STATE OF NEW YORK

2009--B

IN SENATE

January 23, 2017

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); to amend the tax law and the administrative code of the city of New York, in relation to the school tax reduction credit for residents of a city with a population of one million or more; and to repeal section 54-f of the state finance law relating thereto (Part C); intentionally omitted (Part D); intentionally omitted (Part E); intentionally omitted (Part F); intentionally omitted (Part G); intentionally omitted (Part H); intentionally omitted (Part I); to amend the state finance law, in relation to the veterans' home assistance fund (Part J); to amend the economic development law and the tax law, in relation to life sciences companies (Part K); intentionally omitted (Part L); to amend the tax law, in relation to extending the empire state film production credit and empire state film post production credit for three years (Part M); intentionally omitted (Part N); intentionally omitted (Part O); intentionally omitted (Part P); to amend the tax law, in relation to the treatment of single member limited liability companies that are disregarded entities in determining eligibility for tax credits (Part Q); intentionally omitted (Part R); intentionally omitted (Part S); to amend the tax law, in relation to increasing the child and dependent care tax credit (Part T); intentionally omitted (Part U); intentionally omitted (Part V); intentionally omitted (Part W); intentionally omitted (Part X); intentionally omitted (Part Y); intentionally omitted (Part Z); intentionally omitted (Part AA); intentionally omitted (Part BB); intentionally omitted (Part CC); intentionally omitted (Part DD); intentionally omitted (Part EE); intentionally omitted (Part FF); intentionally omitted (Part GG); intentionally omitted (Part HH); intentionally omitted (Part II); intentionally omitted (Part JJ); intentionally omitted (Part KK); intentionally omitted (Part LL); to amend the racing, pari-mutuel wagering and breeding law, in relation to the operation of charitable gaming; to amend the social services law, in relation to penalties for

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

LBD12574-07-7

unauthorized transactions relating to certain public assistance; to amend the tax law, in relation to certain income derived from the conduct of certain games of chance; and to repeal certain provisions of the executive law and the general municipal law relating thereto (Part MM); to amend the racing, pari-mutuel wagering and breeding law, in relation to the New York racing association, and to repeal certain provisions of such law relating thereto (Part NN); 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 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 OO); to amend the tax law, in relation to vendor fees paid to vendor tracks (Part PP); to amend the tax law, in relation to capital awards to vendor tracks (Part QQ); to amend the state finance law, in relation to the distribution of certain gaming aid; and providing for the repeal of such provisions upon expiration thereof (Part RR); 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 SS); to amend the tax law, in relation to real property tax credits for manufacturers (Part TT); to amend the tax law, in relation to the farm workforce retention credit (Part UU); to amend the tax law, in relation to the investment tax credit for certain taxpayers that operate a farm operation (Part VV); to amend the tax law, in relation to a credit for donations to a food bank or other emergency food program by New York state farmers (Part WW); to amend the tax law, in relation to minimum wage reimbursement credit (Part XX); to amend the real property tax law, in relation to the STAR exemption for property owned by small businesses (Part YY); to amend the tax law, in relation to the use of fulfillment services of certain persons (Part ZZ); to amend the tax law and the administrative code of the city of New York, in relation to qualified financial instruments of RICS and REITS (Part AAA); to amend the tax law, in relation to exempting unitary corporation dividends from the definition of business capital for the purposes of the franchise tax on business corporations (Part BBB); to amend the tax law, in relation to the amount of credit towards sales and compensating use taxes for vendors (Part CCC); to amend the tax law and the economic development law, in relation to the creation of the empire state music production credit and the empire state digital gaming media production credit; to repeal subdivision 11 of section 352 of the economic development law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part DDD); to amend the public housing law and the tax law, in relation to providing certain tax credits for construction or rehabilitation of middle-income housing (Part EEE); to amend the tax law, in relation to establishing a credit against income tax for the rehabilitation of distressed commercial properties (Part FFF); to amend the tax law, in relation to providing a tax credit for universal visitability; and providing for the repeal of such provisions upon the expiration thereof (Part GGG); to amend the tax law, in relation to the

imposition of tax and rate (Part HHH); to amend the tax law, in relation to the metropolitan commuter transportation mobility tax (Part III); to amend the tax law, in relation to the metropolitan transportation business tax surcharge (Part JJJ); to amend the tax law, in relation to increasing the exemption for pensions and annuities for certain persons (Part KKK); to amend the tax law and the insurance law, in relation to increasing the tax credits for premiums paid for long-term care insurance or for a policy rider to a life insurance policy (Part LLL); to amend the tax law, in relation to establishing a tax deduction for the adoption of a child with special needs (Part MMM); to amend the tax law, in relation to cost of living adjustment (Part NNN); to amend the tax law, in relation to returns and liabilities (Part OOO); to amend the tax law, in relation to designated accounts for personal income tax refunds (Part PPP); to amend the real property tax law and the tax law, in relation to removing references to the school tax relief credit; and to repeal certain provisions of such laws relating thereto (Part QQQ); to amend the tax law, in relation to advance payments of the school tax relief credit (Part RRR); to amend the tax law, in relation to exempting certain monuments from sales and use taxes (Part SSS); 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 TTT); to amend the tax law, in relation to granting sales and compensating use tax exemptions for certain tangible personal property and services used in the operation of recreational skiing facilities (Part UUU); to amend the tax law, in relation to exemptions from the sales and compensating use tax for tastings held by a licensed brewery, farm brewery, cider producer, farm cidery, distillery or farm distillery in accordance with the alcoholic beverage control law (Part VVV); to amend the tax law, in relation to the prepayment of sales tax on motor fuel and Diesel motor fuel; and providing for the repeal of such provisions upon expiration thereof (Part WWW); to amend the tax law and part C of chapter 2 of the laws of 2005 amending the tax law relating to exemptions from sales and use taxes, in relation to extending certain provisions thereof; to amend the general city law and the administrative code of the city of New York, in relation to extending certain provisions relating to relocation and employment assistance credits; to amend the general city law and the administrative code of the city of New York, in relation to extending certain provisions relating to specially eligible premises and special rebates; to amend the administrative code of the city of New York, in relation to extending certain provisions relating to exemptions and deductions from base rent; to amend the real property tax law, in relation to extending certain provisions relating to eligibility periods and requirements; to amend the real property tax law, in relation to extending certain provisions relating to eligibility periods and requirements, benefit periods and applications for abatements; to amend the administrative code of the city of New York, in relation to extending certain provisions relating to a special reduction in determining the taxable base rent; to amend the real property tax law and the administrative code of the city of New York, in relation to extending certain provisions relating to applications for abatement of tax payments (Part XXX); to amend the tax law and the education law, in relation to enacting the "education affordability act" (Part YYY); to amend the tax law, in relation to establishing the green building credit (Part ZZZ); to amend the tax law, in

relation to establishing a forestry stewardship and habitat conservation credit for personal income and business franchise taxes (Part AAAA); 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 BBBB); to amend the New York state urban development corporation act, in relation to certain qualified entities (Part CCCC); to amend the racing, pari-mutuel wagering and breeding law and the tax law, in relation to certain fiscal requirements imposed with respect to conducting horse races at raceways and racetracks; and providing for the repeal of certain provisions upon the expiration thereof (Part DDDD); to amend the racing, pari-mutuel wagering and breeding law and the workers' compensation law, in relation to the New York Jockey Injury Compensation Fund, Inc. (Part EEEE); to amend the racing, pari-mutuel wagering and breeding law and the penal law, in relation to allowing certain interactive poker games (Part FFFF); to amend the racing, pari-mutuel wagering and breeding law, in relation to creating the racing fan advisory council (Part GGGG); to amend the tax law, in relation to an additional vendor's marketing allowance (Part HHHH); to amend the tax law, in relation to allowable college tuition expenses (Part IIII); to amend the education law and the tax law, in relation to establishing the college debt freedom account program (Part JJJJ); to amend the state finance law, in relation to establishing a spending cap and increasing the maximum capacity of the rainy day fund (Part KKKK); to amend the racing, pari-mutuel wagering and breeding law, in relation to approval, denial and renewal of casino and gaming employee licenses and registrations (Part LLLL); and to amend the tax law, in relation to authorizing advertising during quick draw and on lottery tickets (Part MMMM)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2017-2018 state fiscal year. Each component is wholly contained within a Part identified as Parts A through MMMM. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Intentionally Omitted

PART B

Intentionally Omitted

PART C

Section 1. Section 54-f of the state finance law is REPEALED.

§ 2. Subsection (ggg) of section 606 of the tax law, as added by section 1 of part E of chapter 60 of the laws of 2016, and as relettered by section 1 of part A of chapter 73 of the laws of 2016, is amended to read as follows:

(ggg) School tax reduction credit for residents of a city with a population over one million. (1) For taxable years beginning after two thousand fifteen, a school tax reduction credit shall be allowed to a resident individual of the state who is a resident of a city with a population over one million, as provided below. The credit shall be allowed against the taxes authorized by this article reduced by the credits permitted by this article. If the credit exceeds the tax as so reduced, 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 will be paid thereon. For purposes of this subsection, no credit shall be granted to an individual with respect to whom a deduction under subsection (c) of section one hundred fifty-one of the internal revenue code is allowable to another taxpayer for the taxable year.

(2) The amount of the credit under this [~~paragraph~~] **subsection** shall be determined based upon the taxpayer's income as defined in subparagraph (ii) of paragraph (b) of subdivision four of section four hundred twenty-five of the real property tax law.

(3) For **taxable years beginning in two thousand sixteen, the credit shall be determined as provided in this paragraph, provided that for** the purposes of this paragraph, any taxpayer under subparagraphs (A) and (B) of this paragraph with income of more than two hundred fifty thousand dollars shall not receive a credit.

(A) Married individuals filing joint returns and surviving spouses. In the case of married individuals who make a single return jointly and of a surviving spouse, the credit shall be one hundred twenty-five dollars.

(B) All others. In the case of an unmarried individual, a head of a household or a married individual filing a separate return, the credit shall be sixty-two dollars and fifty cents.

(4) For taxable years beginning after two thousand sixteen, the credit shall equal the "fixed" amount provided by paragraph (4-a) of this subsection plus the "rate reduction" amount provided by paragraph (4-b) of this subsection.

(4-a) The "fixed" amount of the credit shall be determined as provided in this paragraph, provided that any taxpayer with income of more than two hundred fifty thousand dollars shall not receive such amount.

(A) Married individuals filing joint returns and surviving spouses. In the case of married individuals who make a single return jointly and of a surviving spouse, the "fixed" amount of the credit shall be one hundred twenty-five dollars.

(B) All others. In the case of an unmarried individual, a head of a household or a married individual filing a separate return, the "fixed" amount of the credit shall be sixty-two dollars and fifty cents.

(4-b) The "rate reduction" amount of the credit shall be determined as provided in this paragraph, provided that any taxpayer with income of more than five hundred thousand dollars shall not receive such amount.

(A) For married individuals who make a single return jointly and for a surviving spouse:

If the city taxable income is:	The "rate reduction" amount is:
Not over $21,600	0.171% of the city taxable income
Over $21,600 but not over $500,000	$37 plus 0.228% of excess over $21,600
Over $500,000	Not applicable

(B) For a head of household:

If the city taxable income is:	The "rate reduction" amount is:
Not over $14,400	0.171% of the city taxable income
Over $14,400 but not over $500,000	$25 plus 0.228% of excess over $14,400
Over $500,000	Not applicable

(C) For an unmarried individual or a married individual filing a separate return:

If the city taxable income is:	The "rate reduction" amount is:
Not over $12,000	0.171% of the city taxable income
Over $12,000 but not over $500,000	$21 plus 0.228% of excess over $12,000
Over $500,000	Not applicable

[~~(3)~~] (5) Part-year residents. If a taxpayer changes status during the taxable year from resident to nonresident, or from nonresident to resident, the school tax reduction credit authorized by this subsection shall be prorated according to the number of months in the period of residence.

§ 3. Paragraphs 1, 2 and 3 of subsection (a) of section 1304 of the tax law, as amended by section 2 of part B of chapter 59 of the laws of 2015, are amended to read as follows:

(1) Resident married individuals filing joint returns and resident surviving spouses. The tax under this section for each taxable year on the city taxable income of every city resident married individual who makes a single return jointly with his or her spouse under subsection (b) of section thirteen hundred six of this article and on the city taxable income of every city resident surviving spouse shall be determined in accordance with the following tables:

(A) For taxable years beginning after two thousand [~~fourteen~~] sixteen:

If the city taxable income is:	The tax is:
Not over $21,600	2.7% of the city taxable income
Over $21,600 but not over $45,000	$583 plus 3.3% of excess over $21,600
Over $45,000 but not over $90,000	$1,355 plus 3.35% of excess over $45,000
Over $90,000	$2,863 plus 3.4% of excess over $90,000

(B) For taxable year beginning after two thousand fourteen and before two thousand seventeen:

If the city taxable income is:	The tax is:
Not over $21,600	2.55% of the city taxable income
Over $21,600 but not over $45,000	$551 plus 3.1% of excess over $21,600
Over $45,000 but not over $90,000	$1,276 plus 3.15% of excess over $45,000
Over $90,000 but not over $500,000	$2,694 plus 3.2% of excess over $90,000
Over $500,000	$16,803 plus 3.4% of excess

	over $500,000

[~~(B)~~] **(C)** For taxable years beginning after two thousand nine and before two thousand fifteen:

If the city taxable income is:	The tax is:
Not over $21,600	2.55% of the city taxable income
Over $21,600 but not over $45,000	$551 plus 3.1% of excess over $21,600
Over $45,000 but not over $90,000	$1,276 plus 3.15% of excess over $45,000
Over $90,000 but not over $500,000	$2,694 plus 3.2% of excess over $90,000
Over $500,000	$15,814 plus 3.4% of excess over $500,000

(2) Resident heads of households. The tax under this section for each taxable year on the city taxable income of every city resident head of a household shall be determined in accordance with the following tables:

(A) For taxable years beginning after two thousand [~~fourteen~~] **sixteen**:

If the city taxable income is:	**The tax is:**
Not over $14,400	**2.7% of the city taxable income**
Over $14,400 but not over $30,000	**$389 plus 3.3% of excess over $14,400**
Over $30,000 but not over $60,000	**$904 plus 3.35% of excess over $30,000**
Over $60,000	**$1,909 plus 3.4% of excess over $60,000**

(B) For taxable years beginning after two thousand fourteen and before two thousand sixteen:

If the city taxable income is:	The tax is:
Not over $14,400	2.55% of the city taxable income
Over $14,400 but not over $30,000	$367 plus 3.1% of excess over $14,400
Over $30,000 but not over $60,000	$851 plus 3.15% of excess over $30,000
Over $60,000 but not over $500,000	$1,796 plus 3.2% of excess over $60,000
Over $500,000	$16,869 plus 3.4% of excess over $500,000

[~~(B)~~] **(C)** For taxable years beginning after two thousand nine and before two thousand fifteen:

If the city taxable income is:	The tax is:
Not over $14,400	2.55% of the city taxable income
Over $14,400 but not over $30,000	$367 plus 3.1% of excess over $14,400
Over $30,000 but not over $60,000	$851 plus 3.15% of excess over $30,000
Over $60,000 but not over $500,000	$1,796 plus 3.2% of excess over $60,000
Over $500,000	$15,876 plus 3.4% of excess

Over $500,000	

(3) Resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. The tax under this section for each taxable year on the city taxable income of every city resident individual who is not a city resident married individual who makes a single return jointly with his or her spouse under subsection (b) of section thirteen hundred six of this article or a city resident head of household or a city resident surviving spouse, and on the city taxable income of every city resident estate and trust shall be determined in accordance with the following tables:

(A) For taxable years beginning after two thousand [~~fourteen~~] **sixteen:**

If the city taxable income is:	**The tax is:**
Not over $12,000	**2.7% of the city taxable income**
Over $12,000 but not over $25,000	**$324 plus 3.3% of excess over $12,000**
Over $25,000 but not over $50,000	**$753 plus 3.35% of excess over $25,000**
Over $50,000	**$1,591 plus 3.4% of excess over $50,000**

(B) For taxable years beginning after two thousand fourteen and before two thousand seventeen:

If the city taxable income is:	The tax is:
Not over $12,000	2.55% of the city taxable income
Over $12,000 but not over $25,000	$306 plus 3.1% of excess over $12,000
Over $25,000 but not over $50,000	$709 plus 3.15% of excess over $25,000
Over $50,000 but not over $500,000	$1,497 plus 3.2% of excess over $50,000
Over $500,000	$16,891 plus 3.4% of excess over $500,000

[~~(B)~~] **(C)** For taxable years beginning after two thousand nine and before two thousand fifteen:

If the city taxable income is:	The tax is:
Not over $12,000	2.55% of the city taxable income
Over $12,000 but not over $25,000	$306 plus 3.1% of excess over $12,000
Over $25,000 but not over $50,000	$709 plus 3.15% of excess over $25,000
Over $50,000 but not over $500,000	$1,497 plus 3.2% of excess over $50,000
Over $500,000	$15,897 plus 3.4% of excess over $500,000

§ 4. Paragraphs 1, 2 and 3 of subsection (a) of section 11-1701 of the administrative code of the city of New York, as amended by section 3 of part B of chapter 59 of the laws of 2015, are amended to read as follows:

(1) Resident married individuals filing joint returns and resident surviving spouses. The tax under this section for each taxable year on the city taxable income of every city resident married individual who

makes a single return jointly with his or her spouse under subdivision (b) of section 11-1751 of this chapter and on the city taxable income of every city resident surviving spouse shall be determined in accordance with the following tables:

(A) For taxable years beginning after two thousand [~~fourteen~~] **sixteen**:

If the city taxable income is:	**The tax is:**
Not over $21,600	**2.7% of the city taxable income**
Over $21,600 but not over $45,000	**$583 plus 3.3% of excess over $21,600**
Over $45,000 but not over $90,000	**$1,355 plus 3.35% of excess over $45,000**
Over $90,000	**$2,863 plus 3.4% of excess over $90,000**

(B) For taxable years beginning after two thousand fourteen and before two thousand seventeen:

If the city taxable income is:	The tax is:
Not over $21,600	2.55% of the city taxable income
Over $21,600 but not over $45,000	$551 plus 3.1% of excess over $21,600
Over $45,000 but not over $90,000	$1,276 plus 3.15% of excess over $45,000
Over $90,000 but not over $500,000	$2,694 plus 3.2% of excess over $90,000
Over $500,000	$16,803 plus 3.4% of excess over $500,000

[~~(B)~~] **(C)** For taxable years beginning after two thousand nine and before two thousand fifteen:

If the city taxable income is:	The tax is:
Not over $21,600	2.55% of the city taxable income
Over $21,600 but not over $45,000	$551 plus 3.1% of excess over $21,600
Over $45,000 but not over $90,000	$1,276 plus 3.15% of excess over $45,000
Over $90,000 but not over $500,000	$2,694 plus 3.2% of excess over $90,000
Over $500,000	$15,814 plus 3.4% of excess over $500,000

(2) Resident heads of households. The tax under this section for each taxable year on the city taxable income of every city resident head of a household shall be determined in accordance with the following tables:

(A) For taxable years beginning after two thousand [~~fourteen~~] **sixteen**:

If the city taxable income is:	**The tax is:**
Not over $14,400	**2.7% of the city taxable income**
Over $14,400 but not over $30,000	**$389 plus 3.3% of excess over $14,400**
Over $30,000 but not over $60,000	**$904 plus 3.35% of excess over $30,000**
Over $60,000	**$1,909 plus 3.4% of excess over $60,000**

(B) For taxable years beginning after two thousand fourteen and before two thousand sixteen:

If the city taxable income is:	The tax is:
Not over $14,400	2.55% of the city taxable income
Over $14,400 but not over $30,000	$367 plus 3.1% of excess over $14,400
Over $30,000 but not over $60,000	$851 plus 3.15% of excess over $30,000
Over $60,000 but not over $500,000	$1,796 plus 3.2% of excess over $60,000
Over $500,000	$16,869 plus 3.4% of excess over $500,000

[~~(B)~~] **(C)** For taxable years beginning after two thousand nine and before two thousand fifteen:

If the city taxable income is:	The tax is:
Not over $14,400	2.55% of the city taxable income
Over $14,400 but not over $30,000	$367 plus 3.1% of excess over $14,400
Over $30,000 but not over $60,000	$851 plus 3.15% of excess over $30,000
Over $60,000 but not over $500,000	$1,796 plus 3.2% of excess over $60,000
Over $500,000	$15,876 plus 3.4% of excess over $500,000

(3) Resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. The tax under this section for each taxable year on the city taxable income of every city resident individual who is not a married individual who makes a single return jointly with his or her spouse under subdivision (b) of section 11-1751 of this chapter or a city resident head of a household or a city resident surviving spouse, and on the city taxable income of every city resident estate and trust shall be determined in accordance with the following tables:

(A) For taxable years beginning after two thousand [~~fourteen~~] **sixteen**:

If the city taxable income is:	**The tax is:**
Not over $12,000	**2.7% of the city taxable income**
Over $12,000 but not over $25,000	**$324 plus 3.3% of excess over $12,000**
Over $25,000 but not over $50,000	**$753 plus 3.35% of excess over $25,000**
Over $50,000	**$1,591 plus 3.4% of excess over $50,000**

(B) For taxable years beginning after two thousand fourteen and before two thousand sixteen:

If the city taxable income is:	The tax is:
Not over $12,000	2.55% of the city taxable income
Over $12,000 but not over $25,000	$306 plus 3.1% of excess over $12,000
Over $25,000 but not over $50,000	$709 plus 3.15% of excess over $25,000

Over $50,000 but not over $500,000	$1,497 plus 3.2% of excess over $50,000
Over $500,000	$16,891 plus 3.4% of excess over $500,000

[~~(B)~~] **(C)** For taxable years beginning after two thousand nine and before two thousand fifteen:

If the city taxable income is:	The tax is:
Not over $12,000	2.55% of the city taxable income
Over $12,000 but not over $25,000	$306 plus 3.1% of excess over $12,000
Over $25,000 but not over $50,000	$709 plus 3.15% of excess over $25,000
Over $50,000 but not over $500,000	$1,497 plus 3.2% of excess over $50,000
Over $500,000	$15,897 plus 3.4% of excess over $500,000

§ 5. Notwithstanding any provision of law to the contrary, the method of determining the amount to be deducted and withheld from wages on account of taxes imposed by or pursuant to the authority of article 30 of the tax law in connection with the implementation of the provisions of this act shall be prescribed by the commissioner of taxation and finance with due consideration to the effect such withholding tables and methods would have on the receipt and amount of revenue. The commissioner of taxation and finance shall adjust such withholding tables and methods in regard to taxable years beginning in 2017 and after in such manner as to result, so far as practicable, in withholding from an employee's wages an amount substantially equivalent to the tax reasonably estimated to be due for such taxable years as a result of the provisions of this act. Provided, however, for tax year 2017 the withholding tables shall reflect as accurately as practicable the full amount of tax year 2017 liability so that such amount is withheld by December 31, 2017. In carrying out his or her duties and responsibilities under this section, the commissioner of taxation and finance may prescribe a similar procedure with respect to the taxes required to be deducted and withheld by local laws imposing taxes pursuant to the authority of articles 30, 30-A and 30-B of the tax law, the provisions of any other law in relation to such a procedure to the contrary notwithstanding.

§ 6. 1. Notwithstanding any provision of law to the contrary, no addition to tax shall be imposed for failure to pay the estimated tax in subsection (c) of section 685 of the tax law and subdivision (c) of section 11-1785 of the administrative code of the city of New York with respect to any underpayment of a required installment due prior to, or within thirty days of, the effective date of this act to the extent that such underpayment was created or increased by the amendments made by this act, provided, however, that the taxpayer remits the amount of any underpayment prior to or with his or her next quarterly estimated tax payment.

2. The commissioner of taxation and finance shall take steps to publicize the necessary adjustments to estimated tax and, to the extent reasonably possible, to inform the taxpayer of the tax liability changes made by this act.

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

PART D

Intentionally Omitted

PART E

Intentionally Omitted

PART F

Intentionally Omitted

PART G

Intentionally Omitted

PART H

Intentionally Omitted

PART I

Intentionally Omitted

PART J

Section 1. Subdivision 5 of section 81 of the state finance law, as added by chapter 432 of the laws of 2016, is amended to read as follows:

5. Moneys shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of health, for veterans' homes operated by the department of health, and by the [~~commissioner of education~~] **chancellor of the state university of New York**, for the veterans' home operated by the state university of New York.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after November 14, 2016.

PART K

Section 1. Section 352 of the economic development law, as added by section 1 of part MM of chapter 59 of the laws of 2010, subdivisions 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 as amended and subdivision 11 as added by section 1 of part K of chapter 59 of the laws of 2015, is amended to read as follows:

§ 352. Definitions. For the purposes of this article:

1. "Agriculture" means both agricultural production (establishments performing the complete farm or ranch operation, such as farm owner-op-

erators, tenant farm operators, and sharecroppers) and agricultural support (establishments that perform one or more activities associated with farm operation, such as soil preparation, planting, harvesting, and management, on a contract or fee basis).

2. "Back office operations" means a business function that may include one or more of the following activities: customer service, information technology and data processing, human resources, accounting and related administrative functions.

3. "Benefit-cost ratio" means the following calculation: the numerator is the sum of (i) the value of all remuneration projected to be paid for all net new jobs during the period of participation in the program, and (ii) the value of capital investments to be made by the business enterprise during the period of participation in the program, and the denominator is the amount of total tax benefits under this article that will be used and refunded.

4. "Certificate of eligibility" means the document issued by the department to an applicant that has completed an application to be admitted into the excelsior jobs program and has been accepted into the program by the department. Possession of a certificate of eligibility does not by itself guarantee the eligibility to claim the tax credit.

5. "Certificate of tax credit" means the document issued to a participant by the department, after the department has verified that the participant has met all applicable eligibility criteria in this article. The certificate shall be issued annually if such criteria are satisfied and shall specify the exact amount of each of the tax credit components under this article that a participant may claim, pursuant to section three hundred fifty-five of this article, and shall specify the taxable year in which such credit may be claimed.

6. "Distribution center" means a large scale facility involving processing, repackaging and/or movement of finished or semi-finished goods to retail locations across a multi-state area.

7. "Entertainment company" means a corporation, partnership, limited partnership, or other entity principally engaged in the production or post production of (i) motion pictures, which shall include feature-length films and television films, (ii) instructional videos, (iii) televised commercial advertisements, (iv) animated films or cartoons, (v) music videos, (vi) television programs, which shall include, but not be limited to, television series, television pilots, and single television episodes, or (vii) programs primarily intended for radio broadcast. "Entertainment company" shall not include an entity (i) principally engaged in the live performance of events, including, but not limited to, theatrical productions, concerts, circuses, and sporting events, (ii) principally engaged in the production of content intended primarily for industrial, corporate or institutional end-users, (iii) principally engaged in the production of fundraising films or programs, or (iv) engaged in the production of content for which records are required under section 2257 of title 18, United States code, to be maintained with respect to any performer in such production.

8. "Financial services data centers or financial services customer back office operations" means operations that manage the data or accounts of existing customers or provide product or service information and support to customers of financial services companies, including banks, other lenders, securities and commodities brokers and dealers, investment banks, portfolio managers, trust offices, and insurance companies.

9. "Investment zone" shall mean an area within the state that had been designated under paragraph (i) of subdivision (a) and subdivision (d) of section nine hundred fifty-eight of the general municipal law that was wholly contained within up to four distinct and separate contiguous areas as of the date immediately preceding the date the designation of such area expired pursuant to section nine hundred sixty-nine of the general municipal law.

10. **"Life sciences" means the field of biotechnology, pharmaceuticals, biomedical technologies, life systems technologies, health informatics, health robotics or biomedical devices.**

11. "Life sciences company" means a business entity or an organization or institution that devotes the majority of its efforts in the various stages of research, development, technology transfer and commercialization related to any life sciences field.

12. "Manufacturing" means the process of working raw materials into products suitable for use or which gives new shapes, new quality or new combinations to matter which has already gone through some artificial process by the use of machinery, tools, appliances, or other similar equipment. "Manufacturing" does not include an operation that involves only the assembly of components, provided, however, the assembly of motor vehicles or other high value-added products shall be considered manufacturing.

[~~11.~~] **13.** "Music production" means the process of creating sound recordings of at least eight minutes, recorded in professional sound studios, intended for commercial release. "Music production" does not include recording of live concerts, or recordings that are primarily spoken word or wildlife or nature sounds, or produced for instructional use or advertising or promotional purposes.

[~~12.~~] **14.** "Net new jobs" means:

(a) jobs created in this state that (i) are new to the state,

(ii) have not been transferred from employment with another business located in this state including from a related person in this state,

(iii) are either full-time wage-paying jobs or equivalent to a full-time wage-paying job requiring at least thirty-five hours per week, and

(iv) are filled for more than six months; or

(b) jobs obtained by an entertainment company in this state (i) as a result of the termination of a licensing agreement with another entertainment company, (ii) that the commissioner determines to be at risk of leaving the state as a direct result of the termination, (iii) that are either full-time wage-paying jobs or equivalent to a full-time wage-paying job requiring at least thirty-five hours per week, and (iv) that are filled for more than six months.

[~~13.~~] **15.** "Participant" means a business entity that:

(a) has completed an application prescribed by the department to be admitted into the program;

(b) has been issued a certificate of eligibility by the department;

(c) has demonstrated that it meets the eligibility criteria in section three hundred fifty-three and subdivision two of section three hundred fifty-four of this article; and

(d) has been certified as a participant by the commissioner.

[~~14.~~] **16.** "Preliminary schedule of benefits" means the maximum aggregate amount of each component of the tax credit that a participant in the excelsior jobs program is eligible to receive pursuant to this article. The schedule shall indicate the annual amount of each component of the credit a participant may claim in each of its ten years of eligibility. The preliminary schedule of benefits shall be issued by the

department when the department approves the application for admission into the program. The commissioner may amend that schedule, provided that the commissioner complies with the credit caps in section three hundred fifty-nine of this article.

[~~15.~~] **17.** "Qualified investment" means an investment in tangible property (including a building or a structural component of a building) owned by a business enterprise which:

(a) is depreciable pursuant to section one hundred sixty-seven of the internal revenue code;

(b) has a useful life of four years or more;

(c) is acquired by purchase as defined in section one hundred seventy-nine (d) of the internal revenue code;

(d) has a situs in this state; and

(e) is placed in service in the state on or after the date the certificate of eligibility is issued to the business enterprise.

[~~16.~~] **18.** "Regionally significant project" means (a) a manufacturer creating at least fifty net new jobs in the state and making significant capital investment in the state; (b) a business creating at least twenty net new jobs in agriculture in the state and making significant capital investment in the state, (c) a financial services firm, distribution center, or back office operation creating at least three hundred net new jobs in the state and making significant capital investment in the state, (d) a scientific research and development firm creating at least twenty net new jobs in the state, and making significant capital investment in the state**, (e) a life sciences company creating at least twenty net new jobs in the state and making significant capital investment in the state** or [~~(e)~~] **(f)** an entertainment company creating or obtaining at least two hundred net new jobs in the state and making significant capital investment in the state. Other businesses creating three hundred or more net new jobs in the state and making significant capital investment in the state may be considered eligible as a regionally significant project by the commissioner as well. The commissioner shall promulgate regulations pursuant to section three hundred fifty-six of this article to determine what constitutes significant capital investment for each of the project categories indicated in this subdivision and what additional criteria a business must meet to be eligible as a regionally significant project, including, but not limited to, whether a business exports a substantial portion of its products or services outside of the state or outside of a metropolitan statistical area or county within the state.

[~~17.~~] **19.** "Related person" means a "related person" pursuant to subparagraph (c) of paragraph three of subsection (b) of section four hundred sixty-five of the internal revenue code.

[~~18.~~] **20.** "Remuneration" means wages and benefits paid to an employee by a participant in the excelsior jobs program.

[~~19.~~] **21.** "Research and development expenditures" mean the expenses of the business enterprise that are qualified research expenses under the federal research and development credit under section forty-one of the internal revenue code and are attributable to activities conducted in the state. If the federal research and development credit has expired, then the research and development expenditures shall be calculated as if the federal research and development credit structure and definition in effect in federal tax year two thousand nine were still in effect.

[~~20.~~] **22.** "Scientific research and development" means conducting research and experimental development in the physical, engineering, and life sciences, including but not limited to agriculture, electronics, environmental, biology, botany, biotechnology, computers, chemistry,

food, fisheries, forests, geology, health, mathematics, medicine, oceanography, pharmacy, physics, veterinary, and other allied subjects. For the purposes of this article, scientific research and development does not include medical or veterinary laboratory testing facilities.

[~~21.~~] **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.

§ 2. Subdivisions 1 and 3 of section 353 of the economic development law, as amended by section 2 of part K of chapter 59 of the laws of 2015, are amended to read as follows:

1. To be a participant in the excelsior jobs program, a business entity shall operate in New York state predominantly:

(a) as a financial services data center or a financial services back office operation;

(b) in manufacturing;

(c) in software development and new media;

(d) in scientific research and development;

(e) in agriculture;

(f) in the creation or expansion of back office operations in the state;

(g) in a distribution center;

(h) in an industry with significant potential for private-sector economic growth and development in this state as established by the commissioner in regulations promulgated pursuant to this article. In promulgating such regulations the commissioner shall include job and investment criteria;

(i) as an entertainment company; [~~or~~]

(j) in music production**; or**

(k) as a life sciences company.

3. For the purposes of this article, in order to participate in the excelsior jobs program, a business entity operating predominantly in manufacturing must create at least ten net new jobs; a business entity operating predominately in agriculture must create at least five net new jobs; a business entity operating predominantly as a financial service data center or financial services customer back office operation must create at least fifty net new jobs; a business entity operating predominantly in scientific research and development must create at least five net new jobs; a business entity operating predominantly in software development must create at least five net new jobs; a business entity creating or expanding back office operations must create at least fifty net new jobs; a business entity operating predominately in music production must create at least five net new jobs; a business entity operating predominantly as an entertainment company must create or obtain at least one hundred net new jobs; or a business entity operating predominantly as a distribution center in the state must create at least seventy-five net new jobs, notwithstanding subdivision five of this section; **or a business entity operating predominately as a life sciences company must create at least five net new jobs;** or a business entity must be a regionally significant project as defined in this article; or

§ 3. Subdivision 4 of section 353 of the economic development law, as amended by section 1 of part C of chapter 68 of the laws of 2013, is amended to read as follows:

4. A business entity operating predominantly in one of the industries referenced in paragraphs (a) through (h) **or in paragraph (k)** of subdivision one of this section but which does not meet the job requirements of subdivision three of this section must have at least twenty-five full-time job equivalents unless such business is a business entity operating predominantly in manufacturing then it must have at least ten full-time job equivalents and must demonstrate that its benefit-cost ratio is at least ten to one.

§ 4. Subdivision 5 of section 354 of the economic development law, as amended by section 2 of part O of chapter 60 of the laws of 2016, is amended to read as follows:

5. A participant may claim tax benefits commencing in the first taxable year that the business enterprise receives a certificate of tax credit or the first taxable year listed on its preliminary schedule of benefits, whichever is later. A participant may claim such benefits for the next nine consecutive taxable years, provided that the participant demonstrates to the department that it continues to satisfy the eligibility criteria specified in section three hundred fifty-three of this article and subdivision two of this section in each of those taxable years, and provided that no tax credits may be allowed for taxable years beginning on or after January first, two thousand [~~twenty-seven~~] **thirty**. If, in any given year, a participant who has satisfied the eligibility criteria specified in section three hundred fifty-three of this article realizes job creation less than the estimated amount, the credit shall be reduced by the proportion of actual job creation to the estimated amount, provided the proportion is at least seventy-five percent of the jobs estimated.

§ 5. Section 359 of the economic development law, as amended by section 1 of part O of chapter 60 of the laws of 2016, is amended to read as follows:

§ 359. Cap on tax credit. The total amount of tax credits listed on certificates of tax credit issued by the commissioner for any taxable year may not exceed the limitations set forth in this section. One-half of any amount of tax credits not awarded for a particular taxable year in years two thousand eleven through two thousand twenty-four may be used by the commissioner to award tax credits in another taxable year.

Credit components in the aggregate shall not exceed:	With respect to taxable years beginning in:
$ 50 million	2011
$ 100 million	2012
$ 150 million	2013
$ 200 million	2014
$ 250 million	2015
$ 183 million	2016
$ 183 million	2017
$ 183 million	2018
$ 183 million	2019
$ 183 million	2020
$ 183 million	2021
$ 133 million	2022
$ 83 million	2023
$ 36 million	2024

Twenty-five percent of tax credits shall be allocated to businesses accepted into the program under subdivision four of section three hundred fifty-three of this article and seventy-five percent of tax credits shall be allocated to businesses accepted into the program under subdivision three of section three hundred fifty-three of this article.

Provided, however, if by September thirtieth of a calendar year, the department has not allocated the full amount of credits available in that year to either: (i) businesses accepted into the program under subdivision four of section three hundred fifty-three of this article or (ii) businesses accepted into the program under subdivision three of section three hundred fifty-three of this article, the commissioner may allocate any remaining tax credits to businesses referenced in this paragraph as needed; provided, however, that under no circumstances may the aggregate statutory cap for all program years be exceeded. One hundred percent of the unawarded amounts remaining at the end of two thousand twenty-four may be allocated in subsequent years, notwithstanding the fifty percent limitation on any amounts of tax credits not awarded in taxable years two thousand eleven through two thousand twenty-four. Provided, however, no tax credits may be allowed for taxable years beginning on or after January first, two thousand [~~twenty-seven~~] **thirty**.

§ 6. Subdivision (b) of section 31 of the tax law, as amended by section 3 of part O of chapter 60 of the laws of 2016, is amended to read as follows:

(b) To be eligible for the excelsior jobs program credit, the taxpayer shall have been issued a "certificate of tax credit" by the department of economic development pursuant to subdivision four of section three hundred fifty-four of the economic development law, which certificate shall set forth the amount of each credit component that may be claimed for the taxable year. A taxpayer may claim such credit for ten consecutive taxable years commencing in the first taxable year that the taxpayer receives a certificate of tax credit or the first taxable year listed on its preliminary schedule of benefits, whichever is later, provided that no tax credits may be allowed for taxable years beginning on or after January first, two thousand [~~twenty-seven~~] **thirty**. The taxpayer shall be allowed to claim only the amount listed on the certificate of tax credit for that taxable year. Such certificate must be attached to the taxpayer's return. No cost or expense paid or incurred by the taxpayer shall be the basis for more than one component of this credit or any other tax credit, except as provided in section three hundred fifty-five of the economic development law.

§ 7. The tax law is amended by adding a new section 43 to read as follows:

§ 43. Life sciences tax credits. (a) Life sciences research and development tax credit. (1) Allowance of credit. (i) A taxpayer that is a qualified life sciences company, or that is a sole proprietor of or a partner in a partnership that is a qualified life sciences company or a shareholder of a New York S corporation that is a qualified life sciences company, and is subject to tax under article nine-A or twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referred to in subdivision (e) of this section, for a period of five years, as provided in clause (B) of subparagraph (ii) of this paragraph, to be computed as provided in this subdivision, provided that no credit shall be allowed for taxable years beginning on or after January first, two thousand twenty-eight. Such credit may be

claimed in the taxable year specified on the certificate of tax credit issued to the qualified life sciences company.

(ii)(A) For a qualified life sciences company that employs ten or more persons during the taxable year, the amount of the credit shall be equal to fifteen percent of such qualified life sciences company's research and development expenditures in this state for the taxable year. For a qualified life sciences company that employs less than ten persons during the taxable year, the amount of the credit shall be equal to twenty percent of such qualified life sciences company's research and development expenditures in this state for the taxable year.

(B) The credit shall be allowed only with respect to the first taxable year during which the criteria set forth in this paragraph are satisfied, and with respect to each of the four taxable years next following (but only, with respect to each of such years, if such criteria are satisfied). Subsequent certifications of the life sciences company by the department of economic development pursuant to this subdivision shall not extend the five taxable year time limitation on the allowance of the credit set forth in the preceding sentence.

(iii) The total amount of credit allowable to a qualified life sciences company, or, if the life sciences company is properly included or required to be included in a combined report, to the combined group, taken in the aggregate, shall not exceed five hundred thousand dollars. If the life sciences company is a partner in a partnership or shareholder of a New York S corporation, then the total amount of credit allowable shall be applied at the entity level, so that the total amount of credit allowable to all the partners or shareholders of each such entity, taken in the aggregate, does not exceed five hundred thousand dollars.

(iv) No research and development expenditures made by the life sciences company and used either as the basis for the allowance of the credit provided for pursuant to this subdivision or used in the calculation of the credit provided pursuant to this subdivision shall be used to claim any other credit allowed pursuant to this chapter or be used in the calculation of any other credit allowed pursuant to this chapter.

(2) Maximum amount of credits. The aggregate amount of tax credits allowed under this subdivision to taxpayers subject to tax under articles nine-A and twenty-two of this chapter in any taxable year shall be ten million dollars, and shall be allotted from the funds available for tax credits under article seventeen of the economic development law. Such aggregate amount of credits shall be allocated by the department of economic development among taxpayers in order of priority based upon the date of filing an application for allocation of life sciences research and development tax credit with such department. If the total amount of allocated credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for such year under this subdivision, such excess shall be treated as having been applied for on the first day of the subsequent year.

(b) Angel investor tax credit. (1) Allowance of credit. (i) A taxpayer that is a qualified angel investor, or that is a sole proprietor of or a partner in a partnership that is a qualified angel investor or a shareholder of a New York S corporation that is a qualified angel investor, and is subject to tax under article nine-A or twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referred to in subdivision (e) of this section, for a period of ten years, to be computed as provided in this subdivision, provided that no credit shall be allowed for taxable years beginning on or after

January first, two thousand twenty-eight. Such credit shall be claimed in the taxable year specified on the certificate of angel investment issued to the qualified angel investor.

(ii) The amount of the credit shall be equal to twenty-five percent of each angel investment made during the taxable year.

(iii) The total amount of credit allowable to a qualified angel investor, or, if the qualified angel investor is properly included or required to be included in a combined report, to the combined group, taken in the aggregate, shall not exceed two hundred fifty thousand dollars. If the angel investor is a partner in a partnership or shareholder of a New York S corporation, then the total amount of credit allowable shall be applied at the entity level, so that the total amount of credit allowable to all the partners or shareholders of each such entity, taken in the aggregate, does not exceed two hundred fifty thousand dollars.

(iv) No investment made by the taxpayer and used either as the basis for the allowance of the credit provided for pursuant to this subdivision or used in the calculation of the credit provided pursuant to this subdivision shall be used to claim any other credit allowed pursuant to this chapter or used in the calculation of any other credit allowed pursuant to this chapter.

(2) Recapture. (i) If the certificate of angel investment of an angel investor issued by the department of economic development under this section is revoked by such department because the investment made by the angel investor does not meet the eligibility requirements set forth in this section and in regulation, the amount of credit described in this subdivision and claimed by such angel investor prior to that revocation shall be added back as tax in the taxable year in which any such revocation becomes final.

(ii) Where a taxpayer sells, transfers or otherwise disposes of corporate stock, a partnership interest or other ownership interest arising from the making of an angel investment that was the basis, in whole or in part, for the allowance of the credit provided for under this subdivision, or where an investment that was the basis for such allowance is, in whole or in part, recovered by such taxpayer, and such disposition or recovery occurs during the taxable year or within forty-eight months from the close of the taxable year with respect to which such credit is allowed, the taxpayer shall add back as tax, with respect to the taxable year in which the disposition or recovery described above occurred, the amount of the credit originally claimed by the taxpayer.

(3) Maximum amount of credits. The aggregate amount of tax credits allowed under this subdivision to taxpayers subject to tax under articles nine-A and twenty-two of this chapter in any taxable year shall be five million dollars. Such aggregate amount of credits shall be allocated by the department of economic development among taxpayers in order of priority based upon the date of filing an application for allocation of angel investor tax credit with such department. If the total amount of allocated credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for such year under this subdivision, such excess shall be treated as having been applied for on the first day of the subsequent year.

(c) Definitions. As used in this section the following terms shall have the following meanings:

(1) "Angel investment" means an investment in the form of a contribution to the capital of the qualified life sciences company, provided that such investment is at risk and is not secured or guaranteed. An

"angel investment" does not include any loans, or investments in hedge funds or commodity funds with institutional investors or with investments in a business involved in retail, real estate, professional services, gaming or financial services.

(2) "Angel investor" means an accredited investor, as defined by the United State Securities and Exchange Commission pursuant to section seventy-seven-b of title fifteen of the United States Code, or a network of accredited investors, that reviews new or proposed businesses for potential investment and that may seek active involvement, such as consulting and mentoring, in a life sciences company. "Angel investor" does not include a person controlling, directly or indirectly, fifty percent or more of the life sciences company invested in by the angel investor or who is involved in the life sciences company in a full-time professional capacity, and does not include a corporation of which such life sciences company is a direct or indirect subsidiary, as defined in section two hundred eight of this chapter.

(3) "Certificate of angel investment" means the document issued to a qualified angel investor by the department of economic development for each angel investment made by the qualified angel investor, after the department or economic development has verified that such angel investor has met all applicable criteria in this section to be eligible for the angel investor tax credit allowed under subdivision (b) of this section, including but not limited to certifying that the life sciences company in which the angel investor has made such investment is a qualified life sciences company. The certificate shall be issued annually if such criteria are satisfied and shall specify the exact amount of each angel investment made by the angel investor and the amount of the tax credit that may be claimed by such angel investor, pursuant to subdivision (b) of this section, and shall specify the taxable year in which such credit may be claimed.

(4) "Certificate of tax credit" means the document issued to a qualified life sciences company by the department of economic development, after the department of economic development has verified that such life sciences company has met all applicable criteria in this section to be eligible for the life sciences research and development tax credit allowed under subdivision (a) of this section, including but not limited to verifying that the life sciences company is a new business. The certificate shall be issued annually if such criteria are satisfied and shall specify the exact amount of the life sciences research and development tax credit that may be claimed by such qualified life sciences company, pursuant to subdivision (a) of this section, and shall specify the taxable year in which such credit may be claimed.

(5) "New business" means any business that qualifies as a new business under either paragraph (f) of subdivision one of section two hundred ten-B or paragraph ten of subsection one of section six hundred six of this chapter.

(6) "Qualified angel investor" means an angel investor certified by the department of economic development as an angel investor.

(7) "Qualified life sciences company" means a life sciences company, as defined in subdivision eleven of section three hundred fifty-two of the economic development law, that has been certified by the department of economic development as a life sciences company and is a new business. Provided that, for purposes of the angel investor tax credit provided pursuant to subdivision (b) of this section, a qualified life sciences company shall at the time that the angel investor makes an initial angel investment in such life sciences company employ twenty or

fewer persons during the taxable year and shall have had, during the immediately preceding taxable year, gross receipts of not greater than five hundred thousand dollars. Provided however, for purposes of the credits authorized under this section, the department of economic development shall not certify as a life sciences company any corporation, partnership, limited partnership, or other entity that has been within the immediately preceding sixty months a related person to an entity that is a life sciences company or an entity that is engaged in scientific research and development as defined in subdivision twenty-two of section three hundred fifty-two of the economic development law.

(8) "Research and development expenditures" means qualified research expenses as defined in subsection (b) of section 41 of the internal revenue code, provided, however, that such qualified research expenses shall not include amounts under subparagraph (B) of paragraph 1 of subsection (b) of section 41 of the internal revenue code and as further described in paragraph 3 of subsection (b) of section 41 of the internal revenue code. If section 41 of the internal revenue code has expired, then the research and development expenses shall be calculated as if the federal research and development credit structure and definition in effect in section 41 in federal tax year two thousand nine were still in effect.

(9) "Related person" means a related person as defined in subparagraph (c) of paragraph three of subsection (b) of section 465 of the internal revenue code. For this purpose, a "related person" shall include an entity that would have qualified as a "related person" if it had not been dissolved, liquidated, merged with another entity or otherwise ceased to exist or operate.

(d)(1) For purposes of this section, in order to be eligible for the life sciences research and development tax credit allowed under subdivision (a) of this section, a life sciences company must be issued a certificate of tax credit by the department of economic development. The department of economic development shall verify that such life sciences company has met all applicable eligibility criteria in this section before issuing a certificate of tax credit, including but not limited to verifying that the life sciences company is a new business.

(2) For purposes of this section, in order to be eligible for the angel investor tax credit allowed under subdivision (b) of this section, an angel investor must be issued a certificate of angel investment by the department of economic development for each angel investment for which the credit is claimed. The department of economic development shall verify that such angel investor has met all applicable eligibility criteria in this section before issuing a certificate of angel investment, including but not limited to certifying that the life sciences company in which the angel investor has made such investment is a qualified life sciences company.

(3) The commissioner of economic development, after consulting with the commissioner, shall promulgate regulations by October thirty-first, two thousand seventeen to establish procedures for the allocation of tax credits allowed under this section. Such rules and regulations shall include provisions describing the application process for each credit, the due dates for such applications, the eligibility standards for qualified life sciences companies, the standards which shall be used to evaluate the applications, the documentation that will be provided to taxpayers to substantiate to the department the amount of tax credits allocated to such taxpayers, 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 October thirty-first, two thousand seventeen deadline.

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

(1) article 9-A: section 210-B: subdivision 52.

(2) article 22: section 606: subsection (hhh).

(f) Notwithstanding any provision of this chapter, (i) employees and officers of the department of economic development and the department shall be allowed and are directed to share and exchange information regarding the credits applied for, allowed, or claimed pursuant to this section and taxpayers who are applying for credits or who are claiming credits, including information contained in or derived from credit claim forms submitted to the department and applications for certification submitted to the department of economic development, and (ii) the commissioner and the commissioner of the department of economic development may release the names and addresses of any taxpayer claiming these credits and the amount of the credit earned by the taxpayer. Provided, however, if a taxpayer claims either of these credits 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.

(g) For purposes of the credits allowed under this section, the number of persons employed by a qualified life sciences company during the taxable year shall be determined by ascertaining the number of such individuals employed full-time by such company, excluding general executive officers, on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September and the thirty-first day of December during each taxable year, by adding together the number of such individuals ascertained on each of such dates and dividing the sum so obtained by the number of such dates occurring within such taxable year. An individual employed full-time means an employee in a job consisting of at least thirty-five hours per week, or two or more employees who are in jobs that together constitute the equivalent of a job of at least thirty-five hours per week (full-time equivalent).

§ 8. Section 210-B of the tax law is amended by adding a new subdivision 52 to read as follows:

52. Life sciences tax credits. (a) Life sciences research and development tax credit. (1) Allowance of credit. A taxpayer that is eligible pursuant to subdivision (a) of section forty-three of this chapter shall be allowed a credit to be computed as provided in such subdivision against the tax imposed by this article.

(2) Application of credit. The credit allowed under this paragraph 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 paragraph 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.

(b) Angel investor tax credit. (1) Allowance of credit. A taxpayer that is eligible pursuant to subdivision (b) of section forty-three of

this chapter shall be allowed a credit to be computed as provided in such subdivision against the tax imposed by this article.

(2) Application of credit. The credit allowed under this paragraph 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 paragraph 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.

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

(hhh) Life sciences tax credits. (1) Life sciences research and development tax credit. (A) Allowance of credit. A taxpayer who is eligible pursuant to subdivision (a) of section forty-three of this chapter shall be allowed a credit to be computed as provided in such subdivision against the tax imposed by this article.

(B) Application of credit. If the amount of the credit allowable under this paragraph 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.

(2) Angel investor tax credit. (A) A taxpayer who is eligible pursuant to subdivision (b) of section forty-three of this chapter shall be allowed a credit to be computed as provided in such subdivision against the tax imposed by this article.

(B) Application of credit. If the amount of the credit allowable under this paragraph 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.

§ 10. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding two new clauses (xliii) and (xliv) to read as follows:

(xliii) Life sciences research and development tax credit under paragraph one of subsection (hhh)	Amount of credit under paragraph (a) of subdivision fifty-two of section two hundred ten-B
(xliv) Angel investor tax credit under paragraph two of subsection (hhh)	Amount of credit under paragraph (b) of subdivision fifty-two of section two hundred ten-B

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

PART L

Intentionally Omitted

PART M

Section 1. Paragraph 5 of subdivision (a) of section 24 of the tax law, as amended by chapter 420 of the laws of 2016, is amended to read as follows:

(5) For the period two thousand fifteen through two thousand [~~nine-teen~~] twenty-two, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, music directors, producers and performers, including background actors with no scripted lines) by a qualified film production company or a qualified independent film production company for services performed by those individuals in one of the counties specified in this paragraph in connection with a qualified film with a minimum budget of five hundred thousand dollars. For purposes of this additional credit, the services must be performed in one or more of the following counties: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be five million dollars each year during the period two thousand fifteen through two thousand [~~nine-teen~~] twenty-two of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. Such aggregate amount of credits shall be allocated by the governor's office for motion picture and television development among taxpayers in order of priority based upon the date of filing an application for allocation of film production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this paragraph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph [~~five~~] six of subdivision (a) of section thirty-one of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand [~~nineteen~~] twenty-two.

§ 2. Paragraph 4 of subdivision (e) of section 24 of the tax law, as amended by section 1-a of part P of chapter 60 of the laws of 2016, is amended to read as follows:

(4) Additional pool 2 - The aggregate amount of tax credits allowed in subdivision (a) of this section shall be increased by an additional four hundred twenty million dollars in each year starting in two thousand ten through two thousand [~~nineteen~~] twenty-two provided however, seven million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in two thousand thirteen and two thousand fourteen and twenty-five million dollars of the annual allocation shall be available

for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand fifteen through two thousand [~~nineteen~~] twenty-two. This amount shall be allocated by the governor's office for motion picture and television development among taxpayers in accordance with subdivision (a) of this section. If the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film post production tax credit pursuant to section thirty-one of this article is insufficient to utilize the balance of unallocated empire state film post production tax credits from such pool, the remainder, after such pending applications are considered, shall be made available for allocation in the empire state film tax credit pursuant to this section, subdivision twenty of section two hundred ten-B and subsection (gg) of section six hundred six of this chapter. Also, if the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film post production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film production tax credit pursuant to this section is insufficient to utilize the balance of unallocated film production tax credits from such pool, then all or part of the remainder, after such pending applications are considered, shall be made available for allocation for the empire state film post production credit pursuant to this section, subdivision thirty-two of section two hundred ten-B and subsection (qq) of section six hundred six of this chapter. The governor's office for motion picture and television development must notify taxpayers of their allocation year and include the allocation year on the certificate of tax credit. Taxpayers eligible to claim a credit must report the allocation year directly on their empire state film production credit tax form for each year a credit is claimed and include a copy of the certificate with their tax return. In the case of a qualified film that receives funds from additional pool 2, no empire state film production credit shall be claimed before the later of the taxable year the production of the qualified film is complete, or the taxable year immediately following the allocation year for which the film has been allocated credit by the governor's office for motion picture and television development.

§ 3. Paragraph 6 of subdivision (a) of section 31 of the tax law, as amended by section 2 of part JJ of chapter 59 of the laws of 2014, is amended to read as follows:

(6) For the period two thousand fifteen through two thousand [~~nineteen~~] twenty-two, in addition to the amount of credit established in paragraph two of subdivision (a) of this section, a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, music directors, producers and performers, including background actors with no scripted lines) for services performed by those individuals in one of the counties specified in this paragraph in connection with the post production work on a qualified film with a minimum budget of five hundred thousand dollars at a qualified post production facility in one of the counties listed in this paragraph. For purposes of this additional credit, the services must be performed in one or more of the following counties: Albany, Allegany,

Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Delaware, Erie, Essex, Franklin, Fulton, Genesee, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Tioga, Tompkins, Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be five million dollars each year during the period two thousand fifteen through two thousand [~~nineteen~~] twenty-two of the annual allocation made available to the empire state film post production credit pursuant to paragraph four of subdivision (e) of section twenty-four of this article. Such aggregate amount of credits shall be allocated by the governor's office for motion picture and television development among taxpayers in order of priority based upon the date of filing an application for allocation of post production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this paragraph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation for two thousand seventeen made available to the empire state film post production credit pursuant to paragraph four of subdivision (e) of section twenty-four of this article. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section twenty-four of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand [~~nineteen~~] twenty-two.

§ 4. This act shall take effect immediately.

PART N

Intentionally Omitted

PART O

Intentionally Omitted

PART P

Intentionally Omitted

PART Q

Section 1. Legislative findings. The legislature finds it necessary to revise a decision of the tax appeals tribunal that disturbed the long-standing policy of the department of taxation and finance that single member limited liability companies that are treated as disregarded entities for federal income tax purposes also would be treated as disregarded entities for purposes of determining eligibility of the owners of such entities for tax credits allowed under article 9, 9-A, 22, 32 (prior to its repeal) or 33 of the tax law. The decision of the tax

appeals tribunal, if allowed to stand, will result in the denial of tax credits, such as empire zone tax credits, to taxpayers who in prior years received those credits.

§ 2. The tax law is amended by adding a new section 43 to read as follows:

§ 43. Single member limited liability companies and eligibility for tax credits. A limited liability company that has a single member and is disregarded as an entity separate from its owner for federal income tax purposes (without reference to any special rules related to the imposition of certain federal taxes, including but not limited to certain employment and excise taxes) shall be disregarded as an entity separate from its owner for purposes of determining whether or not the taxpayer that is the single member of such limited liability company satisfies the requirements to be eligible for any tax credit allowed under article nine, nine-A, twenty-two or thirty-three of this chapter or allowed under article thirty-two of this chapter prior to the repeal of such article. Such requirements, including but not limited to any necessary certification, employment or investment thresholds, payment obligations, and any time period for eligibility, shall be imposed on the taxpayer and the determination of whether or not such requirements have been satisfied and the computation of the credit shall be made by deeming such taxpayer and such limited liability company to be a single entity. If the taxpayer is the single member of more than one limited liability company that is disregarded as an entity separate from its owner, the determination of whether or not the requirements to be eligible for any tax credit allowed under article nine, nine-A, twenty-two or thirty-three of this chapter or allowed under article thirty-two of this chapter prior to the repeal of such article have been satisfied and the computation of the credit shall be made by deeming such taxpayer and such limited liability companies to be a single entity. However, if the taxpayer is the single member of more than one limited liability company that are each separately certified under the empire zones program, as defined under article eighteen-B of the general municipal law, the taxpayer may elect to have each certified business enterprise treated separately under the requirements of the empire zones program based on the effective date of certification of each separate business enterprise. In such instance, the separate treatment of two or more business enterprises shall be determined by an election made by the taxpayer, which election includes the date of certification of the business enterprise and its intended benefit period. Such election shall apply to all taxable years for which the statute of limitation for seeking a refund or assessing additional tax is still open.

§ 3. This act shall take effect immediately; provided however, that section 43 of the tax law, as added by section two of this act, shall apply to all taxable years for which the statute of limitations for seeking a refund or assessing additional tax is still open.

PART R

Intentionally Omitted

PART S

Intentionally Omitted

PART T

Section 1. Subsection (c) of section 606 of the tax law is amended by adding a new paragraph (1-a) to read as follows:

(1-a) For taxable years beginning after two thousand seventeen, for a taxpayer with New York adjusted gross income of less than one hundred fifty thousand dollars, the applicable percentage shall be the applicable percentage otherwise computed under paragraph one of this subsection multiplied by a factor as follows:

If New York adjusted gross income is:	The factor is:
Less than $50,000	0.5
At least $50,000 and less than $55,000	1.1682
At least $55,000 and less than $60,000	1.2733
At least $60,000 and less than $65,000	2.322
At least $65,000 and less than $150,000	3.000

§ 2. Subsection (c) of section 606 of the tax law is amended by adding a new paragraph 1-b to read as follows:

(1-b) Notwithstanding anything in this subsection to the contrary, a taxpayer shall be allowed a credit as provided in this subsection equal to the applicable percentage of the credit allowable under section twenty-one of the internal revenue code for the same taxable year (without regard to whether the taxpayer in fact claimed the credit under such section twenty-one for such taxable year) that would have been allowed absent the application of section 21(c) of such code for taxpayers with more than two qualifying individuals, provided however, that the credit shall be calculated as if the dollar limit on amount creditable shall not exceed seven thousand five hundred dollars if there are three qualifying individuals, eight thousand five hundred dollars if there are four qualifying individuals, and nine thousand dollars if there are five or more qualifying individuals.

§ 3. This act shall take effect immediately.

PART U

Intentionally Omitted

PART V

Intentionally Omitted

PART W

Intentionally Omitted

PART X

Intentionally Omitted

PART Y

Intentionally Omitted

PART Z

Intentionally Omitted

PART AA

Intentionally Omitted

PART BB

Intentionally Omitted

PART CC

Intentionally Omitted

PART DD

Intentionally Omitted

PART EE

Intentionally Omitted

PART FF

Intentionally Omitted

PART GG

Intentionally Omitted

PART HH

Intentionally Omitted

PART II

Intentionally Omitted

PART JJ

Intentionally Omitted

PART KK

Intentionally Omitted

PART LL

Intentionally Omitted

PART MM

Section 1. Article 19-B of the executive law is REPEALED.

§ 1-a. Article 9-A of the general municipal law is REPEALED.

§ 1-b. Article 14-H of the general municipal law is REPEALED.

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

ARTICLE 15

CHARITABLE GAMING

Title 1. General provisions.
2. Bingo control.
3. Local option for conduct of bingo by certain organizations.
4. Local option for conduct of games of chance by certain organizations.

TITLE 1

GENERAL PROVISIONS

Section 1500. Definitions.
1501. Forms.
1502. Participation by persons under the age of eighteen.
1503. Sundays.
1504. Advertising of charitable games.
1505. Sanctions for violations.
1506. Severability.

§ 1500. Definitions. As used in this article, in addition to the definitions set forth in section one hundred one of this chapter, the following terms shall have the following meanings:

1. "Authorized bingo lessor" shall mean a person, firm or corporation other than a licensee to conduct bingo under the provisions of this article, who or which owns or is a net lessee of premises and offer the same for leasing by him, her or it to an authorized organization for any consideration whatsoever, direct or indirect, for the purpose of conducting bingo therein, provided, that he, she or it, as the case may be, shall not be:

(a) a person convicted of a crime if there is a direct relationship between one or more of the previous criminal offenses and the integrity of bingo, considering the factors set forth in section seven hundred fifty-three of the correction law;

(b) a person who is or has been a professional gambler or gambling promoter or who for other reasons is not of good moral character;

(c) a public officer who receives any consideration, direct or indirect, as owner or lessor of premises offered for the purpose of conducting bingo therein; or

(d) a firm or corporation in which a person defined in paragraph (a), (b) or (c) of this subdivision or a person married or related in the first degree to such a person has greater than a ten percent proprietary, equitable or credit interest or in which such a person is active or employed.

Nothing contained in this subdivision shall be construed to bar any firm or corporation that is not organized for pecuniary profit and no part of the net earnings of which inure to the benefit of any individual, member or shareholder, from being an authorized bingo lessor solely because a public officer, or a person married or related in the first degree to a public officer, is a member of, active in or employed by such firm or corporation.

2. "Authorized games of chance lessor" shall mean an authorized organization that has been granted a lessor's license pursuant to the provisions of title four of this article or a municipality.

3. "Authorized organization" shall mean any bona fide religious or charitable organization or bona fide educational, fraternal, civic or service organization or bona fide organization of veterans, volunteer firefighters or volunteer ambulance workers that by its charter, certificate of incorporation, constitution or act of the legislature has among its dominant purposes one or more of the lawful purposes as defined in this section, provided that each shall operate without profit to its members and provided that each such organization has engaged in serving one or more of the lawful purposes as defined in this section for a period of one year immediately prior to applying for a license under this article. No organization shall be deemed an authorized organization that is formed primarily for the purpose of conducting bingo or games of chance and that does not devote at least seventy-five percent of its activities to other than conducting bingo or games of chance. No political party, political campaign or political campaign committee shall be deemed an authorized organization.

4. "Authorized supplier of games of chance equipment" shall mean any person, firm, partnership, corporation or organization licensed by the commission to sell or lease games of chance equipment or paraphernalia that meets the specifications and regulations established by the commission. Nothing herein shall prevent an authorized organization from purchasing common articles, such as cards and dice, from normal sources of supply of such articles or from constructing equipment and paraphernalia for games of chance for its own use. However, no such equipment or paraphernalia, constructed or owned by an authorized organization shall be sold or leased to any other authorized organization, without written permission from the commission.

5. "Bell jars" shall mean and include those games in which a participant shall draw a card that contains numbers, colors or symbols that are covered and that, when uncovered, may reveal that a prize shall be awarded on the basis of a designated winning number, color or symbol or combination of numbers, colors or symbols. Such card shall be drawn from a jar, vending machine or other suitable device or container. Bell jars shall also include seal cards, coin boards, event games and merchandise boards. Notwithstanding any other provision of law, bell jar vending machines shall dispense preprinted physical bell jar tickets and may include features to aid players and enhance accountability, including functionality to electronically verify if a ticket is redeemable for a prize, reveal ticket results through creative audio and video displays, and electronically aggregate winning prizes for continue play or a single voucher for prize redemption. After the effective date of this

article, no new bell jar ticket vending machine shall be deployed or used by any licensed authorized organization within the jurisdictional boundaries defined in subdivision two of section thirteen hundred eleven of this chapter unless the board shall first issue a formal written opinion that the specific type of vending machine to be deployed is not violative of a valid and effective gaming compact between the state and an Indian tribe or nation.

6. "Bingo" shall mean a specific game of chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random.

7. "Bingo control law" shall mean title two of this article.

8. "Bingo licensing law" shall mean title three of this article.

9. "Bonus ball" shall mean a bingo game that is played in conjunction with one or more regular or special bingo games designated as bonus ball games by the licensed authorized organization during one or more consecutive bingo occasions in which a prize is awarded to the player obtaining a specified winning bingo pattern when the last number called by the licensed authorized organization is the designated bonus ball number. The bonus ball prize shall be based upon a percentage of the sales from opportunities to participate in bonus ball games not to exceed seventy-five percent of the sum of money received from the sale of bonus ball opportunities or ten thousand dollars, whichever shall be less, and which is not subject to the prize limits imposed by subdivisions five and six of section fifteen hundred twenty-three and paragraph (a) of subdivision one of section fifteen hundred twenty-five of this article. The percentage shall be specified both in the application for the bingo license and the license. Notwithstanding section fifteen hundred thirty-one of this article, not more than one dollar shall be charged per player for an opportunity to participate in all bonus ball games conducted during a single bingo occasion, and the total amount collected from the sale of bonus ball opportunities and the amount of the prize to be awarded shall be announced prior to the start of each bingo occasion.

10. "Clerk" shall mean the clerk of a municipality outside the city of New York.

11. "Coin board" and "merchandise board" shall mean a board used in conjunction with bell jar tickets that contains and displays various coins and/or merchandise as prizes. A player having a bell jar ticket with a number matching a pre-designated number reflected on the board for a prize wins that prize.

11-a. "Commission" shall mean the New York state gaming commission.

12. "Department" shall mean the New York city department of consumer affairs.

13. "Early bird" shall mean a bingo game that is played as a special game, conducted not more than twice during a bingo occasion, in which prizes are awarded based upon a percentage not to exceed seventy-five percent of the sum of money received from the sale of the early bird cards and that is neither subject to the prize limits imposed by subdivisions five and six of section fifteen hundred twenty-three and paragraph (a) of subdivision one of section fifteen hundred twenty-five, nor the special game opportunity charge limit imposed by section fifteen hundred thirty-one of this article. The percentage shall be specified both in the application for bingo license and the license. Not more than one dollar shall be charged per card with the total amount collected from the sale of the early bird cards and the prize for each game to be announced before the commencement of each game.

14. "Event game" shall mean a bell jar game in which certain winners are determined by the random selection of one or more bingo numbers, the use of a seal card or by another method approved by the commission.

15. "Flare" shall mean a poster description of the bell jar game, which shall include:

(a) a declaration of the number of winners and amount of prizes in each deal;

(b) the number of prizes available in the deal;

(c) the number of tickets in each deal that contain the stated prize;

(d) the manufacturer's game form number and the serial number of the deal, which shall be identical to the serial number imprinted on each ticket contained in the deal; and

(e) such other requirements as the rules and regulations of the commission may require.

16. "Games of chance" shall mean and include only the games known as "merchandise wheels," "coin boards," "merchandise boards," "seal cards," "event games," "raffles," "bell jars" and such other specific games as may be authorized by the commission, in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance, but not including games commonly known as "bingo" or "lotto," which are controlled under titles two and three of this article, and also not including "bookmaking," "policy or numbers games" and "lottery" as defined in section 225.00 of the penal law.

17. "Lawful purposes" shall mean one or more of the following causes, deeds or activities:

(a) those that benefit needy or deserving persons indefinite in number by enhancing their opportunity for religious or educational advancement, by relieving them from disease, suffering or distress, or by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded and enhancing their loyalty to their governments;

(b) those that initiate, perform or foster worthy public works or enable or further the erection or maintenance of public structures;

(c) those that initiate, perform or foster the provisions of services to veterans by encouraging the gathering of such veterans and enable or further the erection or maintenance of facilities for use by such veterans that shall be used primarily for charitable or patriotic purposes, or those purposes that shall be authorized by a bona fide organization of veterans, provided however that such proceeds are disbursed in accordance with the rules and regulations of the commission and section fifteen hundred fifty-four of this article; and

(d) those that otherwise lessen the burdens borne by the government or that are voluntarily undertaken by an authorized organization to augment or supplement services that the government would normally render to the people, including, in the case of volunteer firefighters' activities, the purchase, erection or maintenance of a building for a firehouse, activities open to the public for the enhancement of membership and the purchase of equipment that can reasonably be expected to increase the efficiency of response to fires, accidents, public calamities and other emergencies.

18. "License period" shall mean:

(a) for bingo, the duration of a license issued pursuant to section fifteen hundred twenty-five of this article;

(b) for games of chance other than bell jars or raffles, a period of time not to exceed fourteen consecutive hours; and

(c) for bell jars and raffles, a period of time running from January first to December thirty-first of the year set forth in the license.

19. "Limited-period bingo" shall mean the conduct of bingo by a licensed authorized organization, for a period of not more than seven of twelve consecutive days in any one year, at a festival, bazaar, carnival or similar function conducted by such licensed authorized organization. No authorized organization licensed to conduct limited-period bingo shall be otherwise eligible to conduct bingo pursuant to this title in the same year.

20. "Municipal officer" shall mean the chief law enforcement officer of a municipality outside the city of New York, or if such municipality exercises the option set forth in subdivision two of section fifteen hundred sixty-three of this article, the chief law enforcement officer of the county.

21. "Municipality" shall mean any city, town or village within this state.

22. "Net lease" shall mean a written agreement between a lessor and lessee under the terms of which the lessee is entitled to the possession, use or occupancy of the whole or part of any commercial premises for which the lessee pays rent to the lessor and likewise undertakes to pay substantially all of the regularly recurring expenses incident to the operation and maintenance of such leased premises.

23. "Net proceeds" shall mean:

(a) in relation to the gross receipts from one or more occasions of bingo, the amount that remains after deducting the reasonable sums necessarily and actually expended for bingo supplies and equipment, prizes, stated rental, if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the commission, janitorial services and utility supplies if any, license fees, and the cost of bus transportation, if authorized by the commission;

(b) in relation to bell jars, the difference between the ideal handle from the sale of bell jar tickets, seal cards, merchandise boards and coin boards less the amount of money paid out in prizes and less the purchase price of the bell jar deal, seal card deal, merchandise board deal or coin board deal. Additionally, a credit shall be permitted against the net proceeds fee tendered to the commission for unsold tickets of the bell jar deal so long as the unsold tickets have the same serial and form number as the tickets for which the fee is rendered;

(c) in relation to the gross receipts from one or more license periods of games of chance, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for supplies and equipment, prizes, security-personnel, stated rental, if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the commission, janitorial services and utility supplies, if any, license fees, and the cost of bus transportation, if authorized by the clerk or department;

(d) in relation to the gross rent received by an organization licensed to conduct bingo for the use of its premises by another licensee, the amount that remains after deducting the reasonable sums necessarily and actually expended for janitorial services and utility supplies directly attributable thereto if any; and

(e) in relation to the gross rent received by an authorized games of chance lessor for the use of its premises by a game of chance licensee, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for janitorial services and utility supplies directly attributable thereto if any.

24. (a) "One occasion" shall mean the successive operations of any one single type of game of chance that results in the awarding of a series of prizes amounting to five hundred dollars or four hundred dollars during any one license period, in accordance with the provisions of subdivision eight of section fifteen hundred fifty-four of this article, as the case may be.

(b) For purposes of the game of chance known as a merchandise wheel or a raffle, "one occasion" shall mean the successive operations of any one such merchandise wheel or raffle for which the limit on a series of prizes provided by subdivision six of section fifteen hundred fifty-four of this article shall apply.

(c) For purposes of the game of chance known as a bell jar, "one occasion" shall mean the successive operation of any one such bell jar, seal card, event game, coin board, or merchandise board that results in the awarding of a series of prizes amounting to six thousand dollars.

(d) For the purposes of the game of chance known as raffle "one occasion" shall mean a calendar year during which successive operations of such game are conducted.

25. "Operation" shall mean, in regard to a game of chance, the play of a single type of game of chance necessary to determine the outcome or winners each time wagers are made. A single drawing of a winning ticket or other receipt in a raffle shall be deemed one operation.

26. "Premises" shall mean, in regard to games of chance, a designated area within a building, hall, tent or grounds reasonably identified for the conduct of games of chance. Nothing herein shall require such area to be enclosed.

27. "Prize," where supercard is played as set forth in subdivision thirty-three of this section, shall mean the sum of money or actual value of merchandise awarded to the winner or winners on a game card during a game of bingo and the sum of money or actual value of merchandise awarded to the winner or winners on a supercard in excess of the total receipts derived from the sale of supercards for that specific game.

28. "Raffle" shall mean and include those games of chance in which a participant pays money in return for a ticket or other receipt and in which a prize is awarded on the basis of a winning number or numbers, color or colors, or symbol or symbols designated on the ticket or receipt, determined by chance as a result of:

(a) a drawing from among those tickets or receipts previously sold; or

(b) a random event, the results of which correspond with tickets or receipts previously sold.

29. "Seal cards" shall mean a board or placard used in conjunction with a deal of the same serial number that contains one or more concealed areas that, when removed or opened, reveal a predesignated winning number, letter or symbol located on the board or placard. A seal card used in conjunction with an event game shall not be required to contain lines for prospective seal winners to sign their name.

30. "Series of prizes" shall mean the total amount of single prizes minus the total amount of wagers lost during the successive operations of a single type of game of chance, except that for merchandise wheels and raffles, "series of prizes" shall mean the sum of cash and the fair market value of merchandise awarded as single prizes during the successive operations of any single merchandise wheel or raffle. In the game of raffle, a series of prizes may include a percentage of the sum of cash received from the sale of raffle tickets.

31. "Single prize" shall mean the sum of money or fair market value of merchandise or coins awarded to a participant by a games of chance licensee in any one operation of a single type of game of chance in excess of his or her wager.

32. "Single type of game" shall mean the games of chance known as merchandise wheels, coin boards, merchandise boards, event games, raffles and bell jars and each other specific game of chance authorized by the commission.

33. "Supercard" shall mean a bingo card on which prizes are awarded, which card is selected by the player, containing five designated numbers, colors or symbols, corresponding to the letters B, I, N, G, O, displayed on the bingo board of the bingo premises operator, which can be played concurrently with the other bingo cards played during the game of bingo.

§ 1501. Forms. The commission shall, to the greatest extent practicable, make forms and applications required by this article or related rules and regulations of the commission available in electronic formats that minimize paperwork and are designed to maximize efficiency for authorized organizations, municipalities and the commission.

§ 1502. Participation by persons under the age of eighteen. 1. No person under the age of eighteen years shall be permitted to play any game of bingo or any game of chance conducted pursuant to this article.

2. No person under the age of eighteen years shall be permitted to conduct, operate or assist in the conduct of any game of bingo or game of chance conducted pursuant to this article. Provided, however for the game of bingo a person under the age eighteen shall be permitted to assist in the preparation and sale of concession stand items if accompanied by an adult.

3. Persons under the age of eighteen years may be permitted to attend games of chance at the discretion of the games of chance licensee. Provided, however that a person under the age of eighteen years of age who is sixteen years of age or older shall be permitted to assist in any raffle or bingo if accompanied by an adult.

§ 1503. Sundays. A municipality may restrict a license to conduct bingo or games of chance by providing that no bingo or games of chance shall be conducted on the first day of the week, commonly known as Sunday, if the provisions of a local law or an ordinance duly adopted by the governing body of the municipality issuing the license prohibits the conduct of bingo or games of chance pursuant to this title on such days.

§ 1504. Advertising of charitable games. A licensee may advertise the conduct of an occasion of bingo or games of chance event to the general public by means of newspaper, radio, circular, handbill and poster, by one sign not exceeding sixty square feet in area, which may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization, by other signs as may be permitted by the rules and regulations of the commission and through the internet or television as may be permitted by the rules and regulations of the commission. When an organization is licensed or authorized to conduct bingo occasions or games of chance events on the premises of another licensed authorized organization or of an authorized bingo lessor or authorized games of chance lessor, one additional such sign may be displayed on or adjacent to the premises in which the occasions are to be conducted. Additional signs may be displayed upon any firefighting equipment belonging to any licensed authorized organization that is a volunteer fire company, or upon any equipment of a first aid or rescue squad in and throughout the community served by such volunteer fire company or such first aid or

rescue squad, as the case may be. All advertisements shall be limited to:

(a) the description of such event as "bingo," "games of chance" or "casino night," as the case may be;

(b) the name of the authorized organization conducting such bingo occasions or games of chance;

(c) the license number of the authorized organization as assigned by the clerk or department;

(d) the prizes offered; and

(e) the date, location and time of the bingo occasion or games of chance event.

§ 1505. Sanctions for violations. The commission shall have the power to issue letters of reprimand or impose fines in any amount up to the maximum authorized by section one hundred sixteen of this chapter for any violation of this article or the rules and regulations of the commission. A person or entity that has been fined may request a de novo hearing before the commission to review and determine such fine, pursuant to the rules and regulations of the commission.

§ 1506. Severability. If any provision of this article or the application thereof to any municipality, person or circumstances shall be adjudged unconstitutional by any court of competent jurisdiction, the remainder of this article or the application thereof to other municipalities, persons and circumstances shall not be affected thereby, and the legislature hereby declares that it would have enacted this title without the invalid provision or application, as the case may be, had such invalidity been apparent.

TITLE 2
BINGO CONTROL

Section 1510. Short title.
1511. Purpose of title.
1512. Other agency assistance.
1513. Powers and duties of the commission.
1514. Hearings; immunity.
1515. Place of investigations and hearings; witnesses; books and documents.
1516. Privilege against self-incrimination.
1517. Filing and availability of rules and regulations.
1518. Municipality to file copies of local laws and ordinances; reports.

§ 1510. Short title. This title shall be known and may be cited as the bingo control law.

§ 1511. Purpose of title. The purpose of this title is to implement section nine of article one of the state constitution, as amended by vote of the people at the general election in November, nineteen hundred fifty-seven. The legislature hereby declares that the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious, civic and patriotic causes and undertakings, where the beneficiaries are indefinite, is in the public interest. It hereby finds that, as conducted prior to the enactment of this title, bingo was the subject of exploitation by professional gamblers, promoters and commercial interests. It is hereby declared to be the policy of the legislature that all phases of the supervision, licensing and the regulation of bingo and of the conduct of bingo games, should be controlled closely and that the laws and regulations pertaining thereto should be construed strictly and enforced rigidly; that the conduct of bingo and all attendant activities should be so regulated and adequate controls so

instituted as to discourage commercialization in all its forms, including the rental of commercial premises for bingo games, and to ensure a maximum availability of the net proceeds of bingo exclusively for application to the worthy causes and undertakings specified herein; that the only justification for this title is to foster and support such worthy causes and undertakings, and that the mandate of section nine of article one of the state constitution, as amended, should be carried out by rigid regulation to prevent commercialized gambling, prevent participation by criminal and other undesirable elements and prevent the diversion of funds from the purposes herein authorized.

§ 1512. Other agency assistance. To effectuate the purposes of this title, the governor may authorize any department, division, board, bureau, commission or agency of the state or in any political subdivision thereof to provide such facilities, assistance and data as will enable the commission properly to carry out its activities and effectuate its purposes hereunder.

§ 1513. Powers and duties of the commission. 1. The commission shall have the power and it shall be its duty to:

(a) supervise the administration of the bingo licensing law and adopt, amend and repeal rules and regulations governing the issuance and amendment of licenses thereunder and the conducting of bingo under such licenses, which rules and regulations shall have the force and effect of law and shall be binding upon all municipalities issuing licenses and upon licensees thereunder and licensees of the commission, to the end that such licenses shall be issued to qualified licensees only and that said bingo games shall be fairly and properly conducted for the purposes and in the manner in the said bingo licensing law prescribed and to prevent the bingo games thereby authorized to be conducted from being conducted for commercial purposes or purposes other than those therein authorized, participated in by criminal or other undesirable elements and the funds derived from the bingo games being diverted from the purposes authorized, and, to provide uniformity in the administration of said law throughout the state, the commission shall prescribe forms of application for licenses, licenses, amendment of licenses, reports of the conduct of bingo games and other matters incident to the administration of such law;

(b) conduct, anywhere within the state, investigations of the administration, enforcement and potential or actual violations of the bingo licensing law and of the rules and regulations of the commission;

(c) review all determinations and actions of the municipal governing body in issuing an initial license and review the issuance of subsequent licenses and, after hearing, revoke those licenses that do not in all respects meet the requirements of this title and the rules and regulations of the commission;

(d) suspend or revoke a license, after hearing, for any violation of the provisions of this title or the rules and regulations of the commission;

(e) hear appeals from the determinations and action of the municipal governing body in connection with the refusing to issue licenses, the suspension and revocation of licenses and the imposition of fines in the manner prescribed by law and the action and determination of the commission upon any such appeal shall be binding upon the municipal governing body and all parties thereto;

(f) initiate prosecutions for violations of this title and of the bingo licensing law;

(g) carry on continuous study of the operation of the bingo licensing law to ascertain from time to time defects therein jeopardizing or threatening to jeopardize the purposes of this title and to formulate and recommend changes in such law and in other laws of the state that the commission may determine to be necessary for the realization of such purposes, and to the same end to make a continuous study of the operation and administration of similar laws that may be in effect in other states of the United States;

(h) supervise the disposition of all funds derived from the conduct of bingo by authorized organizations not currently licensed to conduct such bingo games; and

(i) issue an identification number to an applicant authorized organization if the commission determines that the applicant satisfies the requirements of the bingo licensing law and the rules and regulations of the commission.

2. (a) The commission shall have the power to issue or, after hearing, refuse to issue a license permitting a person, firm or corporation to sell or distribute to any other person, firm or corporation engaged in business as a wholesaler, jobber, distributor or retailer of all cards, boards, sheets, pads and all other supplies, devices and equipment designed for use in the play of bingo by an organization duly licensed to conduct bingo games or to sell or distribute any such materials directly to such an organization. For the purposes of this section the words "sell or distribute" shall include, without limitation, the following activities: offering for sale, receiving, handling, maintaining, storing the same on behalf of such an organization, distributing or providing the same to such an organization and offering for sale or lease bingo devices and equipment. Each such license shall be valid for one year.

(b) (1) No person, firm or corporation, other than an organization that is or has been during the preceding twelve months duly licensed to conduct bingo games, shall sell or distribute bingo supplies or equipment without having first obtained a license therefor upon written application made, verified and filed with the commission in the form prescribed by the rules and regulations of the commission.

(2) The commission, as a part of its determination concerning the applicant's suitability for licensing as a bingo supplier, shall require the applicant to furnish to the commission two sets of fingerprints. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check.

(3) In each such application for a license under this section shall be stated:

(i) the name and address of the applicant;

(ii) the names and addresses of its officers, directors, shareholders or partners;

(iii) the amount of gross receipts realized on the sale or distribution of bingo supplies and equipment to duly licensed organizations during the last preceding calendar or fiscal year; and

(iv) such other information as shall be prescribed by such rules and regulations.

(4) The fee for such license shall be as prescribed by regulation of the commission, which shall take into account the quantity of gross sales of the applicant.

(c) The following shall be ineligible for such a license:

(1) a person convicted of a crime if there is a direct relationship between one or more of the previous criminal offenses and the integrity of bingo, considering the factors set forth in section seven hundred fifty-three of the correction law;

(2) a person who is or has been a professional gambler or gambling promoter or who for other reasons is not of good moral character;

(3) a public officer or employee;

(4) an operator or proprietor of a commercial hall duly licensed under the bingo licensing law; and

(5) a firm or corporation in which a person defined in subparagraph one, two, three or four of this paragraph, or a person married or related in the first degree to such a person, has greater than a ten percent proprietary, equitable or credit interest or in which such a person is active or employed.

(d) The commission shall have power to examine or cause to be examined the books and records of any applicant for a license, or any licensee, under this section. Any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this article.

(e) Any solicitation of an organization licensed to conduct bingo games, to purchase or induce the purchase of bingo supplies and equipment, or any representation, statement or inquiry designed or reasonably tending to influence such an organization to purchase the same, other than by a person licensed or otherwise authorized pursuant to this section shall constitute a violation of this section.

(f) Any person who willfully makes any material false statement in any application for a license authorized to be issued under this title or who willfully violates any of the provisions of this section or of any license issued hereunder shall be guilty of a misdemeanor and, in addition to the penalties in such case made and provided, shall forfeit any license issued to him, her or it under this section and be ineligible to apply for a license under this section for one year thereafter.

(g) At the end of the license period, a recapitulation shall be made as between the licensee and the commission in respect of the gross sales actually recorded during the license period and the fee paid therefor, and any deficiency of fee thereby shown to be due shall be paid by the licensee and any excess of fee thereby shown to have been paid shall be credited to said licensee in such manner as the commission by the rules and regulations shall prescribe.

3. The commission shall have the power to approve and establish a standard set of bingo cards comprising a consecutively numbered series and shall by rules and regulations prescribe the manner in which such cards are to be reproduced and distributed to licensed authorized organizations. The sale or distribution to a licensed authorized organization of any card or cards other than those contained in the standard set of bingo cards shall constitute a violation of this section. Licensed authorized organizations shall not be required to use nor to maintain such cards seriatim excepting that the same may be required in the conduct of limited-period bingo games.

§ 1514. Hearings; immunity. 1. A hearing upon any investigation or review authorized by this article may be conducted by two or more members of the commission or by a hearing officer duly designated by the commission, as the commission shall determine.

2. A person who has violated any provision of this article, or of the rules and regulations of the commission, or any term of any license

issued under this article or such rules and regulations, is a competent witness against another person so charged. In any hearing upon any investigation or review authorized by this article, for or relating to a violation of any provision of said article or of the rules and regulations of the commission or of the term of any such license, the commission may confer immunity upon such witness in accordance with the provisions of section 50.20 of the criminal procedure law. Such immunity shall be conferred only upon the vote of at least three members of the commission and only after affording the attorney general and the appropriate district attorney a reasonable opportunity to be heard with respect to any objections that they or either of them may have to the granting of such immunity.

§ 1515. Place of investigations and hearings; witnesses; books and documents. The commission may conduct investigations and hearings within or without the state and shall have power to compel the attendance of witnesses, the production of books, records, documents and other evidence by the issuance of a subpoena signed by a person authorized by the commission to do so.

§ 1516. Privilege against self-incrimination. The willful refusal to answer a material question or the assertion of privilege against self-incrimination during a hearing upon any investigation or review authorized by this article by any licensee or any person identified with any licensee as an officer, director, stockholder, partner, member, employee or agent thereof shall constitute sufficient cause for the revocation or suspension of any license issued under this title or under the licensing law, as the commission or as the municipal governing body may determine.

§ 1517. Filing and availability of rules and regulations. A copy of every rule and regulation adopted and promulgated by the commission shall be made available to the various municipalities operating under the bingo licensing law.

§ 1518. Municipality to file copies of local laws and ordinances; reports. Each municipality in which the bingo licensing law is adopted shall file with the commission a copy of each local law or ordinance enacted pursuant thereto within ten days after the same has been approved by a majority of the electors voting on a proposition submitted at a general or special election, or within ten days after the same has been amended or repealed by the common council or other local legislative body and on or before February first of each year, and at any other time or times that the commission may determine, make a report to the commission of the number of licenses issued therein under the bingo licensing law, the names and addresses of the licensees, the aggregate amount of license fees collected, the names and addresses of all persons detected of violating the bingo licensing law, this title or the rules and regulations adopted by the commission pursuant hereto, and of all persons prosecuted for such violations and the result of each such prosecution, the penalties imposed therein during the preceding calendar year, or the period for which the report is required, which report may contain any recommendations for improvement of the bingo licensing law or the administration thereof that the governing body of the municipality deems desirable.

TITLE 3

LOCAL OPTION FOR CONDUCT OF BINGO BY CERTAIN ORGANIZATIONS

Section 1520. Short title; purpose of title.
1521. Local option.
1522. Local laws and ordinances.
1523. Restrictions upon conduct of bingo games.

1524. Application for license.
1525. Investigation; matters to be determined; issuance of license; fees; duration of license.
1526. Hearing; amendment of license.
1527. Form and contents of license; display of license.
1528. Control and supervision; suspension of licenses; inspection of premises.
1529. Frequency of game; sale of alcoholic beverages.
1530. Persons operating and conducting bingo games; equipment; expenses; compensation.
1531. Charge for admission and participation; amount of prizes; award of prizes.
1532. Statement of receipts, expenses; additional license fees.
1533. Examination of books and records; examination of managers, etc.; disclosure of information.
1534. Appeals from municipal governing body to commission.
1535. Exemption from prosecution.
1536. Offenses; forfeiture of license; ineligibility to apply for license.
1537. Unlawful bingo.
1538. Title inoperative until adopted by voters.
1539. Amendment and repeal of local laws and ordinances.
1540. Delegation of authority.
1541. Powers and duties of mayors or managers of certain cities.

§ 1520. Short title; purpose of title. This title shall be known and may be cited as the bingo licensing law. The legislature hereby declares that the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious, civic and patriotic causes and undertakings, where the beneficiaries are indefinite, is in the public interest. It hereby finds that, as conducted prior to the effective date of this title, bingo was the subject of exploitation by professional gamblers, promoters, and commercial interests. It is hereby declared to be the policy of the legislature that all phases of the supervision, licensing and regulation of bingo and of the conduct of bingo games, should be closely controlled and that the laws and regulations pertaining thereto should be strictly construed and rigidly enforced; that the conduct of the bingo game and all attendant activities should be so regulated and adequate controls so instituted as to discourage commercialization in all its forms, including the rental of commercial premises for bingo games, and to ensure a maximum availability of the net proceeds of bingo exclusively for application to the worthy causes and undertakings specified herein; that the only justification for this title is to foster and support such worthy causes and undertakings, and that the mandate of section nine of article one of the state constitution, as amended, should be carried out by rigid regulation to prevent commercialized gambling, prevent participation by criminal and other undesirable elements and prevent the diversion of funds from the purposes herein authorized.

§ 1521. Local option. Subject to the provisions of this title, and pursuant to the direction contained in subdivision two of section nine of article one of the constitution of the state, the legislature hereby gives and grants to every municipality the right, power and authority to authorize the conduct of bingo games by authorized organizations within the territorial limits of such municipality provided, however, that where the electors of a village hereafter approve a local law or ordinance pursuant to section fifteen hundred twenty-three of this title,

the right, power and authority under this title of any town in which such village is located shall not extend to such village during such time as such village local law or ordinance is in effect.

§ 1522. Local laws and ordinances. 1. The common council or other local legislative body of any municipality may, either by local law or ordinance, provide that it shall be lawful for any authorized organization, upon obtaining a license therefor as provided in this title, to conduct the game of bingo within the territorial limits of such municipality, subject to the provisions of such local law or ordinance, the provisions of this title and the provisions of the bingo control law.

2. No such local law or ordinance shall become operative or effective unless and until it has been approved by a majority of the electors voting on a proposition submitted at a general or special election held within such municipality who are qualified to vote for officers of such municipality.

3. The time, method and manner of submission, preparation and provision of ballots and ballot labels, balloting by voting machine and conducting the election, canvassing the result and making and filing the returns and all other procedure with reference to the submission of and action upon any proposition for the approval of any such local law or ordinance shall be the same as in the case of any other proposition to be submitted to the electors of such municipality at a general or special election in such municipality, as provided by law.

§ 1523. Restrictions upon conduct of bingo games. The conduct of bingo games authorized by local law or ordinance shall be subject to the following restrictions without regard to whether such restrictions are contained in such local law or ordinance, but nothing in this section shall be construed to prevent the inclusion within such local law or ordinance of other provisions imposing additional restrictions upon the conduct of bingo games:

1. No person, firm, association, corporation or organization, other than a licensee under the provisions of this title, shall

(a) conduct bingo; or

(b) lease or otherwise make available for conducting bingo a hall or other premises for any consideration whatsoever, direct or indirect, without obtaining the prior written approval of the commission.

2. No bingo games shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.

3. No authorized organization licensed under the provisions of this title shall purchase, lease or receive any supplies or equipment specifically designed or adapted for use in the conduct of bingo games from other than a supplier licensed under the bingo control law or from another authorized organization.

4. The entire net proceeds of any game of bingo and of any rental shall be devoted exclusively to the lawful purposes of the organization permitted to conduct the same.

5. No prize shall exceed the sum or value of five thousand dollars in any single game of bingo.

6. No series of prizes on any one bingo occasion shall aggregate more than fifteen thousand dollars.

7. No person except a bona fide member of any such organization shall participate in the management or operation of such bingo game.

8. No person shall receive any remuneration for participating in the management or operation of any game of bingo.

9. The unauthorized conduct of a bingo game and any willful violation of any provision of any local law or ordinance shall constitute and be punishable as a misdemeanor.

10. No person licensed to sell bingo supplies or equipment, or any agent of such person, shall conduct, participate in or assist in the conduct of bingo. Nothing herein shall prohibit a licensed distributor from selling, offering for sale or explaining a product to an authorized organization or installing or servicing bingo equipment upon the premises of a bingo game licensee.

11. Limited-period bingo shall be conducted in accordance with the provisions of this title and the rules and regulations of the commission.

§ 1524. Application for license. 1. To conduct bingo. (a) Each applicant for a license to conduct bingo shall, after obtaining an identification number from the commission, file with the clerk of the municipality an application therefor in the form prescribed in the rules and regulations of the commission, duly executed and verified, in which such applicant shall state:

(1) the name and address of the applicant together with sufficient facts relating to such applicant's incorporation and organization to enable the governing body of the municipality to determine whether or not the applicant is a bona fide authorized organization;

(2) the names and addresses of the applicant's officers;

(3) the place or places where, and the date or dates and the time or times when, the applicant intends to conduct bingo under the license applied for;

(4) in case the applicant intends to lease premises for this purpose from other than an authorized organization, the name and address of the licensed bingo lessor of such premises, and the capacity or potential capacity for public assembly purposes of space in any premises presently owned or occupied by the applicant;

(5) the amount of rent to be paid or other consideration to be given directly or indirectly for each occasion for use of the premises of another authorized organization licensed under this title to conduct bingo or for use of the premises of a licensed bingo lessor;

(6) all other items of expense intended to be incurred or paid in connection with the holding, operating and conducting of such games of bingo and the names and addresses of the persons to be paid and the purposes for which such persons are to be paid;

(7) the specific purposes to which the entire net proceeds of such games of bingo are to be devoted and in what manner;

(8) that no commission, salary, compensation, reward or recompense will be paid to any person for conducting such bingo game or games or for assisting therein except as in this title otherwise provided; and

(9) such other information as shall be prescribed by the rules and regulations of the commission.

(b) In each application there shall be designated an active member or members of the applicant organization under whom the game or games of bingo will be conducted and to the application shall be appended a statement executed by the member or members so designated, that he, she or they will be responsible for the conduct of such bingo games in accordance with the terms of the license and the rules and regulations of the commission and of this title.

2. Bingo lessor. (a) Each applicant for a license to lease premises to a licensed organization for the purposes of conducting bingo therein shall file with the clerk of the municipality an application therefor in

a form prescribed in the rules and regulations of the commission duly executed and verified, which shall set forth:

(1) the name and address of the applicant;

(2) designation and address of the premises intended to be covered by the license sought;

(3) lawful capacity for public assembly purposes;

(4) cost of premises and assessed valuation for real estate tax purposes, or annual net lease rent, whichever is applicable;

(5) gross rentals received and itemized expenses for the immediately preceding calendar or fiscal year, if any;

(6) gross rentals, if any, derived from bingo during the last preceding calendar or fiscal year;

(7) computation by which proposed rental schedule was determined;

(8) number of occasions on which applicant anticipates receiving rent for bingo during the ensuing year or shorter period if applicable;

(9) proposed rent for each such occasion; estimated gross rental income from all other sources during the ensuing year;

(10) estimated expenses itemized for ensuing year and amount of each item allocated to bingo rentals;

(11) a statement that the applicant in all respects conforms with the specifications contained in the definition of "authorized bingo lessor" set forth in section fifteen hundred of this article; and

(12) such other information as shall be prescribed by the rules and regulations of the commission.

(b) At the end of the license period, a recapitulation, in a manner prescribed in the rules and regulations of the commission, shall be made as between the licensee and the municipal governing body in respect of the gross rental actually received during the license period and the fee paid therefor. The licensee shall pay any deficiency of fee thereby shown to be due and any excess of fee thereby shown to have been paid shall be credited to such licensee, in such manner as the commission by rules and regulations shall prescribe.

§ 1525. Investigation; matters to be determined; issuance of license; fees; duration of license. 1. The governing body of the municipality shall make an investigation of the qualifications of each applicant and the merits of each application, with due expedition after the filing of the application.

(a) Issuance of licenses to conduct bingo. If the governing body of the municipality determines:

(1) that the applicant is duly qualified to be licensed to conduct bingo under this title;

(2) that the member or members of the applicant designated in the application to conduct bingo are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime if there is a direct relationship between one or more of the previous criminal offenses and the integrity of bingo, considering the factors set forth in section seven hundred fifty-three of the correction law;

(3) that such games of bingo are to be conducted in accordance with the provisions of this title and in accordance with the rules and regulations of the commission;

(4) that the proceeds thereof are to be disposed of as provided by this title;

(5) if the governing body is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person holding, operating or conducting or assisting in the holding,

operation and conduct of any such games of bingo except as in this title otherwise provided; and

(6) that no prize will be offered and given in excess of the sum or value of five thousand dollars in any single game of bingo and that the aggregate of all prizes offered and given in all of such games of bingo conducted on a single occasion, under said license shall not exceed the sum or value of fifteen thousand dollars, then the municipality shall issue a license to the applicant for the conduct of bingo upon payment of a license fee for each bingo occasion, to be established by regulation of the commission. Notwithstanding anything to the contrary in this paragraph, the governing body shall refuse to issue a license to an applicant seeking to conduct bingo in premises of a licensed bingo lessor where such governing body determines that the premises presently owned or occupied by such applicant are in every respect adequate and suitable for conducting bingo games.

(b) Issuance of licenses to bingo lessors. If the governing body of the municipality determines that:

(1) the applicant seeking to lease a hall or premises for the conduct of bingo to an authorized organization is duly qualified to be licensed under this title;

(2) the applicant satisfies the requirements for an authorized bingo lessor as defined in section fifteen hundred of this article;

(3) at the time of the issuance of an initial license, there is a public need and that public advantage will be served by the issuance of such license;

(4) the applicant has filed its proposed rent for each bingo occasion;

(5) the commission has approved as fair and reasonable a schedule of maximum rentals for each such occasion;

(6) there is no diversion of the funds of the proposed lessee from the lawful purposes as defined in this title; and

(7) such leasing of a hall or premises for the conduct of bingo is to be in accordance with the provisions of this title and in accordance with the rules and regulations of the commission, such governing body shall issue a license permitting the applicant to lease said premises for the conduct of bingo to the authorized organization or organizations specified in the application during the period therein specified or such shorter period as the governing body of the municipality determines, but not to exceed one year, upon payment of a license fee established by regulation of the commission.

2. On or before the thirtieth day of each month, the treasurer of the municipality shall transmit to the state comptroller a sum equal to fifty percent of all bingo lessor license fees and sixty percent of all license fees for the conduct of bingo collected by such municipality pursuant to this section during the preceding calendar month.

3. No license shall be issued under this title that is effective for a period of more than one year. In the case of limited-period bingo, no license shall be issued authorizing the conduct of such games on more than two occasions in any one day, nor shall any license be issued under this title that is effective for a period of more than seven of twelve consecutive days in any one year. No license for the conduct of limited-period bingo shall be issued in cities having a population of one million or more.

§ 1526. Hearing; amendment of license. 1. No application for the issuance of a license shall be denied by the governing body until after a hearing, held on due notice to the applicant, at which the applicant

shall be entitled to be heard upon the qualifications of the applicant and the merits of the application.

2. Any license issued under this title may be amended, upon application made to the governing body of the municipality that issued such license, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license and upon payment of such additional license fee if any, as would have been payable if such amendment had been so included.

§ 1527. Form and contents of license; display of license. 1. Each license to conduct bingo shall be in such form as the rules and regulations of the commission prescribe and shall contain:

(a) the name and address of the licensee;

(b) the names of the member or members of the licensee under whom the games will be conducted;

(c) the place or places where and the date or dates and time or times when such games are to be conducted;

(d) the specific purposes to which the entire net proceeds of such games are to be devoted; and

(e) if any prize or prizes are to be offered and given in cash, a statement of the amounts of the prizes authorized so to be offered and given and any other information that the rules and regulations of the commission may require.

2. Each license issued for the conduct of any game of bingo shall be displayed conspicuously at the place where such game of bingo is to be conducted at all times during such conduct.

3. Each license to lease premises for conducting bingo shall be in such form as the rules and regulations of the commission prescribe and shall contain a statement of the name and address of the licensee and the address of the leased premises, the amount of permissible rent and any other information that the rules and regulations of the commission may require. Each such license shall be displayed conspicuously upon such premises at all times during the conduct of bingo.

§ 1528. Control and supervision; suspension of licenses; inspection of premises. 1. The governing body of any municipality issuing any license under this title shall have and exercise rigid control and close supervision over all games of bingo conducted under such license, to the end that the same are fairly conducted in accordance with the provisions of such license, the provisions of the rules and regulations of the commission and the provisions of this title and such governing body.

2. The commission shall have the power and the authority to suspend any license issued by such governing body and to revoke the same, and, additionally, in the case of an authorized bingo lessor, to impose a fine in an amount not exceeding one thousand dollars, after notice and hearing, for violation of any such provisions, and shall have the right of entry, by the commission's officers and agents, at all times into any premises where any game of bingo is being conducted or where it is intended that any such game of bingo shall be conducted, or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same.

3. In addition to the authority granted pursuant to subdivision two of this section, the governing body in a city having a population of one million or more and the commission may impose a fine in an amount not exceeding one thousand dollars, after notice and hearing, on any licensee under this title for violation of any provision of such license, this title or rules and regulations of the commission.

§ 1529. Frequency of game; sale of alcoholic beverages. No game or games of bingo, except limited-period bingo, shall be conducted under any license issued under this title more often than on eighteen days in any three successive calendar months. No game or games of limited-period bingo shall be conducted between the hours of twelve midnight and noon, and no more than sixty games may be conducted on any single occasion of limited-period bingo. No game or games of bingo shall be conducted in any room or outdoor area where alcoholic beverages are sold, served or consumed during the progress of the game or games.

§ 1530. Persons operating and conducting bingo games; equipment; expenses; compensation. 1. (a) No person shall hold, operate or conduct any game of bingo under any license issued under this title except a bona fide member of the authorized organization to which the license is issued. No person shall assist in the holding, operating or conducting of any game of bingo under such license except such a bona fide member or a bona fide member of an organization or association that is an auxiliary to the licensee or a bona fide member of an organization or association of which such licensee is an auxiliary or a bona fide member of an organization or association that is affiliated with the licensee by being, with it, auxiliary to another organization or association and except bookkeepers or accountants as hereinafter provided, but any person may assist the licensed organization in any activity related to the game of bingo that does not actually involve the holding, conducting, managing or operating of such game of bingo.

(b) No game of bingo shall be conducted with any equipment except such as shall be owned absolutely or leased by the authorized organization so licensed or used without payment of any compensation therefor by the licensee.

(c) Lease terms and conditions shall be subject to the rules and regulations of the commission.

(d) This title shall not be construed to authorize or permit an authorized organization to engage in the business of leasing bingo supplies or equipment.

(e) No items of expense shall be incurred or paid in connection with the conducting of any game of bingo pursuant to any license issued under this title, except those that are reasonable and are necessarily expended for bingo supplies and equipment, prizes, stated rental, if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the commission, janitorial services and utility supplies, if any, and license fees, and the cost of bus transportation, if authorized by the commission.

2. Notwithstanding any provision of this title to the contrary, a person who is a bona fide member of an organization licensed to conduct the game of bingo and is also a bona fide member of one or more other organizations that are also licensed to conduct the game of bingo, and such organizations are not affiliates or auxiliaries of the others, shall be authorized to operate, conduct or assist in the operation or conduct of games of bingo held by any of such organizations licensed to conduct bingo.

§ 1531. Charge for admission and participation; amount of prizes; award of prizes. 1. Except in the conduct of limited-period bingo, the regulations of the commission shall establish a maximum amount to be charged by any licensee for admission to any room or place in which any game or games of bingo are to be conducted under any license issued under this title, which admission fee, upon payment thereof, shall entitle the person paying the same to participate without additional charge

in all regular games of bingo to be played under such license on such occasion.

2. In the conduct of limited-period bingo:

(a) no admission fee shall be charged;

(b) not more than an amount established by regulation of the commission shall be charged for a single opportunity to participate in any one game of bingo, which charge, upon payment thereof, shall entitle the person paying the same to one card for participation in one such game; and

(c) no licensee shall sell more than five opportunities to each player participating in any one game of bingo. Every winner in a game of bingo shall be determined and every prize shall be awarded and delivered within the same calendar day as that upon which the game of bingo was played.

§ 1532. Statement of receipts, expenses; additional license fees. 1. Within seven days after the conclusion of any occasion of bingo, the authorized organization that conducted the same, and such authorized organization's members who were in charge thereof, and when applicable the authorized organization that rented its premises therefor, shall each furnish to the clerk or the department a statement subscribed by the member in charge and affirmed by such person as true, under the penalties of perjury, showing the amount of the gross receipts derived therefrom and each item of expense incurred, or paid, and each item of expenditure made or to be made, the name and address of each person to whom each such item has been paid, or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefor, the net proceeds derived from such game or rental, as the case may be, and the use to which such proceeds have been or are to be applied and a list of prizes offered and given, with the respective values thereof. A clerk or the department shall make provisions for the electronic filing of such statement. It shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such statement and within fifteen days after the end of each calendar quarter during which there has been any occasion of bingo, a summary statement of such information, in form prescribed by the commission, shall be furnished in the same manner to the commission.

2. Upon the filing of such statement of receipts, the authorized organization furnishing the same shall pay to the clerk of the municipality as and for an additional license fee a sum based upon the reported net proceeds, if any, for the occasion covered by such statement and determined in accordance with such schedule as shall be established from time to time by the commission to defray the cost to municipalities of administering the provisions of this article.

§ 1533. Examination of books and records; examination of managers, etc.; disclosure of information. 1. The governing body of the municipality and the commission shall have power to examine or cause to be examined the books and records of any:

(a) authorized organization that is or has been licensed to conduct bingo, so far as such books and records may relate to bingo, including the maintenance, control and disposition of net proceeds derived from bingo or from the use of its premises for bingo, and to examine any manager, officer, director, agent, member or employee thereof under oath in relation to the conduct of any such game of bingo under any such license, the use of its premises for bingo, or the disposition of net proceeds derived from bingo, as the case may be; and

(b) licensed authorized bingo lessor so far as such books and records may relate to leasing premises for bingo and to examine said lessor or any manager, officer, director, agent or employee thereof under oath in relation to such leasing.

2. Any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this article.

§ 1534. Appeals from municipal governing body to commission. Any applicant for, or holder of, any license issued or to be issued under this title aggrieved by any action of the governing body of the municipality to which such application has been made or by which such license has been issued, may appeal to the commission from the determination of said governing body by filing with the governing body a written notice of appeal within thirty days after the determination or action appealed from. Upon the hearing of such appeal, the evidence, if any, taken before the governing body and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue. Action of the commission upon said appeal shall be binding upon said governing body and all parties to said appeal.

§ 1535. Exemption from prosecution. No person or corporation lawfully conducting, or participating in the conduct of bingo or permitting the conduct upon any premises owned or leased by him, her or it under any license lawfully issued pursuant to this title, shall be liable to prosecution or conviction for violation of any provision of article two hundred twenty-five of the penal law or any other law or ordinance to the extent that such conduct is specifically authorized by this title, but this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of bingo under any license obtained by any false pretense or by any false statement made in any application for license or otherwise, or permitting the conduct upon any premises owned or leased by him, her or it of any game of bingo conducted under any license known to him, her or it to have been obtained by any such false pretense or statement.

§ 1536. Offenses; forfeiture of license; ineligibility to apply for license. Any person who, or association or corporation that:

1. makes any false statement in any application for any license authorized to be issued under this title;

2. pays or receives, for the use of any premises for conducting bingo, a rental in excess of the amount specified as the permissible rent in the license provided for in subdivision two of section fifteen hundred twenty-four of this title;

3. fails to keep books and records that fully and truly record all transactions connected with the conducting of bingo or the leasing of premises to be used for the conduct of bingo;

4. falsifies or makes any false entry in any books or records so far as such books or records relate in any manner to the conduct of bingo, to the disposition of the proceeds thereof and to the application of the rents received by any authorized organization;

5. diverts or pays any portion of the net proceeds of any game of bingo to any person, association or corporation, except in furtherance of one or more of the lawful purposes defined in this title; or

6. violates any of the provisions of this title or of any term of any license issued under this title; shall be guilty of a misdemeanor and shall forfeit any license issued under this title and be ineligible to apply for a license under this title for one year thereafter.

§ 1537. Unlawful bingo. 1. For the purposes of this section, bingo shall include a game of bingo whether or not a person who participates as a player furnishes something of value for the opportunity to participate.

2. Any person, firm, partnership, association, corporation or organization holding, operating or conducting bingo is guilty of a misdemeanor, except when operating, holding or conducting:

(a) in accordance with a valid license issued pursuant to this title; or

(b) within a municipality that has authorized the conduct of bingo games by authorized organizations:

(1) within the confines of a home for purposes of amusement or recreation where no player or other person furnishes anything of value for the opportunity to participate and the prizes awarded or to be awarded are nominal.

(2) within any apartment, condominium or cooperative complex, retirement community, or other group residential complex or facility where:

(i) sponsored by the operator of or an association related to such complex, community or facility;

(ii) such games are conducted solely for the purpose of amusement and recreation of its residents;

(iii) no player or other person furnishes anything of value for the opportunity to participate;

(iv) the value of the prizes do not exceed ten dollars for any one game or a total of one hundred fifty dollars in any calendar day;

(v) such games are not conducted on more than fifteen days during any calendar year; and

(vi) no person other than an employee or volunteer of such complex, community or facility conducts or assists in conducting the game or games.

(3) on behalf of any bona fide social, charitable, educational, recreational, fraternal or age-group organization, club or association solely for the purpose of amusement and recreation of its members or beneficiaries where:

(i) no player or other person furnishes anything of value for the opportunity to participate;

(ii) the value of the prizes do not exceed ten dollars for any one game or a total of one hundred fifty dollars in any calendar day;

(iii) such games are not conducted on more than fifteen days during any calendar year;

(iv) no person other than a bona fide active member of the organization, club or association participates in the conduct of the games; and

(v) no person is paid for conducting or assisting in the conduct of the game or games.

(4) as a hotel's, motel's, recreational or entertainment facility's or common carrier's social activity solely for the purpose of amusement and recreation of its patrons where:

(i) no player or other person furnishes anything of value for the opportunity to participate;

(ii) the value of the prizes do not exceed ten dollars for any one game or a total of one hundred fifty dollars in any calendar day;

(iii) such games are not conducted on more than fifteen days during any calendar year;

(iv) no person other than an employee or volunteer conducts or assists in conducting the game or games; and

(v) the game or games are not conducted in the same room where alcoholic beverages are sold.

(5) The commission and the governing body of the municipality in which bingo games are conducted pursuant to paragraph (b) of subdivision two of this section shall have the authority to regulate the conduct of such games. Any bingo game or games, in which no participant or other person furnishes anything of value for the opportunity to participate, that is or are operated in violation of paragraph (b) of subdivision two of this section, a civil penalty of not more than one hundred dollars may be imposed for the first such violation, a civil penalty of not more than one hundred fifty dollars may be imposed for the second such violation in a period of three years and a civil penalty of not more than two hundred dollars may be imposed for the third or subsequent such violation in a period of five years.

3. The provisions of this section shall apply to all municipalities within this state, including those municipalities where this title is inoperative.

§ 1538. Title inoperative until adopted by voters. Except as provided in section fifteen hundred forty, the provisions of this title shall remain inoperative in any municipality unless and until a proposition therefor submitted at a general or special election in such municipality is approved by a vote of the majority of the qualified electors in such municipality voting thereon.

§ 1539. Amendment and repeal of local laws and ordinances. 1. Any local law or ordinance concerning bingo may be amended, from time to time, or repealed by the common council or other local legislative body of the municipality that enacted it and such amendment or repeal, as the case may be, may be made effective and operative not earlier than thirty days following the effective date of the local law or ordinance effecting such amendment or repeal, as the case may be.

2. The approval of a majority of the electors of such municipality shall not be a condition prerequisite to the taking effect of such local law or ordinance.

§ 1540. Delegation of authority. The governing body of a municipality may delegate to a municipal officer or officers designated by such municipality for that purpose any of the authority granted to it hereby in relation to the issuance, amendment and cancellation of licenses, the conduct of investigations and hearings, the supervision of the operation of the games and the collection and transmission of fees.

§ 1541. Powers and duties of mayors or managers of certain cities. Notwithstanding any other provision of this title, whenever the charter of any city, or any special or local law, provides that the mayor or manager of such city is the chief law enforcement officer thereof, then and in that event such mayor or manager, as the case may be, shall have, exercise and perform all the powers and duties otherwise prescribed by this title to be exercised and performed by the governing body of such city except those prescribed by section fifteen hundred twenty-two of this title, and in any such case, the term "governing body of a municipality" as used in this title shall be deemed to mean and include the mayor or manager of any such city.

TITLE 4

LOCAL OPTION FOR CONDUCT OF GAMES OF CHANCE BY CERTAIN ORGANIZATIONS

Section 1550. Short title; purpose of title.
1551. Local option.
1552. Local laws and ordinances.

1553. Powers and duties of the commission.
1554. Restrictions upon conduct of games of chance.
1555. Authorized supplier of games of chance equipment.
1556. Declaration of state's exemption from operation of provisions of 15 U.S.C. § 1172.
1557. Legal shipments of gaming devices into New York state.
1558. Application for license.
1559. Raffles; license not required.
1560. Investigation; matters to be determined; issuance of license; fees; duration of license.
1561. Hearing; amendment of license.
1562. Form and contents of license; display of license.
1563. Control and supervision; suspension of identification numbers and licenses; inspections of premises.
1564. Frequency of games.
1565. Persons operating games; equipment; expenses; compensation.
1566. Charge for admission and participation; amount of prizes; award of prizes.
1567. Statement of receipts and expenses; additional license fees.
1568. Examination of books and records; examination of officers and employees; disclosure of information.
1569. Appeals for the decision of a municipal officer, clerk or department to the commission.
1570. Exemption from prosecution.
1571. Offenses; forfeiture of license; ineligibility to apply for license.
1572. Unlawful games of chance.
1573. Title inoperative until adopted by voters.
1574. Amendment and repeal of local laws and ordinances.
1575. Manufacturers of bell jars; reports and records.
1576. Distributor of bell jars; reports and records.
1577. Transfer restrictions.
1578. Bell jars compliance and enforcement.

§ 1550. Short title; purpose of title. This title shall be known and may be cited as the games of chance licensing law. The legislature hereby declares that the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious and patriotic causes and undertakings, where the beneficiaries are undetermined, is in the public interest. The legislature hereby finds that, as conducted prior to the effective date of this title, games of chance were the subject of exploitation by professional gamblers, promoters and commercial interests. It is hereby declared to be the policy of the legislature that all phases of the supervision, licensing and regulation of games of chance and of the conduct of games of chance should be closely controlled and that the laws and regulations pertaining thereto should be strictly construed and rigidly enforced; that the conduct of the game and all attendant activities should be so regulated and adequate controls so instituted as to discourage commercialization of gambling in all its forms, including the rental of commercial premises for games of chance, and to ensure a maximum availability of the net proceeds of games of chance exclusively for application to the worthy causes and undertakings specified herein; that the only justification for this title is to foster and support such worthy causes and undertakings, and that the mandate of subdivision two of section nine of article one of

the state constitution, as amended, should be carried out by rigid regulations to prevent commercialized gambling, prevent participation by criminal and other undesirable elements and prevent the diversion of funds from the purposes herein authorized.

§ 1551. Local option. Subject to the provisions of this title, and pursuant to the direction contained in subdivision two of section nine of article one of the state constitution, the legislature hereby gives and grants to every municipality the right, power and authority to authorize the conduct of games of chance by authorized organizations within the territorial limits of such municipality. A local law or ordinance adopted by a town shall be operative in any village or within any part of any village located within such town if, after adoption of such local law or ordinance, the board of trustees of such village adopts a local law or resolution subject to a permissive referendum as provided in article nine of the village law authorizing the issuance of licenses by the town for games of chance within such village. Such local law or resolution may be repealed only by a local law or resolution that shall also be subject to a permissive referendum, or by enactment of a local law authorizing games of chance as provided in section fifteen hundred fifty-two of this title.

§ 1552. Local laws and ordinances. 1. The common council or other local legislative body of any municipality may, either by local law or ordinance, provide that it shall be lawful for any authorized organization, upon obtaining a license therefor as hereinafter provided, to conduct games of chance within the territorial limits of such municipality, subject to the provisions of such local law or ordinance, the provisions of this title and the provisions set forth by the commission.

2. No such local law or ordinance shall become operative or effective unless and until it shall have been approved by a majority of the electors voting on a proposition submitted at a general or special election held within such municipality who are qualified to vote for officers of such municipality.

3. The time, method and manner of submission, preparation and provision of ballots and ballot labels, balloting by voting machine and conducting the election, canvassing the result and making and filing the returns and all other procedure with reference to the submission of and action upon any proposition for the approval of any such local law or ordinance shall be the same as in the case of any other proposition to be submitted to the electors of such municipality at a general or special election in such municipality, as provided by law.

§ 1553. Powers and duties of the commission. The commission shall have the power and it shall be the duty of the commission to:

1. supervise the administration of the games of chance licensing law and to adopt, amend and repeal rules and regulations governing the issuance and amendment of licenses thereunder and the conducting of games under such licenses, which rules and regulations shall have the force and effect of law and shall be binding upon all municipalities issuing licenses, and upon licensees of the commission, to the end that such licenses shall be issued to qualified licensees only, and that said games shall be fairly and properly conducted for the purposes and in the manner of the said games of chance licensing law prescribed and to prevent the games of chance thereby authorized to be conducted from being conducted for commercial purposes or purposes other than those therein authorized, participated in by criminal or other undesirable elements and the funds derived from the games being diverted from the purposes authorized, and to provide uniformity in the administration of

said law throughout the state, the commission shall prescribe forms of application for licenses, licensees, amendment of licenses, reports of the conduct of games and other matters incident to the administration of such law.

2. conduct, anywhere in the state, investigations of the administration, enforcement and potential or actual violations of the games of chance licensing law and of the rules and regulations of the commission.

3. review all determinations and actions of the clerk or department in issuing an initial license and it may review the issuance of subsequent licenses and, after hearing, revoke those licenses that do not in all respects meet the requirements of this title and the rules and regulations of the commission.

4. suspend or revoke a license, after hearing, for any violation of the provisions of this title or the rules and regulations of the commission.

5. hear appeals from the determinations and action of the clerk, department or municipal officer in connection with the refusing to issue licenses, the suspension and revocation of licenses and the imposition of fines in the manner prescribed by law and the action and determination of the commission upon any such appeal shall be binding upon the clerk, department or municipal officer and all parties thereto.

6. carry on continuous study of the operation of the games of chance licensing law to ascertain from time to time defects therein jeopardizing or threatening to jeopardize the purposes of this title, and to formulate and recommend changes in such law and in other laws of the state that the commission may determine to be necessary for the realization of such purposes, and to the same end to make a continuous study of the operation and administration of similar laws that may be in effect in other states of the United States.

7. supervise the disposition of all funds derived from the conduct of games of chance by authorized organizations not currently licensed to conduct such games.

8. issue an identification number to an applicant authorized organization if the commission determines that the applicant satisfies the requirements of the games of chance licensing law and the rules and regulations of the commission.

9. approve and establish a standard set of games of chance equipment and by rules and regulations prescribe the manner in which such equipment is to be reproduced and distributed to licensed authorized organizations. The sale or distribution to a licensed authorized organization of any equipment other than that contained in the standard set of games of chance equipment shall constitute a violation of this section.

§ 1554. Restrictions upon conduct of games of chance. The conduct of games of chance authorized by local law or ordinance shall be subject to the following restrictions without regard to whether the restrictions are contained in such local law or ordinance, but nothing herein shall be construed to prevent the inclusion within such local law or ordinance of other provisions imposing additional restrictions upon the conduct of such games:

1. No person, firm, partnership, corporation or organization, other than a licensee under the provisions of section fifteen hundred sixty of this title, shall

(a) conduct such game; or

(b) lease or otherwise make available for conducting games of chance premises for any consideration whatsoever, direct or indirect, without obtaining the prior written approval of the commission.

2. No game of chance shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.

3. No authorized organization licensed under the provisions of this title shall purchase, lease, or receive any supplies or equipment specifically designed or adapted for use in the conduct of games of chance from other than a supplier licensed by the commission or from another authorized organization. Lease terms and conditions shall be subject to rules and regulations of the commission. The provisions of this title shall not be construed to authorize or permit an authorized organization to engage in the business of leasing games of chance, supplies or equipment. No organization shall purchase bell jar tickets, or deals of bell jar tickets, from any other person or organization other than those specifically authorized under section fifteen hundred seventy-six of this title.

4. The entire net proceeds of any game of chance shall be devoted exclusively to the lawful purposes of the organization permitted to conduct the same and the net proceeds of any rental derived therefrom shall be devoted exclusively to the lawful purposes of the authorized games of chance lessor.

5. (a) No single prize awarded by games of chance other than raffle shall exceed the sum or value of three hundred dollars, except that for merchandise wheels, no single prize shall exceed the sum or value of two hundred fifty dollars, and for bell jar, no single prize shall exceed the sum or value of one thousand dollars.

(b) No single prize awarded by raffle shall exceed the sum or value of three hundred thousand dollars.

(c) No single wager shall exceed six dollars and for bell jars, coin boards or merchandise boards, no single prize shall exceed one thousand dollars, provided, however, that such limitation shall not apply to the amount of money or value paid by the participant in a raffle in return for a ticket or other receipt.

(d) For coin boards and merchandise boards, the value of a prize shall be determined by the cost of such prize to the authorized organization or, if donated, the fair market value of such prize.

6. (a) No authorized organization shall award a series of prizes consisting of cash or of merchandise with an aggregate value in excess of:

(1) ten thousand dollars during the successive operations of any one merchandise wheel; and

(2) six thousand dollars during the successive operations of any bell jar, coin board or merchandise board.

(b) No series of prizes awarded by raffle shall have an aggregate value in excess of five hundred thousand dollars.

(c) For coin boards and merchandise boards, the value of a prize shall be determined by its cost to the authorized organization or, if donated, its fair market value.

7. In addition to merchandise wheels, raffles and bell jars, no more than five other single types of games of chance shall be conducted during any one license period.

8. (a) Except for merchandise wheels and raffles, no series of prizes on any one occasion shall aggregate more than four hundred dollars when the licensed authorized organization conducts five single types of games of chance during any one license period. Except for merchandise wheels, raffles and bell jars, no series of prizes on any one occasion shall

aggregate more than five hundred dollars when the licensed authorized organization conducts fewer than five single types of games of chance, exclusive of merchandise wheels, raffles and bell jars, during any one license period.

(b) No authorized organization shall award by raffle prizes with an aggregate value in excess of three million dollars during any one license period.

9. Except for the limitations on the sum or value for single prizes and series of prizes, no limit shall be imposed on the sum or value of prizes awarded to any one participant during any occasion or any license period.

10. (a) No person except a bona fide member of the licensed authorized organization shall participate in the management of such games.

(b) No person except a bona fide member of the licensed authorized organization, its auxiliary or affiliated organization, shall participate in the operation of such game, as set forth in section fifteen hundred sixty-five of this title.

11. No person shall receive any remuneration for participating in the management or operation of any such game.

12. No authorized organization shall extend credit to a person to participate in playing a game of chance.

13. (a) No game of chance, other than a raffle that complies with paragraph (b) of this subdivision, shall be conducted on other than the premises of an authorized organization or an authorized games of chance lessor; provided, however, nothing in this subdivision shall prohibit a game of chance from being conducted on state-owned property.

(b) Raffle tickets may be sold to the public outside the premises of an authorized organization or an authorized games of chance lessor if such sales occur in a municipality that:

(1) has passed a local law, ordinance or resolution in accordance with sections fifteen hundred fifty-one and fifteen hundred fifty-two of this title approving the conduct of games of chance;

(2) is located in the county in which the municipality issuing the raffle license is located or in a county that is contiguous to the county in which the municipality issuing the raffle license is located; and

(3) has not objected to such sales after the commission gives notice to such municipality of an authorized organization's request to sell such raffle tickets in such municipality.

(c) The commission may by regulation prescribe the advance notice an authorized organization must provide to the commission in order to take advantage of the provisions of paragraph (b) of this subdivision, forms in which such a request shall be made and the time period in which a municipality must communicate an objection to the commission.

(d) No sale of raffle tickets shall be made more than one hundred eighty days prior to the date scheduled for the occasion at which the raffle will be conducted.

(e) The winner of any single prize in a raffle shall not be required to be present at the time such raffle is conducted.

14. No person licensed to manufacture, distribute or sell games of chance supplies or equipment, or their agents, shall conduct, participate in, or assist in the conduct of games of chance. Nothing herein shall prohibit a licensed distributor from selling, offering for sale or explaining a product to an authorized organization or installing or servicing games of chance equipment upon the premises of games of chance licensees.

15. The unauthorized conduct of a game of chance shall constitute and be punishable as a misdemeanor.

16. No coins or merchandise from a coin board or merchandise board shall be redeemable or convertible into cash directly or indirectly by the authorized organization.

17. No game of chance shall involve wagering of money by one player against another player.

§ 1555. Authorized supplier of games of chance equipment. 1. No person, firm, partnership, corporation or organization shall sell or distribute supplies or equipment specifically designed or adapted for use in conduct of games of chance without having first obtained a license therefor upon written application made, verified and filed with the commission in the form prescribed by the rules and regulations of the commission. As a part of the commission's determination concerning the applicant's suitability for licensing as a games of chance supplier, the commission shall require the applicant to furnish to the commission two sets of fingerprints. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check. Manufacturers of bell jar tickets shall be considered suppliers of such equipment. In each such application for a license under this section shall be stated the name and address of the applicant; the names and addresses of its officers, directors, shareholders or partners; the amount of gross receipts realized on the sale and rental of games of chance supplies and equipment to duly licensed authorized organizations during the last preceding calendar or fiscal year, and such other information as shall be prescribed by such rules and regulations. The fee for such license shall be a sum equal to an amount established by commission regulation plus an amount equal to two percent of the gross sales and rentals, if any, of games of chance equipment and supplies to authorized organizations or authorized games of chance lessors by the applicant during the preceding calendar year, or fiscal year if the applicant maintains his accounts on a fiscal year basis. No license granted pursuant to the provisions of this section shall be effective for a period of more than one year.

2. The following shall be ineligible for such a license:

(a) a person convicted of a crime if there is a direct relationship between one or more of the previous criminal offenses and the integrity of charitable gaming, considering the factors set forth in section seven hundred fifty-three of the correction law;

(b) a person who is or has been a professional gambler or gambling promoter or who for other reasons is not of good moral character;

(c) a public officer or employee;

(d) an authorized games of chance lessor; or

(e) a firm or corporation in which a person defined in subparagraph (a), (b), (c) or (d) of this subdivision has greater than a ten percent proprietary, equitable or credit interest or in which such a person is active or employed.

3. The commission shall have power to examine or cause to be examined the books and records of any applicant for a license under this section. Any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this title.

4. Any solicitation of an organization licensed to conduct games of chance, to purchase or induce the purchase of games of chance supplies and equipment, other than by a person licensed or otherwise authorized pursuant to this section, shall constitute a violation of this section.

5. Any person who willfully makes any material false statement in any application for a license authorized to be issued under this section or who willfully violates any of the provisions of this section or of any license issued hereunder shall be guilty of a misdemeanor and, in addition to the penalties in such case made and provided, shall forfeit any license issued to him, her or it under this section and be ineligible to apply for a license under this section for one year thereafter.

6. At the end of such period specified in the license, a recapitulation shall be made as between the licensee and the commission in respect of the gross sales and rentals actually recorded during that period and the fee paid therefor, and any deficiency of fee thereby shown to be due shall be paid by the licensee and any excess of fee thereby shown to have been paid shall be credited to said licensee in such manner as the commission by rules and regulations shall prescribe.

§ 1556. Declaration of state's exemption from operation of provisions of 15 U.S.C. § 1172. Pursuant to section two of an Act of Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January second, nineteen hundred fifty-one, being chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. §§ 1171-1177, the state of New York, acting by and through the duly elected and qualified members of its legislature, does hereby, in accordance with and in compliance with the provisions of section two of said Act of Congress, declare and proclaim that it is exempt from the provisions of section two of said Act of Congress.

§ 1557. Legal shipments of gaming devices into New York state. All shipments into this state of gaming devices, excluding slot machines and coin operated gambling devices, as defined in subdivision seven-a of section 225.00 of the penal law, the registering, recording and labeling of which has been duly had by the manufacturer or dealer thereof in accordance with sections three and four of an Act of Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January second, nineteen hundred fifty-one, being chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. §§ 1171-1177, shall be deemed legal shipments thereof into this state.

§ 1558. Application for license. 1. To conduct games of chance. (a) Each applicant for a license shall, after obtaining an identification number from the commission, file with the clerk or department, an application therefor in a form to be prescribed by the commission, duly executed and verified, in which shall be stated:

(1) the name and address of the applicant together with sufficient facts relating to its incorporation and organization to enable such clerk or department, as the case may be, to determine whether or not it is a bona fide authorized organization;

(2) the names and addresses of its officers; the place or places where, the date or dates and the time or times when the applicant intends to conduct games under the license applied for;

(3) the amount of rent to be paid or other consideration to be given directly or indirectly for each licensed period for use of the premises of an authorized games of chance lessor;

(4) all other items of expense intended to be incurred or paid in connection with the holding, operating and conducting of such games of chance and the names and addresses of the persons to whom, and the purposes for which, they are to be paid;

(5) the purposes to which the entire net proceeds of such games are to be devoted and in what manner; that no commission, salary, compensation, reward or recompense will be paid to any person for conducting such game or games or for assisting therein except as in this title otherwise provided; and such other information as shall be prescribed by such rules and regulations; and

(6) the name of each single type of game of chance to be conducted under the license applied for and the number of merchandise wheels and raffles, if any, to be operated.

(b) In each application there shall be designated not less than four bona fide members of the applicant organization under whom the game or games of chance will be managed and to the application shall be appended a statement executed by the members so designated, that they will be responsible for the management of such games in accordance with the terms of the license, the rules and regulations of the commission, this title and the applicable local laws or ordinances.

2. Authorized games of chance lessor. Each applicant for a license to lease premises to a licensed organization for the purposes of conducting games of chance therein shall file with the clerk or department an application therefor, in a form to be prescribed by the commission duly executed and verified, which shall set forth:

(a) the name and address of the applicant;

(b) designation and address of the premises intended to be covered by the license sought;

(c) a statement that the applicant in all respects conforms with the specifications contained in the definition of "authorized organization" set forth in section fifteen hundred of this article; and

(d) a statement of the lawful purposes to which the net proceeds from any rental are to be devoted by the applicant and such other information as shall be prescribed by the commission.

3. In counties outside the city of New York, municipalities may, pursuant to section fifteen hundred fifty-two of this title, adopt an ordinance providing that an authorized organization having obtained an identification number from the commission, and having applied for no more than one license to conduct games of chance during the period not less than twelve nor more than eighteen months immediately preceding, may file with the clerk or department a summary application in a form to be prescribed by the commission duly executed and verified, containing the names and addresses of the applicant organization and its officers, the date, time and place or places where the applicant intends to conduct games under the license applied for, the purposes to which the entire net proceeds of such games are to be devoted and the information and statement required by paragraph (b) of subdivision one of this section in lieu of the application required under subdivision one of this section.

4. (a) Notwithstanding and in lieu of the licensing requirements set forth in this title, an authorized organization defined in section fifteen hundred of this article may file a verified statement, for which no fee shall be required, with the clerk or department and the commission attesting that such organization shall derive net proceeds or net profits from raffles in an amount less than thirty thousand dollars during one occasion or part thereof at which raffles are to be

conducted. Such statement shall be on a single-page form prescribed by the commission, and shall be deemed a license to conduct raffles:

(1) under this title; and

(2) within the municipalities in which the authorized organization is domiciled that have passed a local law, ordinance or resolution in accordance with sections fifteen hundred fifty-one and fifteen hundred fifty-two of this title approving the conduct of games of chance, and in municipalities that have passed a local law, ordinance or resolution in accordance with sections fifteen hundred fifty-one and fifteen hundred fifty-two of this title approving the conduct of games of chance that are located in the county in which the municipality issuing the license is located and in the counties that are contiguous to the county in which the municipality issuing the raffle license is located, provided those municipalities have authorized the licensee, in writing, to sell such raffle tickets therein.

(b) An organization that has filed a verified statement with the clerk or department and the commission attesting that such organization shall derive net proceeds or net profits from raffles in an amount less than thirty thousand dollars during one occasion or part thereof that in fact derives net proceeds or net profits exceeding thirty thousand dollars during any one occasion or part thereof shall be required to obtain a license as required by this title and shall be subject to the provisions of section fifteen hundred sixty-seven of this title.

§ 1559. Raffles; license not required. 1. Notwithstanding the licensing requirements set forth in this title and their filing requirements set forth in subdivision four of section fifteen hundred fifty-eight of this title, an authorized organization may conduct a raffle without complying with such licensing requirements or such filing requirements, provided, that such organization shall derive net proceeds from raffles in an amount less than five thousand dollars during the conduct of one raffle and shall derive net proceeds from raffles in an amount less than thirty thousand dollars during one calendar year.

2. No person under the age of eighteen shall be permitted to play, operate or assist in any raffle conducted pursuant to this section.

3. No raffle shall be conducted pursuant to this section except within a municipality in which the authorized organization is domiciled that has passed a local law, ordinance or resolution in accordance with sections fifteen hundred fifty-one and fifteen hundred fifty-two of this title approving the conduct of games of chance, and in municipalities that have passed a local law, ordinance or resolution in accordance with sections fifteen hundred fifty-one and fifteen hundred fifty-two of this title approving the conduct of games of chance that are located within the county or contiguous to the county in which the organization is domiciled.

§ 1560. Investigation; matters to be determined; issuance of license; fees; duration of license. 1. The clerk or department shall make an investigation of the qualifications of each applicant and the merits of each application, with due expedition after the filing of the application.

(a) Issuance of licenses to conduct games of chance. If such clerk or department determines:

(1) that the applicant is duly qualified to be licensed to conduct games of chance under this title;

(2) that the member or members of the applicant designated in the application to manage games of chance are bona fide active members of the applicant and are persons of good moral character and have never

been convicted of a crime if there is a direct relationship between one or more of the previous criminal offenses and the integrity of charitable gaming, considering the factors set forth in section seven hundred fifty-three of the correction law;

(3) that such games are to be conducted in accordance with the provisions of this title and in accordance with the rules and regulations of the commission and applicable local laws or ordinances and that the proceeds thereof are to be disposed of as provided by this title; and

(4) is satisfied that no commission, salary, compensation, reward or recompense whatsoever will be paid or given to any person managing, operating or assisting therein except as in this title otherwise provided, then such clerk or department shall issue a license to the applicant for the conduct of games of chance upon payment of a license fee in an amount established by regulation of the commission for each license period.

(b) Issuance of licenses to authorized games of chance lessors. If such clerk or department determines:

(1) that the applicant seeking to lease premises for the conduct of games of chance to a games of chance licensee is duly qualified to be licensed under this title;

(2) that the applicant satisfies the requirements for an authorized organization as defined in section fifteen hundred of this article;

(3) that the applicant has filed its proposed rent for each license period; and

(4) that such proposed rent is fair and reasonable;

(5) that the net proceeds from any rental will be devoted to the lawful purposes of the applicant;

(6) that there is no diversion of the funds of the proposed lessee from the lawful purposes as defined in this title; and

(7) that such leasing of premises for the conduct of such games is to be in accordance with the provisions of this title, with the rules and regulations of the commission and applicable local laws and ordinances, then such clerk or department shall issue a license permitting the applicant to lease said premises for the conduct of such games to the games of chance licensee or licensees specified in the application during the period therein specified or such shorter period as such clerk or department determines, but not to exceed twelve license periods during a calendar year, upon payment of a license fee in an amount established by the regulations of the commission. Nothing herein shall be construed to require the applicant to be licensed under this title to conduct games of chance.

(c) Issuance of license upon summary application. If, upon the basis of a summary application as prescribed under subdivision three of section fifteen hundred fifty-eight of this title, the clerk or department determines that the applicant is duly qualified to be licensed to conduct games of chance under this title, said clerk or department shall forthwith issue said license. In the event the clerk or department has reason to believe that the applicant is not so qualified the applicant shall be directed to file an application pursuant to subdivision one of section fifteen hundred fifty-eight of this title.

2. On or before the last day of each month, the treasurer of the municipality in which the licensed property is located shall transmit to the state comptroller a sum equal to fifty percent of all authorized games of chance lessor license fees and sixty percent of all license fees for

the conduct of games of chance collected by such clerk or department pursuant to this section during the preceding calendar month.

3. No license shall be issued under this section that is effective for a period of more than one year.

§ 1561. Hearing; amendment of license. 1. No application for the issuance of a license to conduct games of chance or lease premises to an authorized organization shall be denied by the clerk or department, until after a hearing, held on due notice to the applicant, at which the applicant shall be entitled to be heard upon the qualifications of the applicant and the merits of the application.

2. Any license issued under this title may be amended, upon application made to such clerk or department that issued it, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license and upon payment of such additional license fee, if any, as would have been payable if it had been so included.

§ 1562. Form and contents of license; display of license. 1. Each license to conduct games of chance shall be in such form as shall be prescribed in the rules and regulations of the commission and shall contain:

(a) a statement of the name and address of the licensee, of the names and addresses of the members of the licensee under whom the games will be managed;

(b) a statement of the place or places where, and the date or dates and time or times when, such games are to be conducted;

(c) a statement of the purposes to which the entire net proceeds of such games are to be devoted;

(d) the name of each single type of game to be conducted under the license and the number of merchandise wheels and raffles, if any, to be operated; and

(e) any other information that may be required by the rules and regulations of the commission to be contained therein.

2. Each license issued for the conduct of any games shall be displayed conspicuously at the place where such games are to be conducted at all times during the conduct thereof.

3. Each license to lease premises for conducting games of chance shall be in such form as shall be prescribed in the rules and regulations of the commission and shall contain a statement of the name and address of the licensee and the address of the leased premises, the amount of permissible rent and any information that may be required by said rules and regulations to be contained therein, and each such license shall be conspicuously displayed upon such premises at all times during the conduct of games of chance.

§ 1563. Control and supervision; suspension of identification numbers and licenses; inspections of premises. 1. The municipal officer or department shall have and exercise rigid control and close supervision over all games of chance conducted under such license, to the end that the same are conducted fairly in accordance with the provisions of such license, the provisions of the rules and regulations promulgated by the commission and the provisions of this title. Such municipal officer or department and the commission shall have the power and the authority to suspend temporarily any license issued by the clerk or department and/or impose fines for violations not to exceed one thousand dollars. Temporary suspension of licenses shall be followed promptly by a hearing, and after notice and hearing, the clerk, department or the commission may suspend or revoke the same and declare the violator ineligible to apply

for a license for a period not exceeding twelve months thereafter. Any fines tendered to the clerk, department or the commission shall not be paid from funds derived from the conduct of games of chance. The municipal officer and the department or the commission shall additionally have the right of entry, by their respective municipal officers and agents, at all times into any premises where any game of chance is being conducted or where it is intended that any such game shall be conducted, or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same. Upon suspension or revocation of any license or upon declaration of ineligibility to apply for a license, the commission may suspend or revoke the identification number issued pursuant to section fifteen hundred fifty-three of this title. An agent of the appropriate municipal officer or department shall make an on-site inspection during the conduct of all games of chance licensed pursuant to this title.

2. A municipality may, by local law or ordinance enacted pursuant to the provisions of section fifteen hundred fifty-two of this title, provide that the powers and duties set forth in subdivision one of this section shall be exercised by the chief law enforcement officer of the county. In the event a municipality exercises this option, the fees provided for by subdivision two of section fifteen hundred sixty-seven of this title shall be remitted to the chief fiscal officer of the county.

3. Service of alcoholic beverages. Subject to the applicable provisions of the alcoholic beverage control law, beer may be offered for sale during the conduct of games of chance on games of chance premises as such premises are defined in section fifteen hundred of this article; provided, however, that nothing herein shall be construed to limit the offering for sale of any other alcoholic beverage in areas other than the games of chance premises or the sale of any other alcoholic beverage in premises where only the games of chance known as bell jars or raffles are conducted.

§ 1564. Frequency of games. 1. No game or games of chance shall be conducted under any license issued under this title more often than twelve times in any calendar year. No particular premises shall be used for the conduct of games of chance on more than twenty-four license periods during any one calendar year.

2. Games of chance other than bell jars and raffles may be conducted at any time, unless the games of chance license provides otherwise. No license may restrict the times in which bell jars or raffles are conducted, subject to the limitations on the license period for such games set forth in subdivision eighteen of section fifteen hundred of this article.

§ 1565. Persons operating games; equipment; expenses; compensation. 1. No person shall operate any game of chance under any license issued under this title except a bona fide member of the authorized organization to which the license is issued, or a bona fide member of an organization or association that is an auxiliary to the licensee or a bona fide member of an organization or association of which such licensee is an auxiliary or a bona fide member of an organization or association that is affiliated with the licensee by being, with it, auxiliary to another organization or association. Nothing herein shall be construed to limit the number of games of chance licensees for whom such persons may operate games of chance nor to prevent non-members from assisting the licensee in any activity other than managing or operating games. For the purpose of the sale of tickets for the game of raffle, the term

"operate" shall not include the sale of such tickets by persons of lineal or collateral consanguinity to members of an authorized organization licensed to conduct a raffle.

2. No game of chance shall be conducted with any equipment except such as shall be owned or leased by the authorized organization so licensed or used without payment of any compensation therefor by the licensee. However, in no event shall bell jar tickets be transferred from one authorized organization to another, with or without payment of any compensation thereof.

3. The head or heads of the authorized organization shall upon request certify, under oath, that the persons operating any game of chance are bona fide members of such authorized organization, auxiliary or affiliated organization.

4. Upon request by a municipal officer or the department any such person involved in such games of chance shall certify that he or she has no criminal record or shall disclose previous criminal offenses for consideration of the factors set forth in section seven hundred fifty-three of the correction law.

5. No items of expense shall be incurred or paid in connection with the conducting of any game of chance pursuant to any license issued under this title except those that are reasonable and are necessarily expended for games of chance supplies and equipment, prizes, security personnel, stated rental, if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the commission, janitorial services and utility supplies if any, and license fees, and the cost of bus transportation, if authorized by such clerk or department.

6. No commission, salary, compensation, reward or recompense shall be paid or given to any person for the sale or assisting with the sale of raffle tickets.

§ 1566. Charge for admission and participation; amount of prizes; award of prizes. 1. A fee may be charged by any licensee for admission to any game or games of chance conducted under any license issued under this title. The clerk or department may in its discretion fix a minimum fee.

2. With the exception of bell jars, coin boards, seal cards, merchandise boards and raffles, every winner shall be determined and every prize shall be awarded and delivered within the same calendar day as that upon which the game was played.

3. A player may purchase a chance with cash or, if the authorized organization wishes, with a personal check, credit card or debit card.

§ 1567. Statement of receipts and expenses; additional license fees. 1. Within seven days after the conclusion of any license period other than a license period for a raffle, or as otherwise prescribed by the commission, the authorized organization that conducted the same, and its members who were in charge thereof, and when applicable the authorized games of chance lessor that rented its premises therefor, shall each furnish to the clerk or department a statement subscribed by the member in charge and affirmed by him or her as true, under the penalties of perjury, showing the amount of the gross receipts derived therefrom and each item of expense incurred, or paid, and each item of expenditure made or to be made other than prizes, the name and address of each person to whom each such item of expense has been paid, or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefor, the net proceeds derived from the conduct of games of chance during such license period, and the use to which such

proceeds have been or are to be applied. It shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such statement.

2. Within thirty days after the conclusion of an occasion during which a raffle was conducted, the authorized organization conducting such raffle and the members in charge of such raffle, and, when applicable, the authorized games of chance lessor that rented its premises therefor, shall each furnish to the clerk or department a statement on a form prescribed by the commission, subscribed by the member in charge and affirmed by him or her as true, under the penalties of perjury, showing:

(a) the number of tickets printed;

(b) the number of tickets sold;

(c) the price and the number of tickets returned to or retained by the authorized organization as unsold;

(d) a description and statement of the fair market value for each prize actually awarded;

(e) the amount of the gross receipts derived therefrom;

(f) each item of expenditure made or to be made other than prizes;

(g) the name and address of each person to whom each such item of expense has been paid, or is to be paid;

(h) a detailed description of the merchandise purchased or the services rendered therefor;

(i) the net proceeds derived from the raffle at such occasion; and

(j) the use to which the proceeds have been or are to be applied. It shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such statement, provided, however, where the cumulative net proceeds or net profits derived from the conduct of a raffle or raffles are less than thirty thousand dollars during any one occasion, in such case, the reporting requirement shall be satisfied by the filing within thirty days of the conclusion of such occasion a verified statement prescribed by the commission attesting to the amount of such net proceeds or net profits and the distribution thereof for lawful purposes with the clerk or department and a copy with the commission, and provided further, however, where the cumulative net proceeds derived from the conduct of a raffle or raffles are less than five thousand dollars during any one occasion and less than thirty thousand dollars during one calendar year, no reporting shall be required.

3. Any authorized organization required to file an annual report with the secretary of state pursuant to article seven-A of the executive law or the attorney general pursuant to article eight of the estates, powers and trusts law shall include with such annual report a copy of the statement required to be filed with the clerk or department pursuant to subdivision one or two of this section.

4. Upon the filing of such statement of receipts pursuant to subdivision one or two of this section, the authorized organization furnishing the same shall pay to the clerk or department as and for an additional license fee a sum based upon the reported net proceeds, if any, for the license period, or in the case of raffles, for the occasion covered by such statement and determined in accordance with such schedule as shall be established from time to time by the commission to defray the actual cost to municipalities or counties of administering the provisions of this title, but such additional license fee shall not exceed five percent of the net proceeds for such license period. The provisions of this subdivision shall not apply to the net proceeds from the sale of bell jar tickets. No fee shall be required where the net proceeds or net

profits derived from the conduct of a raffle or raffles are less than thirty thousand dollars during any one occasion.

§ 1568. Examination of books and records; examination of officers and employees; disclosure of information. The clerk or department and the commission shall have power to examine or cause to be examined the books and records of:

1. any authorized organization that is or has been licensed to conduct games of chance, so far as they may relate to games of chance, including the maintenance, control and disposition of net proceeds derived from games of chance or from the use of its premises for games of chance, and to examine any manager, officer, director, agent, member or employee thereof under oath in relation to the conduct of any such game under any such license, the use of its premises for games of chance, or the disposition of net proceeds derived from games of chance, as the case may be; or

2. any authorized games of chance lessor, so far as such books and records may relate to leasing premises for games of chance, and to examine such lessor or any manager, officer, director, agent or employee thereof under oath in relation to such leasing. Any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this title.

§ 1569. Appeals for the decision of a municipal officer, clerk or department to the commission. Any applicant for, or holder of, any license issued or to be issued under this title aggrieved by any action of a municipal officer, clerk or department, to which such application has been made or by which such license has been issued, may appeal to the commission from the determination of said municipal officer, clerk or department by filing with such municipal officer, clerk or department a written notice of appeal within thirty days after the determination or action appealed from, and upon the hearing of such appeal, the evidence, if any, taken before such municipal officer, clerk or department and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue, and the action of the commission upon said appeal shall be binding upon such municipal officer, clerk or department and all parties to said appeal.

§ 1570. Exemption from prosecution. No person, firm, partnership, corporation or organization lawfully conducting, or participating in the conduct of, games of chance, or permitting the conduct upon any premises owned or leased by him, her or it under any license lawfully issued pursuant to this title, shall be liable to prosecution or conviction for violation of any provision of article two hundred twenty-five of the penal law or any other law or ordinance to the extent that such conduct is specifically authorized by this title, but this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of games of chance under any license obtained by any false pretense or by any false statement made in any application for license or otherwise, or permitting the conduct upon any premises owned or leased by him, her or it of any game of chance conducted under any license known to him, her or it to have been obtained by any such false pretense or statement.

§ 1571. Offenses; forfeiture of license; ineligibility to apply for license. Any person, firm, partnership, corporation or organization who or that shall:

1. make any material false statement in any application for any license authorized to be issued under this title;

2. pay or receive, for the use of any premises for conducting games of chance, a rental in excess of the amount specified as the permissible rent in the license provided for in subdivision three of section fifteen hundred sixty-two of this title;

3. fail to keep such books and records as shall fully and truly record all transactions connected with the conducting of games of chance or the leasing of premises to be used for the conduct of games of chance;

4. falsify or make any false entry in any books or records so far as they relate in any manner to the conduct of games of chance, to the disposition of the proceeds thereof and to the application of the rents received by any authorized organization;

5. divert or pay any portion of the net proceeds of any game of chance to any person, firm, partnership, corporation, except in furtherance of one or more of the lawful purposes defined in this title; shall be guilty of a misdemeanor and shall forfeit any license issued under this title and be ineligible to apply for a license under this title for at least one year thereafter.

§ 1572. Unlawful games of chance. 1. Any person, association, corporation or organization holding, operating or conducting a game or games of chance is guilty of a misdemeanor, except when operating, holding or conducting:

(a) in accordance with a valid license issued pursuant to this title;

(b) on behalf of a bona fide organization of persons sixty years of age or over, commonly referred to as senior citizens, solely for the purpose of amusement and recreation of its members where:

(1) the organization has applied for and received an identification number from the commission;

(2) no player or other person furnishes anything of value for the opportunity to participate;

(3) the prizes awarded or to be awarded are nominal;

(4) no person other than a bona fide active member of the organization participates in the conduct of the games; and

(5) no person is paid for conducting or assisting in the conduct of the game or games; or

(c) a raffle pursuant to section fifteen hundred fifty-nine of this title.

2. The provisions of this section shall apply to all municipalities within this state, including those municipalities where this title is inoperative.

§ 1573. Title inoperative until adopted by voters. Except as provided in section fifteen hundred seventy-two of this title, the provisions of this title shall remain inoperative in any municipality unless and until a proposition therefor submitted at a general or special election in such municipality shall be approved by a vote of the majority of the qualified electors in such municipality voting thereon.

§ 1574. Amendment and repeal of local laws and ordinances. Any such local law or ordinance may be amended, from time to time, or repealed by the common council or other local legislative body of the municipality that enacted it, by a two-thirds vote of such legislative body and such amendment or repeal, as the case may be, may be made effective and operative not earlier than thirty days following the effective date of the local law or ordinance effecting such amendment or repeal, as the case may be, and the approval of a majority of the electors of such municipality shall not be a condition prerequisite to the taking effect of such local law or ordinance.

§ 1575. Manufacturers of bell jars; reports and records. 1. Distribution; manufacturers. For business conducted in this state, manufacturers licensed by the commission to sell bell jar tickets shall sell such tickets only to distributors licensed by the commission. Manufacturers of bell jar tickets, seal cards, merchandise boards and coin boards may submit samples, artists' renderings or color photocopies of proposed bell jar tickets, seal cards, merchandise boards, coin boards, payout cards and flares for review and approval by the commission. Within thirty days of receipt of such sample or rendering, the commission shall approve or deny such bell jar tickets. Following approval of a rendering of a bell jar ticket, seal card, merchandise board or coin board by the commission, the manufacturer shall submit to the commission a sample of the printed bell jar ticket, seal card, merchandise board, coin board, payout card and flare for such game. Such sample shall be submitted prior to the sale of the game to any licensed distributor for resale in this state. For coin boards and merchandise boards, nothing herein shall require the submittal of actual coins or merchandise as part of the approval process. Any licensed manufacturer who willfully violates the provisions of this section shall:

(a) upon such first offense, have its license suspended for a period of thirty days;

(b) upon such second offense, participate in a hearing to be conducted by the commission, and surrender its license for such period as recommended by the commission; and

(c) upon such third or subsequent offense, have its license suspended for a period of one year and shall be guilty of a class E felony. Any unlicensed manufacturer who violates the provisions of this section shall be guilty of a class E felony.

1-a. Approval of bell jar vending machines. No manufacturer of bell jar vending machines shall sell, lease, or otherwise distribute such vending machines to an authorized distributor for sale or lease to an authorized organization or permit its vending machines to be sold, leased, or other distributed to an authorized distributor or authorized organization until such manufacturer has been issued a license by the commission and until such vending machine has been approved by the commission, pursuant to regulations adopted by the commission, provided such vending machine contains identical functionality as the vending machine approved by the commission. An application for a license or a renewal of such license shall be accompanied by a fee of one thousand dollars and shall be made on forms prescribed by the commission. A license shall be valid for a period of one year from the date of issuance.

2. Bar codes. The manufacturer shall affix to the flare of each bell jar game a bar code that provides all information prescribed by the commission and shall require that the bar code include the serial number of the game the flare describes. A manufacturer shall also affix to the outside of the container or wrapping containing a deal of bell jar tickets a bar code providing all information prescribed by the commission and containing the same information as the bar code affixed to the flare. The commission may also prescribe additional bar code requirements. No person may alter the bar code that appears on the flare or on the outside of the container or wrapping containing a deal of bell jar tickets. Possession of a deal of bell jar tickets that has a bar code different from the serial number of the deal inside the container or wrapping as evidenced on the flare is prima facie evidence that the possessor has altered the bar code on the container or wrapping.

3. Bell jar flares. (a) A manufacturer shall not ship or cause to be shipped into this state any deal of bell jar tickets that does not have its own individual flare as required for that deal by rule of the commission. A person other than a licensed manufacturer shall not manufacture, alter, modify or otherwise change a flare for a deal of bell jar tickets except as authorized by this title or rules and regulations promulgated by the commission.

(b) The flare for each deal of bell jar tickets sold by a manufacturer in this state shall be placed inside the wrapping of the deal that the flare describes.

(c) The bar code affixed to the flare of each bell jar game shall bear the serial number of such game as prescribed by the commission.

(d) The flare of each bell jar game shall have affixed a bar code that provides:

(1) the game code;

(2) the serial number of the game;

(3) the name of the manufacturer; and

(4) other information the commission by rule may require.

The serial number included on the bar code shall be the same as the serial number of the tickets included in the deal. A manufacturer who manufactures a deal of bell jar tickets shall affix to the outside of the container or wrapping containing the bell jar tickets the same bar code that is affixed to the flare for that deal.

(e) No person shall alter the bar code that appears on the outside of a container or wrapping containing a deal of bell jar tickets. Possession of a deal of bell jar tickets that has a bar code different from the bar code of the deal inside the container or wrapping is prima facie evidence that the possessor has altered the bar code on the box.

4. Reports of sales. A manufacturer who sells bell jar tickets for resale in this state shall file with the commission, on a form prescribed by the commission, a report of all bell jar tickets sold to distributors in the state. The report shall be filed quarterly on or before the twentieth day of the month succeeding the end of the quarter in which the sale was made. The commission may require that the report be submitted via electronic media or electronic data transfer.

5. Inspection. The commission may inspect the premises, books, records, and inventory of a manufacturer without notice during the normal business hours of the manufacturer.

§ 1576. Distributor of bell jars; reports and records. 1. Distribution; distributors. Any distributor licensed in accordance with section fifteen hundred fifty-five of this title to distribute bell jar tickets shall purchase bell jar tickets only from licensed manufacturers and may manufacture coin boards and merchandise boards only as authorized in subdivision two of this section. Licensed distributors of bell jar tickets shall sell such tickets only to not-for-profit, charitable or religious organizations registered by the commission. Any licensed distributor who willfully violates the provisions of this section shall:

(a) upon such first offense, have its license suspended for a period of thirty days;

(b) upon such second offense, participate in a hearing to be conducted by the commission, and surrender its license for such period as recommended by the commission; and

(c) upon such third or subsequent offense, have its license suspended for a period of one year and shall be guilty of a class E felony. Any unlicensed distributor who violates this section shall be guilty of a class E felony.

2. Coin boards and merchandise boards. Distributors of bell jar tickets may manufacture coin boards and merchandise boards only if such boards have been approved by the commission and have a bar code affixed to them setting forth all information required by the commission. Except that for coin boards and merchandise boards, delineation of the prize or prize value need not be included on the game ticket sold in conjunction with a coin board or merchandise board. In lieu of such requirement, the distributor shall be required to disclose the prize levels and the number of winners at each level and shall print clearly on the game ticket that a ticket holder may obtain the prize and prize value for each prize level by referencing the flare. Such coin boards shall be sold only by licensed distributors to licensed authorized organizations registered by the commission in accordance with the provisions of this title.

3. Business records. A distributor shall keep at each place of business complete and accurate records for that place of business, including itemized invoices of bell jar tickets held and purchased. The records must show the names and addresses of purchasers, the inventory at the close of each period for which a return is required, all bell jar tickets on hand and other pertinent papers and documents relating to the purchase, sale or disposition of bell jar tickets as may be required by the commission. Books, records, itemized invoices and other papers and documents required by this section shall be kept for a period of at least four years after the date of the documents, or the date of the entries appearing in the records, unless the commission authorizes in writing their destruction or disposal at an earlier date. A person who violates this section shall be guilty of a misdemeanor.

4. Sales records. A distributor shall maintain a record of all bell jar tickets that it sells. The record shall include, but need not be limited to:

(a) the identity of the manufacturer from whom the distributor purchased the product;

(b) the serial number of the product;

(c) the name, address and license or exempt permit number of the organization or person to which the sale was made;

(d) the date of the sale;

(e) the name of the person who ordered the product;

(f) the name of the person who received the product;

(g) the type of product;

(h) the serial number of the product;

(i) the account number identifying the sale from the manufacturer to distributor and the account number identifying the sale from the distributor to the licensed organization; and

(j) the name, form number or other identifying information for each game.

5. Invoices. A distributor shall supply with each sale of a bell jar product an itemized invoice showing:

(a) the distributor's name and address;

(b) the purchaser's name, address, and license number;

(c) the date of the sale;

(d) the account number identifying the sale from the manufacturer to distributor;

(e) the account number identifying the sale from the distributor to the licensed organization; and

(f) the description of the deals, including the form number, the serial number and the ideal gross from every deal of bell jar or similar game.

6. Reports. A distributor shall report quarterly to the commission, on a form prescribed by the commission, its sales of each type of bell jar deal or tickets. This report shall be filed quarterly on or before the twentieth day of the month succeeding the end of the quarter in which the sale was made. The commission may require that a distributor submit the quarterly report and invoices required by this section via electronic media or electronic data transfer.

7. The commission may inspect the premises, books, records and inventory of a distributor without notice during the normal business hours of the distributor.

8. Certified physical inventory. The commission may, upon request, require a distributor to furnish a certified physical inventory of all bell jar tickets in stock. The inventory shall contain the information requested by the commission.

§ 1577. Transfer restrictions. Not-for-profit, charitable or religious organizations authorized to sell bell jar tickets in accordance with this title shall purchase bell jar tickets only from distributors licensed by the commission. No not-for-profit, charitable or religious organization shall sell, donate or otherwise transfer bell jar tickets to any other not-for-profit, charitable or religious organization.

§ 1578. Bell jars compliance and enforcement. 1. In the case of bell jars, the licensee, upon filing financial statements of bell jar operations, shall also tender to the commission a sum in the amount of five percent of the net proceeds from the sale of bell jar tickets, seal cards, merchandise boards and coin boards, if any, for that portion of license period covered by such statement.

2. Unsold tickets of the bell jar deal shall be kept on file by the selling organization for inspection by the commission for a period of one year following the date upon which the relevant financial statement was received by the commission.

3. One-half of one percent of the fee set forth in subdivision one of this section received from authorized volunteer fire companies shall be paid to the New York state emergency services revolving loan account established pursuant to section ninety-seven-pp of the state finance law.

4. The commission shall submit to the director of the division of the budget an annual plan that details the amount of money the commission deems necessary to maintain operations, compliance and enforcement of the provisions of this title and the collection of the license fee authorized by this section. Contingent upon the approval of the director of the division of the budget, the commission shall pay into an account, to be known as the bell jar collection account, under the joint custody of the comptroller and the commission, the total amount of license fees collected pursuant to this section. With the approval of the director of the division of the budget, monies to be used to maintain the operations necessary to enforce the provisions of this title and the collection of the license fee imposed by this section shall be paid out of such account on the audit and warrant of the comptroller on vouchers certified or approved by the director of the division of the budget or the director's duly designated official. Those monies that are not used to maintain operations necessary to enforce the provisions of this title and the collection of the license fee authorized by this

section shall be paid out of such amount on the audit and warrant of the state comptroller and shall be credited to the general fund.

5. (a) Within five business days after the sale, lease, or distribution of a bell jar vending machine to an authorized organization, a distributor shall provide the commission with a copy of the invoice which shows: (i) the name and address of the authorized organization; (ii) the date of sale, lease, or distribution; (iii) the serial number of each such vending machine; and (iv) such other information as the commission may, by regulation, direct.

(b) An authorized organization may only operate bell jar vending machines on premises that it owns or leases.

(c) Each bell jar vending machine shall generate such reports and such other information that the commission may direct, by regulation, which allows the commission to determine that the vending machine is operating in accordance with law.

(d) Notwithstanding the provisions of subdivision one of this section, the monthly fee to be paid to the commission for operating each bell jar vending machine shall be five percent of the net proceeds from each bell jar vending machine during the preceding month. Net proceeds shall be defined by paragraph (b) of subdivision twenty-three of section fifteen hundred of this article.

§ 3. Section 129 of the racing, pari-mutuel wagering and breeding law, as added by section 1 of part A of chapter 60 of the laws of 2012, is amended to read as follows:

§ 129. Construction of other laws or provisions. Unless the context [~~shall require~~] requires otherwise, the terms "division of the lottery", "state quarter horse racing commission", "state racing commission", "state harness racing commission", "state racing and wagering board" or "board" wherever occurring in any of the provisions of this chapter or of any other law, or, in any official books, records, instruments, rules or papers, shall hereafter mean and refer to the state gaming commission created by section one hundred two of this article. The provisions of article three of this chapter shall be inapplicable to article two of this chapter; and the provisions of such article two shall be inapplicable to such article three, except that section two hundred thirty-one of such article two shall apply to such article three. Unless the context requires otherwise, any reference to "article 19-B of the executive law" wherever occurring in any law, or, in any official books, records, instruments, rules or papers, shall hereafter mean and refer to titles one and two of article fifteen of this chapter. Unless the context requires otherwise, any reference to "article 14-H of the general municipal law" wherever occurring in any law, or, in any official books, records, instruments, rules or papers, shall hereafter mean and refer to titles one and three of article fifteen of this chapter. Unless the context requires otherwise, any reference to "article 9-A of the general municipal law" wherever occurring in any law, or, in any official books, records, instruments, rules or papers, shall hereafter mean and refer to titles one and four of article fifteen of this chapter.

§ 4. Paragraph (b) of subdivision 2 of section 103 of the racing, pari-mutuel wagering and breeding law, as added by section 1 of part A of chapter 60 of the laws of 2012, is amended as follows:

(b) Charitable gaming. The division of charitable gaming shall be responsible for the supervision and administration of the games of chance licensing law, bingo licensing law and bingo control law as prescribed by [~~articles nine-A and fourteen-H of the general municipal~~

~~law and nineteen-B of the executive law~~] **title three of article fifteen of the racing, pari-mutuel wagering and breeding** law, shall subject such person, corporation or entity to disciplinary action pursuant to section one hundred four of the racing, pari-mutuel wagering and breeding law and section one thousand six hundred seven of the tax law, which may include revocation, cancellation or suspension of such license or authorization.

§ 6. Paragraph 3 of subdivision (c) of section 290 of the tax law, as amended by chapter 547 of the laws of 1987, is amended to read as follows:

(3) Any income derived from the conduct of games of chance or from rental of premises for the conduct of games of chance pursuant to a license granted under **title four of** article [~~nine-A of the general municipal~~] **fifteen of the racing, pari-mutuel wagering and breeding** law shall not be subject to tax under this article.

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

PART NN

Section 1. Subdivision 1 of section 207 of the racing, pari-mutuel wagering and breeding law is REPEALED and a new subdivision 1 is added to read as follows:

1. a. The board of directors, to be called the New York racing association board, shall consist of fifteen members, eight of whom shall be elected by the executive committee of the New York racing association reorganization board of which at least one shall be a full time resident of each of Nassau, Queens and Saratoga counties, one shall be the chief executive officer of the New York racing association, two shall be appointed by the governor, one shall be appointed by the temporary president of the senate, one shall be appointed by the speaker of the assembly, one shall be appointed by the New York Thoroughbred Breeders Inc. provided that a current board member of the New York racing association shall serve on the board of directors of the New York Thoroughbred Breeders Inc., and one shall be appointed by the New York thoroughbred horsemen's association (or such other entity as is certified and approved pursuant to section two hundred twenty-eight of this article) provided that a current board member of the New York racing association shall serve on the board of directors of the New York thoroughbred horsemen's association (or such other entity as is certified and approved pursuant to section two hundred twenty-eight of this article).

(i) The governor shall nominate a member to serve as the first chair, subject to confirmation by majority vote of the board of directors. All members shall have equal voting rights.

(ii) In the event of a member vacancy occurring by death, resignation or otherwise, the respective appointing officer or officers shall appoint a successor who shall hold office for the unexpired portion of the term. A vacancy from the members appointed from the present board of the New York racing association reorganization board, shall be filled by the remaining such members.

(iii) Each board member, other than the chief executive officer of the New York racing association, shall serve a term of three years. However, the first terms of five of the members elected by the executive committee of the New York racing association reorganization board shall expire December thirty-first, two thousand eighteen; the first terms of the remaining three members elected by the executive committee of the New York racing association reorganization board, the member appointed by the New York Thoroughbred Breeders Inc., and the member appointed by the New York thoroughbred horsemen's association shall expire December thirty-first, two thousand nineteen; and the first terms of the members appointed by the governor, temporary president of the senate and speaker of the assembly shall expire December thirty-first, two thousand twenty.

b. The franchised corporation shall establish a compensation committee to fix salary guidelines, such guidelines to be consistent with an operation of other first class thoroughbred racing operations in the United States; an equine safety committee, to review industry best practices to improve the safety of horses racing at each of the three racetracks; a finance committee, to review annual operating and capital budgets for each of the three racetracks; a nominating committee, to nominate any new directors to be designated by the franchised corporation to replace its existing directors; a racing committee, to review industry best practices to improve the quality of racing at the three racetracks; and an executive committee. Each of the compensation, finance, nominating and executive committees shall include at least one of the directors appointed by the governor, and the executive committee shall include the

director appointed by the temporary president of the senate and the director appointed by the speaker of the assembly.

c. Upon the effective date of this paragraph, the structure of the board of the franchised corporation shall be deemed to be incorporated within and made part of the certificate of incorporation of the franchised corporation, and no amendment to such certificate of incorporation shall be necessary to give effect to any such provision, and any provision contained within such certificate inconsistent in any manner shall be superseded by the provisions of this section. Such board shall, however, make appropriate conforming changes to all governing documents of the franchised corporation including but not limited to corporate by-laws. Following such conforming changes, amendments to the by-laws of the franchised corporation shall only be made by unanimous vote of the board.

§ 2. This act shall take effect upon the appointment of a majority of board members; provided, further, that the state franchise oversight board shall notify the legislative bill drafting commission upon the occurrence of such appointments in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART OO

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 FF of chapter 60 of the laws of 2016, 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 [~~seventeen~~] **eighteen**; 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 forty-five days prior to the effective date of the termination, via registered mail. Any party to an agreement receiving such notice of an intent to terminate, may request the commission to mediate between the parties new terms and conditions in a replacement agreement between the parties as will permit continuation of an in-home experiment until June thirtieth, two thousand [~~seventeen~~] **eighteen**; and (iv) no in-home simulcasting in the thoroughbred special betting district shall occur without the approval of the regional thoroughbred track.

§ 2. Subparagraph (iii) of paragraph d of subdivision 3 of section 1007 of the racing, pari-mutuel wagering and breeding law, as amended by section 2 of part FF of chapter 60 of the laws of 2016, is amended to read as follows:

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

§ 3. The opening paragraph of subdivision 1 of section 1014 of the racing, pari-mutuel wagering and breeding law, as amended by section 3 of part FF of chapter 60 of the laws of 2016, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand [~~seventeen~~] **eighteen** and on any day regardless of whether or not a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack after June thirtieth, two thousand [~~seventeen~~] **eighteen**. On any day on which a franchised corporation has not scheduled a racing program but a thoroughbred

racing corporation located within the state is conducting racing, every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven (that have entered into a written agreement with such facility's representative horsemen's organization, as approved by the commission), one thousand eight, or one thousand nine of this article shall be authorized to accept wagers and display the live simulcast signal from thoroughbred tracks located in another state or foreign country subject to the following provisions:

§ 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering and breeding law, as amended by section 4 of part FF of chapter 60 of the laws of 2016, is amended to read as follows:

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

§ 5. The opening paragraph of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by section 5 of part FF of chapter 60 of the laws of 2016, is amended to read as follows:

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

§ 6. The opening paragraph of section 1018 of the racing, pari-mutuel wagering and breeding law, as amended by section 6 of part FF of chapter 60 of the laws of 2016, is amended to read as follows:

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

§ 7. Section 32 of chapter 281 of the laws of 1994, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting, as amended by section 7 of part FF of chapter 60 of the laws of 2016, is amended to read as follows:

§ 32. This act shall take effect immediately and the pari-mutuel tax reductions in section six of this act shall expire and be deemed repealed on July 1, [~~2017~~] **2018**; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration, or repeal of any provision of law amended by any section of this act, and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law; provided further, however, that sections twenty-three and twenty-five of this act shall remain in full force and effect only until May 1, 1997 and at such time shall be deemed to be repealed.

§ 8. Section 54 of 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, as amended by section 8 of part FF of chapter 60 of the laws of 2016, is amended to read as follows:

§ 54. This act shall take effect immediately; provided, however, sections three through twelve of this act shall take effect on January 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breeding law, as added by section thirty-eight of this act, shall expire and be deemed repealed on July 1, [~~2017~~] **2018**; and section eighteen of this act shall take effect on July 1, 2008 and sections fifty-one and fifty-two of this act shall take effect as of the same date as chapter 772 of the laws of 1989 took effect.

§ 9. Paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as amended by section 9 of part FF of chapter 60 of the laws of 2016, is amended to read as follows:

(a) The franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets be presented for payment before April first of the year following the year of their purchase, less an amount which shall be established and retained by such franchised corporation of between twelve to seventeen per centum of the total deposits in pools resulting from on-track regular bets, and fourteen to twenty-one per centum of the total deposits in pools resulting from on-track multiple bets and fifteen to twenty-five per centum of the total deposits in pools resulting from on-track exotic bets and fifteen to thirty-six per centum of the total deposits in pools resulting from on-track super exotic bets, plus the breaks. The retention rate to be established is subject to the prior approval of the gaming commission. Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter. "Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter. "Super exotic bets" shall have the meaning set forth in section three hundred one of this chapter. For purposes of this section, a "pick six bet" shall mean a single bet or wager on the outcomes of six races. The breaks are hereby defined as the odd cents over any multiple of five for payoffs greater than one dollar five cents but less than five dollars, over any multiple of ten for payoffs greater than five dollars but less than twenty-five dollars, over any multiple of twenty-five for payoffs greater than twenty-five

dollars but less than two hundred fifty dollars, or over any multiple of fifty for payoffs over two hundred fifty dollars. Out of the amount so retained there shall be paid by such franchised corporation to the commissioner of taxation and finance, as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the race meetings held by such franchised corporation, the following percentages of the total pool for regular and multiple bets five per centum of regular bets and four per centum of multiple bets plus twenty per centum of the breaks; for exotic wagers seven and one-half per centum plus twenty per centum of the breaks, and for super exotic bets seven and one-half per centum plus fifty per centum of the breaks. For the period June first, nineteen hundred ninety-five through September ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be three per centum and such tax on multiple wagers shall be two and one-half per centum, plus twenty per centum of the breaks. For the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such tax on all wagers shall be two and six-tenths per centum and for the period April first, two thousand one through December thirty-first, two thousand [~~seventeen~~] **eighteen**, such tax on all wagers shall be one and six-tenths per centum, plus, in each such period, twenty per centum of the breaks. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one per centum of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three per centum of super exotic bets provided, however, that for the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such payment shall be six-tenths of one per centum of regular, multiple and exotic pools and for the period April first, two thousand one through December thirty-first, two thousand [~~seventeen~~] **eighteen**, such payment shall be seven-tenths of one per centum of such pools.

§ 10. This act shall take effect immediately.

PART PP

Section 1. Clause (F) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as amended by section 1 of part EE of chapter 60 of the laws of 2016, is amended to read as follows:

(F) notwithstanding clauses (A), (B), (C), (D) and (E) of this subparagraph, when a vendor track, is located in Sullivan county and within sixty miles from any gaming facility in a contiguous state such vendor fee shall, for a period of [~~nine~~] **ten** years commencing April first, two thousand eight, be at a rate of forty-one percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, after which time such rate shall be as for all tracks in clause (C) of this subparagraph.

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

PART QQ

Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as separately amended by section 1 of part GG and section 2 of part SS of chapter 60 of the laws of 2016, is amended to read as follows:

(H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of this subparagraph, the track operator of a vendor track and in the case of Aqueduct, the video lottery terminal facility operator, shall be eligible for a vendor's capital award of up to four percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, which shall be used exclusively for capital project investments to improve the facilities of the vendor track which promote or encourage increased attendance at the video lottery gaming facility including, but not limited to hotels, other lodging facilities, entertainment facilities, retail facilities, dining facilities, events arenas, parking garages and other improvements that enhance facility amenities; provided that such capital investments shall be approved by the division, in consultation with the [~~state racing and wagering board~~] gaming commission, and that such vendor track demonstrates that such capital expenditures will increase patronage at such vendor track's facilities and increase the amount of revenue generated to support state education programs. The annual amount of such vendor's capital awards that a vendor track shall be eligible to receive shall be limited to two million five hundred thousand dollars, except for the vendor track located in Westchester county and Aqueduct racetrack, for which there shall be no annual limit, provided, however, that any such capital award for the Aqueduct video lottery terminal facility operator shall be one percent of the total revenue wagered at the video lottery terminal facility after payout for prizes pursuant to this chapter until the earlier of the designation of one thousand video lottery devices as hosted pursuant to paragraph four of subdivision a of section sixteen hundred seventeen-a of this chapter or April first, two thousand nineteen and shall then be four percent of the total revenue wagered at the video lottery terminal facility after payout for prizes pursuant to this chapter, provided, further, that such capital award for the Aqueduct video lottery terminal facility operator and the vendor track located in Westchester county shall only be provided pursuant to an agreement with the respective operator to construct an expansion of the facility, hotel, and convention and exhibition space requiring a minimum capital investment of three hundred million dollars for the Aqueduct video lottery terminal facility and one hundred eighty million dollars for the vendor track located in Westchester county. [~~Except for tracks having less than one thousand one hundred video gaming machines, and except for a vendor track located west of State Route 14 from Sodus Point to the Pennsylvania border within New York, and except for Aqueduct racetrack each track operator shall be required to co-invest an amount of capital expenditure equal to its cumulative vendor's capital award.~~] For all tracks, except for Aqueduct racetrack, the amount of any vendor's capital award that is not used during any one year period may be carried over into subsequent years ending before April first, two thousand [~~seventeen~~] eighteen. Any amount attributable to a capital expenditure approved prior to April first, two thousand [~~seventeen~~] eighteen and completed before April first, two thousand [~~nineteen~~] twenty; or approved prior to April first, two thousand [~~twenty-one~~] twenty-two and completed before April first, two thousand [~~twenty-three~~] twenty-four for a vendor track located west of State Route 14 from Sodus Point to the Pennsylvania border within New York, shall be eligible to receive the vendor's capital award. In the event that a vendor track's capital expenditures, approved by the division prior to April first, two thousand [~~seventeen~~] eighteen and completed prior to April first, two thousand [~~nineteen~~] twenty, exceed the vendor track's cumulative capital

award during the five year period ending April first, two thousand [~~seventeen~~] **eighteen**, the vendor shall continue to receive the capital award after April first, two thousand [~~seventeen~~] **eighteen** until such approved capital expenditures are paid to the vendor track subject to any required co-investment. [~~In no event shall any vendor track that receives a vendor fee pursuant to clause (F) or (G) of this subparagraph be eligible for a vendor's capital award under this section.~~] Any operator of a vendor track which has received a vendor's capital award, choosing to divest the capital improvement toward which the award was applied, prior to the full depreciation of the capital improvement in accordance with generally accepted accounting principles, shall reimburse the state in amounts equal to the total of any such awards. Any capital award not approved for a capital expenditure at a video lottery gaming facility by April first, two thousand [~~seventeen~~] **eighteen** shall be deposited into the state lottery fund for education aid; and

§ 2. Paragraph 2 of subdivision c of section 1612 of the tax law, as amended by chapter 174 of the laws of 2013, is amended to read as follows:

2. Of the ten percent retained by the division for administrative purposes, any amounts beyond that which are necessary for the operation and administration of this [~~pilot~~] program shall be [~~deposited in the lottery education account~~] **made available for vendor capital awards pursuant to clause (H) of subparagraph (ii) of paragraph one of subdivision b of this section**.

§ 3. This act shall take effect immediately.

PART RR

Section 1. Subdivision 3 of section 99-h of the state finance law, as amended by section 7 of chapter 174 of the laws of 2013, is amended to read as follows:

3. Moneys of the account, following the segregation of appropriations enacted by the legislature, shall be available for purposes including but not limited to: (a) reimbursements or payments to municipal governments that host tribal casinos pursuant to a tribal-state compact for costs incurred in connection with services provided to such casinos or arising as a result thereof, for economic development opportunities and job expansion programs authorized by the executive law; provided, however, that for any gaming facility located in the city of Buffalo, the city of Buffalo shall receive a minimum of twenty-five percent of the negotiated percentage of the net drop from electronic gaming devices the state receives pursuant to the compact, and provided further that for any gaming facility located in the city of Niagara Falls, county of Niagara a minimum of twenty-five percent of the negotiated percentage of the net drop from electronic gaming devices the state receives pursuant to the compact shall be distributed in accordance with subdivision four of this section, and provided further that for any gaming facility located in the county or counties of Cattaraugus, Chautauqua or Allegany, the municipal governments of the state hosting the facility shall collectively receive a minimum of twenty-five percent of the negotiated percentage of the net drop from electronic gaming devices the state receives pursuant to the compact; and provided further that pursuant to chapter five hundred ninety of the laws of two thousand four, a minimum of twenty-five percent of the revenues received by the state pursuant to the state's compact with the St. Regis Mohawk tribe shall be made available to the counties of Franklin and St. Lawrence, and affected towns in

such counties. Each such county and its affected towns shall receive fifty percent of the moneys made available by the state; and provided further that the state shall annually make twenty-five percent of the negotiated percentage of the net drop from all gaming devices the state actually receives pursuant to the Oneida Settlement Agreement confirmed by section eleven of the executive law as available to the county of Oneida, and a sum of three and one-half million dollars to the county of Madison. **Additionally, the state shall distribute annually the sum of two and one quarter million dollars to the county of Madison for the impact of gaming devices located within its borders.** Additionally, the state shall distribute for a period of nineteen and one-quarter years, an additional annual sum of two and one-half million dollars to the county of Oneida. Additionally, the state shall distribute the one-time eleven million dollar payment received by the state pursuant to such agreement with the Oneida Nation of New York to the county of Madison by wire transfer upon receipt of such payment by the state; and (b) support and services of treatment programs for persons suffering from gambling addictions. Moneys not segregated for such purposes shall be transferred to the general fund for the support of government during the fiscal year in which they are received.

§ 2. Subdivision 3 of section 99-h of the state finance law, as amended by section 8 of chapter 174 of the laws of 2013, is amended to read as follows:

3. Moneys of the account, following the segregation of appropriations enacted by the legislature, shall be available for purposes including but not limited to: (a) reimbursements or payments to municipal governments that host tribal casinos pursuant to a tribal-state compact for costs incurred in connection with services provided to such casinos or arising as a result thereof, for economic development opportunities and job expansion programs authorized by the executive law; provided, however, that for any gaming facility located in the county of Erie or Niagara, the municipal governments hosting the facility shall collectively receive a minimum of twenty-five percent of the negotiated percentage of the net drop from electronic gaming devices the state receives pursuant to the compact and provided further that for any gaming facility located in the county or counties of Cattaraugus, Chautauqua or Allegany, the municipal governments of the state hosting the facility shall collectively receive a minimum of twenty-five percent of the negotiated percentage of the net drop from electronic gaming devices the state receives pursuant to the compact; and provided further that pursuant to chapter five hundred ninety of the laws of two thousand four, a minimum of twenty-five percent of the revenues received by the state pursuant to the state's compact with the St. Regis Mohawk tribe shall be made available to the counties of Franklin and St. Lawrence, and affected towns in such counties. Each such county and its affected towns shall receive fifty percent of the moneys made available by the state; and provided further that the state shall annually make twenty-five percent of the negotiated percentage of the net drop from all gaming devices the state actually receives pursuant to the Oneida Settlement Agreement confirmed by section eleven of the executive law available to the county of Oneida, and a sum of three and one-half million dollars to the county of Madison. **Additionally, the state shall distribute annually the sum of two and one quarter million dollars to the county of Madison for the impact of gaming devices located within its borders.** Additionally, the state shall distribute, for a period of nineteen and one-quarter years, an additional annual sum of two and

one-half million dollars to the county of Oneida. Additionally, the state shall distribute the one-time eleven million dollar payment actually received by the state pursuant to the Oneida Settlement Agreement to the county of Madison by wire transfer upon receipt of such payment by the state; and (b) support and services of treatment programs for persons suffering from gambling addictions. Moneys not segregated for such purposes shall be transferred to the general fund for the support of government during the fiscal year in which they are received.

§ 3. This act shall take effect immediately and shall be deemed in full force and effect on the date the state actually receives payment from gaming devices located in Madison county, provided that the amendments to subdivision 3 of section 99-h of the state finance law made by section one of this act shall be subject to the expiration and reversion of such section as provided in section 4 of chapter 747 of the laws of 2006, as amended when upon such date the provisions of section two of this act shall take effect.

PART SS

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 eighteen, 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 nineteen, 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 hundred fifty thousand dollars but not over five hundred thousand dollars.

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

(39) **(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~~] **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 [~~thirteen~~] **seventeen**, an amount equal to [~~three and three-quarters~~] **ten** 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~~] **eighteen**, and an amount equal to [~~five~~] **nineteen** 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~~] **nineteen**.

(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 net 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 this article, 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 article nine-A of this chapter 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.

§ 3. Paragraph 35 of subdivision (c) of section 11-1712 of the administrative code of the city of New York, as added by section 2 of part Y 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 net 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, 2018.

PART TT

Section 1. Paragraph (a) of subdivision 43 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) A qualified New York manufacturer, as defined in subparagraph (vi) of paragraph (a) of subdivision one of section two hundred ten of this article, will be allowed a credit equal to [~~twenty~~] fifty percent of the real property tax it paid during the taxable year for real property owned by such manufacturer in New York which was principally used during the taxable year for manufacturing to the extent not deducted in determining entire net income. This credit will not be allowed if the real property taxes that are the basis for this credit are included in the calculation of another credit claimed by the taxpayer.

§ 2. Paragraph 1 of subdivision (xx) of section 606 of the tax law, as amended by section 8 of part I of chapter 59 of the laws of 2015, is amended to read as follows:

(1) A qualified New York manufacturer will be allowed a credit equal to [~~twenty~~] fifty percent of the real property tax it paid during the taxable year for real property owned by such manufacturer in New York which was principally used during the taxable year for manufacturing to the extent not deducted in computing New York adjusted gross income. This credit will not be allowed if the real property taxes that are the basis for this credit are included in the calculation of another credit claimed by the taxpayer.

§ 3. This act shall take effect immediately and shall apply to tax years beginning on or after January 1, 2017.

PART UU

Section 1. Subdivision (e) of section 42 of the tax law, as added by section 1 of part RR of chapter 60 of the laws of 2016, is amended and a new subdivision (e-1) is added to read as follows:

(e) For taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and [~~two hundred fifty~~] five hundred dollars. For taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand nineteen, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and [~~three~~] six hundred dollars. For taxable years beginning on or after January first, two thousand nineteen and before January first, two thousand twenty, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and [~~five~~] eight hundred dollars. For taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and [~~four hundred~~] one thousand dollars. For taxable years beginning on or after January first, two thousand twenty-one and before January first, two thousand twenty-two, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and [~~six~~] one thousand two hundred dollars.

(e-1) For taxable years beginning on or after January first, two thousand seventeen and before January first, two thousand eighteen, if such farm is located in Nassau, Suffolk, or Westchester county, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and six hundred dollars. For taxable years beginning on or after January first, two thousand eighteen and before January first, two thousand nineteen, if such farm is located

in Nassau, Suffolk, or Westchester county, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and nine hundred dollars. For taxable years beginning on or after January first, two thousand nineteen and before January first, two thousand twenty, if such farm is located in Nassau, Suffolk, or Westchester county, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and one thousand two hundred dollars. For taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one, if such farm is located in Nassau, Suffolk, or Westchester county, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and one thousand five hundred dollars. For taxable years beginning on or after January first, two thousand twenty-one and before January first, two thousand twenty-two, if such farm is located in Nassau, Suffolk, or Westchester county, the amount of the credit allowed under this section shall be equal to the product of the total number of eligible farm employees and one thousand five hundred dollars.

§ 2. This act shall take effect immediately.

PART VV

Section 1. Subdivision 1 of section 210-B of the tax law is amended by adding a new paragraph (d-1) to read as follows:

(d-1) Notwithstanding any other provision of this subdivision, for taxable years beginning on or after January first, two thousand seventeen, if the credit allowed under this subdivision is greater than the tax due in any taxable year for a taxpayer whose primary source of income is derived from operating a farm operation, such taxpayer may elect to treat the amount by which such credit exceeds such tax due as an overpayment of tax to be refunded in accordance with the provisions of section one thousand eighty-six of this chapter. For purposes of this paragraph, the term "farm operation" shall have the same meaning as such term is defined in subdivision eleven of section three hundred one of the agriculture and markets law.

§ 2. Subsection (a) of section 606 of the tax law is amended by adding a new paragraph 5-a to read as follows:

(5-a) Notwithstanding any other provision of this subsection, for taxable years beginning on or after January first, two thousand seventeen, if the credit allowed under this subsection is greater than the tax due in any taxable year for a taxpayer whose primary source of income is derived from operating a farm operation, such taxpayer may elect to treat the amount by which such credit exceeds such tax due as an overpayment of tax to be refunded in accordance with the provisions of section six hundred eighty-six of this article. For purposes of this paragraph, the term "farm operation" shall have the same meaning as such term is defined in subdivision eleven of section three hundred one of the agriculture and markets law.

§ 3. This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after January 1, 2017.

PART WW

Section 1. Section 606 of the tax law is amended by adding a new subsection (n-2) to read as follows:

(n-2) Credit for farm donations to food bank or emergency food program. (1) General. In the case of a taxpayer who is an eligible farmer, there shall be allowed a credit, to be computed as hereinafter provided against the tax imposed by this article for taxable years on and after January first, two thousand eighteen. The amount of the credit shall be twenty-five percent of the wholesale cost of the taxpayer's qualified donations, as defined in paragraph three of this subsection, made to any food bank or other public, charitable or not-for-profit emergency food program operating within this state, up to five thousand dollars per year.

(2) Eligible farmer. For purposes of this subsection, the term "eligible farmer" means a New York state resident taxpayer whose federal gross income from farming for the taxable year is at least two-thirds of excess federal gross income. Excess federal gross income means the amount of federal gross income from all sources for the taxable year reduced by the sum (not to exceed thirty thousand dollars) of those items included in federal gross income which consist of (i) earned income, (ii) pension payments, including social security payments, (iii) interest, and (iv) dividends. For purposes of this paragraph, the term "earned income" shall mean wages, salaries, tips and other employee compensation, and those items of gross income which are includible in the computation of net earnings from self-employment. For the purposes of this paragraph, payments from the state's farmland protection program, administered by the department of agriculture and markets, shall be included as federal gross income from farming for otherwise eligible farmers.

(3) Qualified donation. For purposes of this subsection, the term "qualified donation" means a donation of any fresh food item grown or produced by an eligible farmer to a food bank or other emergency food program operating within this state.

(4) Application of credit. The credit allowed under this subsection for any taxable year will not reduce the tax due for such year to less than the minimum tax fixed by this article. However, if the amount of credit allowed under this subsection for any taxable year reduces the tax to such amount, any amount of credit thus not deductible in such taxable year will 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, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest will be paid thereon.

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

(xliii) Farm donations to food bank or emergency food program credit under subsection (n-2)	Amount of credit under subdivision fifty-two of section two hundred ten-B

§ 3. Section 210-B of the tax law is amended by adding a new subdivision 52 to read as follows:

52. Credit for farm donations to food bank or emergency food program. (a) General. In the case of a taxpayer who is an eligible farmer, there shall be allowed a credit, to be computed as hereinafter provided against the tax imposed by this article for taxable years beginning on and after January first, two thousand eighteen. The amount of the credit shall be twenty-five percent of the wholesale cost of the taxpayer's qualified donations, as defined in paragraph (c) of this subdivision,

made to any food bank or other public, charitable or not-for-profit emergency food program operating within this state, up to five thousand dollars during the taxable year.

(b) Eligible farmer. For purposes of this subdivision, the term "eligible farmer" means a New York state resident taxpayer whose federal gross income from farming for the taxable year is at least two-thirds of excess federal gross income. Excess federal gross income means the amount of federal gross income from all sources for the taxable year reduced by the sum (not to exceed thirty thousand dollars) of those items included in federal gross income which consist of (i) earned income, (ii) pension payments, including social security payments, (iii) interest, and (iv) dividends. For purposes of this paragraph, the term "earned income" shall mean wages, salaries, tips and other employee compensation, and those items of gross income which are includible in the computation of net earnings from self-employment. For the purposes of this paragraph, payments from the state's farmland protection program, administered by the department of agriculture and markets, shall be included as federal gross income from farming for otherwise eligible farmers.

(c) Qualified donation. For purposes of this subdivision, the term "qualified donation" means a donation of any fresh food item grown or produced by an eligible farmer to a food bank or other emergency food program operating within this state.

(d) Application of credit. The credit allowed under this subdivision for any taxable year will not reduce the tax due for such year to less than the minimum tax fixed by this article. However, if the amount of credit allowed under this subdivision for any taxable year reduces the tax to such amount, any amount of credit thus not deductible in such taxable year will 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, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest will be paid thereon.

§ 4. The department of agriculture and markets, in conjunction with the department of taxation and finance, shall establish an accepted wholesale price of the taxpayer's qualified donations and promulgate any necessary rules and regulations.

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

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 43 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. An eligible employee is an individual who is (i) employed by an eligible employer in New York state, (ii) paid [~~at~~] a maximum of $0.5 over 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.

(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~~] twenty, 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~~] a maximum of $0.5 over the minimum wage rate and one dollar and thirty-five cents. Provided, however, if the federal minimum wage established by federal law pursuant to 29 U.S.C. section 206 or its successors is increased above eighty-five percent of the minimum wage in article nineteen of the labor law, the dollar amounts in this subdivision shall be reduced to the difference between the minimum wage in article nineteen of the labor law and the federal minimum wage. Such reduction would take effect on the date that employers are required to pay such federal minimum wage.

§ 2. This act shall take effect September 1, 2017.

PART YY

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

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

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

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

(ii) Any challenge to the factual or legal basis behind the suspension of a property's eligibility for a STAR exemption pursuant to section one hundred seventy-one-y of the tax law must be presented to the department

in the manner prescribed by such section. Neither an assessor nor a board of assessment review has the authority to consider such a challenge.

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

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

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

(ii) For purposes of this paragraph, the term New York gross business income shall mean: (A) 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 (B) in the case of a New York S-corporation, New York receipts included in the apportionment determined under section two hundred ten-A of this chapter for the taxable year.

(iii) For purposes of this paragraph, the term business income base shall mean in the case of a New York corporation, business income as defined in subdivision eight of section two hundred eight of the tax 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 eighteen--two thousand nineteen school year; (II) twenty thousand dollars in the two thousand nineteen--two thousand twenty school year; and (III) thirty thousand dollars in the two thousand twenty--two thousand twenty-one school year and thereafter.**

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

PART ZZ

Section 1. Section 208 of the tax law is amended by adding a new subdivision 13 to read as follows:

13. The term "fulfillment services" shall mean any of the following services performed by an entity on its premises on behalf of a purchaser:

(a) the acceptance of orders electronically or by mail, telephone, telefax or internet;

(b) responses to consumer correspondence or inquires electronically or by mail, telephone, telefax or internet;

(c) billing and collection activities; or

(d) the shipment of orders from an inventory of products offered for sale by the purchaser.

§ 2. Subdivision 2 of section 209 of the tax law, as amended by section 5 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

2. A foreign corporation shall not be deemed to be doing business, employing capital, owning or leasing property, or maintaining an office in this state, or deriving receipts from activity in this state, for the purposes of this article, by reason of (a) the maintenance of cash balances with banks or trust companies in this state, or (b) the ownership of shares of stock or securities kept in this state, if kept in a safe deposit box, safe, vault or other receptacle rented for the purpose, or if pledged as collateral security, or if deposited with one or more banks or trust companies, or brokers who are members of a recognized security exchange, in safekeeping or custody accounts, or (c) the taking of any action by any such bank or trust company or broker, which is incidental to the rendering of safekeeping or custodian service to such corporation, or (d) the maintenance of an office in this state by one or more officers or directors of the corporation who are not employees of the corporation if the corporation otherwise is not doing business in this state, and does not employ capital or own or lease property in this state, or (e) the keeping of books or records of a corporation in this state if such books or records are not kept by employees of such corporation and such corporation does not otherwise do business, employ capital, own or lease property or maintain an office in this state, or (f) **the use of fulfillment services, provided receipts, including receipts pursuant to such services, do not exceed the threshold set by paragraph (b) of subdivision one of this section, of a person other than an affiliated person and the ownership of property stored on the premises of such person in conjunction with such services, or (g)** any combination of the foregoing activities. **For purposes of this subdivision, persons are affiliated persons with respect to each other where one of such persons has an ownership interest of more than five percent, whether direct or indirect, in the other, or where an ownership interest of more than five percent, whether direct or indirect, in the other, or where an ownership interest of more than five percent, whether direct or indirect, is held in each of such persons by another person or by a group of other persons which are affiliated persons with respect to each other. The term "person" in the preceding sentence and in paragraph (f) of this subdivision shall have the meaning ascribed thereto by subdivision (a) of section eleven hundred one of this chapter.**

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

PART AAA

Section 1. The opening paragraph of paragraph (a) of subdivision 5 of section 210-A of the tax law, as amended by section 4 of part P of chapter 60 of the laws of 2016, is amended to read as follows:

A financial instrument is a "nonqualified financial instrument" if it is not a qualified financial instrument. A qualified financial instru-

ment means a financial instrument that is of a type described in any of clauses (A), (B), (C), (D), (G), (H) or (I) of subparagraph two of this paragraph and that has been marked to market in the taxable year by the taxpayer under section 475 or section 1256 of the internal revenue code. Further, if the taxpayer has in the taxable year marked to market a financial instrument of the type described in any of the clauses (A), (B), (C), (D), (G), (H) or (I) of subparagraph two of this paragraph, then any financial instrument within that type described in the above specified clause or clauses that has not been marked to market by the taxpayer under section 475 or section 1256 of the internal revenue code is a qualified financial instrument in the taxable year. Notwithstanding the two preceding sentences, (i) a loan secured by real property shall not be a qualified financial instrument, (ii) if the only loans that are marked to market by the taxpayer under section 475 or section 1256 of the internal revenue code are loans secured by real property, then no loans shall be qualified financial instruments, (iii) stock that is investment capital as defined in paragraph (a) of subdivision five of section two hundred eight of this article shall not be a qualified financial instrument, and (iv) stock that generates other exempt income as defined in subdivision six-a of section two hundred eight of this article and that is not marked to market under section 475 or section 1256 of the internal revenue code shall not constitute a qualified financial instrument with respect to the income from that stock that is described in such subdivision six-a. If a corporation is included in a combined report, the definition of qualified financial instrument shall be determined on a combined basis. **In the case of a RIC or a REIT that is not a captive RIC or a captive REIT, a qualified financial instrument means a financial instrument that is of a type described in any of clauses (A), (B), (C), (D), (G), (H) or (I) of subparagraph two of this paragraph, other than (i) a loan secured by real property, (ii) stock that is investment capital as defined in paragraph (a) of subdivision five of section two hundred eight of this article, and (iii) stock that generates other exempt income as defined in subdivision six-a of section two hundred eight of this article with respect to the income from that stock that is described in such subdivision six-a.**

§ 2. Clause (D) of subparagraph 1 of paragraph (d) of subdivision 1 of section 210 of the tax law, as amended by section 19 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

(D) Otherwise, for all other taxpayers not covered by clauses (A), (B) [~~and~~], (C) **and (D-1)** of this subparagraph, the amount prescribed by this paragraph will be determined in accordance with the following table:

If New York receipts are:	The fixed dollar minimum tax is:
not more than $100,000	$ 25
more than $100,000 but not over $250,000	$ 75
more than $250,000 but not over $500,000	$ 175
more than $500,000 but not over $1,000,000	$ 500
more than $1,000,000 but not over $5,000,000	$1,500
more than $5,000,000 but not over $25,000,000	$3,500
more than $25,000,000 but not over $50,000,000	$5,000
more than $50,000,000 but not over $100,000,000	$10,000
more than $100,000,000 but not over $250,000,000	$20,000
more than $250,000,000 but not over $500,000,000	$50,000
more than $500,000,000 but not over $1,000,000,000	$100,000
Over $1,000,000,000	$200,000

§ 3. Subparagraph 1 of paragraph (d) of subdivision 1 of section 210 of the tax law is amended by adding a new clause (D-1) to read as follows:

(D-1) In the case of a REIT or a RIC that is not a captive REIT or captive RIC, the amount prescribed by this paragraph will be determined in accordance with the following table:

If New York receipts are:	The fixed dollar minimum tax is:
not more than $100,000	$ 25
more than $100,000 but not over $250,000	$ 75
more than $250,000 but not over $500,000	$ 175
more than $500,000	$ 500

§ 4. The opening paragraph of paragraph (a) of subdivision 5 of section 11-654.2 of the administrative code of the city of New York, as amended by section 16 of part P of chapter 60 of the laws of 2016, is amended to read as follows:

A financial instrument is a "nonqualified financial instrument" if it is not a qualified financial instrument. A qualified financial instrument means a financial instrument that is of a type described in any of [~~clause~~] **clauses** (i), (ii), (iii), (iv), (vii), (viii) or (ix) of subparagraph two of this paragraph and that has been marked to market in the taxable year by the taxpayer under section 475 or section 1256 of the internal revenue code. Further, if the taxpayer has in the taxable year marked to market a financial instrument of the type described in any of [~~clause~~] **clauses** (i), (ii), (iii), (iv), (vii), (viii) or (ix) of subparagraph two of this paragraph, then any financial instrument within that type described in the above specified clause or clauses that has not been marked to market by the taxpayer under section 475 or section 1256 of the internal revenue code is a qualified financial instrument in the taxable year. Notwithstanding the two preceding sentences, (i) a loan secured by real property shall not be a qualified financial instrument, (ii) if the only loans that are marked to market by the taxpayer under section 475 or section 1256 of the internal revenue code are loans secured by real property, then no loans shall be qualified financial instruments, (iii) stock that is investment capital as defined in paragraph (a) of subdivision four of section 11-652 of this subchapter shall not be a qualified financial instrument, and (iv) stock that generates other exempt income as defined in subdivision five-a of section 11-652 of this subchapter and that is not marked to market under section 475 or section 1256 of the internal revenue code shall not constitute a qualified financial instrument with respect to the income from that stock that is described in such subdivision five-a. If a corporation is included in a combined report, the definition of qualified financial instrument shall be determined on a combined basis. **In the case of a RIC or a REIT that is not a captive RIC or a captive REIT, a qualified financial instrument means a financial instrument that is of a type described in any of clauses (i), (ii), (iii), (iv), (vii), (viii) or (ix) of subparagraph two of this paragraph, other than (i) a loan secured by real property, (ii) stock that is investment capital as defined in paragraph (a) of subdivision four of section 11-652 of this subchapter, and (iii) stock that generates other exempt income as defined in subdivision five-a of section 11-652 of this subchapter with respect to the income from that stock that is described in such subdivision five-a.**

§ 5. Clause (iv) of subparagraph 1 of paragraph (e) of subdivision 1 of section 11-654 of the administrative code of the city of New York, as added by section 1 of part D of chapter 60 of the laws of 2015, is amended to read as follows:

(iv) If New York city receipts are: | Fixed dollar minimum tax is:

Not more than $100,000	$25
More than $100,000 but not over $250,000	$75
More than $250,000 but not over $500,000	$175
More than $500,000 but not over $1,000,000	$500
More than $1,000,000 but not over $5,000,000	$1,500
More than $5,000,000 but not over $25,000,000	$3,500
More than $25,000,000 but not over $50,000,000	$5,000
More than $50,000,000 but not over $100,000,000	$10,000
More than $100,000,000 but not over $250,000,000	$20,000
More than $250,000,000 but not over $500,000,000	$50,000
More than $500,000,000 but not over $1,000,000,000	$100,000
Over $1,000,000,000	$200,000

For purposes of this clause, New York city receipts are the receipts computed in accordance with section 11-654.2 of this subchapter for the taxable year. If the taxable year is less than twelve months, the amount prescribed by this clause shall be reduced by twenty-five percent if the period for which the taxpayer is subject to tax is more than six months but not more than nine months and by fifty percent if the period for which the taxpayer is subject to tax is not more than six months. If the taxable year is less than twelve months, the amount of New York city receipts for purposes of this clause is determined by dividing the amount of the receipts for the taxable year by the number of months in the taxable year and multiplying the result by twelve.

Provided however, in the case of a REIT or RIC that is not a captive REIT or a captive RIC, the following schedule shall apply:

If New York city receipts are:	**Fixed dollar minimum tax is:**
Not more than $100,000	**$25**
More than $100,000 but not over $250,000	**$75**
More than $250,000 but not over $500,000	**$175**
More than $500,000	**$500**

§ 6. This act shall take effect immediately; provided however that sections one, two and three of this act shall be deemed to have been in full force and effect on the same date and in the same manner as part A of chapter 59 of the laws of 2014, took effect; and provided further that sections four and five of this act shall be deemed to have been in full force and effect on the same date and in the same manner as part D of chapter 60 of the laws of 2015, took effect.

PART BBB

Section 1. Paragraph (a) of subdivision 7 of section 208 of the tax law, as amended by section 4 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(a) The term "business capital" means all assets, other than investment capital and stock issued by the taxpayer, less liabilities not deducted from investment capital. Business capital shall include only those assets the income, loss or expense of which are properly reflected (or would have been properly reflected if not fully depreciated or

expensed or depreciated or expensed to a nominal amount) in the computation of entire net income for the taxable year**, except business capital shall not include those assets the dividends from which are, or would be, "exempt unitary corporation dividends" under paragraph (c) of subdivision six-a of this section (such as stock in corporations taxable under the franchise tax imposed by article thirty-three of this chapter)**.

§ 2. This act shall take effect immediately.

PART CCC

Section 1. Paragraph 2 of subdivision (f) of section 1137 of the tax law, as amended by section 1 of part H of chapter 62 of the laws of 2006, is amended to read as follows:

(2) The amount of the credit authorized by paragraph one of this subdivision shall be five percent of the amount of taxes and fees (but not including any penalty or interest thereon) required to be reported on, and paid or paid over with, the return but only if the return is filed on or before the filing due date, but not more than [~~two~~] **four** hundred dollars, for each quarterly or longer period, except that, with respect to returns required to be filed for quarterly or longer periods ending on or before the last day of February, two thousand seven, the amount of the credit shall be not more than one hundred seventy-five dollars for each such quarterly or longer period.

§ 2. This act shall take effect immediately and shall apply to returns filed for the quarter beginning March 1, 2018 and thereafter.

PART DDD

Section 1. The tax law is amended by adding a new section 43 to read as follows:

§ 43. Empire state music production credit. (a) Allowance of credit. (1) A taxpayer which is a music production entity engaged in qualified music production, or who is a sole proprietor of or a member of a partnership, which is a music production entity engaged in qualified music 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 music productions.

(3) Eligible production costs for a qualified music production incurred and paid in this state but outside such metropolitan commuter transportation district shall be eligible for a credit of ten percent of such eligible production costs in addition to the credit specified in paragraph two of this subdivision.

(4) Eligible production costs shall not include those costs used by the taxpayer or another taxpayer as the basis calculation of any other tax credit allowed under this chapter or allowed in any other state.

(b) Allocation of credit. The aggregate amount of tax credits allowed under this section, subdivision fifty-two of section two hundred ten-B and subsection (hhh) of section six hundred six of this chapter in any taxable year shall be twenty-five million dollars. The aggregate amount of credits for any taxable year shall be distributed on a regional basis as follows: fifty percent of the aggregate amount of credits shall be

available for qualified music productions that incur at least sixty percent of eligible production costs for a qualified music production in region one; twenty percent of the aggregate amount of credits shall be available for qualified music productions that incur at least sixty percent of eligible production costs for a qualified music production in region two; and thirty percent of the aggregate amount of credits shall be available for qualified music productions that incur at least sixty percent of eligible production costs for a qualified music production in region three. If such regional distribution is not fully allocated in any taxable year, the remainder of such credits shall be available for allocation to any region in the subsequent tax year. For the purposes of this section region one shall contain the city of New York; region two shall contain the counties of Westchester, Rockland, Nassau and Suffolk; and region three shall contain any county not contained in regions one and two. Such credit shall be allocated by the empire state development corporation among taxpayers in order of priority based upon the date of filing an application for allocation of music production credits with such office. If the total amount of allocated credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for such year under this section, such excess shall be treated as having been applied for on the first day of the subsequent taxable year.

(c) Definitions. As used in this section:

(1) "Music production" means the creation of a sound recording and any related music video, either of which is intended for commercial release. A "music production" does not include recordings that are primarily spoken word or wildlife or nature sounds, or produced for instructional use or advertising or promotional purposes.

(2) "Qualified music production" is a music production in which eligible production costs equal to or are in excess of seven thousand five hundred dollars if incurred and paid in this state in the twelve months preceding the date on which the credit is claimed. Provided, however, if such production costs are incurred and paid outside the metropolitan commuter transportation district in this state, such production costs shall be equal to or in excess of three thousand seven hundred fifty dollars to be a qualified music production for the purposes of this paragraph.

(3) (A) "Eligible production costs for a qualified music production" are costs incurred and paid in this state for tangible property and services used in the production of qualified music production, as determined by the department of economic development, including, but not limited to: (i) studio rental fees and related costs, (ii) instrument and equipment rental fees, (iii) production session fees for musicians, programmers, engineers, and technicians and (iv) mixing and mastering services.

(B) Eligible production costs shall not include: (i) costs for tangible property or services used or performed outside of this state, (ii) performance fees for featured artists or featured guest artists receiving royalties or advances on royalties or special performance fees (other than those that would normally be collected by a performing rights organization) pursuant to an agreement directly with the producer or employer, (iii) salaries or related compensation for producers or songwriters, (iv) composer, artist or producer residual royalties or advances, (v) licensing fees for samples, (vi) interpolations or other music clearance costs, (vii) mastering or post-production expenditures for projects that were not principally tracked and recorded in this

state, (viii) any costs associated with manufacturing, duplication, packaging, distribution, promotion, marketing or touring not specifically outlined in this subparagraph, or (ix) local transportation expenditures directly related to music production and provided at or to the site of such music production. With respect to the production of a music video, eligible production costs are those defined in paragraph two of subdivision (b) of section twenty-four of this article. Such total production costs incurred and paid in this state shall be equal to or exceed seventy-five percent of total cost of an eligible production incurred and paid within and without this state.

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

(1) Article nine-A: section two hundred ten-B, subdivision fifty-two.

(2) Article twenty-two: section six hundred six, subsection (i), paragraph one, subparagraph (B), clause (xliii).

(3) Article twenty-two: section six hundred six, subsection (hhh).

§ 2. Section 210-B of the tax law is amended by adding a new subdivision 52 to read as follows:

52. Empire state music production credit. (a) Allowance of credit. A taxpayer who is eligible pursuant to section forty-three of this chapter shall be allowed a credit to be computed as provided in such section forty-three 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, 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 (xliii) to read as follows:

(xliii) Empire state music production credit under subsection (hhh)	Amount of credit under subdivision fifty-two of section two hundred ten-B

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

(hhh) Empire state music production credit. (1) Allowance of credit. A taxpayer who is eligible pursuant to section forty-three of this chapter shall be allowed a credit to be computed as provided in such section forty-three 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 tax law is amended by adding a new section 44 to read as follows:

§ 44. 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.

(3) Eligible digital gaming media production costs for a qualified digital gaming media production incurred and paid in this state but outside such metropolitan commuter transportation district shall be eligible for a credit of ten percent of such eligible production costs in addition to the credit specified in paragraph two of this subdivision.

(4) Eligible production costs shall not include those costs used by the taxpayer or another taxpayer as the basis calculation of any other tax credit allowed under this chapter or allowed in any other state.

(b) Allocation of credit. The aggregate amount of tax credits allowed under this section, subdivision fifty-three of section two hundred ten-B and subsection (iii) of section six hundred six of this chapter in any taxable year shall be twenty-five million dollars. The aggregate amount of credits for any taxable year must be distributed on a regional basis as follows: fifty percent of the aggregate amount of credits shall be available for qualified digital gaming media productions that incur at least sixty percent of eligible production costs for a qualified digital gaming media production in region one; twenty percent of the aggregate amount of credits shall be available for qualified digital gaming media productions that incur at least sixty percent of eligible production costs for a qualified digital gaming media production in region two; and thirty percent of the aggregate amount of credits shall be available for qualified digital gaming media productions that incur at least sixty percent of eligible production costs for a qualified digital gaming media production in region three. If such regional distribution is not fully allocated in any taxable year, the remainder of such credits shall be available for allocation to any region in the subsequent tax year. For the purposes of this section region one shall contain the city of New York; region two shall contain the counties of Westchester, Rockland, Nassau and Suffolk; and region three shall contain any county not contained in regions one and two. Such credit shall be allocated by the empire state development corporation among taxpayers in order of priority based upon the date of filing an application for allocation of digital gaming media production credit with such office. If the total amount of allocated credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for such year under this section, such excess shall be treated as having been applied for on the first day of the subsequent taxable year.

(c) Definitions. As used in this section:

(1) "Qualified digital gaming media production" means: (i) a website, the digital media production costs of which are paid or incurred predominately in connection with (A) video simulation, animation, text, audio, graphics or similar gaming related property embodied in digital format, and (B) interactive features of digital gaming (e.g., links, message boards, communities or content manipulation); (ii) video or interactive games produced primarily for distribution over the internet, wireless network or successors thereto; (iii) animation, simulation or

embedded graphics digital gaming related software intended for commercial distribution regardless of medium; and (iv) a digital gaming media production in which qualified digital gaming media production costs equal to or are in excess of seven thousand five hundred dollars if incurred and paid in this state in twelve months preceding the date on which the credit is claimed. Provided, however, if such a production costs are incurred and paid outside the metropolitan commuter transportation district in this state, such production costs shall be equal to or in excess of three thousand seven hundred fifty dollars to be a qualified digital gaming media production for purposes of this paragraph. A qualified digital gaming media production does not include a website, video, interactive game or software that is used predominately for: electronic commerce (retail or wholesale purposes other than the sale of video or interactive games), gambling (including activities regulated by a New York gaming agency), exclusive local consumption for entities not accessible by the general public including industrial or other private purposes, and political advocacy purposes.

(2) "Digital gaming media production costs" means any costs for property used and wages or salaries paid to individuals directly employed for services performed by those individuals directly and predominately in the creation of a digital gaming media production or productions. Digital gaming media production costs include but shall not be limited to to payments for property used and services performed directly and predominately in the development (including concept creation), design, production (including concept creation), design, production (including testing), editing (including encoding) and compositing (including the integration of digital files for interaction by end users) of digital gaming media. Digital gaming media production costs shall not include expenses incurred for the distribution, marketing, promotion, or advertising content generated by end-users or other costs not directly and predominately related to the creation, production or modification of digital gaming media. In addition, salaries or other income distribution related to the creation of digital gaming media for any person who serves in the role of chief executive officer, chief financial officer, president, treasurer or similar position shall not be included as digital gaming media production costs. Furthermore, any income or other distribution to any individual who holds an ownership interest in a digital gaming media production entity shall not be included as digital gaming media production costs.

(3) "Qualified digital gaming media production costs" means digital gaming media production costs only to the extent such costs are attributable to the use of property or the performance of services by any persons within the state directly and predominantly in the creation, production or modification of digital gaming related media. Such total production costs incurred and paid in this state shall be equal to or exceed seventy-five percent of total cost of an eligible production incurred and paid within and without this state.

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

(1) Article nine-A: section two hundred ten-B, subdivision fifty-three.

(2) Article twenty-two: section six hundred six, subsection (i), paragraph one, subparagraph (B), clause (xliv).

(3) Article twenty-two: section six hundred six, subsection (iii).

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

53. Empire state digital gaming media production credit. (a) Allowance of credit. A taxpayer who is eligible pursuant to section forty-four of this chapter shall be allowed a credit to be computed as provided in such section forty-four 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, 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.

§ 7. 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) Empire state digital gaming media production credit under subsection (iii)	Amount of credit under subdivision fifty-three of section two hundred ten-B

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

(iii) Empire state digital gaming media production credit. (1) Allowance of credit. A taxpayer who is eligible pursuant to section forty-four of this chapter shall be allowed a credit to be computed as provided in such section forty-four 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.

§ 9. The state commissioner of economic development, after consulting with the state commissioner of taxation and finance, shall promulgate regulations by December 31, 2017 to establish procedures for the allocation of tax credits as required by subdivision (a) of section 43 and 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, 2017 deadline.

§ 10. Subdivision 11 of section 352 of the economic development law is REPEALED.

§ 11. Subdivisions 1, 3 and 5 of section 353 of the economic development law, as amended by section 2 of part K of chapter 59 of the laws of 2015, are amended to read as follows:

1. To be a participant in the excelsior jobs program, a business entity shall operate in New York state predominantly:

(a) as a financial services data center or a financial services back office operation;
(b) in manufacturing;
(c) in software development and new media;
(d) in scientific research and development;
(e) in agriculture;
(f) in the creation or expansion of back office operations in the state;
(g) in a distribution center;
(h) in an industry with significant potential for private-sector economic growth and development in this state as established by the commissioner in regulations promulgated pursuant to this article. In promulgating such regulations the commissioner shall include job and investment criteria; **or**
(i) as an entertainment company[~~; or~~
~~(j) in music production~~].

3. For the purposes of this article, in order to participate in the excelsior jobs program, a business entity operating predominantly in manufacturing must create at least ten net new jobs; a business entity operating predominately in agriculture must create at least five net new jobs; a business entity operating predominantly as a financial service data center or financial services customer back office operation must create at least fifty net new jobs; a business entity operating predominantly in scientific research and development must create at least five net new jobs; a business entity operating predominantly in software development must create at least five net new jobs; a business entity creating or expanding back office operations must create at least fifty net new jobs; [~~a business entity operating predominately in music production must create at least five net new jobs;~~] a business entity operating predominantly as an entertainment company must create or obtain at least one hundred net new jobs; or a business entity operating predominantly as a distribution center in the state must create at least seventy-five net new jobs, notwithstanding subdivision five of this section; or a business entity must be a regionally significant project as defined in this article; or

5. A not-for-profit business entity, a business entity whose primary function is the provision of services including personal services, business services, or the provision of utilities, and a business entity engaged predominantly in the retail or entertainment industry, other than a business operating as an entertainment company as defined in this article [~~and other than a business entity engaged in music production~~], and a company engaged in the generation or distribution of electricity, the distribution of natural gas, or the production of steam associated with the generation of electricity are not eligible to receive the tax credit described in this article.

§ 12. Subdivision 21 of section 352 of the economic development law, as amended by section 1 of part K of chapter 59 of the laws of 2015, is amended to read as follows:

21. "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.

§ 13. The economic development law is amended by adding a new section 243 to read as follows:

§ 243. Reports on the music and digital gaming industries 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 shall cover the calendar half year that begins on January first, two thousand nineteen. Each report must contain the following information for the covered calendar half year:

(a) the total dollar amount of credits allocated pursuant to sections forty-three and forty-four of the tax law during the half year, broken down by month;

(b) the number of music and digital gaming projects, which have been allocated tax credits of less than one million dollars per project, and the total dollar amount of credits allocated to those projects distributed by region pursuant to subdivision (b) of sections forty-three and forty-four of the tax law;

(c) the number of music and digital gaming projects, which have been allocated tax credits of more than one million dollars, and the total dollar amount of credits allocated to those projects distributed by region pursuant to subdivision (b) of sections forty-three and forty-four of the tax law;

(d) a list of each eligible music and digital gaming project, which has been allocated a tax credit enumerated by region pursuant to subdivision (b) of sections forty-three and forty-four of the tax law, and for each of those projects, (i) the estimated number of employees associated with the project, (ii) the estimated qualifying costs for the projects, (iii) the estimated total costs of the project, (iv) the credit eligible employee hours for each project, and (v) total wages for such credit eligible employee hours for each project; and

(e) (i) the name of each taxpayer allocated a tax credit for each project and the county of residence or incorporation of such taxpayer or, if the taxpayer does not reside or is not incorporated in New York, the state of residence or incorporation; however, if the taxpayer claims a tax credit because the taxpayer is a member of a limited liability company, a partner in a partnership or a shareholder in a subchapter S corporation, the name of each limited liability company, partnership or subchapter S corporation earning any of those tax credits must be included in the report instead of information about the taxpayer claiming the tax credit, (ii) the amount of tax credit allocated to each taxpayer; provided however, if the taxpayer claims a tax credit because the taxpayer is a member of a limited liability company, a partner in a partnership or a shareholder in a subchapter S corporation, the amount of tax credit earned by each entity must be included in the report instead of information about the taxpayer claiming the tax credit, and (iii) information identifying the project associated with each taxpayer for which a tax credit was claimed under section forty-three or forty-four of the tax law.

2. The empire state development corporation shall file a report on a triennial 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 first report shall be filed no later than March first, two thousand twenty-one. The report must be prepared by an independent third party auditor and include: (a) information regarding the empire state music production credit and the empire state digital gaming production credit programs including the efficiency of operations, reli-

ability of financial reporting, compliance with laws and regulations and distribution of assets and funds; (b) and economic impact study prepared by an independent third party of the program with special emphasis on the regional impact by region and the total dollar amount of credits allocated to those projects distributed by region pursuant to subdivision (b) of sections forty-three and forty-four of the tax law; and (c) any other information or statistical information that the commissioner of economic development deems to be useful in analyzing the effects of the programs.

§ 14. This act shall take effect immediately and shall apply to taxable years beginning on January 1, 2018 and before January 1, 2023; provided that sections one through eight of this act shall expire and be deemed repealed December 31, 2022.

PART EEE

Section 1. Article 2-A of the public housing law, as added by section 1 of part CC of chapter 63 of the laws of 2000, subdivision 4 of section 22 as amended by section 1 of part H of chapter 60 of the laws of 2016, is amended to read as follows:

ARTICLE 2-A

NEW YORK STATE LOW INCOME AND MIDDLE INCOME HOUSING TAX CREDIT PROGRAM

Section 21. Definitions.
22. Allowance of credit, amount and limitations.
23. Project monitoring.
24. Credit recapture.
25. Regulations, coordination with federal low-income housing credit provisions.

§ 21. Definitions. 1. (a) "Applicable percentage" means, for the purposes of an eligible low-income building, the appropriate percentage (depending on whether a building is new, existing, or federally subsidized) prescribed by the secretary of the treasury for purposes of section 42 of the internal revenue code and, for the purposes of an eligible middle-income building, thirty percent of the qualified basis of the building as determined pursuant to section 42 of the internal revenue code, for the month which is the earlier of:

(i) the month in which the eligible low-income building or the eligible middle-income building is placed in service, or

(ii) at the election of the taxpayer,

(A) the month in which the taxpayer and the commissioner enter into an agreement with respect to such building (which is binding on the commissioner, the taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to such building, or

(B) in the case of any building to which subsection (h)(4)(B) of such section 42 applies, the month in which the tax-exempt obligations are issued.

(b) A month may be elected under subparagraph (ii) of paragraph (a) of this subdivision only if the election is made not later than the fifth day after the close of such month. Such election, once made, shall be irrevocable.

(c) If, as of the close of any taxable year in the credit period, the qualified basis of an eligible low-income building or an eligible middle-income building exceeds such basis as of the close of the first year of the credit period, the applicable percentage which shall apply

to such excess shall be two-thirds of the applicable percentage originally ascribed to such building.

2. "Compliance period" means, with respect to any building, the period of fifteen taxable years beginning with the first taxable year of the credit period with respect to such building.

3. "Credit period" means, with respect to any eligible low-income building **or eligible middle-income building**, the period of ten taxable years beginning with

(a) the taxable year in which the building is placed in service, or

(b) at the election of the taxpayer, the succeeding taxable year,

but only if the building is an eligible low-income building as of the close of the first year of such period. The election under **this** paragraph [~~**(b) of this subdivision**~~], once made, shall be irrevocable.

4. "Eligibility statement" means a statement issued by the commissioner certifying that a building is an eligible low-income building **or an eligible middle-income building**. Such statement shall set forth the taxable year in which such building is placed in service, the dollar amount of low-income housing credit **or middle-income housing credit** allocated by the commissioner to such building as provided in subdivision five of section twenty-two of this article, the applicable percentage and maximum qualified basis with respect to such building taken into account in determining such dollar amount, sufficient information to identify each such building and the taxpayer or taxpayers with respect to each such building, and such other information as the commissioner, in consultation with the commissioner of taxation and finance, shall prescribe. Such statement shall be first issued following the close of the first taxable year in the credit period, and thereafter, to the extent required by the commissioner of taxation and finance, following the close of each taxable year of the compliance period.

5. "Eligible low-income building" means a building located in this state which either

(a) is a qualified low-income building as defined in section 42(c) of the internal revenue code, or

(b) would be a qualified low-income building under such section if the 20-50 test specified in subsection (g)(1) of such section were disregarded and the 40-60 test specified in such subsection (requiring that at least forty percent of residential units be both rent-restricted and occupied by individuals whose income is sixty percent or less of area median gross income) were a 40-90 test.

5-a. "Eligible middle-income building" means a building located in this state which is composed of multiple residential units which will, upon completion, be affordable by eligible middle-income households.

5-b. "Eligible middle-income household" means (a) in cities having a population of one million or more, a person or family residing in a residential unit whose income does not exceed one hundred thirty percent of the median income for the metropolitan statistical area in which an eligible middle-income building is located; or (b) in any portion of the state outside of a city having a population of one million or more and (i) within a metropolitan statistical area, a person or family residing in a residential unit whose income does not exceed one hundred thirty percent of the median income for the metropolitan statistical area in which an eligible middle-income building is located, or one hundred thirty percent of the statewide median income, whichever shall be less, or (ii) outside of metropolitan statistical area, a person or family residing in a residential unit whose income does not exceed one hundred thirty percent of the median income for the county in which an eligible

middle-income building is located, or one hundred thirty percent of the statewide median income, whichever shall be less.

6. "Qualified basis" of an eligible low-income building or an eligible middle-income building means the qualified basis of such building determined under section 42(c) of the internal revenue code, or, for an eligible low-income building, which would be determined under such section if the 40-90 test specified in paragraph (b) of subdivision five of this section applied under such section 42 to determine if such building were part of a qualified low-income housing project.

7. References in this article to section 42 of the internal revenue code shall mean such section as amended from time to time.

§ 22. Allowance of credit, amount and limitations. 1. A taxpayer subject to tax under article nine-A, twenty-two, [~~thirty-two~~] or thirty-three of the tax law which owns an interest in one or more eligible low-income buildings or eligible middle-income buildings shall be allowed a credit against such tax for the amount of low-income housing credit or for the amount of the middle-income housing credit, as the case may be, allocated by the commissioner to each such building. Except as provided in subdivision two of this section, the credit amount so allocated shall be allowed as a credit against the tax for the ten taxable years in the credit period.

2. Adjustment of first-year credit allowed in eleventh year. The credit allowable for the first taxable year of the credit period with respect to any building shall be adjusted using the rules of section 42(f)(2) of the internal revenue code (relating to first-year adjustment of qualified basis by the weighted average of low-income to total residential units, or by the weighted average of middle-income to total residential units, as the case may be), and any reduction in first-year credit by reason of such adjustment shall be allowable for the first taxable year following the credit period.

3. Amount of credit. Except as provided in subdivisions four and five of this section, the amount of low-income housing credit and middle-income housing credit shall be the applicable percentage of the qualified basis of each eligible low-income building or of each eligible middle-income building.

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be seventy-two million dollars. The aggregate dollar amount of credit which the commissioner may allocate to eligible middle-income buildings under this article shall be twenty-five million dollars. The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not apply to allowance to a taxpayer of the credit with respect to an eligible low-income building or an eligible middle-income building for each year of the credit period.

5. Building limitation. The dollar amount of credit allocated to any building shall not exceed the amount the commissioner determines is necessary for the financial feasibility of the project and the viability of the building as an eligible low-income building or as an eligible middle-income building throughout the credit period. In allocating a dollar amount of credit to any building, the commissioner shall specify the applicable percentage and the maximum qualified basis which may be taken into account under this article with respect to such building. The applicable percentage and the maximum qualified basis with respect to a building shall not exceed the amounts determined in subdivisions one and six, respectively, of section twenty-one of this article.

6. Long-term commitment to low-income **or middle-income** housing required. **(a)** No credit shall be allowed under this article with respect to [~~a~~] **an eligible low-income** building for the taxable year unless an extended low-income housing commitment is in effect as of the end of such taxable year. For purposes of this [~~subdivision~~] **paragraph**, the term "extended low-income housing commitment" means an agreement between the taxpayer and the commissioner substantially similar to the agreement specified in section 42(h)(6)(B) of the internal revenue code.

(b) No credit shall be allowed under this article with respect to an eligible middle-income building for the taxable year unless an extended middle-income housing commitment is in effect as of the end of such taxable year. For the purposes of this paragraph, the term "extended middle-income housing commitment" means an agreement between the taxpayer and the commissioner which has been determined by the commissioner to be similar to the agreement specified in section 42(h)(6)(B) of the internal revenue code.

7. Credit to successor owner. If a credit is allowed under subdivision one of this section with respect to an eligible low-income building **or an eligible middle-income building,** and such building (or an interest therein) is sold during the credit period, the credit for the period after the sale which would have been allowable under such subdivision one to the prior owner had the building not been sold shall be allowable to the new owner. Credit for the year of sale shall be allocated between the parties on the basis of the number of days during such year that the building or interest was held by each.

§ 23. Project monitoring. The commissioner shall establish such procedures as he **or she** deems necessary for monitoring compliance of an eligible low-income building **or an eligible middle-income building** with the provisions of this article, and for notifying the commissioner of taxation and finance of any such noncompliance of which he **or she** becomes aware.

§ 24. Credit recapture. If, as of the close of any taxable year in the compliance period, the amount of the qualified basis of any building with respect to the taxpayer is less than the amount of such basis as of the close of the preceding taxable year, the credit under this article may be recaptured as provided in section eighteen **or eighteen-a** of the tax law.

§ 25. Regulations, coordination with federal low-income housing credit provisions. 1. The commissioner shall promulgate rules and regulations necessary to administer the provisions of this act.

2. The provisions of section 42 of the internal revenue code shall apply to the credit under this article, provided however, to the extent such provisions are inconsistent with this article, the provisions of this article shall control.

§ 2. Subdivision 4 of section 22 of the public housing law, as amended by section 2 of part H of chapter 60 of the laws of 2016, is amended to read as follows:

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be eighty million dollars. **The aggregate dollar amount of credit which the commissioner may allocate to eligible middle-income buildings under this article shall be twenty-five million dollars.** The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not apply to allowance to a taxpayer of the credit with respect

to an eligible low-income building **or an eligible middle-income building** for each year of the credit period.

§ 3. Subdivision 4 of section 22 of the public housing law, as amended by section 3 of part H of chapter 60 of the laws of 2016, is amended to read as follows:

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be eighty-eight million dollars. **The aggregate dollar amount of credit which the commissioner may allocate to eligible middle-income buildings under this article shall be twenty-five million dollars.** The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not apply to allowance to a taxpayer of the credit with respect to an eligible low-income building **or an eligible middle-income building** for each year of the credit period.

§ 4. Subdivision 4 of section 22 of the public housing law, as amended by section 4 of part H of chapter 60 of the laws of 2016, is amended to read as follows:

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be ninety-six million dollars. **The aggregate dollar amount of credit which the commissioner may allocate to eligible middle-income buildings under this article shall be twenty-five million dollars.** The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not apply to allowance to a taxpayer of the credit with respect to an eligible low-income building **or an eligible middle-income building** for each year of the credit period.

§ 5. Subdivision 4 of section 22 of the public housing law, as amended by section 5 of part H of chapter 60 of the laws of 2016, is amended to read as follows:

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be one hundred four million dollars. **The aggregate dollar amount of credit which the commissioner may allocate to eligible middle-income buildings under this article shall be twenty-five million dollars.** The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not apply to allowance to a taxpayer of the credit with respect to an eligible low-income building **or an eligible middle-income building** for each year of the credit period.

§ 6. The tax law is amended by adding a new section 18-a to read as follows:

§ 18-a. Middle-income housing credit. (a) Allowance of credit. A taxpayer subject to tax under article nine-A, twenty-two, or thirty-three of this chapter shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (d) of this section, with respect to the ownership of eligible middle-income buildings for which an eligibility statement has been issued by the commissioner of housing and community renewal. The amount of the credit shall be the credit amount for each such building allocated by such commissioner as provided in article two-A of the public housing law. The credit amount shall be allowed for each of the ten taxable years in the credit period, and any reduction in first-year credit as provided in subdivision two of section twenty-two of such law shall be allowed in the eleventh taxable year.

(b) Credit recapture. (1) General. If, as of the close of any taxable year in the compliance period, the amount of the qualified basis of any building with respect to the taxpayer is less than the amount of such basis as of the close of the preceding taxable year, then the credit recapture amount must be added back for the taxable year.

(2) Credit recapture amount. The credit recapture amount is an amount equal to the sum of

(A) the aggregate decrease in the credits allowed to the taxpayer under this section for all prior taxable years which would have resulted if the accelerated portion of the credit allowable by reason of this section were not allowed for all prior taxable years with respect to the excess of the amount described in subparagraph (B) of paragraph one of this subdivision over the amount described in subparagraph (A) of such paragraph, plus

(B) interest at the overpayment rate established under section one thousand ninety-six of this chapter on the amount determined under subparagraph (A) of this paragraph for each prior taxable year for the period beginning on the due date for filing the report for the prior taxable year involved.

(3) Accelerated portion of credit. For purposes of paragraph two of this subdivision, the accelerated portion of the credit for the prior taxable years with respect to any amount of basis is the excess of

(A) the aggregate credit allowed by reason of this section (without regard to this subdivision) for such years with respect to such basis, over

(B) the aggregate credit which would be allowable by reason of this section for such years with respect to such basis if the aggregate credit which would (but for this subdivision) have been allowed for the entire compliance period were allowable ratably over fifteen years.

(4) Special rules. For purposes of this subdivision, the rules of section 42 (j)(4)(B) and (C) of the internal revenue code shall apply in determining the credit recapture amount.

(5) Exceptions to recapture. Recapture under this subdivision shall not apply to a reduction in qualified basis

(A) by reason of a casualty loss, if the commissioner, in consultation with the commissioner of housing and community renewal, determines that such loss is restored by reconstruction or replacement within a reasonable period, or

(B) by reason of a change in floor space devoted to middle-income units in a building, if such building remains an eligible middle-income building after such change, and if the commissioner, in consultation with the commissioner of housing and community renewal, determines that such change is de minimis, or

(C) by reason of error in complying with middle-income eligibility tests referred to in subdivision five of section twenty-one of the public housing law, if the commissioner, in consultation with the commissioner of housing and community renewal, determines that such error is de minimis.

(6) Recapture by partners of a partnership. In the case of ownership of a building or interest therein by a partnership which has thirty-five or more partners, the provisions of section 42(j)(5) of the internal revenue code shall apply to any recapture under this subdivision unless the partnership elects not to have such provisions apply.

(7) (A) The credit recapture required under this subdivision will not apply solely by reason of the disposition of a building or an interest therein if it is reasonably expected that such building will continue to

be operated as an eligible middle-income building for the remaining compliance period with respect to such building.

(B) Statute of limitations. If a building (or an interest therein) is disposed of during any taxable year and there is any reduction in the qualified basis of such building which results in an increase in tax under this section for such taxable or any subsequent taxable year, then

(i) the statutory period for the assessment of any deficiency with respect to such increase in tax will not expire before the expiration of three years from the date the commissioner of housing and community renewal is notified by the taxpayer (in such manner as the commissioner of housing and community renewal may prescribe) of such reduction in qualified basis, and

(ii) such deficiency may be assessed before the expiration of such three-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

(c) Construction with public housing law; definitions. The provisions of this section shall be construed in conjunction with the provisions of article two-A of the public housing law. For definitions relating to the middle-income housing credit, see section twenty-one of such law.

(d) 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 15-a,

(2) Article 22: Section 606: subsections (i) and (x-1),

(3) Article 33: Section 1511: subdivision (n-1).

§ 7. Section 210-B of the tax law is amended by adding a new subdivision 15-a to read as follows:

15-a. Middle-income housing credit. (a) Allowance of credit. A taxpayer shall be allowed a credit against the tax imposed by this article with respect to the ownership of eligible middle-income buildings, computed as provided in section eighteen-a of this chapter.

(b) Application of credit. The credit allowed under this subdivision for any taxable year shall not, in the aggregate, reduce the tax due for such year to less than the higher of the amounts prescribed in paragraphs (c) and (d) of subdivision one of this section. However, if the amount of credit allowed under this subdivision for any taxable year reduces the tax to such amount, any amount of credit thus not deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section two hundred 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.

(c) Credit recapture. For provisions requiring recapture of credit, see subdivision (b) of section eighteen-a of this chapter.

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

(xiii-a) Middle-income housing credit under subsection (x-l)	Credit amount under subdivision fifteen-a of section two hundred ten-B

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

(x-1) Middle-income housing credit. (1) Allowance of credit. A taxpayer shall be allowed a credit against the tax imposed by this article

with respect to the ownership of eligible middle-income buildings, computed as provided in section eighteen-a of this chapter.

(2) Application of credit. If the amount of credit allowable 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.

(3) Credit recapture. For provisions requiring recapture of credit, see subdivision (b) of section eighteen-a of this chapter.

§ 10. Section 1511 of the tax law is amended by adding a new subdivision (n-1) to read as follows:

(n-1) Middle-income housing credit. (1) Allowance of credit. A taxpayer shall be allowed a credit against the tax imposed by this article with respect to the ownership of eligible middle-income buildings, computed as provided in section eighteen-a of this chapter.

(2) Application of credit. The credit allowed under this subdivision for any taxable year shall not, in the aggregate, reduce the tax due for such year to less than the minimum tax fixed by paragraph four of subdivision (a) of section fifteen hundred two of this article or by section fifteen hundred two-a of this article, whichever is applicable. However, if the amount of credit allowed under this subdivision for any taxable year reduces the tax to such amount, then any amount of credit thus not deductible in such taxable year 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, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

(3) Credit recapture. For provisions requiring recapture of credit, see subdivision (b) of section eighteen-a of this chapter.

§ 11. This act shall take effect immediately; provided that:

(a) section two of this act shall take effect on the same date and in the same manner as section 2 of part H of chapter 60 of the laws of 2016 takes effect;

(b) section three of this act shall take effect on the same date and in the same manner as section 3 of part H of chapter 60 of the laws of 2016 takes effect;

(c) section four of this act shall take effect on the same date and in the same manner as section 4 of part H of chapter 60 of the laws of 2016 takes effect; and

(d) section five of this act shall take effect on the same date and in the same manner as section 5 of part H of chapter 60 of the laws of 2016 takes effect.

PART FFF

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

(ccc) Credit for rehabilitation of distressed commercial properties. (1) For taxable years beginning on or after January first, two thousand seventeen, 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 qualified rehabilitation expenditures made by the taxpayer with respect to a qualified distressed commercial property. Provided, however, the credit shall not exceed one hundred thousand dollars.

(2) Tax credits allowed pursuant to this subsection shall be allowed in the taxable year in which the property is deemed a certified rehabilitation.

(3) If the amount of the credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years, and may be applied against the taxpayer's tax for such year or years, but shall not exceed twenty-five thousand dollars.

(4) (A) The term "qualified rehabilitation expenditure" means, for purposes of this subsection, any amount properly chargeable to a capital account:

(i) in connection with the certified rehabilitation of a qualified distressed commercial property, and

(ii) for property for which depreciation would be allowable under section 168 of the internal revenue code.

(B) Such term shall not include (i) the cost of acquiring any building or interest therein, (ii) any expenditure attributable to the enlargement of an existing building, or (iii) any expenditure made prior to January first, two thousand seventeen or after December thirty-first, two thousand twenty-two.

(5) The term "certified rehabilitation" means, for purposes of this subsection, any rehabilitation of a certified distressed commercial property which has been approved and certified by a local government as being completed, with a certificate of occupancy issued, and that the costs are consistent with the work completed. Such certification shall be acceptable as proof that the expenditures related to such rehabilitation qualify as qualified rehabilitation expenditures for purposes of the credit allowed under paragraph one of this subsection.

(6) (A) The term "qualified distressed commercial property" means, for purposes of this subsection, a distressed commercial property located within New York state:

(i) which has been substantially rehabilitated,

(ii) which is owned by the taxpayer, and

(iii) which is located within a distressed commercial area, as identified by each locality through local law, that is deemed an area in need of community renewal due to dilapidation and vacancies.

(B) If the distressed commercial property is rental property, such property shall have been more than thirty percent vacant for twelve months while actively marketed for lease.

(C) A building shall be treated as having been "substantially rehabilitated" if the qualified rehabilitation expenditures in relation to such building total ten thousand dollars or more.

(7) (A) If the taxpayer disposes of such taxpayer's interest in the qualified distressed commercial property, or such property ceases to be used as a commercial property of the taxpayer within five years of receiving the credit under this subsection, the taxpayer's tax imposed by this article for the taxable year in which such disposition or cessation occurs shall be increased by the recapture portion of the credit allowed under this subsection 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 ratio, the numerator of which is equal to sixty less the number of months the building is owned or used as commercial property by the taxpayer and the denominator of which is sixty.

(8) Any expenditure for which a credit is claimed under this subsection shall not be eligible for any other credit under this chapter.

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

(xliii) Credit for rehabilitation of distressed commercial properties under subsection (ccc)	Amount of credit under subdivision forty-nine of section two hundred ten-B

§ 3. Section 210-B of the tax law is amended by adding a new subdivision 49 to read as follows:

49. Credit for rehabilitation of distressed commercial properties. (1) For taxable years beginning on or after January first, two thousand seventeen, 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 qualified rehabilitation expenditures made by the taxpayer with respect to a qualified distressed commercial property. Provided, however, the credit shall not exceed one hundred thousand dollars.

(2) Tax credits allowed pursuant to this subdivision shall be allowed in the taxable year in which the property is deemed a certified rehabilitation.

(3) If the amount of the credit allowable under this subdivision for any taxable year shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years, and may be applied against the taxpayer's tax for such year or years, but shall not exceed twenty-five thousand dollars.

(4) (A) The term "qualified rehabilitation expenditure" means, for purposes of this subdivision, any amount properly chargeable to a capital account:

(i) in connection with the certified rehabilitation of a qualified commercial property, and

(ii) for property for which depreciation would be allowable under section 168 of the internal revenue code.

(B) Such term shall not include (i) the cost of acquiring any building or interest therein, (ii) any expenditure attributable to the enlargement of an existing building, or (iii) any expenditure made prior to January first, two thousand seventeen or after December thirty-first, two thousand twenty-two.

(5) The term "certified rehabilitation" means, for purposes of this subdivision, any rehabilitation of a certified distressed commercial property which has been approved and certified by a local government as being completed, with a certificate of occupancy issued, and that the costs are consistent with the work completed. Such certification shall be acceptable as proof that the expenditures related to such rehabilitation qualify as qualified rehabilitation expenditures for purposes of the credit allowed under paragraph one of this subdivision.

(6) (A) The term "qualified distressed commercial property" means, for purposes of this subdivision, a distressed commercial property located within New York state:

(i) which has been substantially rehabilitated,

(ii) which is owned by the taxpayer, and

(iii) which is located within a distressed commercial area, as identified by each locality through local law, that is deemed an area in need of community renewal due to dilapidation and vacancies.

(B) If the distressed commercial property is rental property, such property shall have been more than thirty percent vacant for twelve months while actively marketed for lease.

(C) A building shall be treated as having been "substantially rehabilitated" if the qualified rehabilitation expenditures in relation to such building total ten thousand dollars or more.

(7) (A) If the taxpayer disposes of such taxpayer's interest in the qualified distressed commercial property, or such property ceases to be used as a commercial property of the taxpayer within five years of receiving the credit under this subdivision, the taxpayer's tax imposed by this article for the taxable year in which such disposition or cessation occurs shall be increased by the recapture portion of the credit allowed under this subdivision 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 ratio, the numerator of which is equal to sixty less the number of months the building is owned or used as commercial property by the taxpayer and the denominator of which is sixty.

(8) Any expenditure for which a credit is claimed under this subdivision shall not be eligible for any other credit under this chapter.

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

PART GGG

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

(ccc) Universal visitability tax credit. 1. For taxable years beginning on or after January first, two thousand eighteen, until December thirty-first, two thousand twenty-two, a taxpayer shall be allowed a credit against the tax imposed by this article for a portion of the total purchase price paid by such taxpayer for a principal residence attributable to universal visitability or the total amount expended by a taxpayer to retrofit an existing principal residence to achieve universal visitability provided that the principal residence or the retrofitting of the existing principal residence is located within this state and designed to provide universal visitability as defined through the eligibility requirements established by guidelines developed by the division of code enforcement and administration within the department of state. For the purpose of this subsection, principal residence shall mean such residence pursuant to section one hundred twenty-one of the internal revenue code.

2. The credit shall be allowed for the taxable year in which the residence has been purchased or constructed, or the retrofitting or renovation of the residence or residential unit has been completed. The credit allowed under this section shall not exceed (i) twenty-seven hundred fifty dollars for the purchase of a new residence, or (ii) fifty percent of the total amount expended, but not to exceed twenty-seven hundred fifty dollars for the retrofitting or renovation of each existing residence or unit.

3. No credit shall be allowed under this section for the purchase, retrofitting or renovation of residential rental property.

4. If the amount of the credit allowable 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.

5. Eligible taxpayers shall apply for the credit by making application to the division of code enforcement and administration within the department of state. The division of code enforcement and administration within the department of state shall issue a certification for an approved application to the taxpayer. The taxpayer shall submit the certification together with their personal income return.

6. (A) The aggregate amount of tax credits allowed pursuant to the authority of this subsection shall be one million dollars each year during the period two thousand eighteen through two thousand twenty-two. Such aggregate amounts of credits shall be allocated by the department of state among taxpayers in order of priority based upon the date of filing an application for allocation of credit with the division of code enforcement and administration. If the total amount of allocated credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for such year under this section, such excess shall be treated as having been applied for on the first day of the subsequent year.

(B) The secretary of state, after consulting with the commissioner, shall promulgate regulations by October thirty-first, two thousand seventeen to establish procedures for the allocation of tax credits as required by this subparagraph. Such rules and regulations shall include provisions describing the application process, the due days for such applications, the standards which shall be used to evaluate the applications, the documentation that will be provided to taxpayers to substantiate to the department the amount of tax credits allocated to such taxpayers, 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 October thirty-first, two thousand seventeen deadline.

7. The department of state shall submit to the governor, the temporary president of the senate, and the speaker of the assembly, an annual report to be submitted by February first of each year evaluating the effectiveness of the universal visitability tax credit provided by this section. Such report shall be based on data available from the application filed with the division of code enforcement and administration for universal visitability 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 state or the division of code enforcement and administration regarding continuing modification, repeal of such act, and such other information regarding the act as the division may feel useful and appropriate.

§ 2. This act shall take effect immediately and shall expire and be deemed repealed December 31, 2022.

PART HHH

Section 1. Subsection (a) of section 801 of the tax law, as amended by section 1 of part N of chapter 59 of the laws of 2012, is amended to read as follows:

(a) For the sole purpose of providing an additional stable and reliable dedicated funding source for the metropolitan transportation

authority and its subsidiaries and affiliates to preserve, operate and improve essential transit and transportation services in the metropolitan commuter transportation district, a tax is hereby imposed on employers and individuals as follows: (1) For employers who engage in business within the MCTD, the tax is imposed at a rate of (A) eleven hundredths (.11) percent of the payroll expense for employers with payroll expense no greater than three hundred seventy-five thousand dollars in any calendar quarter, (B) twenty-three hundredths (.23) percent of the payroll expense for employers with payroll expense greater than three hundred seventy-five thousand dollars and no greater than four hundred thirty-seven thousand five hundred dollars in any calendar quarter, and (C) thirty-four hundredths (.34) percent of the payroll expense for employers with payroll expense in excess of four hundred thirty-seven thousand five hundred dollars in any calendar quarter. If the employer is a professional employer organization, as defined in section nine hundred sixteen of the labor law, the employer's tax shall be calculated by determining the payroll expense attributable to each client who has entered into a professional employer agreement with such organization and the payroll expense attributable to such organization itself, multiplying each of those payroll expense amounts by the applicable rate set forth in this paragraph and adding those products together. (2) For individuals, the tax is imposed at a rate of thirty-four hundredths (.34) percent of the net earnings from self-employment of individuals that are attributable to the MCTD if such earnings attributable to the MCTD exceed **two hundred** fifty thousand dollars for the tax year.

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

PART III

Section 1. Paragraphs 3 and 4 of subsection (b) of section 800 of the tax law, paragraph 3 as amended by section 1 of part B of chapter 56 of the laws of 2011, paragraph 4 as amended by section 1 of part YY of chapter 59 of the laws of 2015, are amended and a new paragraph 5 is added to read as follows:

(3) an interstate agency or public corporation created pursuant to an agreement or compact with another state or the Dominion of Canada; [~~or~~]

(4) Any eligible educational institution. An "eligible educational institution" shall mean any public school district, a board of cooperative educational services, a public elementary or secondary school, a school approved pursuant to article eighty-five or eighty-nine of the education law to serve students with disabilities of school age, or a nonpublic elementary or secondary school that provides instruction in grade one or above, all public library systems as defined in subdivision one of section two hundred seventy-two of the education law, and all public and free association libraries as such terms are defined in subdivision two of section two hundred fifty-three of the education law[~~.~~]**; or**

(5) any agency or instrumentality of the state of New York.

§ 2. This act shall take effect immediately.

PART JJJ

Section 1. Paragraph (f) of subdivision 1 of section 209-B of the tax law, as added by section 7 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(f) The commissioner shall determine the rate of tax for taxable years beginning on or after January first, two thousand sixteen by adjusting the rate for taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand sixteen as necessary to ensure that the receipts attributable to such surcharge, as impacted by the chapter of the laws of two thousand fourteen which added this paragraph, will meet and not exceed the financial projections for state fiscal year two thousand sixteen-two thousand seventeen, as reflected in state fiscal year two thousand fifteen-two thousand sixteen enacted budget. The commissioner shall annually determine the rate thereafter using the financial projections for the state fiscal year that commences in the year for which the rate is to be set as reflected in the enacted budget for the fiscal year commencing on the previous April first. **Provided however, no increase in the rate shall occur in taxable years beginning after two thousand twenty-one.**

§ 2. This act shall take effect immediately.

PART KKK

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

(3-a) Pensions and annuities received by an individual who has attained the age of fifty-nine and one-half, not otherwise excluded pursuant to paragraph three of this subsection, to the extent includible in gross income for federal income tax purposes, but not in excess of [~~twenty~~] **twenty-seven thousand dollars for any taxable year beginning on or after January first, two thousand seventeen, thirty-four thousand dollars for any taxable year beginning on or after January first, two thousand eighteen, and forty** thousand dollars **in each subsequent year**, which are periodic payments attributable to personal services performed by such individual prior to his retirement from employment, which arise (i) from an employer-employee relationship or (ii) from contributions to a retirement plan which are deductible for federal income tax purposes. **Provided, however, the pension and annuities by a married couple who file joint tax returns shall be double the limitations set forth in this paragraph.** However, the term "pensions and annuities" shall also include distributions received by an individual who has attained the age of fifty-nine and one-half from an individual retirement account or an individual retirement annuity, as defined in section four hundred eight of the internal revenue code, and distributions received by an individual who has attained the age of fifty-nine and one-half from self-employed individual and owner-employee retirement plans which qualify under section four hundred one of the internal revenue code, whether or not the payments are periodic in nature. Nevertheless, the term "pensions and annuities" shall not include any lump sum distribution, as defined in subparagraph (D) of paragraph four of subsection (e) of section four hundred two of the internal revenue code and taxed under section six hundred three of this article. Where a husband and wife file a joint state personal income tax return, the modification provided for in this paragraph shall be computed as if they were filing separate state personal income tax returns. Where a payment would otherwise come within the meaning of the term "pensions and annuities" as set forth in

this paragraph, except that such individual is deceased, such payment shall, nevertheless, be treated as a pension or annuity for purposes of this paragraph if such payment is received by such individual's beneficiary.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after the first of January of the year in which it shall have become a law.

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 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; provided, however, that for taxable years commencing on or after January first, two thousand seventeen and before January first, two thousand twenty-one, such credit shall be forty percent of the premium paid during the taxable year for long-term care insurance**. 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 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; provided, however, that for taxable years commencing on or after January first, two thousand seventeen and before January first, two thousand twenty-one, such credit shall be forty percent of the premium paid during the taxable year for long-term care insurance**. 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.

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

(1) Residents. A taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty percent 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; provided, however, that for taxable years commencing on or after January first, two thousand seventeen and before January first, two thousand twenty-one, such credit shall be forty percent of the premium paid during the taxable year for**

long-term care insurance. 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. If the amount of the credit allowable under this subsection for any taxable year 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.

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

(1) A taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty percent 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; provided, however, that for taxable years commencing on or after January first, two thousand seventeen and before January first, two thousand twenty-one, such credit shall be forty percent of the premium paid during the taxable year for long-term care insurance. 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.

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

(1) Except for certain group contracts described in paragraph four of this subsection, in order for premium payments 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 this article, to qualify for purposes of section one hundred ninety, subdivision [~~twenty-five-a~~] fourteen of section two hundred [~~ten~~] ten-B, subsection (aa) of section six hundred six[~~, subsection (k) of section one thousand four hundred fifty-six~~] and subsection (m) of section one thousand five hundred eleven of the tax law, the long-term care insurance or such policy rider must be approved by the superintendent pursuant to this subsection. Prior to approving any such insurance or policy rider, the superintendent shall conclude that it meets minimum standards, including minimum loss ratio standards under this section or section three thousand two hundred twenty-nine of this chapter and is a qualified long-term care insurance contract as defined in section 7702B of the internal revenue code.

(2) (A) No insurer, agent, broker, person, business or corporation doing business in or into this state shall in any manner state, advertise or claim that a long-term care insurance policy, or 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 this article, qualifies for purposes of the above-referenced provisions of the tax law unless either: (i) the superintendent has issued a letter or other written instrument to the insurer stating that the policy or policy rider has been determined to qualify

under this subsection, or (ii) the policy **or policy rider** qualifies under paragraph four of this subsection without the need for approval by the superintendent.

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

(C) Violation of this paragraph shall be considered a misrepresentation under section [~~twenty-one~~] **two thousand one** hundred twenty-three of this chapter.

§ 6. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 1, 2017.

PART MMM

Section 1. Subsection (d) of section 615 of the tax law is amended by adding a new paragraph 5 to read as follows:

(5) an amount equal to ten thousand dollars for the adoption of a child with special needs. The amount allowed by this paragraph may be used by a taxpayer to increase his or her deduction in each year that the taxpayer is the legal parent of a child with special needs.

For purposes of this paragraph, a child with special needs shall mean any child who is under the age of twenty-one and who possesses a specific physical, mental, or emotional condition or disability of such severity or kind that, in the opinion of the office of children and family services, would constitute a significant obstacle to the child's adoption.

§ 2. This act shall take effect immediately and shall apply to taxable years commencing on and after January 1, 2017.

PART NNN

Section 1. Subsection (a) of section 601-a of the tax law, as amended by section 10 of part FF of chapter 59 of the laws of 2013, is amended to read as follows:

(a) For tax year two thousand thirteen, the commissioner, not later than September first, two thousand twelve, shall multiply the amounts specified in subsection (b) of this section for tax year two thousand twelve by one plus the cost of living adjustment described in subsection (c) of this section. For tax year two thousand fourteen, the commissioner, not later than September first, two thousand thirteen, shall multiply the amounts specified in subsection (b) of this section for tax year two thousand thirteen by one plus the cost of living adjustment. For each succeeding tax year after tax year two thousand fourteen [~~and before tax year two thousand eighteen~~], the commissioner, not later than September first of such tax year, shall multiply the amounts specified in subsection (b) of this section for such tax year by one plus the cost

of living adjustment described in subsection (c) of this section for such tax year.

§ 2. This act shall take effect immediately.

PART OOO

Section 1. Paragraph 1 of subsection (a) of section 651 of the tax law, as amended by section 6 of part J of chapter 59 of the laws of 2014, is amended to read as follows:

(1) every resident individual (A) required to file a federal income tax return for the taxable year, or (B) having federal adjusted gross income for the taxable year, increased by the modifications under subsection (b) of section six hundred twelve **of this article**, in excess of [~~four thousand dollars, or in excess of~~] his **or her** New York standard deduction, [~~if lower,~~] or (C) **subject to tax under former section six hundred two of this article, or (D)** having received during the taxable year a lump sum distribution any portion of which is subject to tax under section six hundred three **of this article**;

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

PART PPP

Section 1. Subdivision (c) of section 3013 of the tax law, as added by chapter 479 of the laws of 2011, is amended to read as follows:

(c) **(1)** In the event that the commissioner elects to implement a program providing for payment of personal income tax refunds by prepaid debit card or direct deposit to [~~a~~] designated [~~account~~] **accounts** of the taxpayer, the department shall amend the forms used to file personal income tax returns to reflect, in the area designated for selection of options for processing of refunds, that the taxpayer has the option of receiving his or her tax refund by personal check and shall provide a box which the taxpayer may check to select that option.

(2) Designated accounts include but are not limited to, up to three accounts with financial institutions that have routing and account numbers and are held in the names of the taxpayer's spouse or joint account. Designated accounts held in one spouse's name may receive personal income tax refunds from a married filing joint return.

§ 2. This act shall take effect immediately, provided, however, that the amendments to subdivision (c) of section 3013 of the tax law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART QQQ

Section 1. Paragraph (a) of subdivision 6 of section 425 of the real property tax law, as amended by section 1 of part A of chapter 60 of the laws of 2016, is amended to read as follows:

(a) Generally. All owners of the property who primarily reside thereon [~~and who are not subject to the provisions of subdivision sixteen of this section~~] must jointly file an application for exemption with the assessor on or before the appropriate taxable status date. Such application may be filed by mail if it is enclosed in a postpaid envelope properly addressed to the appropriate assessor, deposited in a post office or official depository under the exclusive care of the United States postal service, and postmarked by the United States postal service on or

before the applicable taxable status date. Each such application shall be made on a form prescribed by the commissioner, which shall require the applicant or applicants to agree to notify the assessor if their primary residence changes while their property is receiving the exemption. The assessor may request that proof of residency be submitted with the application. If the applicant requests a receipt from the assessor as proof of submission of the application, the assessor shall provide such receipt. If such request is made by other than personal request, the applicant shall provide the assessor with a self-addressed postpaid envelope in which to mail the receipt.

§ 2. Subdivision 16 of section 425 of the real property tax law is REPEALED.

§ 3. Subdivision 2 of section 496 of the real property tax law, as amended by section 3 of part A of chapter 60 of the laws of 2016, is amended to read as follows:

2. An application to renounce an exemption shall be made on a form prescribed by the commissioner and shall be filed with the county director of real property tax services no later than ten years after the levy of taxes upon the assessment roll on which the renounced exemption appears. The county director, after consulting with the assessor as appropriate, shall compute the total amount owed on account of the renounced exemption as follows:

(a) For each assessment roll on which the renounced exemption appears, the assessed value that was exempted shall be multiplied by the tax rate or rates that were applied to that assessment roll. Interest shall then be added to each such product at the rate prescribed by section nine hundred twenty-four-a of this chapter or such other law as may be applicable for each month or portion thereon since the levy of taxes upon such assessment roll.

(b) The sum of the calculations made pursuant to paragraph (a) of this subdivision with respect to all of the assessment rolls in question shall be determined.

(c) A processing fee of five hundred dollars shall be added to the sum determined pursuant to paragraph (b) of this subdivision[~~, unless the provisions of paragraph (d) of this subdivision are applicable.~~

~~(d) If the applicant is renouncing a STAR exemption in order to qualify for the personal income tax credit authorized by subsection (eee) of section six hundred six of the tax law, and no other exemptions are being renounced on the same application, no processing fee shall be applicable~~].

§ 4. Subdivision 6 of section 1306-a of the real property tax law is REPEALED.

§ 5. Subparagraph (A) of paragraph 3 of subsection (eee) of section 606 of the tax law, as amended by section 8 of part A of chapter 73 of the laws of 2016, is amended to read as follows:

(A) [~~Beginning with~~] **For** taxable years [~~after~~] two thousand [~~fifteen~~] **sixteen and seventeen**, a basic STAR credit shall be available to a qualified taxpayer if the affiliated income of the parcel that serves as the taxpayer's primary residence is less than or equal to five hundred thousand dollars.

§ 6. The opening paragraph of subparagraph (A) of paragraph 4 of subsection (eee) of section 606 of the tax law, as amended by section 8 of part A of chapter 73 of the laws of 2016, is amended to read as follows:

[~~Beginning with~~] For taxable years [~~after~~] two thousand [~~fifteen~~] sixteen and seventeen, an enhanced STAR credit shall be available to a qualified taxpayer where both of the following conditions are satisfied:

§ 7. Clause (iii) of subparagraph (A) of paragraph 10 of subsection (eee) of section 606 of the tax law is REPEALED.

§ 8. Paragraph (c) of subdivision 11 of section 425 of the real property tax law, as amended by section 3 of part A of chapter 73 of the laws of 2016, is amended to read as follows:

(c) Transfers of title. When the assessor has received a report pursuant to section five hundred seventy-four of this chapter of a transfer of title to real property which is exempt pursuant to this section, the assessor shall [~~discontinue the exemption as required by subdivision sixteen of this section~~] send the new owner or owners as shown thereon an application for the exemption authorized by this section. The assessor shall not implement the provisions of section five hundred twenty of this chapter upon such a transfer, except to the extent that the property may also be receiving one or more other exemptions.

§ 9. Paragraph (c) of subdivision 6 of section 425 of the real property tax law, as amended by section 4 of part A of chapter 73 of the laws of 2016, is amended to read as follows:

(c) Senior citizens exemption. When property is eligible for the senior citizens exemption authorized by section four hundred sixty-seven of this article, it shall also be deemed to be eligible for the enhanced exemption authorized by this section for certain senior citizens, provided, where applicable, that the age requirement established by a municipal corporation pursuant to subdivision five of section four hundred sixty-seven of this article is satisfied, and no separate application need be filed therefor. [~~Provided, however, that the provisions of this paragraph shall only apply where at least one of the applicants held title to the property on the taxable status date of the assessment roll that was used to levy school district taxes for the two thousand fifteen--two thousand sixteen school year and the property was granted an exemption pursuant to this section on such assessment roll.~~]

§ 10. Implementation for the 2018--2019 school year. The commissioner of taxation and finance shall assist localities in notifying the public of the provisions of this act and any action required by taxpayers to receive a STAR exemption for the 2018--2019 school year. Notwithstanding subdivision 6 of section 425 of the real property tax law, for assessment rolls used to levy school district taxes for the 2018--2019 school year, an application for an exemption under section 425 of the real property tax law shall be filed with the local assessor by the last date on which a petition with respect to complaints of assessment may be filed or not later than the sixtieth day after the effective date of this act, whichever is later. The assessor shall approve or deny such application as if it had been filed on or before the taxable status date. If the assessor determines that the property is eligible for the exemption, the assessor shall thereupon be authorized and directed to correct the assessment roll accordingly, or, if another person has custody or control of the assessment roll, to direct that person to make the appropriate corrections. If the correction is not made before school taxes are levied, the failure to take the exemption into account in the computation of the tax shall be deemed a "clerical error" for purposes of title 3 of article 5 of the real property tax law, or any comparable laws governing the correction of administrative errors on assessment rolls and tax rolls, and shall be corrected accordingly.

Notwithstanding any other provision of law to the contrary, the commissioner of taxation and finance shall no later than December 31, 2017 notify local assessors of the name and address of any taxpayer within their assessing unit who qualified for the school tax relief (STAR) credit pursuant to subsection (eee) of section 606 of the tax law for taxable year 2017, or has applied for a credit for taxable year 2018 and any additional information available that would assist the assessor in accurately determining the property's eligibility for the STAR exemption pursuant to section 425 of the real property tax law. To the extent possible, the local assessor shall determine the eligibility of the property for the 2018--2019 school year using information provided by the commissioner of taxation and finance. Taxpayers who received the STAR credit for the 2017--2018 school year, shall not be required to file an application for an exemption in order to receive an exemption on the same property for the 2018--2019 school year; however, if a property's eligibility cannot be determined by using information supplied by the department of taxation and finance, the assessor may seek additional documentation from the taxpayer to prove his or her eligibility. Such taxpayer shall have until the last date on which a petition, with respect to complaints of assessment may be filed, to supply proof of eligibility, or thirty days of such request, whichever is later. The assessor shall mail notice of his or her determination to such owner. If the assessor determines that the property is eligible for the exemption, the assessor shall thereupon be authorized and directed to correct the assessment roll accordingly, or, if another person has custody or control of the assessment roll, to direct that person to make the appropriate corrections. If the correction is not made before school taxes are levied, the failure to take the exemption into account in the computation of the tax shall be deemed a "clerical error" for purposes of title 3 of article 5 of the real property tax law, or any comparable laws governing the correction of administrative errors on assessment rolls and tax rolls, and shall be corrected accordingly. Nothing within this act shall preclude a taxpayer from seeking administrative and judicial review of an assessor's denial of the exemption.

§ 11. This act shall take effect immediately.

PART RRR

Section 1. Subparagraphs (B) and (C) of paragraph 10 of subsection (eee) of section 606 of the tax law, as amended by section 8 of part A of chapter 73 of the laws of 2016, are amended to read as follows:

(B) On or before September [~~fifteenth~~] **first** of each year, or as soon thereafter as practicable, the commissioner shall determine the eligibility of taxpayers for this credit utilizing the information available to him or her as obtained from the applications submitted on or before July first of that year, or such later date as may have been prescribed by the commissioner for that purpose, and from such other sources as the commissioner deems reliable and appropriate. For those taxpayers whom the commissioner has determined eligible for this credit, the commissioner shall advance a payment in the amount specified in paragraph three, four or six of this subsection, whichever is applicable. Such payment shall be issued by September [~~thirtieth~~] **fifteenth** of the year the credit is allowed, or as soon thereafter as is practicable. Nothing contained herein shall be deemed to preclude the commissioner from issuing payments after September thirtieth to qualified taxpayers whose applications were made after July first of that year, or such later date

as may have been prescribed by the commissioner for such purpose. **Provided, however, for a qualified taxpayer that has applied for the advanced payment by July first of the tax year or is already eligible to receive an advanced payment prior to July first, if the advanced payment is not postmarked by the fifteenth of September or the amount of the advanced payment that is postmarked by the fifteenth of September is less than the amount due the taxpayer then the qualified taxpayer shall receive an amount equal to the interest and penalty payment imposed by the school district for late payment of the school tax bill plus interest pursuant to paragraph (i) of section six hundred eighty-eight of this article.**

(C) A taxpayer who has failed to receive an advance payment that he or she believes was due to him or her, or who has received an advance payment that he or she believes is less than the amount that was due to him or her, **or who did not receive the advance payment by the date prescribed in subparagraph (B) of this paragraph** may request payment of the claimed deficiency **plus the amount of interest and penalty payment imposed by the school district for late payment of the school tax bill and interest pursuant to paragraph (i) of section six hundred eighty-eight of this article** in a manner prescribed by the commissioner. **Provided, however, if a taxpayer receives an advanced payment on or after October first, the taxpayer is not eligible for any interest or penalty imposed by the school district that is incurred five business days after the postmark of the advanced payment.**

§ 2. Section 688 of the tax law is amended by adding a new paragraph (i) to read as follows:

(i) Notwithstanding any other provisions in this section, interest will be allowed on any advance payment allowed pursuant to paragraph (eee) of section six hundred six of this article that is not postmarked by the fifteenth of September or is less than the amount due the taxpayer for qualified taxpayers that has applied for the advance payment prior to July first of that tax year or is already eligible to receive an advance payment prior to July first.

§ 3. This act shall take effect immediately.

PART SSS

Section 1. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 44 to read as follows:

(44) monuments as that term is defined in subdivision (f) of section fifteen hundred two of the not-for-profit corporation law.

§ 2. This act shall take effect on the first day of a sales tax quarterly period, as described in subdivision (b) of section 1136 of the tax law, beginning at least ninety days after the date this act shall have become a law and shall apply to sales made on or after such date.

PART TTT

Section 1. 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.

§ 2. 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.

§ 3. 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 of April first, two thousand seventeen to March fifteenth, two thousand eighteen 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 article for taxable periods ending or transactions or uses occurring on or before December thirty first, two thousand seventeen.

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

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

(e) Amnesty tax return forms shall be in a form, contain such information and be submitted as prescribed by the commissioner and shall provide for specifications by the applicant of the tax liability with respect to which amnesty is sought. The applicant must also provide such additional information as is required by such commissioner. Amnesty shall be granted only with respect to the tax liabilities specified by the taxpayer on such forms. Any return or report filed under the amnesty program established herein is subject to verification and assessment as provided by statute. If the applicant files a false or fraudulent tax

return or report, or attempts in any manner to defeat or evade a tax under the amnesty program, amnesty shall be denied or rescinded.

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

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

§ 4. On or before February 28, 2020, the commissioner of taxation and finance shall submit a report to the chairperson of the assembly ways and means committee, the ranking minority member of the assembly ways and means committee, the chairperson of the senate finance committee, the ranking minority member of the senate finance committee and the director of the budget regarding the amnesty program established pursuant 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.

§ 5. This act shall take effect on the first day of the sales tax quarterly period, as described in subdivision (b) of section 1136 of the tax law beginning on or after December 1, 2017.

PART UUU

Section 1. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 44 to read as follows:

(44) Energy efficient tangible personal property of whatever nature for use or consumption directly and exclusively: (i) in the production of snow; (ii) in the uphill transportation of skiers; or (iii) in the grooming and maintenance of snow by any person engaged in the business of operating a recreational facility for skiing.

§ 2. Section 1115 of the tax law is amended by adding a new subdivision (ll) to read as follows:

(ll) Fuel, gas, electricity and refrigeration, and gas, electric and refrigeration service of whatever nature for use or consumption directly and exclusively in the production of snow by any person engaged in the business of operating a recreational facility for skiing, shall be exempt from the taxes imposed under subdivisions (a) and (b) of section eleven hundred five and the compensating use tax imposed under section eleven hundred ten of this article.

§ 3. This act shall take effect on the first of July next succeeding the date on which it shall have become a law.

PART VVV

Section 1. Subdivision 13 of section 1118 of the tax law, as added by section 7 of part V of chapter 60 of the laws of 2016, is amended to read as follows:

[~~(13)~~] (14) In respect to the use of the following items at a tasting held by a licensed producer of alcoholic beverages in accordance with the alcoholic beverage control law: (i) the alcoholic beverage or beverages authorized by the alcoholic beverage control law to be furnished [~~at no charge~~] to a customer or prospective customer at such tasting for consumption at such tasting; and (ii) bottles, corks, caps and labels used to package such alcoholic beverages.

§ 2. Paragraph 33 of subdivision (a) of section 1115 of the tax law, as amended by section 1 of part U of chapter 59 of the laws of 2015, is amended to read as follows:

(33) Wine or wine product, beer or beer product, cider or cider product, liquor or liquor product, and the kegs, cans, bottles, growlers, corks, caps, and labels used to package such [~~wine or wine~~] alcoholic product, furnished by the official agent of a farm winery, winery, brewery, farm brewery, cider producer, farm cidery, distillery, farm distillery, wholesaler, or importer at a wine, beer, cider or liquor tasting held in accordance with the alcoholic beverage control law to a customer or prospective customer who consumes such wine, beer, cider or liquor at such [~~wine~~] tasting.

§ 3. This act shall take effect on the first day of the sales tax quarterly period, as described in subdivision (b) of section 1136 of the tax law, beginning at least ninety days after the date this act shall have become a law, and shall apply in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law.

PART WWW

Section 1. Paragraph 2 of subdivision (e) of section 1111 of the tax law is amended by adding a new subparagraph (iv) to read as follows:

(iv) Provided, however, when the commissioner determines that the price of motor fuel or Diesel motor fuel results in the payment of sales tax refunds based on the amount of the prepayment provided for in this section, the commissioner, based on such determination, is authorized and empowered to prescribe at the beginning of each sales tax quarter the amount of tax prepayment provided by this subdivision for each region to be collected upon each gallon of motor fuel and Diesel motor fuel sold at retail. Such calculation by the commissioner shall be based on the average retail sales price for motor fuel and Diesel motor fuel within each respective region, calculated by the commissioner. The commissioner shall determine a prepayment rate which is approximately equal to the percentage of the prepayment rate otherwise applicable without causing refunds, based on the amount of tax prepayment, considering the regional average retail sales prices of such fuel within each respective region. Such amended schedules, with reference to the tax required to be prepaid on motor fuel or Diesel motor fuel, may fix the rate per gallon in multiples of one-tenth of one cent. Such authorization and empowerment provided within this subparagraph shall expire January first, two thousand twenty-three.

§ 2. This act shall take effect April 1, 2017, and shall expire and be deemed repealed January 1, 2023.

PART XXX

Section 1. Subparagraph (A) of paragraph 7 of subdivision (ee) of section 1115 of the tax law, as amended by section 33 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(A) "Tenant" means a person who, as lessee, enters into a space lease with a landlord for a term of ten years or more commencing on or after September first, two thousand five, but not later than, in the case of a space lease with respect to leased premises located in eligible areas as defined in clause (i) of subparagraph (D) of this paragraph, September first, two thousand [~~seventeen~~] twenty-one and, in the case of a space lease with respect to leased premises located in eligible areas as defined in clause (ii) of subparagraph (D) of this paragraph not later than September first, two thousand [~~nineteen~~] twenty-one, of premises for use as commercial office space in buildings located or to be located in the eligible areas. A person who currently occupies premises for use as commercial office space under an existing lease in a building in the eligible areas shall not be eligible for exemption under this subdivision unless such existing lease, in the case of a space lease with respect to leased premises located in eligible areas as defined in clause (i) of subparagraph (D) of this paragraph expires according to its terms before September first, two thousand [~~seventeen~~] twenty-one or such existing lease, in the case of a space lease with respect to leased premises located in eligible areas as defined in clause (ii) of subparagraph (D) of this paragraph and such person enters into a space lease, for a term of ten years or more commencing on or after September first, two thousand five, of premises for use as commercial office space in a building located or to be located in the eligible areas, provided that such space lease with respect to leased premises located in eligible areas as defined in clause (i) of subparagraph (D) of this paragraph commences no later than September first, two thousand [~~seventeen~~] twenty-one, and provided that such space lease with respect to leased premises located in eligible areas as defined in clause (ii) of subparagraph (D) of this paragraph commences no later than September first, two thousand [~~nineteen~~] twenty-one and provided, further, that such space lease shall expire no earlier than ten years after the expiration of the original lease.

§ 2. Section 2 of part C of chapter 2 of the laws of 2005 amending the tax law relating to exemptions from sales and use taxes, as amended by section 34 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

§ 2. This act shall take effect September 1, 2005 and shall expire and be deemed repealed on December 1, [~~2020~~] 2022, and shall apply to sales made, uses occurring and services rendered on or after such effective date, in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law; except that clause (i) of subparagraph (D) of paragraph seven of subdivision (ee) of section 1115 of the tax law, as added by section one of this act, shall expire and be deemed repealed December 1, [~~2018~~] 2022.

§ 3. Subdivision (b) of section 25-z of the general city law, as amended by section 35 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(b) No eligible business shall be authorized to receive a credit under any local law enacted pursuant to this article until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises and until it has obtained a certif-

ication of eligibility from the mayor of such city or an agency designated by such mayor, and an annual certification from such mayor or an agency designated by such mayor as to the number of eligible aggregate employment shares maintained by such eligible business that may qualify for obtaining a tax credit for the eligible business' taxable year. Any written documentation submitted to such mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Such local law may provide for application fees to be determined by such mayor or such agency or agencies. No such certification of eligibility shall be issued under any local law enacted pursuant to this article to an eligible business on or after July first, two thousand [~~seventeen~~] twenty-one unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease particular premises or a parcel on which will be constructed such premises or already owned such premises or parcel;

(2) prior to such date improvements have been commenced on such premises or parcel, which improvements will meet the requirements of subdivision (e) of section twenty-five-y of this article relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such particular premises; and

(4) such business relocates to such particular premises not later than thirty-six months or, in a case in which the expenditures made for the improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

§ 4. Subdivision (b) of section 25-ee of the general city law, as amended by section 36 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(b) No eligible business or special eligible business shall be authorized to receive a credit against tax under any local law enacted pursuant to this article until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor of such city or any agency designated by such mayor, and an annual certification from such mayor or an agency designated by such mayor as to the number of eligible aggregate employment shares maintained by such eligible business or such special eligible business that may qualify for obtaining a tax credit for the eligible business' taxable year. No special eligible business shall be authorized to receive a credit against tax under the provisions of this article unless the number of relocated employee base shares calculated pursuant to subdivision (o) of section twenty-five-dd of this article is equal to or greater than the lesser of twenty-five percent of the number of New York city base shares calculated pursuant to subdivision (p) of such section and two hundred fifty employment shares. Any written documentation submitted to such mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Such local law may provide for application fees to be determined by such mayor or such agency or agencies. No certification of eligibility shall be issued under any local law enacted

pursuant to this article to an eligible business on or after July first, two thousand [~~seventeen~~] twenty-one unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease premises in the eligible Lower Manhattan area or a parcel on which will be constructed such premises;

(2) prior to such date improvements have been commenced on such premises or parcel, which improvements will meet the requirements of subdivision (e) of section twenty-five-dd of this article relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such premises; and

(4) such business relocates to such premises as provided in subdivision (j) of section twenty-five-dd of this article not later than thirty-six months or, in a case in which the expenditures made for the improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

§ 5. Subdivision (b) of section 22-622 of the administrative code of the city of New York, as amended by section 37 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(b) No eligible business shall be authorized to receive a credit against tax or a reduction in base rent subject to tax under the provisions of this chapter, and of title eleven of the code as described in subdivision (a) of this section, until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor or an agency designated by the mayor, and an annual certification from the mayor or an agency designated by the mayor as to the number of eligible aggregate employment shares maintained by such eligible business that may qualify for obtaining a tax credit for the eligible business' taxable year. Any written documentation submitted to the mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Application fees for such certifications shall be determined by the mayor or such agency or agencies. No certification of eligibility shall be issued to an eligible business on or after July first, two thousand [~~seventeen~~] twenty-one unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease particular premises or a parcel on which will be constructed such premises or already owned such premises or parcel;

(2) prior to such date improvements have been commenced on such premises or parcel which improvements will meet the requirements of subdivision (e) of section 22-621 of this chapter relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such particular premises; and

(4) such business relocates to such particular premises not later than thirty-six months or, in a case in which the expenditures made for improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

§ 6. Subdivision (b) of section 22-624 of the administrative code of the city of New York, as amended by section 38 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(b) No eligible business or special eligible business shall be authorized to receive a credit against tax under the provisions of this chapter, and of title eleven of the code as described in subdivision (a) of this section, until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor or an agency designated by the mayor, and an annual certification from the mayor or an agency designated by the mayor as to the number of eligible aggregate employment shares maintained by such eligible business or special eligible business that may qualify for obtaining a tax credit for the eligible business' taxable year. No special eligible business shall be authorized to receive a credit against tax under the provisions of this chapter and of title eleven of the code unless the number of relocated employee base shares calculated pursuant to subdivision (o) of section 22-623 of this chapter is equal to or greater than the lesser of twenty-five percent of the number of New York city base shares calculated pursuant to subdivision (p) of such section 22-623, and two hundred fifty employment shares. Any written documentation submitted to the mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Application fees for such certifications shall be determined by the mayor or such agency or agencies. No certification of eligibility shall be issued to an eligible business on or after July first, two thousand [~~seventeen~~] **twenty-one** unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease premises in the eligible Lower Manhattan area or a parcel on which will be constructed such premises;

(2) prior to such date improvements have been commenced on such premises or parcel, which improvements will meet the requirements of subdivision (e) of section 22-623 of this chapter relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such premises; and

(4) such business relocates to such premises not later than thirty-six months or, in a case in which the expenditures made for the improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

§ 7. Paragraph 1 of subdivision (b) of section 25-s of the general city law, as amended by section 39 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(1) non-residential premises that are wholly contained in property that is eligible to obtain benefits under title two-D or two-F of article four of the real property tax law, or would be eligible to receive benefits under such article except that such property is exempt from real property taxation and the requirements of paragraph (b) of subdivision seven of section four hundred eighty-nine-dddd of such title two-D, or the requirements of subparagraph (ii) of paragraph (b) of subdivision five of section four hundred eighty-nine-cccccc of such title two-F, whichever is applicable, have not been satisfied, provided that application for such benefits was made after May third, nineteen hundred eighty-five and prior to July first, two thousand [~~seventeen~~] **twenty-one**,

that construction or renovation of such premises was described in such application, that such premises have been substantially improved by such construction or renovation so described, that the minimum required expenditure as defined in such title two-D or two-F, whichever is applicable, has been made, and that such real property is located in an eligible area; or

§ 8. Paragraph 3 of subdivision (b) of section 25-s of the general city law, as amended by section 40 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(3) non-residential premises that are wholly contained in real property that has obtained approval after October thirty-first, two thousand and prior to July first, two thousand [~~seventeen~~] twenty-one for financing by an industrial development agency established pursuant to article eighteen-A of the general municipal law, provided that such financing has been used in whole or in part to substantially improve such premises (by construction or renovation), and that expenditures have been made for improvements to such real property in excess of ten per centum of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced, that such expenditures have been made within thirty-six months after the earlier of (i) the issuance by such agency of bonds for such financing, or (ii) the conveyance of title to such property to such agency, and that such real property is located in an eligible area; or

§ 9. Paragraph 5 of subdivision (b) of section 25-s of the general city law, as amended by section 41 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(5) non-residential premises that are wholly contained in real property owned by such city or the New York state urban development corporation, or a subsidiary thereof, a lease for which was approved in accordance with the applicable provisions of the charter of such city or by the board of directors of such corporation, and such approval was obtained after October thirty-first, two thousand and prior to July first, two thousand [~~seventeen~~] twenty-one, provided, however, that such premises were constructed or renovated subsequent to such approval, that expenditures have been made subsequent to such approval for improvements to such real property (by construction or renovation) in excess of ten per centum of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced, that such expenditures have been made within thirty-six months after the effective date of such lease, and that such real property is located in an eligible area; or

§ 10. Paragraph 2 of subdivision (c) of section 25-t of the general city law, as amended by section 42 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(2) No eligible energy user, qualified eligible energy user, on-site cogenerator, or clean on-site cogenerator shall receive a rebate pursuant to this article until it has obtained a certification from the appropriate city agency in accordance with a local law enacted pursuant to this section. No such certification for a qualified eligible energy user shall be issued on or after November first, two thousand. No such certification of any other eligible energy user, on-site cogenerator, or clean on-site cogenerator shall be issued on or after July first, two thousand [~~seventeen~~] twenty-one.

§ 11. Paragraph 1 of subdivision (a) of section 25-aa of the general city law, as amended by section 43 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(1) is eligible to obtain benefits under title two-D or two-F of article four of the real property tax law, or would be eligible to receive benefits under such title except that such property is exempt from real property taxation and the requirements of paragraph (b) of subdivision seven of section four hundred eighty-nine-dddd of such title two-D, or the requirements of subparagraph (ii) of paragraph (b) of subdivision five of section four hundred eighty-nine-ccccc of such title two-F, whichever is applicable, of the real property tax law have not been satisfied, provided that application for such benefits was made after the thirtieth day of June, nineteen hundred ninety-five and before the first day of July, two thousand [~~seventeen~~] twenty-one, that construction or renovation of such building or structure was described in such application, that such building or structure has been substantially improved by such construction or renovation, and (i) that the minimum required expenditure as defined in such title has been made, or (ii) where there is no applicable minimum required expenditure, the building was constructed within such period or periods of time established by title two-D or two-F, whichever is applicable, of article four of the real property tax law for construction of a new building or structure; or

§ 12. Paragraphs 2 and 3 of subdivision (a) of section 25-aa of the general city law, as amended by section 44 of part A of chapter 20 of the laws of 2015, are amended to read as follows:

(2) has obtained approval after the thirtieth day of June, nineteen hundred ninety-five and before the first day of July, two thousand [~~seventeen~~] twenty-one, for financing by an industrial development agency established pursuant to article eighteen-A of the general municipal law, provided that such financing has been used in whole or in part to substantially improve such building or structure by construction or renovation, that expenditures have been made for improvements to such real property in excess of twenty per centum of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced, and that such expenditures have been made within thirty-six months after the earlier of (i) the issuance by such agency of bonds for such financing, or (ii) the conveyance of title to such building or structure to such agency; or

(3) is owned by the city of New York or the New York state urban development corporation, or a subsidiary corporation thereof, a lease for which was approved in accordance with the applicable provisions of the charter of such city or by the board of directors of such corporation, as the case may be, and such approval was obtained after the thirtieth day of June, nineteen hundred ninety-five and before the first day of July, two thousand [~~seventeen~~] twenty-one, provided that expenditures have been made for improvements to such real property in excess of twenty per centum of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced, and that such expenditures have been made within thirty-six months after the effective date of such lease; or

§ 13. Subdivision (f) of section 25-bb of the general city law, as amended by section 45 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(f) Application and certification. An owner or lessee of a building or structure located in an eligible revitalization area, or an agent of such owner or lessee, may apply to such department of small business services for certification that such building or structure is an eligible building or targeted eligible building meeting the criteria of

subdivision (a) or (q) of section twenty-five-aa of this article. Application for such certification must be filed after the thirtieth day of June, nineteen hundred ninety-five and before a building permit is issued for the construction or renovation required by such subdivisions and before the first day of July, two thousand [~~seventeen~~] twenty-one, provided that no certification for a targeted eligible building shall be issued after October thirty-first, two thousand. Such application shall identify expenditures to be made that will affect eligibility under such subdivision (a) or (q). Upon completion of such expenditures, an applicant shall supplement such application to provide information (i) establishing that the criteria of such subdivision (a) or (q) have been met; (ii) establishing a basis for determining the amount of special rebates, including a basis for an allocation of the special rebate among eligible revitalization area energy users purchasing or otherwise receiving energy services from an eligible redistributor of energy or a qualified eligible redistributor of energy; and (iii) supporting an allocation of charges for energy services between eligible charges and other charges. Such department shall certify a building or structure as an eligible building or targeted eligible building after receipt and review of such information and upon a determination that such information establishes that the building or structure qualifies as an eligible building or targeted eligible building. Such department shall mail such certification or notice thereof to the applicant upon issuance. Such certification shall remain in effect provided the eligible redistributor of energy or qualified eligible redistributor of energy reports any changes that materially affect the amount of the special rebates to which it is entitled or the amount of reduction required by subdivision (c) of this section in an energy services bill of an eligible revitalization area energy user and otherwise complies with the requirements of this article. Such department shall notify the private utility or public utility service required to make a special rebate to such redistributor of the amount of such special rebate established at the time of certification and any changes in such amount and any suspension or termination by such department of certification under this subdivision. Such department may require some or all of the information required as part of an application or other report be provided by a licensed engineer.

§ 14. Paragraph 1 of subdivision (i) of section 22-601 of the administrative code of the city of New York, as amended by section 46 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(1) Non-residential premises that are wholly contained in property that is eligible to obtain benefits under part four or part five of subchapter two of chapter two of title eleven of this code, or would be eligible to receive benefits under such chapter except that such property is exempt from real property taxation and the requirements of paragraph two of subdivision g of section 11-259 of this code, or the requirements of subparagraph (b) of paragraph two of subdivision e of section 11-270 of this code, whichever is applicable, have not been satisfied, provided that application for such benefits was made after May third, nineteen hundred eighty-five and prior to July first, two thousand [~~seventeen~~] twenty-one, that construction or renovation of such premises was described in such application, that such premises have been substantially improved by such construction or renovation so described, that the minimum required expenditure as defined in such part four or part five, whichever is applicable, has been made, and that such real property is located in an eligible area; or

§ 15. Paragraph 3 of subdivision (i) of section 22-601 of the administrative code of the city of New York, as amended by section 47 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(3) non-residential premises that are wholly contained in real property that has obtained approval after October thirty-first, two thousand and prior to July first, two thousand [~~seventeen~~] twenty-one for financing by an industrial development agency established pursuant to article eighteen-A of the general municipal law, provided that such financing has been used in whole or in part to substantially improve such premises (by construction or renovation), and that expenditures have been made for improvements to such real property in excess of ten per centum of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced, that such expenditures have been made within thirty-six months after the earlier of (i) the issuance by such agency of bonds for such financing, or (ii) the conveyance of title to such property to such agency, and that such real property is located in an eligible area; or

§ 16. Paragraph 5 of subdivision (i) of section 22-601 of the administrative code of the city of New York, as amended by section 48 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(5) non-residential premises that are wholly contained in real property owned by such city or the New York state urban development corporation, or a subsidiary thereof, a lease for which was approved in accordance with the applicable provisions of the charter of such city or by the board of directors of such corporation, and such approval was obtained after October thirty-first, two thousand and prior to July first, two thousand [~~seventeen~~] twenty-one, provided, however, that such premises were constructed or renovated subsequent to such approval, that expenditures have been made subsequent to such approval for improvements to such real property (by construction or renovation) in excess of ten per centum of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced, that such expenditures have been made within thirty-six months after the effective date of such lease, and that such real property is located in an eligible area; or

§ 17. Paragraph 1 of subdivision (c) of section 22-602 of the administrative code of the city of New York, as amended by section 49 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(1) No eligible energy user, qualified eligible energy user, on-site cogenerator, clean on-site cogenerator or special eligible energy user shall receive a rebate pursuant to this chapter until it has obtained a certification as an eligible energy user, qualified eligible energy user, on-site cogenerator, clean on-site cogenerator or special eligible energy user, respectively, from the commissioner of small business services. No such certification for a qualified eligible energy user shall be issued on or after July first, two thousand three. No such certification of any other eligible energy user, on-site cogenerator or clean on-site cogenerator shall be issued on or after July first, two thousand [~~seventeen~~] twenty-one. The commissioner of small business services, after notice and hearing, may revoke a certification issued pursuant to this subdivision where it is found that eligibility criteria have not been met or that compliance with conditions for continued eligibility has not been maintained. The corporation counsel may maintain a civil action to recover an amount equal to any benefits improperly obtained.

§ 18. Subparagraph (b-2) of paragraph 2 of subdivision i of section 11-704 of the administrative code of the city of New York, as amended by section 50 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(b-2) The amount of the special reduction allowed by this subdivision with respect to a lease other than a sublease commencing between July first, two thousand five and June thirtieth, two thousand [~~seventeen~~] twenty-one with an initial or renewal lease term of at least five years shall be determined as follows:

(i) For the base year the amount of such special reduction shall be equal to the base rent for the base year.

(ii) For the first, second, third and fourth twelve-month periods following the base year the amount of such special reduction shall be equal to the lesser of (A) the base rent for each such twelve-month period or (B) the base rent for the base year.

§ 19. Subdivision 9 of section 499-aa of the real property tax law, as amended by section 51 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

9. "Eligibility period." The period commencing April first, nineteen hundred ninety-five and terminating March thirty-first, two thousand one, provided, however, that with respect to eligible premises defined in subparagraph (i) of paragraph (b) of subdivision ten of this section, the period commencing July first, two thousand and terminating June thirtieth, two thousand [~~eighteen~~] twenty-one, and provided, further, however, that with respect to eligible premises defined in subparagraph (ii) of paragraph (b) or paragraph (c) of subdivision ten of this section, the period commencing July first, two thousand five and terminating June thirtieth, two thousand [~~eighteen~~] twenty-one.

§ 20. Subparagraph (iii) of paragraph (a) of subdivision 3 of section 499-cc of the real property tax law, as amended by section 52 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(iii) With respect to the eligible premises defined in subparagraph (ii) of paragraph (b) or paragraph (c) of subdivision ten of section four hundred ninety-nine-aa of this title and for purposes of determining whether the amount of expenditures required by subdivision one of this section have been satisfied, expenditures on improvements to the common areas of an eligible building shall be included only if work on such improvements commenced and the expenditures are made on or after July first, two thousand five and on or before December thirty-first, two thousand [~~eighteen~~] twenty-one; provided, however, that expenditures on improvements to the common areas of an eligible building made prior to three years before the lease commencement date shall not be included.

§ 21. Subdivisions 5 and 9 of section 499-a of the real property tax law, as amended by section 53 of part A of chapter 20 of the laws of 2015, are amended to read as follows:

5. "Benefit period." The period commencing with the first day of the month immediately following the rent commencement date and terminating no later than sixty months thereafter, provided, however, that with respect to a lease commencing on or after April first, nineteen hundred ninety-seven with an initial lease term of less than five years, but not less than three years, the period commencing with the first day of the month immediately following the rent commencement date and terminating no later than thirty-six months thereafter. Notwithstanding the foregoing sentence, a benefit period shall expire no later than March thirty-first, two thousand [~~twenty-four~~] twenty-seven.

9. "Eligibility period." The period commencing April first, nineteen hundred ninety-five and terminating March thirty-first, two thousand [~~eighteen~~] **twenty-one**.

§ 22. paragraph (a) of subdivision 3 of section 449-c of the real property tax law, as amended by section 54 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(a) For purposes of determining whether the amount of expenditures required by subdivision one of this section have been satisfied, expenditures on improvements to the common areas of an eligible building shall be included only if work on such improvements commenced and the expenditures are made on or after April first, nineteen hundred ninety-five and on or before September thirtieth, two thousand [~~eighteen~~] **twenty-one**; provided, however, that expenditures on improvements to the common areas of an eligible building made prior to three years before the lease commencement date shall not be included.

§ 23. Subdivision 8 of section 499-d of the real property tax law, as amended by section 55 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

8. Leases commencing on or after April first, nineteen hundred ninety-seven shall be subject to the provisions of this title as amended by chapter six hundred twenty-nine of the laws of nineteen hundred ninety-seven, chapter one hundred eighteen of the laws of two thousand one, chapter four hundred forty of the laws of two thousand three, chapter sixty of the laws of two thousand seven, chapter twenty-two of the laws of two thousand ten, chapter fifty-nine of the laws of two thousand fourteen**, chapter twenty of the laws of two thousand fifteen** and the chapter of the laws of two thousand [~~fifteen~~] **seventeen** that added this phrase. Notwithstanding any other provision of law to the contrary, with respect to leases commencing on or after April first, nineteen hundred ninety-seven, an application for a certificate of abatement shall be considered timely filed if filed within one hundred eighty days following the lease commencement date or within sixty days following the date chapter six hundred twenty-nine of the laws of nineteen hundred ninety-seven became a law, whichever is later.

§ 24. Subparagraph (a) of paragraph 2 of subdivision i of section 11-704 of the administrative code of the city of New York, as amended by section 56 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(a) An eligible tenant of eligible taxable premises shall be allowed a special reduction in determining the taxable base rent for such eligible taxable premises. Such special reduction shall be allowed with respect to the rent for such eligible taxable premises for a period not exceeding sixty months or, with respect to a lease commencing on or after April first, nineteen hundred ninety-seven with an initial lease term of less than five years, but not less than three years, for a period not exceeding thirty-six months, commencing on the rent commencement date applicable to such eligible taxable premises, provided, however, that in no event shall any special reduction be allowed for any period beginning after March thirty-first, two thousand [~~twenty-four~~] **twenty-seven**. For purposes of applying such special reduction, the base rent for the base year shall, where necessary to determine the amount of the special reduction allowable with respect to any number of months falling within a tax period, be prorated by dividing the base rent for the base year by twelve and multiplying the result by such number of months.

§ 25. Paragraph (a) of subdivision 1 of section 489-dddddd of the real property tax law, as amended by section 57 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(a) Application for benefits pursuant to this title may be made immediately following the effective date of a local law enacted pursuant to this title and continuing until March first, two thousand [~~nineteen~~] twenty-one.

§ 26. Subdivision 3 of section 489-dddddd of the real property tax law, as amended by section 58 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

3. (a) No benefits pursuant to this title shall be granted for construction work performed pursuant to a building permit issued after April first, two thousand [~~nineteen~~] twenty-one.

(b) If no building permit was required, then no benefits pursuant to this title shall be granted for construction work that is commenced after April first, two thousand [~~nineteen~~] twenty-one.

§ 27. Paragraph 1 of subdivision a of section 11-271 of the administrative code of the city of New York, as amended by section 59 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(1) Application for benefits pursuant to this part may be made immediately following the effective date of the local law that added this section and continuing until March first, two thousand [~~nineteen~~] twenty-one.

§ 28. Subdivision c of section 11-271 of the administrative code of the city of New York, as amended by section 60 of part A of chapter 20 of the laws of 2015, is amended to read as follows:

c. (1) No benefits pursuant to this part shall be granted for construction work performed pursuant to a building permit issued after April first, two thousand [~~nineteen~~] twenty-one.

(2) If no building permit was required, then no benefits pursuant to this part shall be granted for construction work that is commenced after April first, two thousand [~~nineteen~~] twenty-one.

§ 28-a. Subparagraph (A) of paragraph 2 of subdivision (f) of section 11-1706 of the administrative code of the city of New York, as amended by section 60-a of part A of chapter 20 of the laws of 2015, is amended to read as follows:

(A) Subject to the limitations set forth in subparagraphs (B) and (C) of this paragraph, the credit allowed to a taxpayer for a taxable year under this subdivision shall be determined as follows:

(i) For taxable years beginning on or after January first, two thousand fourteen and before July first, two thousand [~~nineteen~~] twenty-one:

(I) If the city taxable income is thirty-five thousand dollars or less, the amount of the credit shall be one hundred percent of the amount determined in paragraph three of this subdivision.

(II) If the city taxable income is greater than thirty-five thousand dollars but less than one hundred thousand dollars, the amount of the credit shall be a percentage of the amount determined in paragraph three of this subdivision, such percentage to be determined by subtracting from one hundred percent, a percentage determined by subtracting thirty-five thousand dollars from city taxable income, dividing the result by sixty-five thousand dollars and multiplying by one hundred percent.

(III) If the city taxable income is one hundred thousand dollars or greater, no credit shall be allowed.

(IV) Provided further that for any taxable year of a taxpayer for which this credit is effective that encompasses days occurring after June thirtieth, two thousand [~~nineteen~~] twenty-one, the amount of the

credit determined in item (I) or (II) of this clause shall be multiplied by a fraction, the numerator of which is the number of days in the taxpayer's taxable year occurring on or before June thirtieth, two thousand [~~nineteen~~] twenty-one, and the denominator of which is the number of days in the taxpayer's taxable year.

§ 29. The opening paragraph of subparagraph (B) of paragraph 2 of subdivision (b) of section 1402 of the tax law, as amended by chapter 500 of the laws of 2014, is amended to read as follows:

For purposes of this subdivision, the phrase "real estate investment trust transfer" shall mean any conveyance of real property or an interest therein to a REIT, or to a partnership or corporation in which a REIT owns a controlling interest immediately following the conveyance, which conveyance (I) occurs in connection with the initial formation of the REIT, provided that the conditions set forth in clauses (i) and (ii) of this subparagraph are satisfied, or (II) in the case of any real estate investment trust transfer occurring on or after July thirteenth, nineteen hundred ninety-six and before September first, two thousand [~~seventeen~~] twenty-one, is described in the last sentence of this subparagraph.

§ 29-a. Subparagraph 2 of paragraph (xi) of subdivision (b) of section 1201 of the tax law, as amended by chapter 500 of the laws of 2014, is amended to read as follows:

(2) any issuance or transfer of an interest in a REIT, or in a partnership or corporation in which a REIT owns a controlling interest immediately following the issuance or transfer, in connection with a transaction described in subparagraph one of this paragraph. Notwithstanding the foregoing, a transaction described in the preceding sentence shall not constitute a real estate investment trust transfer unless (A) it occurs in connection with the initial formation of the REIT and the conditions described in subparagraphs three and four of this paragraph are satisfied, or (B) in the case of any real estate investment trust transfer occurring on or after July thirteenth, nineteen hundred ninety-six and before September first, two thousand [~~seventeen~~] twenty-one, the transaction is described in subparagraph five of this paragraph in which case the provisions of such subparagraph shall apply.

§ 29-b. Subparagraph (B) of paragraph 2 of subdivision e of section 11-2102 of the administrative code of the city of New York, as amended by chapter 500 of the laws of 2014, is amended to read as follows:

(B) any issuance or transfer of an interest in a REIT, or in a partnership or corporation in which a REIT owns a controlling interest immediately following the issuance or transfer in connection with a transaction described in subparagraph (A) of this paragraph. Notwithstanding the foregoing, a transaction described in the preceding sentence shall not constitute a real estate investment trust transfer unless (i) it occurs in connection with the initial formation of the REIT and the conditions described in subparagraphs (C) and (D) of this paragraph are satisfied, or (ii) in the case of any real estate investment trust transfer occurring on or after July thirteenth, nineteen hundred ninety-six and before September first, two thousand [~~seventeen~~] twenty-one, the transaction is described in subparagraph (E) of this paragraph in which case the provision of such subparagraph shall apply.

§ 30. This act shall take effect immediately.

PART YYY

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

§ 2. The tax law is amended by adding a new section 43 to read as follows:

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

"Authorized contribution";

"Contribution";

"Educational program";

"Educational scholarship organization";

"Eligible pupil";

"Local education fund";

"Nonpublic school";

"Public education entity";

"Public school";

"Qualified contribution";

"Qualified educator";

"Qualified school";

"Scholarship"; and

"School improvement organization".

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

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

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

(e) Applications for contribution authorization certificates. Prior to making a contribution to a public education entity, school improvement organization, local education fund, or educational scholarship organization, the taxpayer shall apply to the department for a contribution authorization certificate for such contribution. Such application shall be in the form and manner prescribed by the department. The department may allow taxpayers to make multiple applications on the same form, provided that each contribution listed on such application shall be treated as a separate application and that the department shall issue separate contribution authorization certificates for each such application.

(f) Contribution authorization certificates. 1. Issuance of certificates. The commissioner shall issue contribution authorization certificates in two phases. In phase one, which begins on the first day of January and ends on the thirty-first day of January, the commissioner shall accept applications for contribution authorization certificates. Commencing after the fifth day of February, the commissioner shall issue contribution authorization certificates for applications received during phase one, provided that if the aggregate total of the contributions for which applications have been received during phase one exceeds the amount of the credit cap in subdivision (h) of this section, then phase one of the credit cap application shall be allocated in two steps. In step one, the allocation shall equal the contribution cap divided by the total number of applications for contributions, rounded down to the nearest cent. Each application requesting an amount which is less than or equal to the allocation in step one shall receive the amount on their application for contribution and the difference, which shall be referred to as "excess distributions" for the purposes of this subdivision, shall be available for allocation in step two. Each application requesting an amount which exceeds the allocation in step one shall be allocated credits in step two. In step two, if excess distributions equal zero then each application shall receive the allocation amount from step one, otherwise each application shall receive an amount equal to the sum of the (i) the allocation amount in step one and (ii) a pro rata share of aggregate excess distributions based on the difference between the amount on their application for contribution and the allocation in step one. For the purposes of this subdivision, multiple applications by the same taxpayer shall be treated as one application. If the credit cap is not exceeded, phase two commences on February twentieth and ends on October thirty-first. During phase two the commissioner shall issue contribution authorization certificates on a first-come first serve basis based upon the date the department received the taxpayer's application for such certificate. Contribution authorization certificates for applications received during phase one shall be mailed no later than the twentieth day of February. Contribution authorization certificates for applications received during phase two shall be mailed within five days of receipt of such applications.

2. Contribution authorization certificate contents. Each contribution authorization certificate shall state (i) the date such certificate was issued, (ii) the date by which the authorized contribution listed on the certificate must be made, which shall be no later than December thirty-first of the year for which the contribution authorization certificate was issued, (iii) the amount of authorized contribution, (iv) the certificate number, (v) the taxpayer's name and address, (vi) the name and address of the public education entity, school improvement organization, local education fund or educational scholarship organization to

which the taxpayer may make the authorized contribution, and (vii) any other information that the commissioner deems necessary.

3. Notification of the issuance of a contribution authorization certificate. Upon the issuance of a contribution authorization certificate to a taxpayer, the commissioner shall notify the public education entity, school improvement organization, local education fund or educational scholarship organization of the issuance of such contribution authorization certificate. Such notification shall include (i) the taxpayer's name and address, (ii) the date such certificate was issued, (iii) the date by which the authorized contribution listed in the notification must be made by the taxpayer, (iv) the amount of the authorized contribution, (v) the contribution authorization certificate's certificate number, and (vi) any other information that the commissioner deems necessary.

(g) Certificate of receipt. 1. In general. No public education entity, school improvement organization, local education fund, or educational scholarship organization shall issue a certificate of receipt for any contribution made by a taxpayer unless such public education entity, school improvement organization, local education fund, or educational scholarship organization has been approved to issue certificates of receipt pursuant to article twenty-five of the education law. No public education entity, school improvement organization, local education fund, or educational scholarship organization shall issue a certificate of receipt for a contribution made by a taxpayer unless such public education entity, school improvement organization, local education fund, or educational scholarship organization has received notice from the department that the department issued a contribution authorization certificate to the taxpayer for such contribution.

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

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

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

5. Notification to the department of the non-issuance of a certificate of receipt. Each public education entity, school improvement organization, local education fund, or educational scholarship organization that received notification from the department pursuant to subdivision (f) of this section regarding the issuance of a contribution authorization certificate to a taxpayer shall, within thirty days of the expiration date for such authorized contribution, provide notification to the department for each taxpayer that failed to make the authorized contribution to such public education entity, school improvement organization, local education fund, or educational scholarship organization in the form and manner prescribed by the department.

6. Failure to notify the department. Within thirty days of the discovery of the failure of any public education entity, school improvement program, local education fund, or educational scholarship organization to comply with the notification requirements prescribed by paragraphs four and five of this subdivision, the commissioner shall issue a notice of compliance failure to such entity, program, fund, or organization. Such entity, program, fund, or organization shall have thirty days from the date of such notice to make the notifications prescribed by paragraphs four and five of this subdivision. Such period may be extended for an additional thirty days upon the request of the entity, program, fund, or organization. Upon the expiration of period for compliance set forth in the notice prescribed by this paragraph, the commissioner shall notify the commissioner of education that such entity, program, fund, or organization failed to make the notifications prescribed by paragraphs four and five of this subdivision.

(h) Credit cap. The maximum permitted credits under this section available to all taxpayers for qualified contributions for calendar year two thousand eighteen shall be one hundred fifty million dollars. In calendar year two thousand nineteen, the maximum permitted credits under this section available to all taxpayers shall be two hundred twenty-five million dollars plus any amounts that are required to be added to the cap pursuant to subdivision (i) of this section. For calendar year two thousand twenty and each calendar year thereafter, the maximum permitted credits available to all taxpayers shall be three hundred million dollars plus any amounts that are required to be added to the cap pursuant to subdivision (i) of this section. The maximum permitted credits under this section for qualified contributions shall be allocated fifty percent to public education entities, school improvement organizations, and local education funds and fifty percent to educational scholarship organizations.

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

(j) Regulations. The commissioner is hereby authorized to promulgate and adopt on an emergency basis regulations necessary for the implementation of this section.

(k) Written report. On or before the last day of June for each calendar year, for the immediately preceding year, the commissioner and the commissioner of education shall jointly submit a written report to the governor, the temporary president of the senate, the speaker of the assembly, the chairman of the senate finance committee and the chairman of the assembly ways and means committee regarding the education affordability tax credit. Such report shall contain information for articles nine-A and twenty-two, respectively, regarding: (i) the number of appli-

cations received; (ii) the number of and aggregate value of the contribution authorization certificates issued for contributions to public education entities, school improvement organizations, local education funds, and scholarship organizations, respectively; (iii) the geographical distribution by county of (A) the applications for contribution 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.

(l) 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 49;

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 22 to read as follows:

(22) 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 forty-nine of section two hundred ten-B of this article.

§ 4. Section 210-B of the tax law is amended by adding a new subdivision 49 to read as follows:

49. Education affordability tax credit. (a) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-two 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 paragraphs (c) or (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 (xliii) to read as follows:

(xliii) Education affordability tax credit under subsection (ccc)	Amount of credit under subdivision forty-nine 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 eighteen, 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; provided, that the amount of credit claimed does not exceed the lesser of two hundred dollars or one hundred percent of the cost of such purchases made by the taxpayer during the taxable year.

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

(3) 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.

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

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

(3) 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.

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

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

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

§ 8. Subsection (c) of section 615 of the tax law is amended by adding a new paragraph 9 to read as follows:

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

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

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

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

(A) "Resident low and middle income taxpayer" shall mean a taxpayer who is a full-year resident of this state and whose federal taxable 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-three 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 or middle income taxpayer may claim for the qualified primary or secondary education tuition expenses paid for each eligible student shall equal the lesser of fifteen percent of the qualified primary or secondary education tuition expenses paid by the taxpayer during the taxable year for such eligible student, or six hundred dollars.

(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".

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

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

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

3. "Educational program" means an academic program of a public school that enhances the curriculum, or provides or expands a pre-kindergarten program or an after-school program to the public school. For purposes of this definition, the instruction, materials, programs or other activities offered by or through an educational program may include, but are not limited to, the following features: (a) instruction or materials promoting health, physical education, and family and consumer sciences; literary, performing and visual arts; mathematics, social studies, technology and scientific achievement; (b) instruction or programming to meet the education needs of at-risk students or students with disabilities, including tutoring or counseling; or (c) use of specialized instructional materials, instructors or instruction not provided by a public school.

4. "Educational scholarship organization" means a not-for-profit entity which (a) is exempt from taxation under paragraph three of subsection (c) of section five hundred one of the internal revenue code, (b) commits for the expenditure of at least ninety percent of the revenue from qualified contributions received during the calendar year and any income derived from qualified contributions for scholarships, (c) deposits and holds qualified contributions and any income derived from qualified contributions in an account that is separate from the organization's operating or other funds until such qualified contributions or income are withdrawn for use, and (d) provides scholarships to eligible pupils for use at no fewer than three qualified schools.

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

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

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

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

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

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

10. "Qualified contribution" means the authorized contribution made by a taxpayer to the public education entity, school improvement organization, local education fund, or educational scholarship organization that is listed on the contribution authorization certificate issued to the taxpayer and for which the taxpayer has received a certificate of receipt from such entity, fund, or organization. A contribution does not qualify if the taxpayer designates the taxpayer's contribution to an entity or organization for the direct benefit of any particular or specified student.

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

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

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

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

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

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

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

§ 1212. Applications for approval to issue certificates of receipt. Each school improvement organization, educational scholarship organization, and local education fund shall submit an application to the commissioner for approval to issue certificates of receipt in the form and manner prescribed by the commissioner; provided that such application shall include: (a) submission of documentation that such school improvement organization, local education fund or educational scholarship organization has been granted exemption from taxation under paragraph three of subsection (c) of section five hundred one of the internal revenue code; (b) the most recent annual financial audit, which shall be completed by an independent certified public accountant and a list of names and addresses of all members of the governing board of the school improvement organization, local education fund or educational scholarship organization; and (c) an educational scholarship organization shall provide criteria for the awarding of scholarships to eligible students. Neither the commissioner or the department shall require any other information for such application except as authorized in this article or by section forty-three of the tax law.

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

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

certificates of receipt pursuant to section forty-three 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-three 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 section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

§ 13. This act shall take effect immediately and shall apply to taxable years beginning after December 31, 2017.

PART ZZZ

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

(ccc) Green building credit. (1) Allowance of credit. A taxpayer shall be allowed a credit against the tax imposed by this article provided that such taxpayer constructs or rehabilitates qualifying residential real property in conformity with energy efficiency standards established by the National Association of Home Builders or the Leadership in Energy and Environmental Design rating system developed by the United States green building council and fashions proof thereof in accordance with rules and regulations promulgated by the commissioner of the department of environmental conservation in conjunction with the commissioner.

(2) Amount of credit. The amount of the credit shall be equal to fifty percent of the allowable costs paid or incurred by the taxpayer, if the owner, for either the construction or rehabilitation of qualifying residential real property in conformity with energy efficiency standards established by the National Association of Home Builders or the Leadership in Energy and Environmental Design rating system developed by the United States green building council; provided, however, that such credit shall not exceed seven thousand five hundred dollars and shall not be awarded more than once in a period of ten years.

(3) For the purpose of this subsection, "allowable costs" means amounts properly chargeable to an account (other than for land), which are paid or incurred on or after January first, two thousand seventeen, for: construction or rehabilitation; commissioning costs; interest paid; architectural, engineering and other professional fees allocable to construction or rehabilitation; site costs (such as temporary electric wiring, scaffolding, demolition costs, and fencing and security facilities); and lighting systems permanently affixed to the structure, plumbing, electrical wiring necessary to accommodate new energy efficient systems, ventilation, insulation, windows and new heating systems; provided that such costs shall not include the cost of telephone systems and computers (other than electrical wiring costs) and shall not include the cost of fuel cells or photovoltaic modules (including installation) or the cost of new air conditioning equipment using an EPA-approved non-ozone depleting refrigerant or other EPA-approved refrigerant approved by the commissioner of environmental conservation (excluding installation).

(4) For the purposes of this subsection "qualifying residential real property" shall mean the principal place of residence of an individual taxpayer who claims a credit pursuant to this subsection. In the event that such place of residence is a multiple dwelling, as defined by subdivision seven of section four of the multiple dwelling law, allowable costs shall only constitute those costs incurred due to construction or rehabilitation undertaken on the portion of the dwelling that constitutes an individual taxpayer's unit.

(5) 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 may be carried over to the following year or years for up to five years and may be deducted from the taxpayer's tax for such year or years.

(6) The commissioner of the department of environmental conservation, in conjunction with the commissioner, shall promulgate such rules and regulations as may be necessary for the distribution of the credit established by this subsection.

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

PART AAAA

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

(ccc) Forestry stewardship and habitat conservation credit. (1) In the case of a taxpayer who owns land that is subject to an agreement with the department of environmental conservation, by which such land is committed to forestry stewardship, or habitat conservation, or both, there shall be allowed a credit for twenty-five percent of the real property taxes paid on such land. In no event shall the credit allowed under this subsection in combination with any other credit for such real property taxes under this section exceed the total amount of such taxes paid during the taxable year.

(2) For the purposes of this subsection:

(a) "Eligible tract" shall mean a tract of land of at least twenty-five contiguous acres that has been inspected by the department of environmental conservation, a wildlife biologist certified by The Wildlife Society, or a fisheries biologist certified by the American Fisheries Society, and based on such inspection is determined by the department of environmental conservation to be: valuable habitat for wildlife, fish, shellfish or crustacea; or safe and suitable for fish or wildlife-related recreation, including fishing, hunting, trapping and wildlife observation; or both. Land divided only by federal, state, county or town roads, easements or rights-of-way, or energy transmission corridors or similar facilities shall be considered contiguous for purposes of this section.

(b) "Agreement" shall mean a written agreement between the department of environmental conservation and the owner of an eligible tract, executed by both parties, by which the eligible tract is committed to habitat conservation, or forestry stewardship, or both, for a period of not less than five years.

(c) "Approved habitat conservation plan" shall mean a plan, approved by the department of environmental conservation, for the management of an eligible tract which shall contain requirements and standards with which the owner of the eligible tract must comply in order to conserve the value of the land as wildlife, fish, shellfish, or crustacea habitat.

(d) "Forestry stewardship" shall mean participation in a forest certification program (such as Forest Stewardship Council certification, Sustainable Forestry Initiative, American Tree Farm Program, etc.) recognized in the regulations of the department of environmental conservation.

(3) There is hereby created a New York state forestry stewardship and habitat conservation program for the purpose of providing forested lands in the state and conserving the value of land in the state as wildlife, fish, shellfish or crustacea habitat.

(4) A landowner may make application to the department of environmental conservation, on forms prescribed by such department, to have land included in the New York state habitat conservation and forestry stewardship program. If, based on an inspection of the land by the department of environmental conservation, or a wildlife biologist certified by The Wildlife Society, or a fisheries biologist certified by the American Fisheries Society, the department of environmental conservation determines that such land is an eligible tract, it shall notify the landowner that the land is eligible for inclusion in the New York state habitat conservation and forestry stewardship program.

(5) The department of environmental conservation may, in its discretion, enter into agreements with owners of eligible tracts for purposes of forestry stewardship, or habitat conservation, or both. Such agreements shall be for a minimum duration of five years, and shall contain a description of the property that is the subject of the agreement, and such terms and conditions as the department deems appropriate, including, but not limited to:

(a) for forestry stewardship agreements, a description of the participation in a forest certification program for a period of not less than five years;

(b) for habitat conservation agreements, a requirement that the landowner develop a habitat conservation plan and implement the plan for a period of not less than five years;

(c) for habitat conservation and forestry stewardship agreements, a requirement that the landowner develop a habitat conservation plan and implement the plan for a period of not less than five years; and a description of participation in a forest certification program for a period of not less than five years;

(d) a requirement that the landowner's obligations concerning the land under the terms of the agreement, as well as any benefits, shall pass to any successor in interest to such land for the duration of the term of the agreement; and

(e) a requirement that a copy of the agreement shall be duly recorded and indexed as such in the office of the recording officer for the county or counties where the land is situate in the manner prescribed by article nine of the real property law; and that any subsequent instrument of conveyance relating to the property encumbered by the agreement shall reference, by book and page number, the agreement; and that such instrument shall also specify that the property is subject to the restrictions contained in the agreement; and that an instrument for the purpose of creating, conveying, modifying or terminating the agreement shall not be effective unless recorded.

(6) The amount of the credit that may be claimed by a taxpayer pursuant to this subsection shall not exceed ten thousand dollars in any given year.

(7) If the amount of the credit 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.

§ 2. Paragraph 4 of subsection (n) of section 606 of the tax law, as amended by section 2 of part F of chapter 62 of the laws of 2006, is amended to read as follows:

(4) Qualified agricultural property. For purposes of this subsection, the term "qualified agricultural property" means land located in this state which is used in agricultural production, and land improvements, structures and buildings (excluding buildings used for the taxpayer's residential purpose) located on such land which are used or occupied to carry out such production. Qualified agricultural property also includes land set aside or retired under a federal supply management or soil conservation program or land that at the time it becomes subject to a conservation easement, as defined under subsection (kk) of this section, met the requirements under this paragraph, and land that at the time it becomes subject to an agreement as defined in subsection (ccc) of this section met the requirements under this paragraph.

§ 3. Section 210-B of the tax law is amended by adding a new subdivision 49 to read as follows:

49. Forestry stewardship and habitat conservation credit. (1) In the case of a taxpayer who owns land that is subject to an agreement with the department of environmental conservation, by which such land is committed to forestry stewardship, or habitat conservation, or both, there shall be allowed a credit for twenty-five percent of the real property taxes paid on such land. In no event shall the credit allowed under this subdivision in combination with any other credit for such real property taxes under this section exceed the total amount of such taxes paid during the taxable year.

(2) For the purposes of this subdivision:

(a) "Eligible tract" shall mean a tract of land of at least twenty-five contiguous acres that has been inspected by the department of environmental conservation, a wildlife biologist certified by The Wildlife Society, or a fisheries biologist certified by the American Fisheries Society, and based on such inspection is determined by the department of environmental conservation to be: valuable habitat for wildlife, fish, shellfish or crustacea; or safe and suitable for fish or wildlife-related recreation, including fishing, hunting, trapping and wildlife observation; or both. Land divided only by federal, state, county or town roads, easements or rights-of-way, or energy transmission corridors or similar facilities shall be considered contiguous for purposes of this section.

(b) "Agreement" shall mean a written agreement between the department of environmental conservation and the owner of an eligible tract, executed by both parties, by which the eligible tract is committed to habitat conservation, or forestry stewardship, or both, for a period of not less than five years.

(c) "Approved habitat conservation plan" shall mean a plan, approved by the department of environmental conservation, for the management of an eligible tract which shall contain requirements and standards with which the owner of the eligible tract must comply in order to conserve the value of the land as wildlife, fish, shellfish, or crustacea habitat.

(d) "Forestry stewardship" shall mean participation in a forest certification program (such as Forest Stewardship Council certification, Sustainable Forestry Initiative, American Tree Farm Program, etc.) recognized in the regulations of the department of environmental conservation.

(3) There is hereby created a New York state forestry stewardship and habitat conservation program for the purpose of providing forested lands in the state and conserving the value of land in the state as wildlife, fish, shellfish or crustacea habitat.

(4) A landowner may make application to the department of environmental conservation, on forms prescribed by such department, to have land included in the New York state habitat conservation and forestry stewardship program. If, based on an inspection of the land by the department of environmental conservation, or a wildlife biologist certified by The Wildlife Society, or a fisheries biologist certified by the American Fisheries Society, the department of environmental conservation determines that such land is an eligible tract, it shall notify the landowner that the land is eligible for inclusion in the New York state habitat conservation and forestry stewardship program.

(5) The department of environmental conservation may, in its discretion, enter into agreements with owners of eligible tracts for

purposes of habitat conservation, or forestry stewardship, or both. Such agreements shall be for a minimum duration of five years, and shall contain a description of the property that is the subject of the agreement, and such terms and conditions as the department deems appropriate, including, but not limited to:

(a) for forestry stewardship agreements, a description of the participation in a forest certification program for a period of not less than five years;

(b) for habitat conservation agreements, a requirement that the landowner develop a habitat conservation plan and implement the plan for a period of not less than five years;

(c) for habitat conservation and forestry stewardship agreements, a requirement that the landowner develop a habitat conservation plan and implement the plan for a period of not less than five years; and a description of participation in a forest certification program for a period of not less than five years;

(d) a requirement that the landowner's obligations concerning the land under the terms of the agreement, as well as any benefits, shall pass to any successor in interest to such land for the duration of the term of the agreement; and

(e) a requirement that a copy of the agreement shall be duly recorded and indexed as such in the office of the recording officer for the county or counties where the land is situate in the manner prescribed by article nine of the real property law; and that any subsequent instrument of conveyance relating to the property encumbered by the agreement shall reference, by book and page number, the agreement; and that such instrument shall also specify that the property is subject to the restrictions contained in the agreement; and that an instrument for the purpose of creating, conveying, modifying or terminating the agreement shall not be effective unless recorded.

(6) The amount of the credit that may be claimed by a taxpayer pursuant to this subdivision shall not exceed ten thousand dollars in any given year.

(7) If the amount of the credit under this subdivision 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 one thousand eighty-six of this chapter, provided, however, that no interest shall be paid thereon.

§ 4. Paragraph (d) of subdivision 11 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:

(d) Qualified agricultural property. For purposes of this subdivision, the term "qualified agricultural property" means land located in this state which is used in agricultural production, and land improvements, structures and buildings (excluding buildings used for the taxpayer's residential purpose) located on such land which are used or occupied to carry out such production. Qualified agricultural property also includes land set aside or retired under a federal supply management or soil conservation program [~~or~~], land that at the time it becomes subject to a conservation easement met the requirements under this paragraph and land that at the time it becomes subject to an agreement as defined under subdivision forty-nine of this section, met the requirements under this paragraph.

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

(xliii) Forest stewardship and habitat conservation credit under subsection (ccc)	Amount of credit under subdivision forty-nine of section two hundred ten-B

§ 6. This act shall take effect immediately.

PART BBBB

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 CCCC

Section 1. Subdivision 3 of section 16-v of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new paragraph (e) to read as follows:

(e) Notwithstanding any other provision of law to the contrary, a qualified entity that has previously been designated as a New York state incubator and has not fully disbursed any grants awarded pursuant to this section, shall continue being designated as such by the corporation for an additional three years.

§ 2. This act shall take effect immediately.

PART DDDD

Section 1. Subclauses (i) and (ii) of clause (E) of subparagraph 5 of paragraph b of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, are amended to read as follows:

(i) Such licensed regional harness track shall receive in lieu of any other payments on wagers placed at off-track betting facilities outside the special betting district on races conducted by an in-state thoroughbred racing corporation, two and eight-tenths percent on regular and multiple bets **made prior to January first, two thousand eighteen, and one and four-tenths percent on such bets made on and after January first, two thousand eighteen** during a regional meeting and one and nine-tenths percent of such bets **made prior to January first, two thousand eighteen, and four-tenths percent on such bets made on and after January first, two thousand eighteen** if there is no regional meeting and four and eight-tenths percent on exotic bets **made prior to January first, two thousand eighteen, and two and four-tenths percent on such bets made on and after January first, two thousand eighteen** on days on which there is a regional meeting and three and four-tenths percent of such bets **made prior to January first, two thousand eighteen, and one and seven-tenths percent on such bets made on and after January first, two thousand eighteen** if there is no regional meeting.

(ii) [~~Such~~] **A** licensed regional harness track shall receive one and one-half per centum on total regional handle on races conducted at out-of-state or out-of-country thoroughbred tracks **prior to January first, two thousand eighteen, and three-quarters of one per centum on such handle realized on and after January first, two thousand eighteen**.

§ 2. Clause (G) of subparagraph 6 of paragraph b of subdivision 1 of section 1016 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:

(G) Of the sums retained by a licensed harness facility, **prior to January first, two thousand eighteen,** fifty percent shall be used exclusively for purses awarded in races conducted by such licensed facility and the remaining fifty percent shall be retained by such licensed facility for its general purposes, **and on and after January first, two thousand eighteen one hundred percent shall be used exclusively for purses awarded in races conducted by such licensed facility** provided, however, that in a harness special betting district the portion of the sums retained by a licensed harness facility to be used for purses or the methodology for calculating the amount to be used for purses may be specified in a written contract between a harness racing association or corporation and its representative horsemen's association.

§ 3. Paragraph a of subdivision 2 of section 1017 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 174 of the laws of 2013, is amended to read as follows:

a. Maintenance of effort. Any off-track betting corporation which engages in accepting wagers on the simulcasts of thoroughbred races from out-of-state or out-of-country as permitted under subdivision one of this section shall submit to the commission, for its approval, a schedule of payments to be made in any year or portion thereof, that such off-track corporation engages in nighttime thoroughbred simulcasting. In order to be approved by the commission, **prior to January first, two thousand eighteen,** the payment schedule shall be identical to the actual payments and distributions of such payments to tracks and purses made by

such off-track corporation pursuant to the provisions of section one thousand fifteen of this article during the year two thousand two, as derived from out-of-state harness races displayed after 6:00 P.M. **On and after January first, two thousand eighteen no such payments and distributions of payments shall be made to tracks.** If approved by the commission, such scheduled payments shall be made from revenues derived from any simulcasting conducted pursuant to this section and section one thousand fifteen of this article.

§ 4. Clause (D) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as amended by chapter 174 of the laws of 2013, is amended to read as follows:

(D) notwithstanding clauses (A), (B) and (C) of this subparagraph, when the vendor track is located within [~~fifteen~~] **forty** miles of a Native American class III gaming facility at a rate of forty-one percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter;

§ 5. Subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law is amended buy adding a new clause (G-3) to read as follows:

(G-3) Notwithstanding any provision to the contrary, when a vendor track is located within region four of development zone two as defined by section thirteen hundred ten of the racing, pari-mutuel wagering and breeding law and is located within Oneida county, such vendor track shall receive an additional commission at a rate equal to the percentage of revenue wagered at the vendor track after payout for prizes pursuant to this chapter, which percentage shall be one hundred, less the sum of the percentages of net revenue wagered at the vendor track retained by the commission for operation, administration, and procurement purposes; and the vendor's fee, marketing allowance and capital award paid to the vendor track pursuant to this chapter; and the effective tax rate paid on all gross gaming revenue paid by a gaming facility within Seneca or Wayne counties pursuant to section thirteen hundred fifty-one of the racing, pari-mutuel wagering and breeding law, provided, however, such additional commission shall be applied to revenue wagered at the vendor track after payout for prizes only while a gaming facility in Seneca or Wayne counties is open and operational pursuant to an operation certificate issued pursuant to section thirteen hundred thirty-one of the racing, pari-mutuel wagering and breeding law. The additional commission set forth in this clause shall be paid to the vendor track within sixty days after the conclusion of the state fiscal year based on the calculated percentage during the previous fiscal year.

§ 6. Clause (B) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as amended by chapter 174 of the laws of 2013, is amended to read as follows:

(B) having one thousand one hundred or more video gaming machines, at a rate of thirty-one percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, except for such facility located in the county of Westchester, in which case the rate shall be [~~thirty percent until March thirty-first, two thousand twelve~~] **thirty-one percent**.

Notwithstanding the foregoing, not later than April first, two thousand [~~twelve~~] **seventeen**, the vendor fee shall become [~~thirty-one~~] **thirty-two** percent and remain at that level thereafter; and except for Aqueduct racetrack, in which case the vendor fee shall be thirty-eight percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter;

§ 7. 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 racetrack, 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~~].

§ 8. This act shall take effect immediately; provided, however, that the amendments to subdivision f-1 of section 1612 of the tax law made by section seven of this act shall expire and be deemed repealed on and after March 31, 2018.

PART EEEE

Section 1. Subdivision 6 of section 221 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 325 of the laws of 2004 and such section as renumbered by chapter 18 of the laws of 2008, is amended to read as follows:

6. **(a)** The fund shall secure workers' compensation insurance coverage on a blanket basis for the benefit of all jockeys, apprentice jockeys and exercise persons licensed pursuant to this article or article four of this chapter who are employees under section two of the workers' compensation law**, and may elect, with the approval of the gaming commission, to secure workers' compensation insurance for employees of licensed trainers or owners. In the event the fund elects, with the approval of the gaming commission, to secure workers' compensation insurance for employees of licensed trainers or owners, the fund may discontinue to secure workers' compensation insurance for employees of licensed trainers or owners only upon prior approval of the gaming commission.**

(b) The fund may elect, with the approval of the gaming commission, to secure workers' compensation insurance coverage through a form of self-insurance, provided that the fund has met the requirements of the New York state department of financial services and workers' compensation board, including, without limitation, subdivision three of section fifty of the workers' compensation law.

§ 2. Subdivision 7 of section 221 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008 and the opening paragraph as amended by section 1 of part PP of chapter 60 of the laws of 2016, is amended to read as follows:

7. In order to pay the costs of the insurance required by this section and by the workers' compensation law and to carry out its other powers and duties and to pay for any of its liabilities under section fourteen-a of the workers' compensation law, the New York Jockey Injury Compensation Fund, Inc. shall ascertain the total funding necessary and establish the sums that are to be paid by all owners and trainers licensed or required to be licensed under section two hundred twenty of this article, to obtain the total funding amount required annually. In order to provide that any sum required to be paid by an owner or trainer is equitable, the fund shall establish payment schedules which reflect such factors as are appropriate, including where applicable, the geographic location of the racing corporation at which the owner or trainer participates, the duration of such participation, the amount of any purse earnings, the number of horses involved, or such other factors as the fund shall determine to be fair, equitable and in the best interests of racing. In no event shall the amount deducted from an owner's share of purses exceed two per centum; provided, however, for two thousand [~~**sixteen**~~] **seventeen** the New York Jockey Injury Compensation Fund, Inc. may use up to two million dollars from the account established pursuant to subdivision nine of section two hundred eight of this article to pay the annual costs required by this section and the funds from such account shall not count against the two per centum of purses deducted from an owner's share of purses. The amount deducted from an owner's share of purses shall not exceed one per centum after April first, two thousand [~~**seventeen**~~] **twenty**. In the cases of multiple ownerships and limited racing appearances, the fund shall equitably adjust the sum required.

The [~~state racing and wagering board~~] **gaming commission** shall, as a condition of racing, require any racing corporation or any quarterhorse racing association or corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat, to require that each trainer utilizing the facilities of such association or corporation and each owner racing a horse shall place or have placed on deposit with the horsemen's bookkeeper of such racing association or corporation, an amount to be established and paid in a manner to be determined by the fund.

Should the fund determine that the amount which has been collected in the manner prescribed is inadequate to pay the annual costs required by this section, it shall notify the [~~state racing and wagering board~~] **gaming commission** of the deficiency and the amount of the additional sum or sums necessary to be paid by each owner and/or trainer in order to cover such deficiency. The [~~state racing and wagering board~~] **gaming commission** shall, as an additional condition of racing, direct any racing corporation or any quarterhorse racing association or corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat, to require each trainer and owner to place such additional sum or sums on deposit with the respective horsemen's bookkeeper.

All amounts collected by a horsemen's bookkeeper pursuant to this section shall be transferred to the fund created under this section and shall be used by the fund to purchase workers' compensation insurance for jockeys, apprentice jockeys and exercise persons licensed pursuant to this article or article four of this chapter who are employees under section two of the workers' compensation law, **and at the election of the fund, with the approval of the gaming commission, to secure workers' compensation insurance for employees of licensed trainers or owners** to pay for any of its liabilities under section fourteen-a of the workers' compensation law and to administer the workers' compensation program for such jockeys, apprentice jockeys and exercise persons **and, if approved by the gaming commission, employees of licensed trainers or owners** required by this section and the workers' compensation law.

In the event the fund elects, with the approval of the gaming commission, to secure workers' compensation insurance for employees of licensed trainers or owners, the fund may elect to have the sum required to be paid by an owner or trainer pursuant to this section be subject to an examination of workers' compensation claims attributable under the fund to each such owner or trainer, including the frequency and severity of accidents and injuries.

§ 3. Subdivision 12 of section 221 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 325 of the laws of 2004 and such section as renumbered by chapter 18 of the laws of 2008, is amended and two new subdivisions 13 and 14 are added to read as follows:

12. [~~The fund and the state racing and wagering board shall have such power as is necessary to implement the provisions of this section.~~] **For purposes of this section, the term "employees of licensed trainers or owners" shall have the same meaning as subdivision twenty-four of section two of the workers' compensation law.**

13. a. There is created a racing safety committee to review the risk management report submitted to the commission by the fund on or about September thirtieth, two thousand sixteen and to make non-binding recommendations for the implementation of the safety proposals and initiatives set forth in such report. Such committee shall consist of seven

members, each to serve a term of three years, with one member each appointed by:

(i) the fund;

(ii) the gaming commission;

(iii) the franchised corporation;

(iv) the racing association or corporation licensed pursuant to this article or article four of this chapter to operate the racing and training facilities at Finger Lakes racetrack;

(v) the horsemen's organization representing at least fifty-one percent of the owners and trainers using the facilities of the franchised corporation;

(vi) the horsemen's organization representing at least fifty-one percent of the owners and trainers using the facilities of the Finger Lakes racetrack; and

(vii) the Jockeys' Guild.

The member of the racing safety committee appointed by the fund shall serve as chairperson and the member of the racing safety committee appointed by the commission shall serve as vice-chairperson. Members of the racing safety committee shall have equal voting rights.

b. The racing safety committee shall meet within ninety days following the effective date of this subdivision to review and discuss the implementation of the recommendations contained in the risk management report submitted to the gaming commission by the fund on or about September thirtieth, two thousand sixteen. The racing safety committee shall meet on or after July first, two thousand seventeen, and at least annually thereafter, to review the workers' compensation loss information and the status of safety-related findings and recommendations and to develop an annual strategic plan to address identified safety issues.

c. The members appointed pursuant to subparagraph (iii) and (iv) of paragraph a of this subdivision, in consultation with the other members of the racing safety committee, shall:

(i) Within one hundred eighty days following the effective date of this subdivision, for each track, develop safety rules for training activities to be documented and communicated, in both English and Spanish, to jockeys, apprentice jockeys, and exercise persons licensed pursuant to this article or article four of this chapter who are employees under section two of the workers' compensation law, and at the election of the fund, with the approval of the gaming commission, employees of licensed trainers or owners. Such safety rules shall include, but not be limited to, proper usage of personal protective equipment, required response to loose horses, prohibition of cell phone use while mounted on a horse, general requirements for jogging, galloping, breezing, ponying a horse, and starting gate safety protocols. Refresher training related to such safety rules shall be required at the start of each meet.

(ii) Prior to the start of each meet, following the effective date of this subdivision, meet with trainers or their representatives to discuss and address identified safety issues.

(iii) Within one hundred eighty days following the effective date of this subdivision, for each track, develop a written, documented emergency response plan to address response protocols to on-track accidents and incidents, which, at a minimum, shall include detailed information regarding roles and responsibilities for individuals who are responsible for track-related accidents and incidents, including, but not limited to, outriders, emergency medical technicians/paramedics, ambulance drivers, security, and veterinary staff and clockers.

(iv) Within two hundred ten days following the effective date of this subdivision, communicate the emergency response plan to all on-track personnel as part of new hire orientation and job assignment.

(v) Within two hundred ten days following the effective date of this subdivision, and at least once annually thereafter, for each track, conduct a mock emergency response drill for on-track accidents prior to the opening of each race meet. Such emergency response drill shall be filmed and used for education and training purposes for personnel, including in new hire orientation, and to assess the performance of individuals involved in the emergency response.

(vi) Within one hundred eighty days following the effective date of this subdivision, upgrade the current level of emergency medical responders from emergency medical technicians to paramedics.

14. The fund and the gaming commission shall have such power as is necessary to implement the provisions of this section.

§ 4. Section 2 of the workers' compensation law is amended by adding a new subdivision 24 to read as follows:

24. "Employees of licensed trainers or owners" means assistant trainers, foremen, watchmen and stable employees, including grooms and hotwalkers, employed by a trainer or owner licensed pursuant to article two or four of the racing, pari-mutuel wagering and breeding law.

§ 5. The second undesignated paragraph of subdivision 3 of section 2 of the workers' compensation law, as amended by chapter 392 of the laws of 2008, is amended to read as follows:

Notwithstanding any other provision of this chapter and for purposes of this chapter only, "employer" shall mean, with respect to a jockey, apprentice jockey or exercise person licensed under article two or four of the racing, pari-mutuel wagering and breeding law, and at the election of the New York Jockey Injury Compensation Fund, Inc., with the approval of the New York state gaming commission, employees of licensed trainers or owners, performing services for an owner or trainer in connection with the training or racing of a horse at a facility of a racing association or corporation subject to article two or four of the racing, pari-mutuel wagering and breeding law and subject to the jurisdiction of the New York state [~~racing and wagering board~~] gaming commission, The New York Jockey Injury Compensation Fund, Inc. and all owners and trainers who are licensed or required to be licensed under article two or four of the racing, pari-mutuel wagering and breeding law at the time of any occurrence for which benefits are payable pursuant to this chapter in respect to the injury or death of such jockey, apprentice jockey [~~or~~], exercise person or, if approved by the New York state gaming commission, employee of a licensed trainer or owner.

§ 6. The fifth undesignated paragraph of subdivision 4 of section 2 of the workers' compensation law, as amended by chapter 169 of the laws of 2007, is amended to read as follows:

Notwithstanding any other provision of this chapter, and for purposes of this chapter only, a jockey, apprentice jockey or exercise person licensed under article two or four of the racing, pari-mutuel wagering and breeding law, and at the election of the New York Jockey Injury Compensation Fund, Inc., with the approval of the New York state gaming commission, employees of licensed trainers or owners, performing services for an owner or trainer in connection with the training or racing of a horse at a facility of a racing association or corporation subject to article two or four of the racing, pari-mutuel wagering and breeding law and subject to the jurisdiction of the New York state [~~racing and wagering board~~] gaming commission shall be regarded as the

"employee" not solely of such owner or trainer, but shall instead be conclusively presumed to be the "employee" of The New York Jockey Injury Compensation Fund, Inc. and also of all owners and trainers who are licensed or required to be licensed under article two or four of the racing, pari-mutuel wagering and breeding law at the time of any occurrence for which benefits are payable pursuant to this chapter in respect of the injury or death of such jockey, apprentice jockey [~~or~~], exercise person **or, if approved by the New York state gaming commission, employee of a licensed trainer or owner**.

§ 7. The third undesignated paragraph of subdivision 5 of section 2 of the workers' compensation law, as amended by chapter 392 of the laws of 2008, is amended to read as follows:

Notwithstanding any other provision of this chapter, and for purposes of this chapter only, a jockey, apprentice jockey or exercise person licensed under article two or four of the racing, pari-mutuel wagering and breeding law**, and at the election of the New York Jockey Injury Compensation Fund, Inc., with the approval of the New York state gaming commission, employees of licensed trainers or owners,** performing services for an owner or trainer in connection with the training or racing of a horse at a facility of a racing association or corporation subject to article two or four of the racing, pari-mutuel wagering and breeding law and subject to the jurisdiction of the New York state [~~racing and wagering board~~] **gaming commission** shall be regarded as in the "employment" not solely of such owner and trainer, but shall instead be conclusively presumed to be in the "employment" of The New York Jockey Injury Compensation Fund, Inc. and of all owners and trainers who are licensed or required to be licensed under article two or four of the racing, pari-mutuel wagering and breeding law, at the time of any occurrence for which benefits are payable pursuant to this chapter in respect of the injury or death of such jockey, apprentice jockey [~~or~~], exercise person **or, if approved by the New York state gaming commission, employee of a licensed trainer or owner**. For the purpose of this chapter only, whether a livery driver's performance of covered services, as those terms are defined in article six-G of the executive law, constitutes "employment" shall be determined in accordance with section eighteen-c of this chapter.

§ 8. The opening paragraph of section 11 of the workers' compensation law, as amended by chapter 169 of the laws of 2007, is amended to read as follows:

The liability of an employer prescribed by the last preceding section shall be exclusive and in place of any other liability whatsoever, to such employee, his or her personal representatives, spouse, parents, dependents, distributees, or any person otherwise entitled to recover damages, contribution or indemnity, at common law or otherwise, on account of such injury or death or liability arising therefrom, except that if an employer fails to secure the payment of compensation for his or her injured employees and their dependents as provided in section fifty of this chapter, an injured employee, or his or her legal representative in case of death results from the injury, may, at his or her option, elect to claim compensation under this chapter, or to maintain an action in the courts for damages on account of such injury; and in such an action it shall not be necessary to plead or prove freedom from contributory negligence nor may the defendant plead as a defense that the injury was caused by the negligence of a fellow servant nor that the employee assumed the risk of his or her employment, nor that the injury was due to the contributory negligence of the employee. The liability

under this chapter of The New York Jockey Injury Compensation Fund, Inc. created under section two hundred [~~thirteen-a~~] twenty-one of the racing, pari-mutuel wagering and breeding law shall be limited to the provision of workers' compensation coverage to jockeys, apprentice jockeys [~~and~~], exercise persons, and at the election of the New York Jockey Injury Compensation Fund, Inc., with the approval of the New York state gaming commission, employees of licensed trainers or owners licensed under article two or four of the racing, pari-mutuel wagering and breeding law and any statutory penalties resulting from the failure to provide such coverage.

§ 9. Subdivision 4 of section 14-a of the workers' compensation law, as amended by chapter 169 of the laws of 2007, is amended to read as follows:

4. With respect to a jockey, apprentice jockey or exercise person licensed under article two or four of the racing, pari-mutuel wagering and breeding law, and at the election of the New York Jockey Injury Compensation Fund, Inc., with the approval of the New York state gaming commission, an employee of a licensed trainer or owner, who, pursuant to section two of this chapter, is an employee of all owners and trainers licensed or required to be licensed under article two or four of the racing, pari-mutuel wagering and breeding law and The New York Jockey Injury Compensation Fund, Inc., the owner or trainer for whom such jockey, apprentice jockey [~~or~~], exercise person or, if approved by the New York state gaming commission, employee of a licensed trainer or owner was performing services at the time of the accident shall be solely responsible for the double payments described in subdivision one of this section, to the extent that such payments exceed any amounts otherwise payable with respect to such jockey, apprentice jockey [~~or~~], exercise person or, if approved by the New York state gaming commission, employee of a licensed trainer or owner under any other section of this chapter, and the New York Jockey Injury Compensation Fund, Inc. shall have no responsibility for such excess payments, unless there shall be a failure of the responsible owner or trainer to pay such award within the time provided under this chapter. In the event of such failure to pay and the board requires the fund to pay the award on behalf of such owner or trainer who has been found to have violated this section, the fund shall be entitled to an award against such owner or trainer for the amount so paid which shall be collected in the same manner as an award of compensation.

§ 10. Section 18-a of the workers' compensation law, as amended by chapter 169 of the laws of 2007, is amended to read as follows:

§ 18-a. Notice: The New York Jockey Injury Compensation Fund, Inc. Wherever in this chapter it shall be required that notice be given to an employer, except for claims involving section fourteen-a of the workers' compensation law such notice requirement shall be deemed satisfied by giving notice to the New York Jockey Injury Compensation Fund, Inc., in connection with an injury to a jockey, apprentice jockey or exercise person licensed under article two or four of the racing, pari-mutuel wagering and breeding law, and at the election of the New York Jockey Injury Compensation Fund, Inc., with the approval of the New York state gaming commission, an employee of a licensed trainer or owner, who, pursuant to section two of this chapter, is an employee of all owners and trainers licensed or required to be licensed under article two or four of the racing, pari-mutuel wagering and breeding law and of the fund. In a claim involving section fourteen-a of the workers' compen-

sation law such required notice shall be given to the employing owner and/or trainer of the fund.

§ 11. Subdivision 8 of section 50 of the workers' compensation law, as amended by chapter 169 of the laws of 2007, is amended to read as follows:

8. The requirements of section ten of this chapter regarding the provision of workers' compensation insurance as to owners and trainers governed by the racing, pari-mutuel wagering and breeding law who are employers under section two of this chapter are satisfied in full by compliance with the requirements imposed upon owners and trainers by section two hundred [~~thirteen-a~~] twenty-one of the racing, pari-mutuel wagering and breeding law, provided that in the event double compensation, death benefits, or awards are payable with respect to an injured employee under section fourteen-a of this chapter, the owner or trainer for whom the injured jockey, apprentice jockey or exercise person licensed under article two or four of the racing, pari-mutuel wagering and breeding law, and at the election of the New York Jockey Injury Compensation Fund, Inc., with the approval of the New York state gaming commission, employee of a licensed trainer or owner, is performing services as a jockey, apprentice jockey or exercise person so licensed at the time of the accident or, if approved by the New York state gaming commission, an employee of a licensed trainer or owner shall bear the sole responsibility for the amount payable pursuant to such section fourteen-a in excess of the amount otherwise payable under this chapter, unless there shall be a failure of the responsible owner or trainer to pay such award within the time provided under this chapter. In the event of such failure to pay and the board requires the fund to pay the award on behalf of such owner or trainer who has been found to have violated section fourteen-a of this chapter, the fund shall be entitled to an award against such owner or trainer for the amount so paid which shall be collected in the same manner as an award of compensation. Coverage directly procured by any owner or trainer for the purpose of satisfying the requirements of this chapter with respect to employees of the owner or trainer shall not include coverage on any jockey, apprentice jockey or exercise person licensed under article two or four of the racing, pari-mutuel wagering and breeding law, and at the election of the New York Jockey Injury Compensation Fund, Inc., with the approval of the New York state gaming commission, any employee of a licensed trainer or owner, to the extent that such jockey, apprentice jockey [~~or~~], exercise person or, if approved by the New York state gaming commission, employee of a licensed trainer or owner is also covered under coverage procured by The New York Jockey Injury Compensation Fund, Inc. pursuant to the requirements of section two hundred [~~thirteen-a~~] twenty-one of the racing, pari-mutuel wagering and breeding law, and to that extent, coverage procured by the fund pursuant to the requirements of the racing, pari-mutuel wagering and breeding law shall be considered primary.

§ 12. This act shall take effect immediately.

PART FFFF

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

Section 1500. Legislative findings and purpose.

1501. Definitions.
1502. Authorization.
1503. Required safeguards/minimum standards.
1504. Scope of licensing review.
1505. State tax.
1506. Disposition of taxes.

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

2. A contest of chance is defined as any contest, game, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein. (Subdivision 1 of section 225.00 of the penal law). Thus, games of chance may involve some skill, but in those games the level of skill does not determine the outcome regardless of the degree of skill employed. See People v. Turner, 165 Misc. 2d 222, 224, 629 N.Y.S.2d 661, 662 (Crim. Ct. 1995). On the other hand, where a contest pits the skill levels of the players against each other, New York courts have found a game to be one of skill rather than chance. See People v. Hunt, 162 Misc. 2d 70, 72, 616 N.Y.S.2d 168, 170 (Crim. Ct. 1994) ("Played fairly, skill rather than chance is the material component of three-card monte.");

3. Poker in many instances has been defined as a game of skill and a New York federal court in U.S. v. DiCristina, 886 F. Supp. 2d 164, 224, assessed that under federal law poker was predominantly a game of skill;

4. New York courts have interpreted New York law to apply a more rigorous test in identifying a "contest of chance" than is applied by most states in this nation and the courts have found that where a contest pits the skill levels of the players against each other, those games are games of skill and not games of chance. Furthermore, the courts have not limited the legislature's ability to determine that certain forms of poker should fall outside the general definition of gambling since those games are games of skill;

5. Texas Hold'em poker involves two cards dealt face down to each player and then five community cards placed face-up by the dealer, a series of three, then two additional single cards, with players determining whether to check, bet, raise or fold after each deal. Omaha Hold'em poker is a similar game, in which each player is dealt four cards and makes his or her best hand using exactly two of them, plus exactly three of the five community cards. These games are considered to be complex forms of poker which involve player strategy and decision-making and which pit the skill levels of the players against each other. As games of skill, these forms of poker do not fall under the definition of gambling as prohibited by the penal law; and

6. The legislature further finds that as the internet has become an integral part of society, and internet poker a major form of entertainment for many consumers, any interactive gaming enforcement and regulatory structure must begin from the bedrock premise that participation in a lawful and licensed gaming industry is a privilege and not a right, and that regulatory oversight is intended to safeguard the integrity of the games and participants and to ensure accountability and the public trust.

§ 1501. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Authorized game" means Omaha Hold'em and Texas Hold'em poker, as well as any other poker game that the commission determines is the material equivalent of either of those, whether in a cash game or tournament.

2. "Authorized participants" means persons who are either physically present in this state when placing a wager or who otherwise are permitted by applicable law, as determined by the commission, to place a wager. The intermediate routing of electronic data in connection with interactive gaming shall not determine the location or locations in which a wager is initiated, received or otherwise made.

3. "Core function" means any of the following: (a) the management, administration or control of wagers on interactive gaming; (b) the management, administration or control of the games with which those wagers are associated; or (c) the development, maintenance, provision or operation of an interactive gaming platform.

4. "Commission" means the New York state gaming commission.

5. "Division" means the division of gaming, established under paragraph (c) of subdivision two of section one hundred three of this chapter.

6. "Interactive gaming" means the conduct of games through the use of the internet or other communications technology that allows a person, utilizing money, checks, electronic checks, electronic transfers of money, credit cards, debit cards or any other instrumentality, to transmit to a computer information to assist in the placing of a wager and corresponding information related to the display of the game, game outcomes or other similar information. The term does not include the conduct of (a) non-gambling games that do not otherwise require a license under state or federal law; or (b) games that occur entirely among participants who are located on a licensed casino premises. For purposes of this provision, "communications technology" means any method used and the components employed by an establishment to facilitate the transmission of information, including, without limitation, transmission and reception by systems based on wire, cable, radio, microwave, light, optics or computer data networks, including, without limitation, the internet and intranets.

7. "Interactive gaming gross revenue" means the total of all sums paid to a licensee from interactive gaming involving authorized participants, less only the total of all sums paid out as winnings to patrons and promotional gaming credits; provided, however, that the cash equivalent value of any merchandise or other non-cash thing of value included in a contest or tournament shall not be included in the total of all sums paid out as winnings to players for purposes of determining interactive gaming gross revenue.

(a) Neither amounts deposited with a licensee for purposes of interactive gaming nor amounts taken in fraudulent acts perpetrated against a licensee for which the licensee is not reimbursed shall be considered to have been "paid" to the licensee for purposes of calculating interactive gaming gross revenue.

(b) "Promotional gaming credit" includes bonuses, promotions and any amount received by a licensee from a patron for which the licensee can demonstrate that it or its affiliate has not received cash.

8. "Interactive gaming platform" means the combination of hardware, software and data networks used to manage, administer or control wagers

on interactive gaming or the games with which those wagers are associated.

9. "Internet" means a computer network of interoperable packet-switched data networks.

10. "Licensee" means a person who is licensed by the commission to offer interactive gaming, using an interactive gaming platform to authorized participants. A licensee may utilize multiple interactive gaming platforms provided that each platform is approved by the commission.

11. "Omaha Hold'em poker" means the poker game marketed as Omaha Hold'em poker or Omaha poker in which each player is dealt four cards and must make his or her best hand using exactly two of them, plus exactly three of the five community cards.

12. "Significant vendor" means any person who offers or who proposes to offer any of the following services with respect to interactive gaming: (a) a core function; (b) sale, licensing or other receipt of compensation for selling or licensing a database or customer list of individuals residing in the United States selected in whole or in part because they placed wagers or participated in gambling games with or through an internet website or operator (or any derivative of such a database or customer list); (c) provision of any trademark, tradename, service mark or similar intellectual property under which a licensee or significant vendor identifies interactive games to customers; or (d) provision of any product, service or asset to a licensee or significant vendor in return for a percentage of interactive gaming revenue (not including fees to financial institutions and payment providers for facilitating a deposit or withdrawal by an authorized participant). The term "significant vendor" shall not include a provider of goods or services to a licensee that are not specifically designed for use and not principally used in connection with interactive gaming.

13. "Texas Hold'em poker" means the type of poker marketed as Texas Hold'em poker that involves two cards being dealt face down to each player and then five community cards being placed face-up by the dealer, a series of three then two additional single cards, with players having the option to check, bet, raise or fold after each deal.

§ 1502. Authorization. 1. The commission shall, within one hundred eighty days of the date this article becomes law, promulgate regulations to implement interactive gaming in this state and shall authorize up to eleven licenses to operate interactive gaming involving authorized participants, subject to the provisions of this article and other applicable provisions of law.

2. Applicants eligible to apply for a license pursuant to this article shall be those entities:

(a) licensed by the state pursuant to section sixteen hundred seventeen-a of the tax law to operate video lottery gaming and has experience in the operation of interactive gaming by being licensed in a state with comparable licensing requirements or guarantees acquisition of adequate business competence and experience in the operation of interactive gaming; or

(b) licensed by the state to operate a class III gaming facility pursuant to article thirteen of this chapter and has experience in the operation of interactive gaming by being licensed in a state with comparable licensing requirements or guarantees acquisition of adequate business competence and experience in the operation of interactive gaming.

3. The commission shall, to the extent practicable, issue licenses to multiple applicants no sooner than one hundred eighty days after the

promulgation of regulations in order to ensure a robust and competitive market for consumers and to prevent early licensees from gaining an unfair competitive advantage.

4. No person may operate, manage or make available an interactive gaming platform or act as a significant vendor with respect to interactive gaming that is offered to persons located in this state unless licensed by the commission pursuant to this article and only those games authorized by the commission shall be permitted.

5. License applicants may form a partnership, joint venture or other contractual arrangement in order to facilitate the purposes of this article.

6. Any person found suitable by the commission may be issued a license as an operator or significant vendor pursuant to this article. In determining suitability, the commission shall consider those factors it deems relevant in its discretion, including but not limited to:

(a) Whether the applicant is a person of good character, honesty and integrity;

(b) Whether the applicant is person whose prior activities, criminal record, if any, reputation, habits and associations do not:

(i) pose a threat to the public interest or to the effective regulation and control of interactive gaming; or

(ii) create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of interactive gaming or in the carrying on of the business and financial arrangements incidental to such gaming;

(c) Whether the applicant is capable of and likely to conduct the activities for which the applicant is licensed in accordance with the provisions of this article, any regulations prescribed under this article and all other applicable laws;

(d) Whether the applicant has or guarantees acquisition of adequate business competence and experience in the operation of licensed gaming or of interactive gaming in this state or in a state with comparable licensing requirements; and

(e) Whether the applicant has or will obtain sufficient financing for the nature of the proposed operation and from a suitable source.

7. The commission further shall develop standards by which to evaluate and approve interactive gaming platforms for use with interactive gaming. Interactive gaming platforms must be approved by the commission before being used by a licensee or significant vendor to conduct interactive gaming in this state.

8. The commission shall require all licensees to pay a one-time fee of ten million dollars. Such fee paid by each licensee shall be applied to satisfy, in whole or in part, as applicable, that licensee's tax obligation pursuant to section fifteen hundred five of this article in sixty equal monthly installments, allocated to each of the first sixty months of tax owed after the licensee has begun operating interactive gaming pursuant to this article. No amounts not required to be used to satisfy such tax obligation during that period shall be allocated to payment of such tax obligation after that period.

9. Licenses issued by the commission shall remain in effect for ten years.

10. The commission, by regulation, may authorize and promulgate any rules necessary to implement agreements with other states, or authorized agencies thereof (a) to enable patrons in those states to participate in interactive gaming offered by licensees under this article or (b) to enable patrons in this state to participate in interactive gaming

offered by licensees under the laws of those other states, provided that such other state or authorized agency applies suitability standards and review materially consistent with the provisions of this article.

11. Any regulations adopted pursuant to subdivision ten of this section must set forth provisions that address:

(a) Any arrangements to share revenue between New York and any other state or agency within another state; and

(b) Arrangements to ensure the integrity of interactive gaming offered pursuant to any such agreement and the protection of patrons located in this state.

12. The commission may delegate its responsibilities to administer the provisions of this article to the division, as it sees fit, except for its responsibilities to approve licenses.

§ 1503. Required safeguards/minimum standards. The commission shall require licensees to implement measures to meet the standards set out in this section, along with such other standards that the commission in its discretion may choose to require.

(a) Appropriate safeguards to ensure, to a reasonable degree of certainty, that participants in interactive gaming are not younger than twenty-one years of age.

(b) Appropriate safeguards to ensure, to a reasonable degree of certainty, that participants in interactive gaming are physically located within the state or such other jurisdiction that the commission has determined to be permissible.

(c) Appropriate safeguards to protect, to a reasonable degree of certainty, the privacy and online security of participants in interactive gaming.

(d) Appropriate safeguards to ensure, to a reasonable degree of certainty, that the interactive gaming is fair and honest and that appropriate measures are in place to deter, detect and, to the extent reasonably possible, to prevent cheating, including collusion, and use of cheating devices, including use of software programs (sometimes referred to as "bots") that make bets or wagers according to algorithms.

(e) Appropriate safeguards to minimize compulsive gaming and to provide notice to participants of resources to help problem gamblers.

(f) Appropriate safeguards to ensure participants' funds are held in accounts segregated from the funds of licensees and otherwise are protected from corporate insolvency, financial risk or criminal or civil actions against the licensee.

§ 1504. Scope of licensing review. 1. In connection with any license issued pursuant to this article, the licensee, significant vendor or applicant shall identify and the commission shall review the suitability of such licensee's, significant vendor's or applicant's owner, chief executive officer, chief financial officer and any other officer or employee who the commission deems is significantly involved in the management or control of the licensee, significant vendor or applicant or of the interactive gaming platform. "Owner" for purposes of this provision means any person who directly or indirectly holds any beneficial or ownership interest in the applicant of five percent or greater or any amount of ownership that the commission determines to be significant ownership of the licensee, significant vendor, or applicant.

2. Institutional investors are subject to the provisions set out in this section.

(a) An institutional investor holding under twenty-five percent of the equity securities of a licensee's or significant vendor's (or applicant's) holding or intermediary companies, shall be granted a waiver of

any investigation of suitability or other requirement if such securities are those of a corporation, whether publicly traded or privately held, and its holdings of such securities were purchased for investment purposes only and it files a certified statement to the effect that it has no intention of influencing or affecting the affairs of the issuer, the licensee (or significant vendor or applicant, as applicable) or its holding or intermediary companies; provided, however, that it shall be permitted to vote on matters put to the vote of the outstanding security holders. The commission may grant such a waiver to an institutional investor holding a higher percentage of such securities upon a showing of good cause and if the conditions specified above are met. Any institutional investor granted a waiver under this paragraph which subsequently determines to influence or affect the affairs of the issuer shall provide not less than thirty days' notice of such intent and shall file with the commission a request for determination of suitability before taking any action that may influence or affect the affairs of the issuer; provided, however, that it shall be permitted to vote on matters put to the vote of the outstanding security holders. If an institutional investor changes its investment intent, or if the commission finds reasonable cause to believe that the institutional investor may be found unsuitable, no action other than divestiture shall be taken by such investor with respect to its security holdings until there has been compliance with any requirements established by the commission, which may include the execution of a trust agreement. The licensee (or significant vendor or applicant, as applicable) and its relevant holding, intermediary or subsidiary company shall notify the commission immediately of any information about, or actions of, an institutional investor holding its equity securities where such information or action may impact upon the eligibility of such institutional investor for a waiver pursuant to this paragraph.

(b) If at any time the commission finds that an institutional investor holding any security of a holding or intermediary company of a licensee or significant vendor or applicant, or, where relevant, of another subsidiary company of a holding or intermediary company of a licensee or significant vendor or applicant which is related in any way to the financing of the licensee or significant vendor or applicant, fails to comply with the terms of paragraph (a) of this section, or if at any time the commission finds that, by reason of the extent or nature of its holdings, an institutional investor is in a position to exercise such a substantial impact upon the controlling interests of a licensee or significant vendor or applicant that investigation and determination of suitability of the institutional investor is necessary to protect the public interest, the commission may take any necessary action otherwise authorized under this article to protect the public interest.

(c) For purposes of this section, an "institutional investor" shall mean any retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees; investment company registered under the Investment Company Act of 1940 (15 U.S.C. § 80a-1 et seq.); collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency; closed end investment trust; chartered or licensed life insurance company or property and casualty insurance company; banking and other chartered or licensed lending institution; investment advisor registered under The Investment Advisors Act of 1940 (15 U.S.C. § 80b-1 et seq.); and such other persons as the commission may determine for reasons consistent with the public interest.

§ 1505. State tax. Licensees engaged in the business of conducting interactive gaming pursuant to this article shall pay a privilege tax based on the licensee's interactive gaming gross revenue at a fifteen percent rate.

§ 1506. Disposition of taxes. The state shall use the revenue generated from all taxes imposed by this article; any interest and penalties imposed by the commission relating to those taxes; all penalties levied and collected by the commission; and the appropriate funds, case or prizes forfeited from interactive gaming, to pay for state assistance to eligible cities and eligible municipalities in which a video lottery gaming facility is located pursuant to section fifty-four-l of the state finance law. The commission shall pay into the state lottery fund any remaining funds generated by taxes imposed by this article; any interest and penalties imposed by the commission relating to those taxes; all penalties levied and collected by the commission; and the appropriate funds, cash or prizes forfeited from interactive gaming.

§ 2. Subdivision 1 of section 225.00 of the penal law is amended to read as follows:

1. "Contest of chance" means any contest, game, gaming scheme or gaming device in which the outcome depends [~~in a material degree~~] predominantly upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

§ 3. The penal law is amended by adding a new section 225.36 to read as follows:

§ 225.36 Interactive gaming offenses and exceptions.

1. The knowing and willful offering of unlicensed interactive gaming to persons in this state, or the knowing and willful provision of services with respect thereto, shall constitute a gambling offense under 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 GGGG

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. 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 upon the recommendation of 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 racetracks 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 State Gaming Commission dated September 1, 2016, shall

be the initial members of the racing fan advisory council as established by section one of this act.

PART HHHH

Section 1. Subparagraph (iii) of paragraph 1 of subdivision b of section 1612 of the tax law, as separately amended by chapters 174 and 175 of the laws of 2013, is amended to read as follows:

(iii) less an additional vendor's marketing allowance at a rate of [~~ten~~] twelve percent for the first one hundred million dollars annually and [~~eight~~] ten percent thereafter of the total revenue wagered at the vendor track after payout for prizes to be used by the vendor track for the marketing and promotion and associated costs of its video lottery gaming operations and pari-mutuel horse racing operations, as long as any such costs associated with pari-mutuel horse racing operations simultaneously encourage increased attendance at such vendor's video lottery gaming facilities, consistent with the customary manner of marketing comparable operations in the industry and subject to the overall supervision of the division; provided, however, that the additional vendor's marketing allowance shall not exceed [~~eight~~] ten percent in any year for any operator of a racetrack located in the county of Westchester or Queens; provided, however, a vendor track that receives a vendor fee pursuant to clause (G) of subparagraph (ii) of this paragraph shall not receive the additional vendor's marketing allowance; provided, however, except for a vendor track located west of State Route 14 from Sodus Point to the Pennsylvania border within New York shall continue to receive a marketing allowance of [~~ten~~] twelve percent on total revenue wagered at the vendor track after payout for prizes in excess of one hundred million dollars annually provided, however, a vendor that receives a vendor fee pursuant to clause (G-1) of subparagraph (ii) of this paragraph shall receive an additional marketing allowance at a rate of [~~ten~~] twelve percent of the total revenue wagered at the video lottery gaming facility after payout for prizes. In establishing the vendor fee,

§ 2. This act shall take effect immediately.

PART IIII

Section 1. Subparagraph (A) of paragraph 2 of subsection (t) of section 606 of the tax law, as amended by section 1 of part N of chapter 85 of the laws of 2002, is amended to read as follows:

(A) The term "allowable college tuition expenses" shall mean the amount of qualified college tuition expenses of eligible students paid by the taxpayer during the taxable year, limited to ten thousand dollars for each such student for taxable years beginning before two thousand seventeen. The amount of allowable college tuition expenses shall increase by an additional four thousand dollars from the previous taxable year, for each student, for each taxable year beginning on or after two thousand seventeen until taxable years beginning on and after two thousand twenty-seven when the amount of allowable college tuition expenses shall equal the amount from the previous taxable year;

§ 2. Paragraph 4 of subsection (t) of section 606 of the tax law, as added by section 1 of part DD of chapter 63 of the laws of 2000, is amended to read as follows:

(4) Amount of credit. [~~If~~] For taxable years beginning before two thousand seventeen, if allowable college tuition expenses are less than

five thousand dollars, the amount of the credit provided under this subsection shall be equal to the applicable percentage of the lesser of allowable college tuition expenses or two hundred dollars. [~~If~~] **For taxable years beginning before two thousand seventeen, if** allowable college tuition expenses are five thousand dollars or more, the amount of the credit provided under this subsection shall be equal to the applicable percentage of the allowable college tuition expenses multiplied by four percent. **For taxable years beginning on or after two thousand seventeen, the amount of the credit provided under this subsection shall be equal to the applicable percentage of the allowable college tuition expenses multiplied by five percent.** Such applicable percentage shall be twenty-five percent for taxable years beginning in two thousand one, fifty percent for taxable years beginning in two thousand two, seventy-five percent for taxable years beginning in two thousand three and one hundred percent for taxable years beginning after two thousand three.

§ 3. This act shall take effect immediately.

PART JJJJ

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

§ 682. College debt freedom account program. 1. There is hereby established the college debt freedom account program. Such program shall permit employees to deposit a portion of their pre-tax income pursuant to paragraph forty-two of subsection (c) of section six hundred twelve of the tax law, into an account solely intended for undergraduate student loan repayments. Employers may elect to participate in the program and 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.

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.

3. 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 participating employers shall provide the corporation with all necessary information in order to implement the provisions of this section.

4. Moneys in a student loan repayment account shall be available only for repayments of student loans as defined in this section. 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.

5. 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 42 to read as follows:

(42) Payment not in excess of twenty-five hundred dollars actually paid by an eligible borrower 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:

(A) "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.

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

§ 3. Section 210-B of the tax law is amended by adding a new subdivision 49 to read as follows:

49. College debt freedom account program tax credit. (a) General. An employer 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 section 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 (xliii) to read as follows:

(xliii) College debt freedom account program tax credit under subsection (ccc)	Amount of credit under subdivision forty-nine of section two hundred ten-B

§ 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 who contributes matching funds towards an employee's undergraduate student loan repayments, shall be allowed a credit, to be computed as provided in this subsection, 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 section shall be equal to the amount of the employer 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 subsection.

§ 6. Section 1511 of the tax law is amended by adding a new subdivision (dd) to read as follows:

(dd) College debt freedom account program tax credit. (1) General. An employer 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.

(2) Amount of credit. The credit authorized by this section 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.

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

PART KKKK

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

ARTICLE 17
ANNUAL SPENDING GROWTH CAP ACT

Section 244. Definitions.
245. Establishment of annual spending growth cap.
246. Provisions regarding declaration of emergency.

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

1. "Annual spending growth cap" shall mean a percentage determined by adding the inflation rates from each of the three calendar years immediately prior to the commencement of a given fiscal year and then dividing that sum by three.

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

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

4. "Executive budget" shall mean the budget submitted annually by the governor pursuant to section one of article VII of the state constitution.

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

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

§ 245. Establishment of annual spending growth cap. 1. There is hereby established an annual spending growth cap.

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

Section 1. Section 1325 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:

§ 1325. Approval, denial and renewal of employee licenses and registrations. 1. Upon the filing of an application for a casino key employee license or gaming employee registration required by this article and after submission of such supplemental information as the commission may require, the commission shall request the division of state police to conduct [~~or cause to be conducted such~~] an investigation into the qualification of the applicant, and the commission shall conduct such hearings concerning the qualification of the applicant, in accordance with its regulations, as may be necessary to determine qualification for such license.

1-a. The cost of any such investigation shall be borne by the gaming facility that initially employs or extends employment to a licensee pursuant to this title after the approval or renewal of a license pursuant to this title and shall be paid in a time and manner determined by the commission.

2. After such investigation, the commission may either deny the application or grant a license to an applicant whom it determines to be qualified to hold such license.

3. The commission shall have the authority to deny any application pursuant to the provisions of this article following notice and opportunity for hearing.

4. When the commission grants an application, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest.

5. After an application for a casino key employee license is submitted, final action of the commission shall be taken within ninety days after completion of all hearings and investigations and the receipt of all information required by the commission.

6. Licenses and registrations of casino key employees and gaming employees issued pursuant to this article shall remain valid for five years unless suspended, revoked or voided pursuant to law. Such licenses and registrations may be renewed by the holder thereof upon application, on a form prescribed by the commission, and payment of the applicable fee. Notwithstanding the forgoing, if a gaming employee registrant has not been employed in any position within a gaming facility for a period of three years, the registration of that gaming employee shall lapse.

[~~8~~] 7. The commission shall establish by regulation appropriate fees to be paid upon the filing of the required applications. Such fees shall be deposited into the commercial gaming revenue fund.

§ 2. This act shall take effect immediately.

PART MMMM

Section 1. Section 1604 of the tax law is amended by adding four new subdivisions d, e, f and g to read as follows:

d. The division may contract with one or more persons to allow the placement of advertising or promotional material on available media related to any online lottery game or to sponsor individual draws in any online lottery game. If the division enters into a contract under this subdivision, the division shall allow at least one minute between draws of online lottery games during which one or more advertisements may be exhibited.

e. A contract entered into under subdivision d of this section shall provide that any advertisements exhibited between draws of online lottery games shall comply with content regulations for televised broadcast adopted by the Federal Communications Commission, with the exception that the advertising under subdivision d of this section may include advertisements for alcoholic beverages with restrictions imposed only by the division.

f. The division shall solicit bids from responsible persons for advertising or promotional contracts under subdivision d of this section. The division shall select from among the bids received so as to produce the maximum amount of net revenue for the state consistent with the general welfare of the citizens of the state. In deciding whether to enter into a contract under subdivision d of this section, the division shall consider whether the terms of the contract are comparable to the terms of similar advertising or promotional contracts relating to lottery or other gaming in other states.

g. The division, subject to applicable laws relating to public contracts, may enter into contracts with one or more persons to allow the placement of advertising or promotional material, including but not limited to, the placement of discount coupons for retail goods, on lottery tickets, shares, and other available media under the control of the division. However, except for advertising that promotes responsible consumption of alcoholic beverages, the division shall not allow the placement of advertising for the promotion of the consumption of alco-

holic beverages or tobacco products on lottery tickets under the control of the division.

§ 2. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

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