti-
33 fy the commission that it desires to require casinos to use official
34 league data in sports wagering involving specific tier three sports
35 wagers by providing notice in the form and manner as the commission may
36 require. Upon receiving such notice, the commission shall review the
37 request, seek input from the casinos on such a request, and if the
38 commission deems it appropriate, promulgate regulations to require cas-
39 inos to use official league data on sports wagering involving such tier
40 three sports wagers if the relevant sports governing body possesses a
41 feed of official league data, and makes such feed available for purchase
42 by the casinos. No casino shall enter into an agreement with a sports
43 governing body to be the exclusive recipient of their official league
44 data.

45 17. (a) Casinos shall maintain records of all bets and wagers placed,
46 including personally identifiable information of the mobile sports
47 wagering bettor, amount and type of bet, time the bet was placed,
48 location of the bet, including IP address if applicable, the outcome of
49 the bet, records of abnormal betting activity, and video camera
50 recordings in the case of in-person wagers for at least three years
51 after the sporting event occurs and make such data available for
52 inspection upon request of the commission or as required by court order.

53 (b) If a sports governing body has notified the commission that real-
54 time information sharing for wagers placed on sporting events is neces-
55 sary and desirable, casinos shall share in real time, at the account-
56 level, and in pseudonymous form, the information required to be retained

1 pursuant to paragraph (a) of this subdivision (other than video files)
2 with the commission, and the commission shall share in real time the
3 information with the sports governing body or its designee with respect
4 to wagers on its sporting events.

5 (c) The commission shall cooperate with a sports governing body and
6 casinos to ensure the timely, efficient, and accurate sharing of infor-
7 mation.

8 18. A casino shall not permit sports wagering by anyone they know, or
9 should have known, to be a prohibited sports bettor.

10 19. Sports wagering conducted pursuant to the provisions of this
11 section is hereby authorized.

12 20. The conduct of sports wagering in violation of this section is
13 prohibited.

14 21. Any person, firm, corporation, association, agent, or employee who
15 knowingly violates any procedure implemented under this section, or
16 section thirteen hundred sixty-seven-a of this title, shall be liable
17 for a civil penalty of not more than five thousand dollars for each
18 violation, not to exceed fifty thousand dollars for violations arising
19 out of the same transaction or occurrence, which shall accrue to the
20 state and may be recovered in a civil action brought by the commission.

21 § 2. The racing, pari-mutuel wagering and breeding law is amended by
22 adding a new section 1367-a to read as follows:

23 § 1367-a. Mobile sports wagering. 1. As used in this section, the
24 following terms shall have the following meanings:

25 (a) "Affiliate" means any off-track betting corporation, franchised
26 corporation, or race track licensed pursuant to the racing, pari-mutuel
27 wagering and breeding law, or an operator of video lottery gaming at
28 Aqueduct licensed pursuant to section sixteen hundred seventeen-a of the
29 tax law, which has a mobile sports wagering agreement with a casino
30 pursuant to this section;

31 (b) "Agent" means an entity that is party to a contract with a
32 licensed gaming facility authorized to operate a sports pool and is
33 approved by the commission to operate a sports pool on behalf of such
34 licensed gaming facility;

35 (c) "Authorized sports bettor" means an individual who is physically
36 present in this state when placing a sports wager, who is not a prohib-
37 ited sports bettor, that participates in sports wagering offered by a
38 casino. The intermediate routing of electronic data in connection with
39 mobile sports wagering shall not determine the location or locations in
40 which a wager is initiated, received or otherwise made;

41 (d) "Casino" means a licensed gaming facility at which gambling is
42 conducted pursuant to the provisions of this article or the agent of
43 such licensed gaming facility;

44 (e) "Collegiate sport or athletic event" means a sport or athletic
45 event offered or sponsored by or played in connection with a public or
46 private institution that offers education services beyond the secondary
47 level;

48 (f) "Commission" means the commission established pursuant to section
49 one hundred two of this chapter;

50 (g) "High school sport or athletic event" means a sport or athletic
51 event offered or sponsored by or played in connection with a public or
52 private institution that offers education services at the secondary
53 level;

54 (h) "Horse racing event" means any sport or athletic event conducted
55 in New York state subject to the provisions of articles two, three,
56 four, five, six, nine, ten and eleven of this chapter, or any sport or

1 athletic event conducted outside of New York state, which if conducted
2 in New York state would be subject to the provisions of this chapter;

3 (i) "Minor" means any person under the age of twenty-one years;

4 (j) "Mobile sports wagering platform" or "platform" means the combina-
5 tion of hardware, software, and data networks used to manage, adminis-
6 ter, or control sports wagering and any associated wagers accessible by
7 any electronic means including mobile applications and internet
8 websites;

9 (k) "Operator" means an entity offering a mobile sports wagering plat-
10 form including an agent;

11 (l) "Professional sport or athletic event" means an event at which two
12 or more persons participate in sports or athletic events and receive
13 compensation in excess of actual expenses for their participation in
14 such event;

15 (m) "Prohibited sports bettor" means:

16 (i) any officer or employee of the commission;

17 (ii) any principal or key employee of a casino or affiliate, except as
18 may be permitted by the commission for good cause shown;

19 (iii) any casino gaming or non-gaming employee at the casino that
20 employs such person and at any affiliate that has an agreement with that
21 casino;

22 (iv) any contractor, subcontractor, or consultant, or officer or
23 employee of a contractor, subcontractor, or consultant, of a casino if
24 such person is directly involved in the operation or observation of
25 sports wagering, or the processing of sports wagering claims or
26 payments;

27 (v) any person subject to a contract with the commission if such
28 contract contains a provision prohibiting such person from participating
29 in sports wagering;

30 (vi) any spouse, child, brother, sister or parent residing as a member
31 of the same household in the principal place of abode of any of the
32 foregoing persons at the same casino where the foregoing person is
33 prohibited from participating in sports wagering;

34 (vii) any individual with access to non-public confidential informa-
35 tion about sports wagering;

36 (viii) any amateur or professional athlete if the sports wager is
37 based on any sport or athletic event overseen by the athlete's sports
38 governing body;

39 (ix) any sports agent, owner or employee of a team, player and umpire
40 union personnel, and employee referee, coach or official of a sports
41 governing body, if the sports wager is based on any sport or athletic
42 event overseen by the individual's sports governing body;

43 (x) any individual placing a wager as an agent or proxy for an other-
44 wise prohibited sports bettor; or

45 (xi) any minor;

46 (n) "Prohibited sports event" means any high school sport or athletic
47 event;

48 (o) "Sports event" means any professional sport or athletic event and
49 any collegiate sport or athletic event, except a prohibited sports
50 event;

51 (p) "Sports governing body" means the organization that prescribes
52 final rules and enforces codes of conduct with respect to a sporting
53 event and participants therein;

54 (q) "Sports pool" means the business of accepting wagers on any sports
55 event by any system or method of wagering;

1 (r) "Sports wager" means cash or cash equivalent that is paid by an
2 authorized sports bettor to a casino to participate in sports wagering
3 offered by such casino;

4 (s) "Sports wagering" means wagering on sporting events or any portion
5 thereof, or on the individual performance statistics of athletes partic-
6 ipating in a sporting event, or combination of sporting events, by any
7 system or method of wagering, including, but not limited to, in-person
8 communication and electronic communication through internet websites and
9 mobile device applications. The term "sports wagering" shall include,
10 but is not limited to, single-game bets, teaser bets, parlays, over-un-
11 der bets, moneyline, pools, exchange wagering, in-game wagering, in-play
12 bets, proposition bets and straight bets; and

13 (t) "Sports wagering gross revenue" means: (i) the amount equal to the
14 total of all sports wagers not attributable to prohibited sports events
15 that an operator collects from all players, less the total of all sums
16 not attributable to prohibited sports events paid out as winnings to all
17 sports bettors, however, that the total of all sums paid out as winnings
18 to sports bettors shall not include the cash equivalent value of any
19 merchandise or thing of value awarded as a prize; or (ii) in the case of
20 exchange wagering pursuant to this section, the commission on winning
21 sports wagers by authorized sports bettors retained by the operator. The
22 issuance to or wagering by authorized sports bettors at a casino of any
23 promotional gaming credits shall not be taxable for the purposes of
24 determining sports wagering gross revenue.

25 2. (a) No casino shall administer, manage, or otherwise make available
26 a mobile sports wagering platform to persons located in New York state
27 unless registered with the commission pursuant to this section. A casino
28 may use multiple mobile sports wagering platforms provided that each
29 platform has been reviewed and approved by the commission. A casino may
30 contract with one or more independent operators to provide its mobile
31 sports wagering platforms.

32 (b) Registrations issued by the commission shall remain in effect for
33 five years. The commission shall establish a process for renewal.

34 (c) The commission shall publish a list of all casinos registered to
35 offer mobile sports wagering in New York state pursuant to this section
36 on the commission's website for public use.

37 (d) The commission shall promulgate regulations to implement the
38 provisions of this section, including the development of the initial
39 form of the application for registration. Such regulations shall provide
40 for the registration and operation of mobile sports wagering in New York
41 state and shall include, but not be limited to, responsible protections
42 with regard to compulsive play and safeguards for fair play.

43 3. In the event that a casino contracts with one or more independent
44 operators to provide its mobile sports wagering platforms, each inde-
45 pendent entity shall obtain a license as a casino vendor enterprise
46 prior to the execution of any such contract, and such license shall be
47 issued pursuant to the provisions of section one thousand three hundred
48 twenty-seven of this article and in accordance with the regulations
49 promulgated by the commission.

50 4. (a) As a condition of registration in New York state, each operator
51 shall implement the following measures:

52 (i) limit each authorized sports bettor to one active and continuously
53 used account, and prevent anyone they know, or should have known to be a
54 prohibited sports bettor from maintaining accounts or participating in
55 any sports wagering offered by such operator;

1 (ii) adopt appropriate safeguards to ensure, to a reasonable degree of
2 certainty, that authorized sports bettors are physically located within
3 the state when engaging in mobile sports betting;

4 (iii) prohibit minors from participating in any sports wagering, which
5 includes:

6 (1) if an operator becomes or is made aware that a minor has created
7 an account, or accessed the account of another, such operator shall
8 promptly, within no more than two business days, refund any deposit
9 received from the minor, whether or not the minor has engaged in or
10 attempted to engage in sports wagering; provided, however, that any
11 refund may be offset by any prizes already awarded;

12 (2) each operator shall provide parental control procedures to allow
13 parents or guardians to exclude minors from access to any sports wager-
14 ing or platform. Such procedures shall include a toll-free number to
15 call for help in establishing such parental controls; and

16 (3) each operator shall take appropriate steps to confirm that an
17 individual opening an account is not a minor;

18 (iv) when referencing the chances or likelihood of winning in adver-
19 tisements or upon placement of a sports wager, make clear and conspicu-
20 ous statements that are not inaccurate or misleading concerning the
21 chances of winning and the number of winners;

22 (v) enable authorized sports bettors to exclude themselves from sports
23 wagering and take reasonable steps to prevent such bettors from engaging
24 in sports wagering from which they have excluded themselves;

25 (vi) permit any authorized sports bettor to permanently close an
26 account registered to such bettor, on any and all platforms supported by
27 such operator, at any time and for any reason;

28 (vii) offer introductory procedures for authorized sports bettors,
29 that shall be prominently displayed on the main page of such operator
30 platform, that explain sports wagering;

31 (viii) implement measures to protect the privacy and online security
32 of authorized sports bettors and their accounts;

33 (ix) offer all authorized sports bettors access to his or her account
34 history and account details;

35 (x) ensure authorized sports bettors' funds are protected upon deposit
36 and segregated from the operating funds of such operator and otherwise
37 protected from corporate insolvency, financial risk, or criminal or
38 civil actions against such operator;

39 (xi) list on each website, in a prominent place, information concern-
40 ing assistance for compulsive play in New York state, including a toll-
41 free number directing callers to reputable resources containing further
42 information, which shall be free of charge; and

43 (xii) ensure no sports wagering shall be based on a prohibited sports
44 event.

45 (b) Operators shall not directly or indirectly operate, promote, or
46 advertise any platform or sports wagering to persons located in New York
47 state unless registered pursuant to this article.

48 (c) Operators shall not offer any sports wagering based on any prohib-
49 ited sports event.

50 (d) Operators shall not permit sports wagering by anyone they know, or
51 should have known, to be a prohibited sports bettor.

52 (e) Advertisements for contests and prizes offered by an operator
53 shall not target prohibited sports bettors, minors, or self-excluded
54 persons.

55 (f) Operators shall prohibit the use of third-party scripts or script-
56 ing programs for any contest and ensure that measures are in place to

1 deter, detect and, to the extent reasonably possible, prevent cheating,
2 including collusion, and the use of cheating devices, including use of
3 software programs that submit sports wagers unless otherwise approved by
4 the commission.

5 (g) Operators shall develop and prominently display procedures on the
6 main page of such operator's platform for the filing of a complaint by
7 an authorized sports bettor against such operator. An initial response
8 shall be given by such operator to such bettor filing the complaint
9 within forty-eight hours. A complete response shall be given by such
10 operator to such bettor filing the complaint within ten business days.
11 An authorized sports bettor may file a complaint alleging a violation of
12 the provisions of this article with the commission.

13 (h) Operators shall maintain records of all accounts belonging to
14 authorized sports bettors and retain such records of all transactions in
15 such accounts for the preceding five years.

16 5. (a) Subject to regulations promulgated by the commission, casinos
17 may enter into agreements with affiliates to allow for authorized
18 bettors to sign up to create and fund accounts on their mobile sports
19 wagering platform or platforms.

20 (b) Authorized sports bettors must sign up to create their account on
21 a mobile sports wagering platform in person at a casino or an affiliate
22 of a casino.

23 (c) Authorized sports bettors may deposit funds in their account on a
24 mobile sports wagering platform in person at a casino or an affiliate of
25 a casino, electronically recognized payment methods, or any other means
26 approved by the commission.

27 (d) Subject to approval of the commission, and in accordance with
28 regulations promulgated by the commission, casinos may enter into agree-
29 ments with affiliates to locate self-service mobile sports betting
30 kiosks, which are owned, operated and maintained by the casino, and
31 connected via the internet to the casino, upon the premises of the
32 affiliate.

33 § 3. Section 104 of the racing, pari-mutuel wagering and breeding law
34 is amended by adding a new subdivision 24 to read as follows:

35 24. To regulate sports wagering in New York state.

36 § 4. Subdivision 15 of section 1401 of the racing, pari-mutuel wager-
37 ing and breeding law, as added by chapter 237 of the laws of 2016, is
38 amended to read as follows:

39 15. "Prohibited sports event" shall mean any [~~collegiate sport or~~
40 ~~athletic event, any~~] high school sport or athletic event or any horse
41 racing event.

42 § 5. Severability clause. If any provision of this act or application
43 thereof shall for any reason be adjudged by any court of competent
44 jurisdiction to be invalid, such judgment shall not affect, impair, or
45 invalidate the remainder of the act, but shall be confined in its opera-
46 tion to the provision thereof directly involved in the controversy in
47 which the judgment shall have been rendered.

48 § 6. This act shall take effect on the same date and in the same
49 manner as section 1367 of the racing, pari-mutuel wagering and breeding
50 law pursuant to subdivision (c) of section 52 of chapter 174 of the laws
51 of 2013, takes effect.

52 PART YYY

53 Section 1. The opening paragraph of subdivision 7 of section 221 of
54 the racing, pari-mutuel wagering and breeding law, as amended by section

1 2 of part SS of chapter 59 of the laws of 2017, is amended to read as
2 follows:

3 In order to pay the costs of the insurance required by this section
4 and by the workers' compensation law and to carry out its other powers
5 and duties and to pay for any of its liabilities under section four-
6 teen-a of the workers' compensation law, the New York Jockey Injury
7 Compensation Fund, Inc. shall ascertain the total funding necessary and
8 establish the sums that are to be paid by all owners and trainers
9 licensed or required to be licensed under section two hundred twenty of
10 this article, to obtain the total funding amount required annually. In
11 order to provide that any sum required to be paid by an owner or trainer
12 is equitable, the fund shall establish payment schedules which reflect
13 such factors as are appropriate, including where applicable, the
14 geographic location of the racing corporation at which the owner or
15 trainer participates, the duration of such participation, the amount of
16 any purse earnings, the number of horses involved, or such other factors
17 as the fund shall determine to be fair, equitable and in the best inter-
18 ests of racing. In no event shall the amount deducted from an owner's
19 share of purses exceed two per centum; provided, however, for two thou-
20 sand [~~seventeen~~ eighteen the New York Jockey Injury Compensation Fund,
21 Inc. may use up to two million dollars from the account established
22 pursuant to subdivision nine of section two hundred eight of this arti-
23 cle to pay the annual costs required by this section and the funds from
24 such account shall not count against the two per centum of purses
25 deducted from an owner's share of purses. The amount deducted from an
26 owner's share of purses shall not exceed one per centum after April
27 first, two thousand twenty. In the cases of multiple ownerships and
28 limited racing appearances, the fund shall equitably adjust the sum
29 required.

30 § 2. Paragraph (a) of subdivision 9 of section 208 of the racing,
31 pari-mutuel wagering and breeding law, as amended by section 2 of part
32 PP of chapter 60 of the laws of 2016, is amended to read as follows:

33 (a) The franchised corporation shall maintain a separate account for
34 all funds held on deposit in trust by the corporation for individual
35 horsemen's accounts. Purse funds shall be paid by the corporation as
36 required to meet its purse payment obligations. Funds held in horsemen's
37 accounts shall only be released or applied as requested and directed by
38 the individual horseman. For two thousand [~~sixteen~~ eighteen the New
39 York Jockey Injury Compensation Fund, Inc. may use up to two million
40 dollars from the account established pursuant to this subdivision to pay
41 the annual costs required by section two hundred twenty-one of this
42 article.

43 § 3. Paragraph (c) of subdivision 9 of section 208 of the racing,
44 pari-mutuel wagering and breeding law is relettered paragraph (e) and
45 two new paragraphs (c) and (d) are added to read as follows:

46 (c) The franchised corporation shall establish and maintain a separate
47 account for funds to be held on deposit in trust by the franchised
48 corporation for the horsemen's organization recognized pursuant to
49 section two hundred twenty-eight of this article. Starting in two thou-
50 sand eighteen and annually thereafter, funds from the account estab-
51 lished pursuant to this subdivision shall be deposited in the separate
52 account established under this paragraph in an amount to be agreed upon
53 by the franchised corporation and the horsemen's organization recognized
54 pursuant to section two hundred twenty-eight of this article. Funds
55 held in this account shall be used by the appropriately recognized
56 horsemen's organization solely as collateral to secure workers' compen-

1 sation insurance coverage, including loss sensitive programs, including
2 through the New York Jockey Injury Compensation Fund, Inc.

3 (d) In the event the horsemen's organization recognized pursuant to
4 section two hundred twenty-eight of this article determines that the
5 funds are no longer needed as collateral to secure workers' compensation
6 insurance coverage, then, upon agreement by the franchised corporation
7 and the appropriately recognized horsemen's organization, funds in the
8 separate account established under paragraph (c) of this subdivision
9 shall be returned to the account established pursuant to this subdivi-
10 sion.

11 § 4. This act shall take effect immediately.

12 PART ZZZ

13 Section 1. Paragraph 3 of subdivision (t) of section 1115 of the tax
14 law is renumbered paragraph 4 and a new paragraph 3 is added to read as
15 follows:

16 (3) Receipts from every sale, except for resale, of the service of
17 inflating of tires and other inflatable tangible personal property and
18 consideration given or contracted to be given for such service, where
19 the purchaser or user of the service inflates the tires or other such
20 tangible personal property at the facility where the air stand or tire
21 inflation equipment is located, by means exclusively of coin-operated
22 equipment and neither the vendor operating the facility nor any employee
23 of the vendor assists the purchaser in inflating the tires or other
24 property, shall be exempt from tax under this article, to the extent of
25 the amount of money or value, in money, of tokens deposited in such
26 coin-operated equipment by the purchaser of the service.

27 § 2. This act shall take effect April 1, 2019.

28 PART AAAA

29 Section 1. Subdivision 1 of section 483 of the real property tax law,
30 as amended by chapter 544 of the laws of 2008, is amended to read as
31 follows:

32 1. Structures and buildings essential to the operation of lands
33 actively devoted to agricultural or horticultural use and actually used
34 and occupied to carry out such operation which are constructed or recon-
35 structed subsequent to January first, nineteen hundred sixty-nine and
36 prior to January first, two thousand [~~nineteen~~ twenty-nine] shall be
37 exempt from taxation to the extent of any increase in value thereof by
38 reason of such construction or reconstruction for a period of ten years.

39 § 2. This act shall take effect immediately.

40 PART BBBB

41 Section 1. The article heading of article 14-A of the education law,
42 as added by chapter 546 of the laws of 1997, is amended to read as
43 follows:

44 NEW YORK STATE
45 [~~COLLEGE~~ EDUCATION] CHOICE TUITION SAVINGS PROGRAM

46 § 2. Section 695 of the education law, as added by chapter 546 of the
47 laws of 1997, is amended to read as follows:

§ 695. Program established. There is hereby established the ~~college~~ education choice tuition savings program and such program shall be known and may be cited as the "New York state ~~college~~ education choice tuition savings program".

§ 3. Subdivision 5 of section 695-b of the education law, as amended by chapter 535 of the laws of 2000, is amended to read as follows:

5. "Eligible educational institution" shall mean any institution of higher education defined as an eligible educational institution in section 529(e)(5) of the Internal Revenue Code of 1986, as amended, and any nonpublic elementary or secondary school for which tuition expenses are charged or any public elementary or secondary school.

§ 4. Subdivision 10 of section 695-e of the education law, as amended by chapter 593 of the laws of 2003, is amended to read as follows:

10. The comptroller shall promulgate rules or regulations to prevent contributions on behalf of a designated beneficiary in excess of an amount that would cause the aggregate account balance for all accounts for a designated beneficiary to exceed a maximum account balance, as established from time to time by the comptroller and the corporation on the basis of nonpublic elementary and secondary tuition costs, public elementary or secondary school costs, or the higher education costs in the state, with adequate safeguards to prevent more contributions than necessary to provide for the qualified higher education costs of the beneficiary, as required to maintain the program as a "qualified tuition program" under section 529 of the Internal Revenue Code of 1986, as amended.

§ 5. Paragraphs 32 and 33 of subsection (c) of section 612 of the tax law, paragraph 32 as amended by chapter 81 of the laws of 2008, paragraph 33 as added by chapter 546 of the laws of 1997, are amended to read as follows:

(32) Contributions made during the taxable year by an account owner to one or more family tuition accounts established under the New York state ~~college~~ education choice tuition savings program provided for under article fourteen-A of the education law, to the extent not deductible or eligible for credit for federal income tax purposes, provided, however, the exclusion provided for in this paragraph shall not exceed five thousand dollars for an individual or head of household, and for married couples who file joint tax returns, shall not exceed ten thousand dollars; provided, further, that such exclusion shall be available only to the account owner and not to any other person.

(33) Distributions from a family tuition account established under the New York state ~~college~~ education choice tuition savings program provided for under article fourteen-A of the education law, to the extent includible in gross income for federal income tax purposes.

§ 6. This act shall take effect immediately and shall apply to contributions and distributions made on and after January 1, 2018.

PART CCCC

Section 1. Section 452 of the tax law, as amended by chapter 32 of the laws of 2016, is amended to read as follows:

§ 452. Imposition of tax. ~~1.~~ On and after October first, nineteen hundred ninety-nine, a tax is hereby imposed and shall be paid upon the gross receipts of every person holding any professional or amateur boxing, sparring, combative sport or wrestling match or exhibition in this state. Such tax shall be imposed on such gross receipts, exclusive of any federal taxes, as follows:

(a) three percent of gross receipts from ticket sales, except that in no event shall the tax imposed by this ~~[paragraph]~~ subdivision exceed fifty thousand dollars for any match or exhibition;

(b) three percent of the sum of (i) gross receipts from broadcasting rights, and (ii) gross receipts from digital streaming over the Internet, except that in no event shall the tax imposed by this ~~[paragraph]~~ subdivision exceed fifty thousand dollars for any match or exhibition.

~~[2. On and after the effective date of this subdivision, a tax is hereby imposed and shall be paid upon the gross receipts of every person holding any authorized combative sport in this state, other than any professional or amateur boxing, sparring or wrestling exhibition or match, exclusive of any federal taxes as follows:~~

~~(a) eight and one-half percent of gross receipts from ticket sales, and~~

~~(b) three percent of the sum of (i) gross receipts from broadcasting rights, and (ii) gross receipts from digital streaming over the Internet, except that in no event shall such tax imposed pursuant to this paragraph exceed fifty thousand dollars for any match or exhibition.]~~

§ 2. This act shall take effect immediately, and shall apply to all taxable years beginning on or after January 1, 2019.

PART DDDD

Section 1. Legislative intent. This legislation would allow a taxpayer who does not feel that the taxes in the State of New York are high enough to contribute an additional amount to the state general fund.

§ 2. The tax law is amended by adding a new section 630-f to read as follows:

§ 630-f. Gift for New York state general fund. An individual in any taxable year may elect to contribute to the state's general fund. The contribution shall be in any whole dollar amount and shall not reduce the amount of state tax owed by such individual. The commissioner shall include space on the personal income tax return to enable a taxpayer to make such contribution. Notwithstanding any other provision of law all revenues collected pursuant to this section shall be credited to the state's general fund and used only for those purposes enumerated in section seventy-two of the state finance law.

§ 3. This act shall take effect immediately.

PART EEEE

Section 1. Section 43 of the tax law, as added by section 2 of part Q of chapter 59 of the laws of 2017, is renumbered section 44 and a new section 45 is added to read as follows:

§ 45. Empire state digital gaming media production credit. (a) Allowance of credit. (1) A taxpayer which is a digital gaming media production entity engaged in qualified digital gaming media production, or who is a sole proprietor of or a member of a partnership, which is a digital gaming media production entity engaged in qualified digital gaming media production, and is subject to tax under article nine-A or twenty-two of this chapter, shall be allowed a credit against such tax to be computed as provided herein.

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership or limited liability company) of twenty-five percent and the eligible production costs of one or more qualified digital gaming media productions.

1 (3) Eligible digital gaming media production costs for a qualified
2 digital gaming media production incurred and paid in this state but
3 outside such metropolitan commuter transportation district shall be
4 eligible for a credit of ten percent of such eligible production costs
5 in addition to the credit specified in paragraph two of this subdivi-
6 sion.

7 (4) Eligible production costs shall not include those costs used by
8 the taxpayer or another taxpayer as the basis calculation of any other
9 tax credit allowed under this chapter or allowed in any other state.

10 (b) Allocation of credit. The aggregate amount of tax credits allowed
11 under this section, subdivision fifty-four of section two hundred ten-B
12 and subsection (jjj) of section six hundred six of this chapter in any
13 taxable year shall be fifty million dollars. The aggregate amount of
14 credits for any taxable year must be distributed on a regional basis as
15 follows: fifty percent of the aggregate amount of credits shall be
16 available for qualified digital gaming media productions that incur at
17 least sixty percent of eligible production costs for a qualified digital
18 gaming media production in region one; twenty percent of the aggregate
19 amount of credits shall be available for qualified digital gaming media
20 productions that incur at least sixty percent of eligible production
21 costs for a qualified digital gaming media production in region two; and
22 thirty percent of the aggregate amount of credits shall be available for
23 qualified digital gaming media productions that incur at least sixty
24 percent of eligible production costs for a qualified digital gaming
25 media production in region three. If such regional distribution is not
26 fully allocated in any taxable year, the remainder of such credits shall
27 be available for allocation to any region in the subsequent tax year.
28 For the purposes of this section region one shall contain the city of
29 New York; region two shall contain the counties of Westchester, Rock-
30 land, Nassau and Suffolk; and region three shall contain any county not
31 contained in regions one and two. Such credit shall be allocated by the
32 empire state development corporation among taxpayers in order of priori-
33 ty based upon the date of filing an application for allocation of
34 digital gaming media production credit with such office. If the total
35 amount of allocated credits applied for in any particular year exceeds
36 the aggregate amount of tax credits allowed for such year under this
37 section, such excess shall be treated as having been applied for on the
38 first day of the subsequent taxable year.

39 (c) Definitions. As used in this section:

40 (1) "Qualified digital gaming media production" means: (i) a website,
41 the digital media production costs of which are paid or incurred predo-
42 minately in connection with (A) video simulation, animation, text,
43 audio, graphics or similar gaming related property embodied in digital
44 format, and (B) interactive features of digital gaming (e.g., links,
45 message boards, communities or content manipulation); (ii) video or
46 interactive games produced primarily for distribution over the internet,
47 wireless network or successors thereto; (iii) animation, simulation or
48 embedded graphics digital gaming related software intended for commer-
49 cial distribution regardless of medium; and (iv) a digital gaming media
50 production in which qualified digital gaming media production costs
51 equal to or are in excess of seven thousand five hundred dollars if
52 incurred and paid in this state in twelve months preceding the date on
53 which the credit is claimed. Provided, however, if such a production
54 costs are incurred and paid outside the metropolitan commuter transpor-
55 tation district in this state, such production costs shall be equal to
56 or in excess of three thousand seven hundred fifty dollars to be a qual-

1 ified digital gaming media production for purposes of this paragraph. A
2 qualified digital gaming media production does not include a website,
3 video, interactive game or software that is used predominately for:
4 electronic commerce (retail or wholesale purposes other than the sale of
5 video or interactive games), gambling (including activities regulated by
6 a New York gaming agency), exclusive local consumption for entities not
7 accessible by the general public including industrial or other private
8 purposes, and political advocacy purposes.

9 (2) "Digital gaming media production costs" means any costs for prop-
10 erty used and wages or salaries paid to individuals directly employed
11 for services performed by those individuals directly and predominately
12 in the creation of a digital gaming media production or productions.
13 Digital gaming media production costs include but shall not be limited
14 to to payments for property used and services performed directly and
15 predominately in the development (including concept creation), design,
16 production (including concept creation), design, production (including
17 testing), editing (including encoding) and compositing (including the
18 integration of digital files for interaction by end users) of digital
19 gaming media. Digital gaming media production costs shall not include
20 expenses incurred for the distribution, marketing, promotion, or adver-
21 tising content generated by end-users or other costs not directly and
22 predominately related to the creation, production or modification of
23 digital gaming media. In addition, salaries or other income distribution
24 related to the creation of digital gaming media for any person who
25 serves in the role of chief executive officer, chief financial officer,
26 president, treasurer or similar position shall not be included as
27 digital gaming media production costs. Furthermore, any income or other
28 distribution to any individual who holds an ownership interest in a
29 digital gaming media production entity shall not be included as digital
30 gaming media production costs.

31 (3) "Qualified digital gaming media production costs" means digital
32 gaming media production costs only to the extent such costs are attrib-
33 utable to the use of property or the performance of services by any
34 persons within the state directly and predominantly in the creation,
35 production or modification of digital gaming related media. Such total
36 production costs incurred and paid in this state shall be equal to or
37 exceed seventy-five percent of total cost of an eligible production
38 incurred and paid within and without this state.

39 (d) Cross-references. For application of the credit provided for in
40 this section, see the following provisions of this chapter:

41 (1) Article nine-A: section two hundred ten-B, subdivision fifty-four.

42 (2) Article twenty-two: section six hundred six, subsection (i), para-
43 graph one, subparagraph (B), clause (xliv).

44 (3) Article twenty-two: section six hundred six, subsection (jjj).

45 § 2. Subdivision 52 of section 210-B of the tax law, as added by
46 section 4 of part DDD of chapter 59 of the laws of 2017, is renumbered
47 subdivision 53 and a new subdivision 54 is added to read as follows:

48 54. Empire state digital gaming media production credit. (a) Allowance
49 of credit. A taxpayer who is eligible pursuant to section forty-five of
50 this chapter shall be allowed a credit to be computed as provided in
51 such section forty-five against the tax imposed by this article.

52 (b) Application of credit. The credit allowed under this subdivision
53 for any taxable year shall not reduce the tax due for such year to less
54 than the amount prescribed in paragraph (d) of subdivision one of
55 section two hundred ten of this article. Provided, however, that if the
56 amount of the credit allowable under this subdivision for any taxable

year reduces the tax to such amount, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter, provided, however, no interest shall be paid thereon.

§ 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xliv) to read as follows:

| | |
|--|---|
| <p>(xliv) Empire state digital gaming media production credit under subsection (jjj)</p> | <p>Amount of credit under subdivision fifty-four of section two hundred ten-B</p> |
|--|---|

§ 4. Section 606 of the tax law is amended by adding a new subsection (jjj) to read as follows:

(jjj) Empire state digital gaming media production credit. (1) Allowance of credit. A taxpayer who is eligible pursuant to section forty-five of this chapter shall be allowed a credit to be computed as provided in such section forty-five against the tax imposed by this article.

(2) Application of credit. If the amount of the credit allowable under this subsection for any taxable year exceeds the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded as provided in section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

§ 5. The state commissioner of economic development, after consulting with the state commissioner of taxation and finance, shall promulgate regulations by December 31, 2018 to establish procedures for the allocation of tax credits as required by subdivision (a) of section 44 of the tax law. Such rules and regulations shall include provisions describing the application process, the due dates for such applications, the standards which shall be used to evaluate the applications, the documentation that will be provided to taxpayers substantiate to the New York state department of taxation and finance the amount of tax credits allocated to such taxpayers, under what conditions all or a portion of this tax credit may be revoked, and such other provisions as deemed necessary and appropriate. Notwithstanding any other provisions to the contrary in the state administrative procedure act, such rules and regulations may be adopted on an emergency basis if necessary to meet such December 31, 2018 deadline.

§ 6. Subdivision 23 of section 352 of the economic development law, as amended by section 1 of part K of chapter 59 of the laws of 2017, is amended to read as follows:

23. "Software development" means the creation of coded computer instructions ~~[or production or post-production of video games, as defined in subdivision one-a of section six hundred eleven of the general business law, other than those embedded and used exclusively in advertising, promotional websites or microsites,]~~ and ~~[also]~~ includes new media as defined by the commissioner in regulations.

§ 7. The economic development law is amended by adding a new section 243 to read as follows:

§ 243. Reports on the digital gaming industry in New York. 1. The empire state development corporation shall file a report on a biannual basis with the director of the division of the budget and the chairpersons of the assembly ways and means committee and senate finance committee. The report shall be filed no later than thirty days before the mid-point and the end of the state fiscal year. The first report

1 shall cover the calendar half year that begins on January first, two
2 thousand nineteen. Each report must contain the following information
3 for the covered calendar half year:

4 (a) the total dollar amount of credits allocated pursuant to section
5 forty-five of the tax law during the half year, broken down by month;

6 (b) the number of digital gaming projects, which have been allocated
7 tax credits of less than one million dollars per project, and the total
8 dollar amount of credits allocated to those projects distributed by
9 region pursuant to subdivision (b) of section forty-five of the tax law;

10 (c) the number of digital gaming projects, which have been allocated
11 tax credits of more than one million dollars, and the total dollar
12 amount of credits allocated to those projects distributed by region
13 pursuant to subdivision (b) of section forty-five of the tax law;

14 (d) a list of each eligible digital gaming project, which has been
15 allocated a tax credit enumerated by region pursuant to subdivision (b)
16 of section forty-five of the tax law, and for each of those projects,
17 (i) the estimated number of employees associated with the project, (ii)
18 the estimated qualifying costs for the projects, (iii) the estimated
19 total costs of the project, (iv) the credit eligible employee hours for
20 each project, and (v) total wages for such credit eligible employee
21 hours for each project; and

22 (e) (i) the name of each taxpayer allocated a tax credit for each
23 project and the county of residence or incorporation of such taxpayer
24 or, if the taxpayer does not reside or is not incorporated in New York,
25 the state of residence or incorporation; however, if the taxpayer claims
26 a tax credit because the taxpayer is a member of a limited liability
27 company, a partner in a partnership or a shareholder in a subchapter S
28 corporation, the name of each limited liability company, partnership or
29 subchapter S corporation earning any of those tax credits must be
30 included in the report instead of information about the taxpayer claim-
31 ing the tax credit, (ii) the amount of tax credit allocated to each
32 taxpayer; provided however, if the taxpayer claims a tax credit because
33 the taxpayer is a member of a limited liability company, a partner in a
34 partnership or a shareholder in a subchapter S corporation, the amount
35 of tax credit earned by each entity must be included in the report
36 instead of information about the taxpayer claiming the tax credit, and
37 (iii) information identifying the project associated with each taxpayer
38 for which a tax credit was claimed under section forty-five of the tax
39 law.

40 2. The empire state development corporation shall file a report on a
41 triennial basis with the director of the division of the budget and the
42 chairpersons of the assembly ways and means committee and senate finance
43 committee. The first report shall be filed no later than March first,
44 two thousand twenty-one. The report must be prepared by an independent
45 third party auditor and include: (a) information regarding the empire
46 state digital gaming production credit program including the efficiency
47 of operations, reliability of financial reporting, compliance with laws
48 and regulations and distribution of assets and funds; (b) and economic
49 impact study prepared by an independent third party of the program with
50 special emphasis on the regional impact by region and the total dollar
51 amount of credits allocated to those projects distributed by region
52 pursuant to subdivision (b) of section forty-five of the tax law; and
53 (c) any other information or statistical information that the commis-
54 sioner of economic development deems to be useful in analyzing the
55 effects of the programs.

§ 8. This act shall take effect immediately and shall apply to taxable years beginning on January 1, 2019 and before January 1, 2024; provided that this act shall expire and be deemed repealed December 31, 2023.

PART FFFF

Section 1. This act shall be known and may be cited as the "local government jobs and revenue protection act of 2018."

§ 2. Legislative intent. New York state, New York city and county governments throughout the state are the recipients of hundred of millions of dollars each year under the master settlement agreement. The total of all master settlement payments to these governments over the years has so far exceeded fourteen billion dollars. These funds are vitally important and any disruption in these payments would put the recipients at financial risk. The legislature hereby finds that it is in the public interest to enact the "local government jobs and revenue protection act of 2018" in order to continue the flow of these funds to the state and local governments which depend on this revenue during the appeal of a judgement against master settlement agreement signatories, affiliates, successors and non-participating manufacturers.

§ 3. The civil practice law and rules is amended by adding a new section 5519-a to read as follows:

§ 5519-a. Stay of enforcement for tobacco product master settlement agreement participating or non-participating manufacturers or their successors or affiliates. (a) In civil litigation under any legal theory involving a participating manufacturer or a non-participating manufacturer, as those terms are defined in the master settlement agreement, or any of their successors or affiliates, the undertaking required during the pendency of all appeals or discretionary reviews by any appellate courts in order to stay the execution of any judgment or order granting legal, equitable or other relief during the entire course of appellate review, including review by the United States supreme court, shall be set pursuant to the applicable provisions of law or court rules; provided, however that the total undertaking required of all appellants collectively shall not exceed two hundred fifty million dollars, regardless of the value of the judgment appealed.

(b) Notwithstanding the provisions of subdivision (a) of this section, upon proof by a preponderance of the evidence, by an appellee, that an appellant is dissipating assets outside the course of ordinary business to avoid payment of a judgment, a court may require the appellant to post a bond in an amount up to the total amount of the judgement.

§ 4. This act shall take effect on the thirtieth day after it shall have become a law, and shall apply to any cause of action pending on or filed on or after such effective date.

PART GGGG

Section 1. Section 1261 of the tax law is amended by adding a new subdivision (h) to read as follows:

(h) Notwithstanding any provision of state or local law, ordinance or resolution to the contrary, from the moneys collected pursuant to section twelve hundred ten of this article for the rent of every occupancy of a room or rooms, as described in subdivision (e) of section eleven hundred five of this chapter, in a city having a population of one million or more, four percent of such moneys or the first three hundred thousand dollars of such moneys collected during each calendar

1 year, whichever shall be less, in each borough of such city shall be
2 deposited into a separate account by the commissioner with the moneys in
3 each such account being expended solely for the purpose of promoting
4 tourism in the borough to which each account relates. The moneys in each
5 account shall be made available for tourism promotion purposes, exclu-
6 sive of administrative expenses, to an entity designated by the borough
7 president and approved by the department of economic development as
8 responsible for tourism promotion in the borough.

9 § 2. This act shall take effect on the first of January next succeed-
10 ing the date on which it shall have become a law.

11 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
12 sion, section or part of this act shall be adjudged by any court of
13 competent jurisdiction to be invalid, such judgment shall not affect,
14 impair, or invalidate the remainder thereof, but shall be confined in
15 its operation to the clause, sentence, paragraph, subdivision, section
16 or part thereof directly involved in the controversy in which such judg-
17 ment shall have been rendered. It is hereby declared to be the intent of
18 the legislature that this act would have been enacted even if such
19 invalid provisions had not been included herein.

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