

STATE OF NEW YORK

S. 2009

A. 3009

SENATE - ASSEMBLY

January 23, 2017

IN SENATE -- 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

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend the alcoholic beverage control law, in relation to the creation of a special license to sell alcoholic beverages at retail for consumption off the premises (Part A); to amend the alcoholic beverage control law, in relation to alcohol in certain motion picture theatres, and providing for the expiration and repeal of such provisions upon the expiration thereof (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 financial law relating thereto (Part C); to amend the real property tax law, in relation to the maximum amount of tax savings allowable under the STAR program (Part D); to amend the real property tax law and the tax law, in relation to making the STAR income verification program mandatory; and repealing certain provisions of such laws relating thereto (Part E); to amend the real property tax law, in relation to authorizing partial payments of property taxes (Part F); to amend the tax law, in relation to the STAR personal income tax credit (Part G); to amend the real property tax law and the tax law, in relation to the applicability of the STAR credit to cooperative apartment corporations; and repealing certain provisions of the tax law relating thereto (Part H); to amend chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, in relation to the effectiveness thereof (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); to amend the economic development law, in relation to the employee training incentive program (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); to amend the labor law and

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

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the tax law, in relation to a program to provide tax incentives for employers employing at risk youth (Part N); to amend the tax law, in relation to extending the alternative fuels and electric vehicle recharging property credit for five years (Part O); to amend the tax law, in relation to the investment tax credit (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); to amend the tax law, in relation to extending the top personal income tax rate for three years; and to repeal subparagraph (B) of paragraph 1 of subsection (a), subparagraph (B) of paragraph 1 of subsection (b) and subparagraph (B) of paragraph 1 of subsection (c) of section 601 of the tax law, relating to the imposition of tax (Part R); to amend the tax law and the administrative code of the city of New York, in relation to permanently extending the high income charitable contribution deduction limitation (Part S); to amend the tax law, in relation to increasing the child and dependent care tax credit (Part T); to amend the tax law, in relation to the financial institution data match system for state tax collection purposes (Part U); to amend the civil service law and the tax law, in relation to tax clearances for applicants for civil service employment (Part V); to amend chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to apportioning premium for certain policies; to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending certain provisions concerning the hospital excess liability pool; and to amend the tax law, in relation to extending certain provisions concerning the hospital excess liability pool and requiring a tax clearance for doctors and dentists to be eligible for such excess coverage (Part W); to amend chapter 59 of the laws of 2013, amending the tax law relating to serving an income execution with respect to individual tax debtors without filing a warrant, in relation to making the provisions authorizing service of income executions on individual tax debtors without filing a warrant permanent (Part X); to amend the tax law, in relation to the taxation of S corporations; and to repeal certain provisions of such law relating thereto (Part Y); to amend the tax law, in relation to the definition of New York source income (Part Z); to close the nonresident partnership asset sale loophole (Part AA); to amend the tax law, in relation to requiring marketplace providers to collect sales tax (Part BB); to amend the tax law, in relation to closing the existing tax loopholes for transactions between related entities under article 28 and pursuant to the authority of article 29 of such law (Part CC); to amend the tax law, in relation to clarifying the imposition of sales tax on gas service or electric service of whatever nature (Part DD); to amend the tax law and the county law, in relation to the imposition of a surcharge on prepaid wireless communications service and devices (Part EE); to amend the public health law and the education law, in relation to tobacco products, herbal cigarettes, and vapor products; and to amend the tax law, in relation to imposing a tax on vapor products (Part FF); to amend the tax law in relation to the amount of untaxed cigarettes required to seize a vehicle and to increase the penalty for the possession or sale of counterfeit tax stamps or the device necessary to manufacture such stamps (Part GG); to amend the tax law, in relation to authorizing jeopardy assessments

on cigarette and tobacco product taxes assessed under article 20 thereof (Part HH); to amend the tax law, in relation to the imposition of a tax on cigars under article 20 thereof (Part II); to amend the tax law, in relation to the definition of a conveyance for real estate transfer taxes (Part JJ); to amend the tax law, in relation to the additional real estate transfer tax (Part KK); to amend the racing, pari-mutuel wagering and breeding law, in relation to modifying the funding of and improve the operation of drug testing in horse racing (Part LL); to amend the racing, pari-mutuel wagering and breeding law, the executive law, and the general municipal law, in relation to the operation of charitable gaming; to amend the social services law, in relation to penalties for 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, the general municipal law and the tax law relating thereto (Part MM); to amend the racing, pari-mutuel wagering and breeding law, in relation to allowing for the reprivatization of NYRA, and under certain circumstances racing after sunset and a reduction in winter racing days (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); and 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)

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

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

12

PART A

1 Section 1. The alcoholic beverage control law is amended by adding a
2 new section 63-b to read as follows:

3 § 63-b. Special license to sell alcoholic beverages at retail for
4 consumption off the premises. 1. Any person with a written agreement
5 with the department of agriculture and markets to operate a "Taste NY"
6 store may make application to the authority for a special license to
7 sell alcoholic beverages at retail for consumption off the licensed
8 premises subject to the provisions of such written agreement and those
9 set forth herein. Notwithstanding any law to the contrary, no alcoholic
10 beverage shall be sold or tastings allowed on the thruway.

11 2. An application for a license under this section shall be in such
12 form and shall contain such information as shall be required by the
13 authority and shall be accompanied by a check or draft in the amount
14 required by this chapter.

15 3. Section fifty-four of this chapter shall control so far as is
16 applicable to the procedure in connection with such application.

17 4. A license under this section shall be issued to all eligible appli-
18 cants except for good cause shown, provided, however, that no more than
19 ten such licenses shall be in effect at any time, and that all such
20 licenses shall be issued in a manner consistent with federal law and
21 regulations. Such license shall be limited to the premises subject to
22 the written agreement with the department of agriculture and markets.

23 5. A license under this section shall not be subject to the provisions
24 of subdivisions two, three and six of section one hundred five of this
25 chapter.

26 6. Subject to any further restriction contained in the agreement with
27 the department of agriculture and markets, the holder of a license
28 issued under this section may offer samples of alcoholic beverages to
29 customers to be consumed on the licensed premises upon the following
30 conditions:

31 (a) no fee shall be charged for any sample;

32 (b) each sample shall be limited;

33 (i) in the case of beer, wine products and cider, to three ounces or
34 less;

35 (ii) in the case of wine, to two ounces;

36 (iii) in the case of liquor, to one-quarter ounce;

37 (c) no sample shall be provided to a customer during the hours prohib-
38 ited by the provisions of subdivision five of section one hundred six of
39 this chapter; and

40 (d) no customer may be provided with more than three samples in one
41 calendar day.

42 7. Subject to any further restriction contained in the agreement with
43 the department of agriculture and markets, the holder of a license
44 issued under this section shall not:

45 (a) offer any tastings of, or sell, any beer or cider except during
46 the hours in which beer may be sold for consumption off the premises in
47 the county in which the licensed premises is located; and

48 (b) offer any tastings of, or sell, any liquor or wine except during
49 the hours in which liquor and wine may be sold for consumption off the
50 premises in the county in which the licensed premises is located.

51 8. In addition to the sale of alcoholic beverages, the following items
52 may be sold at a premises licensed under this section:

53 (a) non-alcoholic beverages for consumption off premises, including
54 but not limited to bottled water, juice and soda beverages;

55 (b) food items grown or produced in this state not specifically
56 prepared for immediate consumption upon the premises; and

1 (c) souvenir items, which shall include, but not be limited to
2 artwork, crafts, clothing, agricultural products and any other articles
3 which can be construed to propagate tourism within the state.

4 9. A license issued under this section shall be effective for three
5 years at three times the annual fee.

6 § 2. Subdivision 3 of section 17 of the alcoholic beverage control
7 law, as amended by section 3 of chapter 297 of the laws of 2016, is
8 amended to read as follows:

9 3. To revoke, cancel or suspend for cause any license or permit issued
10 under this chapter and/or to impose a civil penalty for cause against
11 any holder of a license or permit issued pursuant to this chapter. Any
12 civil penalty so imposed shall not exceed the sum of ten thousand
13 dollars as against the holder of any retail permit issued pursuant to
14 sections ninety-five, ninety-seven, ninety-eight, ninety-nine-d, and
15 paragraph f of subdivision one of section ninety-nine-b of this chapter,
16 and as against the holder of any retail license issued pursuant to
17 sections fifty-three-a, fifty-four, fifty-four-a, fifty-five, fifty-
18 five-a, sixty-three, sixty-three-b, sixty-four, sixty-four-a, sixty-
19 four-b, sixty-four-c, seventy-six-f, seventy-nine, eighty-one and eight-
20 y-one-a of this chapter, and the sum of thirty thousand dollars as
21 against the holder of a license issued pursuant to sections fifty-three,
22 sixty-one-a, sixty-one-b, seventy-six, seventy-six-a, and seventy-eight
23 of this chapter, provided that the civil penalty against the holder of a
24 wholesale license issued pursuant to section fifty-three of this chapter
25 shall not exceed the sum of ten thousand dollars where that licensee
26 violates provisions of this chapter during the course of the sale of
27 beer at retail to a person for consumption at home, and the sum of one
28 hundred thousand dollars as against the holder of any license issued
29 pursuant to sections fifty-one, sixty-one, and sixty-two of this chap-
30 ter. Any civil penalty so imposed shall be in addition to and separate
31 and apart from the terms and provisions of the bond required pursuant to
32 section one hundred twelve of this chapter. Provided that no appeal is
33 pending on the imposition of such civil penalty, in the event such civil
34 penalty imposed by the division remains unpaid, in whole or in part,
35 more than forty-five days after written demand for payment has been sent
36 by first class mail to the address of the licensed premises, a notice of
37 impending default judgment shall be sent by first class mail to the
38 licensed premises and by first class mail to the last known home address
39 of the person who signed the most recent license application. The notice
40 of impending default judgment shall advise the licensee: (a) that a
41 civil penalty was imposed on the licensee; (b) the date the penalty was
42 imposed; (c) the amount of the civil penalty; (d) the amount of the
43 civil penalty that remains unpaid as of the date of the notice; (e) the
44 violations for which the civil penalty was imposed; and (f) that a judg-
45 ment by default will be entered in the supreme court of the county in
46 which the licensed premises are located, or other court of civil juris-
47 diction or any other place provided for the entry of civil judgments
48 within the state of New York unless the division receives full payment
49 of all civil penalties due within twenty days of the date of the notice
50 of impending default judgment. If full payment shall not have been
51 received by the division within thirty days of mailing of the notice of
52 impending default judgment, the division shall proceed to enter with
53 such court a statement of the default judgment containing the amount of
54 the penalty or penalties remaining due and unpaid, along with proof of
55 mailing of the notice of impending default judgment. The filing of such
56 judgment shall have the full force and effect of a default judgment duly

1 docketed with such court pursuant to the civil practice law and rules
2 and shall in all respects be governed by that chapter and may be
3 enforced in the same manner and with the same effect as that provided by
4 law in respect to execution issued against property upon judgments of a
5 court of record. A judgment entered pursuant to this subdivision shall
6 remain in full force and effect for eight years notwithstanding any
7 other provision of law.

8 § 3. Subdivision 3 of section 17 of the alcoholic beverage control
9 law, as amended by section 4 of chapter 297 of the laws of 2016, is
10 amended to read as follows:

11 3. To revoke, cancel or suspend for cause any license or permit issued
12 under this chapter and/or to impose a civil penalty for cause against
13 any holder of a license or permit issued pursuant to this chapter. Any
14 civil penalty so imposed shall not exceed the sum of ten thousand
15 dollars as against the holder of any retail permit issued pursuant to
16 sections ninety-five, ninety-seven, ninety-eight, ninety-nine-d, and
17 paragraph f of subdivision one of section ninety-nine-b of this chapter,
18 and as against the holder of any retail license issued pursuant to
19 sections fifty-three-a, fifty-four, fifty-four-a, fifty-five, fifty-
20 five-a, sixty-three, sixty-three-b, sixty-four, sixty-four-a, sixty-
21 four-b, sixty-four-c, seventy-six-f, seventy-nine, eighty-one, and
22 eighty-one-a of this chapter, and the sum of thirty thousand dollars as
23 against the holder of a license issued pursuant to sections fifty-three,
24 sixty-one-a, sixty-one-b, seventy-six, seventy-six-a and seventy-eight
25 of this chapter, provided that the civil penalty against the holder of a
26 wholesale license issued pursuant to section fifty-three of this chapter
27 shall not exceed the sum of ten thousand dollars where that licensee
28 violates provisions of this chapter during the course of the sale of
29 beer at retail to a person for consumption at home, and the sum of one
30 hundred thousand dollars as against the holder of any license issued
31 pursuant to sections fifty-one, sixty-one and sixty-two of this chapter.
32 Any civil penalty so imposed shall be in addition to and separate and
33 apart from the terms and provisions of the bond required pursuant to
34 section one hundred twelve of this chapter. Provided that no appeal is
35 pending on the imposition of such civil penalty, in the event such civil
36 penalty imposed by the division remains unpaid, in whole or in part,
37 more than forty-five days after written demand for payment has been sent
38 by first class mail to the address of the licensed premises, a notice of
39 impending default judgment shall be sent by first class mail to the
40 licensed premises and by first class mail to the last known home address
41 of the person who signed the most recent license application. The notice
42 of impending default judgment shall advise the licensee: (a) that a
43 civil penalty was imposed on the licensee; (b) the date the penalty was
44 imposed; (c) the amount of the civil penalty; (d) the amount of the
45 civil penalty that remains unpaid as of the date of the notice; (e) the
46 violations for which the civil penalty was imposed; and (f) that a judg-
47 ment by default will be entered in the supreme court of the county in
48 which the licensed premises are located, or other court of civil juris-
49 diction, or any other place provided for the entry of civil judgments
50 within the state of New York unless the division receives full payment
51 of all civil penalties due within twenty days of the date of the notice
52 of impending default judgment. If full payment shall not have been
53 received by the division within thirty days of mailing of the notice of
54 impending default judgment, the division shall proceed to enter with
55 such court a statement of the default judgment containing the amount of
56 the penalty or penalties remaining due and unpaid, along with proof of

mailing of the notice of impending default judgment. The filing of such judgment shall have the full force and effect of a default judgment duly docketed with such court pursuant to the civil practice law and rules and shall in all respects be governed by that chapter and may be enforced in the same manner and with the same effect as that provided by law in respect to execution issued against property upon judgments of a court of record. A judgment entered pursuant to this subdivision shall remain in full force and effect for eight years notwithstanding any other provision of law.

§ 4. Subdivision 1 of section 56-a of the alcoholic beverage control law, as amended by chapter 422 of the laws of 2016, is amended to read as follows:

1. In addition to the annual fees provided for in this chapter, there shall be paid to the authority with each initial application for a license filed pursuant to section fifty-one, fifty-one-a, fifty-two, fifty-three, fifty-eight, fifty-eight-c, fifty-eight-d, sixty-one, sixty-two, seventy-six, seventy-seven or seventy-eight of this chapter, a filing fee of four hundred dollars; with each initial application for a license filed pursuant to section sixty-three, sixty-three-b, sixty-four, sixty-four-a or sixty-four-b of this chapter, a filing fee of two hundred dollars; with each initial application for a license filed pursuant to section fifty-three-a, fifty-four, fifty-five, fifty-five-a, seventy-nine, eighty-one or eighty-one-a of this chapter, a filing fee of one hundred dollars; with each initial application for a permit filed pursuant to section ninety-one, ninety-one-a, ninety-two, ninety-two-a, ninety-three, ninety-three-a, if such permit is to be issued on a calendar year basis, ninety-four, ninety-five, ninety-six or ninety-six-a, or pursuant to paragraph b, c, e or j of subdivision one of section ninety-nine-b of this chapter if such permit is to be issued on a calendar year basis, or for an additional bar pursuant to subdivision four of section one hundred of this chapter, a filing fee of twenty dollars; and with each application for a permit under section ninety-three-a of this chapter, other than a permit to be issued on a calendar year basis, section ninety-seven, ninety-eight, ninety-nine, or ninety-nine-b of this chapter, other than a permit to be issued pursuant to paragraph b, c, e or j of subdivision one of section ninety-nine-b of this chapter on a calendar year basis, a filing fee of ten dollars.

§ 5. Subdivision 2 of section 56-a of the alcoholic beverage control law, as amended by chapter 422 of the laws of 2016, is amended to read as follows:

2. In addition to the annual fees provided for in this chapter, there shall be paid to the authority with each renewal application for a license filed pursuant to section fifty-one, fifty-one-a, fifty-two, fifty-three, fifty-eight, fifty-eight-c, fifty-eight-d, sixty-one, sixty-two, seventy-six, seventy-seven or seventy-eight of this chapter, a filing fee of one hundred dollars; with each renewal application for a license filed pursuant to section sixty-three, sixty-three-b, sixty-four, sixty-four-a or sixty-four-b of this chapter, a filing fee of ninety dollars; with each renewal application for a license filed pursuant to section seventy-nine, eighty-one or eighty-one-a of this chapter, a filing fee of twenty-five dollars; and with each renewal application for a license or permit filed pursuant to section fifty-three-a, fifty-four, fifty-five, fifty-five-a, ninety-one, ninety-one-a, ninety-two, ninety-two-a, ninety-three, ninety-three-a, if such permit is issued on a calendar year basis, ninety-four, ninety-five, ninety-six or ninety-six-a of this chapter or pursuant to paragraph b, c, e or j of subdivi-

1 sion one of section ninety-nine-b, if such permit is issued on a calen-
2 dar year basis, or with each renewal application for an additional bar
3 pursuant to subdivision four of section one hundred of this chapter, a
4 filing fee of thirty dollars.

5 § 6. Section 66 of the alcoholic beverage control law is amended by
6 adding a new subdivision 11 to read as follows:

7 11. The annual fee for a special license to sell alcoholic beverages
8 at retail for consumption off the licensed premises shall be five
9 hundred dollars.

10 § 7. Section 67 of the alcoholic beverage control law, as amended by
11 section 4 of part Z of chapter 85 of the laws of 2002, is amended to
12 read as follows:

13 § 67. License fees, duration of licenses; fee for part of year.
14 Effective April first, nineteen hundred eighty-three, licenses issued
15 pursuant to sections sixty-one, sixty-two, sixty-three, sixty-three-b,
16 sixty-four, sixty-four-a and sixty-four-b of this article shall be
17 effective for three years at three times that annual fee[~~, except that,~~
18 ~~in implementing the purposes of this section, the liquor authority shall~~
19 ~~schedule the commencement dates, duration and expiration dates thereof~~
20 ~~to provide for an equal cycle of license renewals issued under each such~~
21 ~~section through the course of the fiscal year. Effective December first,~~
22 ~~nineteen hundred ninety eight, licenses issued pursuant to sections~~
23 ~~sixty-four, sixty-four-a and sixty-four-b of this article shall be~~
24 ~~effective for two years at two times that annual fee, except that, in~~
25 ~~implementing the purposes of this section, the liquor authority shall~~
26 ~~schedule the commencement dates, duration and expiration dates thereof~~
27 ~~to provide for an equal cycle of license renewals issued under each such~~
28 ~~section through the course of the fiscal year. Notwithstanding the fore-~~
29 ~~going, commencing on December first, nineteen hundred ninety-eight and~~
30 ~~concluding on July thirty first, two thousand two, a licensee issued a~~
31 ~~license pursuant to section sixty four, sixty four a or sixty four b of~~
32 ~~this article may elect to remit the fee for such license in equal annual~~
33 ~~installments. Such installments shall be due on dates established by the~~
34 ~~liquor authority and the failure of a licensee to have remitted such~~
35 ~~annual installments after a due date shall be a violation of this chap-~~
36 ~~ter. For licenses issued for less than the three year licensing period,~~
37 ~~the license fee shall be levied on a pro-rated basis]. The entire~~
38 license fee shall be due and payable at the time of application. The
39 liquor authority may make such rules as shall be appropriate to carry
40 out the purpose of this section.

41 § 8. Subdivision 8 of section 100 of the alcoholic beverage control
42 law, as added by chapter 256 of the laws of 1978 and as renumbered by
43 chapter 466 of the laws of 2015, is amended to read as follows:

44 8. Within ten days after filing a new application to sell liquor at
45 retail under section sixty-three, sixty-three-b, sixty-four,
46 sixty-four-a or sixty-four-b of this chapter, a notice thereof, in the
47 form prescribed by the authority, shall be posted by the applicant in a
48 conspicuous place at the entrance to the proposed premises. The appli-
49 cant shall make reasonable efforts to insure such notice shall remain
50 posted throughout the pendency of the application. The provisions hereof
51 shall apply only where no retail liquor license has previously been
52 granted for the proposed premise and shall, specifically, not be appli-
53 cable to a proposed sale of an existing business engaged in the retail
54 sale of liquor. The authority may adopt such rules it may deem necessary
55 to carry out the purpose of this subdivision.

§ 9. This act shall take effect on the thirtieth day after it shall have become a law; provided, however, that:

(a) the amendments to subdivision 3 of section 17 of the alcoholic beverage control law made by section two of this act shall be subject to the expiration and reversion of such section pursuant to section 4 of chapter 118 of the laws of 2012, as amended, when upon such date the provisions of section three of this act shall take effect; and

(b) if chapter 422 of the laws of 2016 shall not have taken effect on or before such date then sections four and five of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2016, takes effect.

PART B

Section 1. Section 106 of the alcoholic beverage control law is amended by adding a new subdivision 16 to read as follows:

16. A person holding a retail on-premises license for a movie theatre, other than a license for a movie theatre that meets the definitions of restaurant and meals, and where all seating is at tables where meals are served, shall:

(a) for every purchase of an alcoholic beverage, require the purchaser to provide written evidence of age as set forth in paragraph (b) of subdivision two of section sixty-five-b of this chapter; and

(b) allow the purchase of only one alcoholic beverage per transaction; and

(c) only permit the sale or delivery of alcoholic beverages directly to an individual holding a ticket for a motion picture with a Motion Picture Association of America rating of "PG-13," "R," or "NC-17"; and

(d) not commence the sale of alcoholic beverages until one hour prior to the start of the first motion picture, and cease all sales of alcoholic beverages after the conclusion of the final motion picture.

§ 2. Subdivision 6 of section 64-a of the alcoholic beverage control law, as amended by chapter 475 of the laws of 2011, is amended to read as follows:

6. No special on-premises license shall be granted except for premises in which the principal business shall be (a) the sale of food or beverages at retail for consumption on the premises or (b) the operation of a legitimate theatre, including a motion picture theatre that is a building or facility which is regularly used and kept open primarily for the exhibition of motion pictures for at least five out of seven days a week, or on a regular seasonal basis of no less than six contiguous weeks, to the general public where all auditorium seating is permanently affixed to the floor and at least sixty-five percent of the motion picture theatre's annual gross revenues is the combined result of admission revenue for the showing of motion pictures and the sale of food and non-alcoholic beverages, or such other lawful adult entertainment or recreational facility as the liquor authority, giving due regard to the convenience of the public and the strict avoidance of sales prohibited by this chapter, shall by regulation classify for eligibility. ~~[Nothing contained in this subdivision shall be deemed to authorize the issuance of a license to a motion picture theatre, except those meeting the definition of restaurant and meals, and where all seating is at tables where meals are served.]~~

§ 3. Subdivision 8 of section 64-a of the alcoholic beverage control law, as added by chapter 531 of the laws of 1964, is amended to read as follows:

1 8. Every special on-premises licensee shall regularly keep food avail-
2 able for sale to its customers for consumption on the premises. The
3 availability of sandwiches, soups or other foods, whether fresh, proc-
4 essed, pre-cooked or frozen, shall be deemed compliance with this
5 requirement.

6 For motion picture theatres licensed under paragraph (b)
7 of subdivision six of this section, food that is typically found in a
8 motion picture theatre, including but not limited to: popcorn, candy,
9 and light snacks, shall be deemed to be in compliance with this require-

10 ment. The licensed premises shall comply at all times with all the regu-
11 lations of the local department of health. Nothing contained in this
12 subdivision, however, shall be construed to require that any food be
13 sold or purchased with any liquor, nor shall any rule, regulation or
14 standard be promulgated or enforced requiring that the sale of food be
15 substantial or that the receipts of the business other than from the
16 sale of liquor equal any set percentage of total receipts from sales
17 made therein.

18 § 4. Subdivision 9 of section 64-a of the alcoholic beverage control
19 law, as added by chapter 531 of the laws of 1964, is amended to read as
20 follows:

21 9. In the case of a motion picture theatre applying for a license
22 under this section, any municipality required to be notified under
23 section one hundred ten-b of this chapter may express an opinion with
24 respect to whether the application should be approved, and such opinion
25 may be considered in determining whether good cause exists to deny any
26 such application.

27 10. The liquor authority may make such rules as it deems necessary to
28 carry out the provisions of this section.

29 § 5. This act shall take effect immediately and shall expire and be
30 deemed repealed 3 years after such date.

30 PART C

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

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

36 (ggg) School tax reduction credit for residents of a city with a popu-
37 lation over one million. (1) For taxable years beginning after two thou-
38 sand fifteen, a school tax reduction credit shall be allowed to a resi-
39 dent individual of the state who is a resident of a city with a
40 population over one million, as provided below. The credit shall be
41 allowed against the taxes authorized by this article reduced by the
42 credits permitted by this article. If the credit exceeds the tax as so
43 reduced, the excess shall be treated as an overpayment of tax to be
44 credited or refunded in accordance with the provisions of section six
45 hundred eighty-six of this article, provided however, that no interest
46 will be paid thereon. For purposes of this subsection, no credit shall
47 be granted to an individual with respect to whom a deduction under
48 subsection (c) of section one hundred fifty-one of the internal revenue
49 code is allowable to another taxpayer for the taxable year.

50 (2) The amount of the credit under this [paragraph] subsection shall
51 be determined based upon the taxpayer's income as defined in subpara-
52 graph (ii) of paragraph (b) of subdivision four of section four hundred
53 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:

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

(B) For a head of household:

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

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

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

[~~(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:

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

(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:

<u>If the city taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$14,400</u>	<u>2.7% of the city taxable income</u>
<u>Over \$14,400 but not over \$30,000</u>	<u>\$389 plus 3.3% of excess over \$14,400</u>
<u>Over \$30,000 but not</u>	<u>\$904 plus 3.35% of excess</u>

1	<u>over \$60,000</u>	<u>over \$30,000</u>
2	<u>Over \$60,000</u>	<u>\$1,909 plus 3.4% of excess</u>
3		<u>over \$60,000</u>

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

6	If the city taxable income is:	The tax is:
7	Not over \$14,400	2.55% of the city taxable income
8	Over \$14,400 but not	\$367 plus 3.1% of excess
9	over \$30,000	over \$14,400
10	Over \$30,000 but not	\$851 plus 3.15% of excess
11	over \$60,000	over \$30,000
12	Over \$60,000 but not	\$1,796 plus 3.2% of excess
13	over \$500,000	over \$60,000
14	Over \$500,000	\$16,869 plus 3.4% of excess
15		over \$500,000

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

18	If the city taxable income is:	The tax is:
19	Not over \$14,400	2.55% of the city taxable income
20	Over \$14,400 but not	\$367 plus 3.1% of excess
21	over \$30,000	over \$14,400
22	Over \$30,000 but not	\$851 plus 3.15% of excess
23	over \$60,000	over \$30,000
24	Over \$60,000 but not	\$1,796 plus 3.2% of excess
25	over \$500,000	over \$60,000
26	Over \$500,000	\$15,876 plus 3.4% of excess
27		Over \$500,000

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

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

38	<u>If the city taxable income is:</u>	<u>The tax is:</u>
39	<u>Not over \$12,000</u>	<u>2.7% of the city taxable income</u>
40	<u>Over \$12,000 but not</u>	<u>\$324 plus 3.3% of excess</u>
41	<u>over \$25,000</u>	<u>over \$12,000</u>
42	<u>Over \$25,000 but not</u>	<u>\$753 plus 3.35% of excess</u>
43	<u>over \$50,000</u>	<u>over \$25,000</u>
44	<u>Over \$50,000</u>	<u>\$1,591 plus 3.4% of excess</u>
45		<u>over \$50,000</u>

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

1 If the city taxable income is: The tax is:
2 Not over \$12,000 2.55% of the city taxable income
3 Over \$12,000 but not \$306 plus 3.1% of excess
4 over \$25,000 over \$12,000
5 Over \$25,000 but not \$709 plus 3.15% of excess
6 over \$50,000 over \$25,000
7 Over \$50,000 but not \$1,497 plus 3.2% of excess
8 over \$500,000 over \$50,000
9 Over \$500,000 \$16,891 plus 3.4%
10 of excess over \$500,000
11 ~~[(B)]~~ (C) For taxable years beginning after two thousand nine and
12 before two thousand fifteen:

13 If the city taxable income is: The tax is:
14 Not over \$12,000 2.55% of the city taxable income
15 Over \$12,000 but not \$306 plus 3.1% of excess
16 over \$25,000 over \$12,000
17 Over \$25,000 but not \$709 plus 3.15% of excess
18 over \$50,000 over \$25,000
19 Over \$50,000 but not \$1,497 plus 3.2% of excess
20 over \$500,000 over \$50,000
21 Over \$500,000 \$15,897 plus 3.4%
22 of excess over \$500,000

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

27 (1) Resident married individuals filing joint returns and resident
28 surviving spouses. The tax under this section for each taxable year on
29 the city taxable income of every city resident married individual who
30 makes a single return jointly with his or her spouse under subdivision
31 (b) of section 11-1751 of this chapter and on the city taxable income of
32 every city resident surviving spouse shall be determined in accordance
33 with the following tables:

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

35 <u>If the city taxable income is:</u>	<u>The tax is:</u>
36 <u>Not over \$21,600</u>	<u>2.7% of the city taxable income</u>
37 <u>Over \$21,600 but not</u>	<u>\$583 plus 3.3% of excess</u>
38 <u>over \$45,000</u>	<u>over \$21,600</u>
39 <u>Over \$45,000 but not</u>	<u>\$1,355 plus 3.35% of excess</u>
40 <u>over \$90,000</u>	<u>over \$45,000</u>
41 <u>Over \$90,000</u>	<u>\$2,863 plus 3.4% of excess</u>
42	<u>over \$90,000</u>

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

45 If the city taxable income is:	The tax is:
46 Not over \$21,600	2.55% of the city taxable income
47 Over \$21,600 but not	\$551 plus 3.1% of excess
48 over \$45,000	over \$21,600
49 Over \$45,000 but not	\$1,276 plus 3.15% of excess
50 over \$90,000	over \$45,000
51 Over \$90,000 but not	\$2,694 plus 3.2% of excess

1 over \$500,000 over \$90,000
 2 Over \$500,000 \$16,803 plus 3.4% of excess
 3 over \$500,000
 4 [~~(B)~~] (C) For taxable years beginning after two thousand nine and
 5 before two thousand fifteen:

6 If the city taxable income is:	The tax is:
7 Not over \$21,600	2.55% of the city taxable income
8 Over \$21,600 but not	\$551 plus 3.1% of excess
9 over \$45,000	over \$21,600
10 Over \$45,000 but not	\$1,276 plus 3.15% of excess
11 over \$90,000	over \$45,000
12 Over \$90,000 but not	\$2,694 plus 3.2% of excess
13 over \$500,000	over \$90,000
14 Over \$500,000	\$15,814 plus 3.4% of excess
15	over \$500,000

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

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

20 <u>If the city taxable income is:</u>	<u>The tax is:</u>
21 <u>Not over \$14,400</u>	<u>2.7% of the city taxable income</u>
22 <u>Over \$14,400 but not</u>	<u>\$389 plus 3.3% of excess</u>
23 <u>over \$30,000</u>	<u>over \$14,400</u>
24 <u>Over \$30,000 but not</u>	<u>\$904 plus 3.35% of excess</u>
25 <u>over \$60,000</u>	<u>over \$30,000</u>
26 <u>Over \$60,000</u>	<u>\$1,909 plus 3.4% of excess</u>
27	<u>over \$60,000</u>

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

30 If the city taxable income is:	The tax is:
31 Not over \$14,400	2.55% of the city taxable income
32 Over \$14,400 but not	\$367 plus 3.1% of excess
33 over \$30,000	over \$14,400
34 Over \$30,000 but not	\$851 plus 3.15% of excess
35 over \$60,000	over \$30,000
36 Over \$60,000 but not	\$1,796 plus 3.2% of excess
37 over \$500,000	over \$60,000
38 Over \$500,000	\$16,869 plus 3.4% of excess
39	over \$500,000

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

42 If the city taxable income is:	The tax is:
43 Not over \$14,400	2.55% of the city taxable income
44 Over \$14,400 but not	\$367 plus 3.1% of excess
45 over \$30,000	over \$14,400
46 Over \$30,000 but not	\$851 plus 3.15% of excess
47 over \$60,000	over \$30,000
48 Over \$60,000 but not	\$1,796 plus 3.2% of excess
49 over \$500,000	over \$60,000
50 Over \$500,000	\$15,876 plus 3.4% of excess

1 over \$500,000

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

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

12 <u>If the city taxable income is:</u>	<u>The tax is:</u>
13 <u>Not over \$12,000</u>	<u>2.7% of the city taxable income</u>
14 <u>Over \$12,000 but not</u>	<u>\$324 plus 3.3% of excess</u>
15 <u>over \$25,000</u>	<u>over \$12,000</u>
16 <u>Over \$25,000 but not</u>	<u>\$753 plus 3.35% of excess</u>
17 <u>over \$50,000</u>	<u>over \$25,000</u>
18 <u>Over \$50,000</u>	<u>\$1,591 plus 3.4% of excess</u>
19	<u>over \$50,000</u>

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

22 If the city taxable income is:	The tax is:
23 Not over \$12,000	2.55% of the city taxable income
24 Over \$12,000 but not	\$306 plus 3.1% of excess
25 over \$25,000	over \$12,000
26 Over \$25,000 but not	\$709 plus 3.15% of excess
27 over \$50,000	over \$25,000
28 Over \$50,000 but not	\$1,497 plus 3.2% of excess
29 over \$500,000	over \$50,000
30 Over \$500,000	\$16,891 plus 3.4% of excess
31	over \$500,000

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

34 If the city taxable income is:	The tax is:
35 Not over \$12,000	2.55% of the city taxable income
36 Over \$12,000 but not	\$306 plus 3.1% of excess
37 over \$25,000	over \$12,000
38 Over \$25,000 but not	\$709 plus 3.15% of excess
39 over \$50,000	over \$25,000
40 Over \$50,000 but not	\$1,497 plus 3.2% of excess
41 over \$500,000	over \$50,000
42 Over \$500,000	\$15,897 plus 3.4% of excess
43	over \$500,000

44 § 5. Notwithstanding any provision of law to the contrary, the method
45 of determining the amount to be deducted and withheld from wages on
46 account of taxes imposed by or pursuant to the authority of article 30
47 of the tax law in connection with the implementation of the provisions
48 of this act shall be prescribed by the commissioner of taxation and
49 finance with due consideration to the effect such withholding tables and
50 methods would have on the receipt and amount of revenue. The commission-

er 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

Section 1. Subparagraph (i) of paragraph (a) of subdivision 2 of section 1306-a of the real property tax law, as amended by section 6 of part N of chapter 58 of the laws of 2011, is amended to read as follows:

(i) The tax savings for each parcel receiving the exemption authorized by section four hundred twenty-five of this chapter shall be computed by subtracting the amount actually levied against the parcel from the amount that would have been levied if not for the exemption, provided however, that ~~beginning with~~ for the two thousand eleven-two thousand twelve through two thousand sixteen-two thousand seventeen school ~~year~~ years, the tax savings applicable to any "portion" (which as used herein shall mean that part of an assessing unit located within a school district) shall not exceed the tax savings applicable to that portion in the prior school year multiplied by one hundred two percent, with the result rounded to the nearest dollar; and provided further that beginning with the two thousand seventeen-two thousand eighteen school year, the tax savings applicable to any portion shall not exceed the tax savings for the prior year. The tax savings attributable to the basic and enhanced exemptions shall be calculated separately. It shall be the responsibility of the commissioner to calculate tax savings limitations for purposes of this subdivision.

§ 2. This act shall take effect immediately.

1

PART E

2 Section 1. Subparagraph (ii) of paragraph (b) of subdivision 4 of
3 section 425 of the real property tax law, as amended by section 3 of
4 part E of chapter 83 of the laws of 2002, is amended to read as follows:

5 (ii) The term "income" as used herein shall mean the "adjusted gross
6 income" for federal income tax purposes as reported on the applicant's
7 federal or state income tax return for the applicable income tax year,
8 subject to any subsequent amendments or revisions, reduced by distrib-
9 utions, to the extent included in federal adjusted gross income,
10 received from an individual retirement account and an individual retire-
11 ment annuity; provided that if no such return was filed for the applica-
12 ble income tax year, "income" shall mean the adjusted gross income that
13 would have been so reported if such a return had been filed. Provided
14 further, that effective with exemption applications for final assessment
15 rolls to be completed in two thousand eighteen, where an income-eli-
16 gibility determination is wholly or partly based upon the income of one or
17 more individuals who did not file a return for the applicable income tax
18 year, then in order for the application to be considered complete, each
19 such individual must file a statement with the department showing the
20 source or sources of his or her income for that income tax year, and the
21 amount or amounts thereof, that would have been reported on such a
22 return if one had been filed. Such statement shall be filed at such
23 time, and in such form and manner, as may be prescribed by the depart-
24 ment, and shall be subject to the secrecy provisions of the tax law to
25 the same extent that a personal income tax return would be. The depart-
26 ment shall make such forms and instructions available for the filing of
27 such statements.

28 § 2. Subparagraph (iv) of paragraph (b) of subdivision 4 of section
29 425 of the real property tax law, as amended by chapter 451 of the laws
30 of 2015, is amended to read as follows:

31 (iv) (A) Effective with applications for the enhanced exemption on
32 final assessment rolls to be completed in two thousand ~~three~~ eighteen,
33 the application form shall indicate that ~~[the]~~ all owners of the proper-
34 ty and any owners' spouses residing on the premises ~~[may authorize the~~
35 ~~assessor to]~~ must have their income eligibility verified annually ~~[ther-~~
36 ~~eafter]~~ by the ~~[state]~~ department ~~[of taxation and finance, in lieu of~~
37 ~~furnishing copies of the applicable income tax return or returns with~~
38 ~~the application. If the owners of the property and any owners' spouses~~
39 ~~residing on the premises elect to participate in this program, which~~
40 ~~shall be known as the STAR income verification program, they]~~ and must
41 furnish their taxpayer identification numbers in order to facilitate
42 matching with records of the department. ~~[Thereafter, their]~~ The income
43 eligibility of such persons shall be verified annually by the
44 department, and the assessor shall not request income documentation from
45 them~~[, unless such department advises the assessor that they do not~~
46 ~~satisfy the applicable income eligibility requirements, or that it is~~
47 ~~unable to determine whether they satisfy those requirements]~~. All appli-
48 cants for the enhanced exemption and all assessing units shall be
49 required to participate in this program, which shall be known as the
50 STAR income verification program.

51 (B) Where the commissioner finds that the enhanced exemption should be
52 replaced with a basic exemption because the income limitation applicable
53 to the enhanced exemption has been exceeded, he or she shall provide the
54 property owners with notice and an opportunity to submit to the commis-
55 sioner evidence to the contrary. Where the commissioner finds that the

1 enhanced exemption should be removed or denied without being replaced
2 with a basic exemption because the income limitation applicable to the
3 basic exemption has also been exceeded, he or she shall provide the
4 property owners with notice and an opportunity to submit to the commis-
5 sioner evidence to the contrary. In either case, if the owners fail to
6 respond to such notice within forty-five days from the mailing thereof,
7 or if their response does not show to the commissioner's satisfaction
8 that the property is eligible for the exemption claimed, the commission-
9 er shall direct the assessor or other person having custody or control
10 of the assessment roll or tax roll to either replace the enhanced
11 exemption with a basic exemption, or to remove or deny the enhanced
12 exemption without replacing it with a basic exemption, as appropriate.
13 The commissioner shall further direct such person to correct the roll
14 accordingly. Such a directive shall be binding upon the assessor or
15 other person having custody or control of the assessment roll or tax
16 roll, and shall be implemented by such person without the need for
17 further documentation or approval.

18 (C) Notwithstanding any provision of law to the contrary, neither an
19 assessor nor a board of assessment review has the authority to consider
20 an objection to the replacement or removal or denial of an exemption
21 pursuant to this subdivision, nor may such an action be reviewed in a
22 proceeding to review an assessment pursuant to title one or one-A of
23 article seven of this chapter. Such an action may only be challenged
24 before the department of taxation and finance. If a taxpayer is dissat-
25 isfied with the department's final determination, the taxpayer may
26 appeal that determination to the state board of real property tax
27 services in a form and manner to be prescribed by the commissioner. Such
28 appeal shall be filed within forty-five days from the issuance of the
29 department's final determination. If dissatisfied with the state board's
30 determination, the taxpayer may seek judicial review thereof pursuant to
31 article seventy-eight of the civil practice law and rules. The taxpayer
32 shall otherwise have no right to challenge such final determination in a
33 court action, administrative proceeding or any other form of legal
34 recourse against the commissioner, the department of taxation and
35 finance, the state board of real property tax services, the assessor or
36 other person having custody or control of the assessment roll or tax
37 roll regarding such action.

38 § 3. Subparagraphs (v) and (vi) of paragraph (b) of subdivision 4 of
39 section 425 of the real property tax law are REPEALED.

40 § 4. Paragraphs (b) and (c) of subdivision 5 of section 425 of the
41 real property tax law are REPEALED.

42 § 5. Paragraph (d) of subdivision 5 of section 425 of the real proper-
43 ty tax law, as amended by section 5 of part E of chapter 83 of the laws
44 of 2002 and subparagraph (i) as further amended by subdivision (b) of
45 section 1 of part W of chapter 56 of the laws of 2010, is amended to
46 read as follows:

47 (d) Third party notice. (i) A senior citizen eligible for the enhanced
48 exemption may request that a notice be sent to an adult third party.
49 Such request shall be made on a form prescribed by the commissioner and
50 shall be submitted to the assessor of the assessing unit in which the
51 eligible taxpayer resides no later than sixty days before the first
52 taxable status date to which it is to apply. Such form shall provide a
53 section whereby the designated third party shall consent to such desig-
54 nation. Such request shall be effective upon receipt by the assessor.
55 The assessor shall maintain a list of all eligible property owners who

1 have requested notices pursuant to this paragraph and shall furnish a
2 copy of such list to the department upon request.

3 ~~(ii) [In the case of a senior citizen who has not elected to partic-~~
4 ~~ipate in the STAR income verification program, a notice shall be sent to~~
5 ~~the designated third party at least thirty days prior to each ensuing~~
6 ~~taxable status date, provided that no such notice need be sent in the~~
7 ~~first year if the request was not received by the assessor at least~~
8 ~~sixty days before the applicable taxable status date. Such notice shall~~
9 ~~read substantially as follows:~~

10 ~~"On behalf of (identify senior citizen or citizens), you are advised~~
11 ~~that his, her, or their renewal application for the enhanced STAR~~
12 ~~exemption must be filed with the assessor no later than (enter date).~~
13 ~~You are encouraged to remind him, her, or them of that fact, and to~~
14 ~~offer assistance if needed, although you are under no legal obligation~~
15 ~~to do so. Your cooperation and assistance are greatly appreciated."~~

16 ~~(iii) In the case of a senior citizen who has elected to participate~~
17 ~~in the STAR income verification program, a] A notice shall be sent to~~
18 ~~the designated third party whenever the assessor or department sends a~~
19 ~~notice to the senior citizen regarding the possible removal of the~~
20 ~~enhanced STAR exemption. When the exemption is subject to removal~~
21 ~~because the commissioner has determined that the income eligibility~~
22 ~~requirement is not satisfied, such notice shall be sent to the third~~
23 ~~party by the department. When the exemption is subject to removal~~
24 ~~because the assessor has determined that any other eligibility require-~~
25 ~~ment is not satisfied, such notice shall be sent to the third party by~~
26 ~~the assessor.~~ Such notice shall read substantially as follows:

27 "On behalf of (identify senior citizen or citizens), you are advised
28 that his, her, or their enhanced STAR exemption is at risk of being
29 removed. You are encouraged to make sure that he, she or they are aware
30 of that fact, and to offer assistance if needed, although you are under
31 no legal obligation to do so. Your cooperation and assistance are great-
32 ly appreciated."

33 ~~[(iv)]~~ (iii) The obligation to mail such notices shall cease if the
34 eligible taxpayer cancels the request or ceases to qualify for the
35 enhanced STAR exemption.

36 § 6. Paragraph (c) of subdivision 6 of section 425 of the real proper-
37 ty tax law is REPEALED.

38 § 7. Subdivision 9-b of section 425 of the real property tax law, as
39 added by section 8 of part E of chapter 83 of the laws of 2002 and para-
40 graph (b) as amended by chapter 742 of the laws of 2005 and further
41 amended by subdivision (b) of section 1 of part W of chapter 56 of the
42 laws of 2010, is amended to read as follows:

43 9-b. Duration of exemption; enhanced exemption. (a) ~~[In the case of~~
44 ~~persons who have elected to participate in the STAR income verification~~
45 ~~program, the] The~~ enhanced exemption, once granted, shall remain in
46 effect until discontinued in the manner provided in this section.

47 (b) ~~[In the case of persons who have not elected to participate in the~~
48 ~~STAR income verification program, the enhanced exemption shall apply for~~
49 ~~a term of one year. To continue receiving such enhanced exemption, a~~
50 ~~renewal application must be filed annually with the assessor on or~~
51 ~~before the applicable taxable status date on a form prescribed by the~~
52 ~~commissioner. Provided, however, that if a renewal application is not so~~
53 ~~filed, the assessor shall discontinue the enhanced exemption but shall~~
54 ~~grant the basic exemption, subject to the provisions of subdivision~~
55 ~~eleven of this section.~~

~~(e) Whether or not the recipients of an enhanced STAR exemption have elected to participate in the STAR income verification program, the~~ The assessor ~~[may review their]~~ shall review the continued compliance of recipients of the enhanced exemption with the applicable ownership and residency requirements to the same extent as if they were receiving a basic STAR exemption.

~~[(d) Notwithstanding the foregoing provisions of this subdivision, the enhanced exemption shall be continued without a renewal application as long as the property continues to be eligible for the senior citizens exemption authorized by section four hundred sixty seven of this title.]~~

§ 8. Section 425 of the real property tax law is amended by adding a new subdivision 14-a to read as follows:

14-a. Implementation of certain eligibility determinations. When a taxpayer's eligibility for exemption under this section for a school year is affected by a determination made in accordance with subparagraph (iv) of paragraph (b) of subdivision four of this section or paragraph (c) or (d) of subdivision fourteen of this section, and the determination is made after the school district taxes for that school year have been levied, the provisions of this subdivision shall be applicable.

(a) if the determination restores or increases the taxpayer's exemption for that school year, the commissioner is authorized to remit the excess directly to the property owner upon receiving confirmation that the taxpayer's original school tax bill has been paid in full. The amounts payable by the commissioner under this paragraph shall be paid from the account established for the payment of STAR benefits to late registrants pursuant to subparagraph (iii) of paragraph (a) of subdivision fourteen of this section. When the commissioner implements the determination in this manner, he or she shall so notify the assessor and county director of real property tax services, but no correction shall be made to the assessment roll or tax roll for that school year, and no refund shall be issued by the school authorities to the property owner or his or her agent for the excessive amount of school taxes paid for that school year.

(b) If the determination removes, denies or decreases the taxpayer's exemption for that school year, the commissioner is authorized to collect the shortfall directly from the owners of the property, together with interest, by utilizing any of the procedures for collection, levy, and lien of personal income tax set forth in article twenty-two of the tax law, and any other relevant procedures referenced within the provisions of such article. When the commissioner implements the determination in this manner, he or she shall so notify the assessor and county director of real property tax services, but no correction shall be made to the assessment roll or tax roll for that school year, and no corrected school tax bill shall be sent to the taxpayer for that school year.

§ 9. Section 171-o of the tax law is REPEALED.

§ 10. Subparagraph (B) of paragraph 1 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:

(B) "Affiliated income" shall mean for purposes of the basic STAR credit, the combined income of all of the owners of the parcel who resided primarily thereon as of December thirty-first of the taxable year, and of any owners' spouses residing primarily thereon as of such date, and for purposes of the enhanced STAR credit, the combined income of all of the owners of the parcel as of December thirty-first of the taxable year, and of any owners' spouses residing primarily thereon as

1 of such date; provided that for both purposes the income to be so
2 combined shall be the "adjusted gross income" for the taxable year as
3 reported for federal income tax purposes, or that would be reported as
4 adjusted gross income if a federal income tax return were required to be
5 filed, reduced by distributions, to the extent included in federal
6 adjusted gross income, received from an individual retirement account
7 and an individual retirement annuity. For taxable years beginning on
8 and after January first, two thousand eighteen, where an income-eligi-
9 bility determination is wholly or partly based upon the income of one or
10 more individuals who did not file a return pursuant to section six
11 hundred fifty-one of this article for the applicable income tax year,
12 then in order to be eligible for the credit authorized by this
13 subsection, each such individual must file a statement with the depart-
14 ment showing the source or sources of his or her income for that income
15 tax year, and the amount or amounts thereof, that would have been
16 reported on such a return if one had been filed. Such statement shall be
17 filed at such time, and in such form and manner, as may be prescribed by
18 the department, and shall be subject to the provisions of section six
19 hundred ninety-seven of this article to the same extent that a return
20 would be. The department shall make such forms and instructions avail-
21 able for the filing of such statements. Provided further, that if the
22 qualified taxpayer was an owner of the property during the taxable year
23 but did not own it on December thirty-first of the taxable year, then
24 the determination as to whether the income of an individual should be
25 included in "affiliated income" shall be based upon the ownership and/or
26 residency status of that individual as of the first day of the month
27 during which the qualified taxpayer ceased to be an owner of the proper-
28 ty, rather than as of December thirty-first of the taxable year.

29 § 11. No application for an enhanced exemption on a final assessment
30 roll to be completed in 2018 may be approved if the applicants have not
31 enrolled in the STAR income verification program established by subpara-
32 graph (iv) of paragraph (b) of subdivision 4 of section 425 of the real
33 property tax law as amended by section two of this act, regardless of
34 when the application was filed. The assessor shall notify such appli-
35 cants that participation in that program has become mandatory for all
36 applicants and that their applications cannot be approved unless they
37 enroll therein. The commissioner of taxation and finance shall provide a
38 form for assessors to use, at their option, when making this notifica-
39 tion.

40 § 12. This act shall take effect immediately.

41 PART F

42 Section 1. Section 928-a of the real property tax law, as added by
43 chapter 680 of the laws of 1994, subdivision 1 as further amended by
44 subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010
45 and subdivision 2 as amended by chapter 199 of the laws of 1997, is
46 amended to read as follows:

47 § 928-a. Partial payment of taxes. 1. (a) Notwithstanding the
48 provisions of any general or special law to the contrary, ~~[the board of~~
49 ~~supervisors or the county legislature of any county may by resolution~~
50 ~~authorize the collecting officers in one or more of the classes of~~
51 ~~municipal corporations described herein]~~ each collecting officer is
52 hereby authorized to accept from any taxpayer at any time partial
53 payments for or on account of taxes, special ad valorem levies or
54 special assessments ~~[in such amount or manner and apply such payments on~~

1 ~~account thereof in such manner as may be prescribed by such resolution,~~
2 ~~provided, however, that such resolution~~, unless the governing body of
3 the municipal corporation that employs the collecting officer has: (i)
4 passed a resolution disallowing partial payments or (ii) passed a resolu-
5 tion limiting the conditions under which partial payments will be
6 accepted, in which case partial payments shall be accepted in accordance
7 with the conditions set forth in the resolution.

8 (b) Such resolution may require a service charge not to exceed ten
9 dollars to be paid with each partial payment. Such service charge shall
10 belong to the municipal corporation that employs the collecting officer.

11 (c) Where a statement of taxes contains separate charges for separate
12 purposes, any partial payments shall be applied proportionately thereto.

13 (d) Where school district taxes are payable to the collecting officer
14 of a city or town that has not acted to disallow partial payments, the
15 governing body of the school district may pass a resolution disallowing
16 partial payments for school district purposes. If it has not done so,
17 then the collecting officer shall be authorized to accept partial
18 payments of school district taxes under the same conditions as may apply
19 to city or town taxes.

20 (e) Any resolution adopted pursuant to this section shall be adopted
21 at least sixty days prior to the preparation and delivery of the tax
22 rolls to the appropriate collecting officers. A copy of any resolution
23 ~~[enacting, amending or repealing any such partial payment program]~~
24 adopted pursuant to this section, or amending or repealing a resolution
25 adopted pursuant to this section, shall be filed with the commissioner
26 and, in the case of a resolution adopted by a school district, with the
27 city or town clerk, no later than thirty days after the adoption there-
28 of.

29 2. ~~[Such resolution shall apply to one or more of the following class-~~
30 ~~es of municipal corporations: (a) all towns within the county; (b) all~~
31 ~~cities for which the county enforces the collection of delinquent taxes,~~
32 ~~or (c) all villages for which the county enforces the collection of~~
33 ~~delinquent taxes. If the resolution does not specify the class or class-~~
34 ~~es of municipal corporations to which it applies, it shall be deemed to~~
35 ~~apply only to the towns in the county.~~

36 ~~3-]~~ After any partial payment authorized pursuant to this section has
37 been paid, interest and penalties shall be charged against the unpaid
38 balance only. The acceptance of a partial payment by any official pursu-
39 ant to this section shall not be deemed to affect any liens and powers
40 of any ~~county~~ municipal corporation conferred in any general or
41 special act, but such rights and powers shall remain in full force and
42 effect to enforce collection of the unpaid balance of such tax or tax
43 liens together with interest, penalties and other lawful charges.

44 3. A collecting officer who is authorized to accept partial payments
45 pursuant to this section may not decline to do so.

46 4. Nothing contained herein shall be construed to authorize a collect-
47 ing officer to accept a partial payment after the expiration of his or
48 her warrant, or at any other time that such collecting officer is not
49 authorized to accept tax payments.

50 § 2. This act shall take effect immediately and shall apply to the
51 collection of real property taxes, special ad valorem levies and special
52 assessments for fiscal years beginning on and after January 1, 2019.

Section 1. Paragraph 7 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:

(7) Disclosure of incomes and other information. (A) Where the commissioner has denied a taxpayer's claim for the credit authorized by this subsection in whole or in part on the grounds that the affiliated income of the parcel in question exceeds the applicable limit, the commissioner shall have the authority to reveal to that taxpayer the names and incomes of the other taxpayers whose incomes were included in the computation of such affiliated income.

(B) Notwithstanding any provision of law to the contrary, the names and addresses of individuals who have applied for or are receiving the credit authorized by this subsection shall be public information to the same extent as the names and addresses of individuals who have applied for or are receiving the STAR exemption authorized by section four hundred twenty-five of the real property tax law.

§ 2. This act shall take effect immediately.

PART H

Section 1. Subparagraph (ii) of paragraph (k) of subdivision 2 of section 425 of the real property tax law, as amended by section 2 of part A of chapter 405 of the laws of 1999, is amended to read as follows:

(ii) That proportion of the assessment of such real property owned by a cooperative apartment corporation determined by the relationship of such real property vested in such tenant-stockholder to such entire parcel and the buildings thereon owned by such cooperative apartment corporation in which such tenant-stockholder resides shall be subject to exemption from taxation pursuant to this section and any exemption so granted shall be credited by the appropriate taxing authority against the assessed valuation of such real property. Upon the completion of the final assessment roll, or as soon thereafter as is practicable, the assessor shall forward to the cooperative apartment corporation a statement setting forth the exemption attributable to each eligible tenant-stockholder. The reduction in real property taxes attributable to each eligible tenant-stockholder shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder. The assessor shall also forward to the commissioner, at the time and in the manner prescribed by the commissioner, a statement setting forth the taxable assessed value attributable to each tenant-stockholder, without regard to the exemption, and such other information as the commissioner shall deem necessary to properly calculate the STAR credit authorized by subsection (eee) of section six hundred six of the tax law for those tenant-stockholders who qualify for it.

§ 2. Subparagraph (E) of paragraph 1 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:

(E) "Qualifying taxes" means the school district taxes that were levied upon the taxpayer's primary residence for the associated fiscal year that were actually paid by the taxpayer during the taxable year; or, in the case of a city school district that is subject to article fifty-two of the education law, the combined city and school district taxes that were levied upon the taxpayer's primary residence for the associated fiscal year that were actually paid by the taxpayer during

the taxable year. Provided, however, that in the case of a cooperative apartment, "qualifying taxes" means the school district taxes that would have been levied upon the tenant-stockholder's primary residence if it were separately assessed, as determined by the commissioner based on the statement provided by the assessor pursuant to subparagraph (ii) of paragraph (k) of subdivision two of section four hundred twenty-five of the real property tax law, or in the case of a cooperative apartment corporation that is described in subparagraph (iv) of paragraph (k) of subdivision two of section four hundred twenty-five of the real property tax law, one third of such amount. In no case shall the term "qualifying taxes" be construed to include penalties or interest.

§ 3. Subparagraph (A) of paragraph 6 of subsection (eee) of section 606 of the tax law is REPEALED.

§ 4. This act shall take effect immediately, provided that section one of this act shall apply to final assessment rolls used to levy school taxes for school years beginning on and after July 1, 2017, and provided further that sections two and three of this act shall apply to taxable years beginning on and after January 1, 2017.

PART I

Section 1. Section 2 of chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, as amended by section 1 of part C of chapter 59 of the laws of 2014, is amended to read as follows:

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 1992; provided, however that any charges imposed by section 593 of the real property tax law as added by section one of this act shall first be due for values for assessment rolls with tentative completion dates after July 1, 1992, and provided further, that this act shall remain in full force and effect until March 31, ~~2018~~ 2021, at which time section 593 of the real property tax law as added by section one of this act shall be repealed.

§ 2. This act shall take effect immediately.

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-operators, 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,

1 investment banks, portfolio managers, trust offices, and insurance
2 companies.

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

10 10. "Life sciences" means the fields of biotechnology, pharmaceu-
11 ticals, biomedical technologies, life systems technologies, health
12 informatics, health robotics and biomedical devices.

13 11. "Life sciences company" means a corporation, partnership, limited
14 partnership, or other entity engaged in life sciences, and an organiza-
15 tion or institution that devotes the majority of its efforts in the
16 various stages of research, development, technology transfer and commer-
17 cialization related to life sciences.

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

26 ~~[11.]~~ 13. "Music production" means the process of creating sound
27 recordings of at least eight minutes, recorded in professional sound
28 studios, intended for commercial release. "Music production" does not
29 include recording of live concerts, or recordings that are primarily
30 spoken word or wildlife or nature sounds, or produced for instructional
31 use or advertising or promotional purposes.

32 ~~[12.]~~ 14. "Net new jobs" means:
33 (a) jobs created in this state that (i) are new to the state,
34 (ii) have not been transferred from employment with another business
35 located in this state including from a related person in this state,
36 (iii) are either full-time wage-paying jobs or equivalent to a full-
37 time wage-paying job requiring at least thirty-five hours per week, and
38 (iv) are filled for more than six months; or
39 (b) jobs obtained by an entertainment company in this state (i) as a
40 result of the termination of a licensing agreement with another enter-
41 tainment company, (ii) that the commissioner determines to be at risk of
42 leaving the state as a direct result of the termination, (iii) that are
43 either full-time wage-paying jobs or equivalent to a full-time wage-pay-
44 ing job requiring at least thirty-five hours per week, and (iv) that are
45 filled for more than six months.

46 ~~[13.]~~ 15. "Participant" means a business entity that:
47 (a) has completed an application prescribed by the department to be
48 admitted into the program;
49 (b) has been issued a certificate of eligibility by the department;
50 (c) has demonstrated that it meets the eligibility criteria in section
51 three hundred fifty-three and subdivision two of section three hundred
52 fifty-four of this article; and
53 (d) has been certified as a participant by the commissioner.

54 ~~[14.]~~ 16. "Preliminary schedule of benefits" means the maximum aggre-
55 gate amount of each component of the tax credit that a participant in
56 the excelsior jobs program is eligible to receive pursuant to this arti-

cle. 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 ~~(f)~~ (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.

1 ~~[20-]~~ 22. "Scientific research and development" means conducting
2 research and experimental development in the physical, engineering, and
3 life sciences, including but not limited to agriculture, electronics,
4 environmental, biology, botany, biotechnology, computers, chemistry,
5 food, fisheries, forests, geology, health, mathematics, medicine, ocean-
6 ography, pharmacy, physics, veterinary, and other allied subjects. For
7 the purposes of this article, scientific research and development does
8 not include medical or veterinary laboratory testing facilities.

9 ~~[21-]~~ 23. "Software development" means the creation of coded computer
10 instructions or production or post-production of video games, as defined
11 in subdivision one-a of section six hundred eleven of the general busi-
12 ness law, other than those embedded and used exclusively in advertising,
13 promotional websites or microsites, and also includes new media as
14 defined by the commissioner in regulations.

15 § 2. Subdivisions 1 and 3 of section 353 of the economic development
16 law, as amended by section 2 of part K of chapter 59 of the laws of
17 2015, are amended to read as follows:

18 1. To be a participant in the excelsior jobs program, a business enti-
19 ty shall operate in New York state predominantly:

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

22 (b) in manufacturing;

23 (c) in software development and new media;

24 (d) in scientific research and development;

25 (e) in agriculture;

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

28 (g) in a distribution center;

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

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

35 (j) in music production; or

36 (k) as a life sciences company.

37 3. For the purposes of this article, in order to participate in the
38 excelsior jobs program, a business entity operating predominantly in
39 manufacturing must create at least ten net new jobs; a business entity
40 operating predominately in agriculture must create at least five net new
41 jobs; a business entity operating predominantly as a financial service
42 data center or financial services customer back office operation must
43 create at least fifty net new jobs; a business entity operating predomi-
44 nantly in scientific research and development must create at least five
45 net new jobs; a business entity operating predominantly in software
46 development must create at least five net new jobs; a business entity
47 creating or expanding back office operations must create at least fifty
48 net new jobs; a business entity operating predominately in music
49 production must create at least five net new jobs; a business entity
50 operating predominantly as an entertainment company must create or
51 obtain at least one hundred net new jobs; or a business entity operating
52 predominantly as a distribution center in the state must create at least
53 seventy-five net new jobs, notwithstanding subdivision five of this
54 section; or a business entity operating predominately as a life sciences
55 company must create at least five net new jobs; or a business entity
56 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

1 \$ 36 million

2024

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

7 Provided, however, if by September thirtieth of a calendar year, the
8 department has not allocated the full amount of credits available in
9 that year to either: (i) businesses accepted into the program under
10 subdivision four of section three hundred fifty-three of this article or
11 (ii) businesses accepted into the program under subdivision three of
12 section three hundred fifty-three of this article, the commissioner may
13 allocate any remaining tax credits to businesses referenced in this
14 paragraph as needed; provided, however, that under no circumstances may
15 the aggregate statutory cap for all program years be exceeded. One
16 hundred percent of the unawarded amounts remaining at the end of two
17 thousand twenty-four may be allocated in subsequent years, notwithstand-
18 ing the fifty percent limitation on any amounts of tax credits not
19 awarded in taxable years two thousand eleven through two thousand twen-
20 ty-four. Provided, however, no tax credits may be allowed for taxable
21 years beginning on or after January first, two thousand [~~twenty-seven~~]
22 .

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

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

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

45 § 43. Life sciences tax credits. (a) Life sciences research and devel-
46 opment tax credit. (1) Allowance of credit. (i) A taxpayer that is a
47 qualified life sciences company, or that is a sole proprietor of or a
48 partner in a partnership that is a qualified life sciences company or a
49 shareholder of a New York S corporation that is a qualified life
50 sciences company, and is subject to tax under article nine-A or twenty-
51 two of this chapter, shall be allowed a credit against such tax, pursu-
52 ant to the provisions referred to in subdivision (e) of this section,
53 for a period of five years, as provided in clause (B) of subparagraph
54 (ii) of this paragraph, to be computed as provided in this subdivision.

1 Such credit may be claimed in the taxable year specified on the certifi-
2 cate of tax credit issued to the qualified life sciences company.

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

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

19 (iii) The total amount of credit allowable to a qualified life
20 sciences company, or, if the life sciences company is properly included
21 or required to be included in a combined report, to the combined group,
22 taken in the aggregate, shall not exceed five hundred thousand dollars.
23 If the life sciences company is a partner in a partnership or sharehold-
24 er of a New York S corporation, then the total amount of credit allow-
25 able shall be applied at the entity level, so that the total amount of
26 credit allowable to all the partners or shareholders of each such enti-
27 ty, taken in the aggregate, does not exceed five hundred thousand
28 dollars.

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

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

48 (b) Angel investor tax credit. (1) Allowance of credit. (i) A taxpayer
49 that is a qualified angel investor, or that is a sole proprietor of or a
50 partner in a partnership that is a qualified angel investor or a share-
51 holder of a New York S corporation that is a qualified angel investor,
52 and is subject to tax under article nine-A or twenty-two of this chap-
53 ter, shall be allowed a credit against such tax, pursuant to the
54 provisions referred to in subdivision (e) of this section, for a period
55 of ten years, to be computed as provided in this subdivision. Such

1 credit shall be claimed in the taxable year specified on the certificate
2 of angel investment issued to the qualified angel investor.

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

5 (iii) The total amount of credit allowable to a qualified angel inves-
6 tor, or, if the qualified angel investor is properly included or
7 required to be included in a combined report, to the combined group,
8 taken in the aggregate, shall not exceed two hundred fifty thousand
9 dollars. If the angel investor is a partner in a partnership or share-
10 holder of a New York S corporation, then the total amount of credit
11 allowable shall be applied at the entity level, so that the total amount
12 of credit allowable to all the partners or shareholders of each such
13 entity, taken in the aggregate, does not exceed two hundred fifty thou-
14 sand dollars.

15 (iv) No investment made by the taxpayer and used either as the basis
16 for the allowance of the credit provided for pursuant to this subdivi-
17 sion or used in the calculation of the credit provided pursuant to this
18 subdivision shall be used to claim any other credit allowed pursuant to
19 this chapter or used in the calculation of any other credit allowed
20 pursuant to this chapter.

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

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

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

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

53 (1) "Angel investment" means an investment in the form of a contrib-
54 ution to the capital of the qualified life sciences company, provided
55 that such investment is at risk and is not secured or guaranteed. An
56 "angel investment" does not include any loans, or investments in hedge

1 funds or commodity funds with institutional investors or with invest-
2 ments in a business involved in retail, real estate, professional
3 services, gaming or financial services.

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

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

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

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

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

48 (7) "Qualified life sciences company" means a life sciences company,
49 as defined in subdivision eleven of section three hundred fifty-two of
50 the economic development law, that has been certified by the department
51 of economic development as a life sciences company and is a new busi-
52 ness. Provided that, for purposes of the angel investor tax credit
53 provided pursuant to subdivision (b) of this section, a qualified life
54 sciences company shall at the time that the angel investor makes an
55 initial angel investment in such life sciences company employ twenty or
56 fewer persons during the taxable year and shall have had, during the

1 immediately preceding taxable year, gross receipts of not greater than
2 five hundred thousand dollars. Provided however, for purposes of the
3 credits authorized under this section, the department of economic devel-
4 opment shall not certify as a life sciences company any corporation,
5 partnership, limited partnership, or other entity that has been within
6 the immediately preceding sixty months a related person to an entity
7 that is a life sciences company or an entity that is engaged in scien-
8 tific research and development as defined in subdivision twenty-two of
9 section three hundred fifty-two of the economic development law.

10 (8) "Research and development expenditures" means qualified research
11 expenses as defined in subsection (b) of section 41 of the internal
12 revenue code but excluding wages, provided, however, that such qualified
13 research expenses shall not include amounts under subparagraph (B) of
14 paragraph 1 of subsection (b) of section 41 of the internal revenue code
15 and as further described in paragraph 3 of subsection (b) of section 41
16 of the internal revenue code. If section 41 of the internal revenue code
17 has expired, then the research and development expenses shall be calcu-
18 lated as if the federal research and development credit structure and
19 definition in effect in section 41 in federal tax year two thousand nine
20 were still in effect.

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

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

35 (2) For purposes of this section, in order to be eligible for the
36 angel investor tax credit allowed under subdivision (b) of this section,
37 an angel investor must be issued a certificate of angel investment by
38 the department of economic development for each angel investment for
39 which the credit is claimed. The department of economic development
40 shall verify that such angel investor has met all applicable eligibility
41 criteria in this section before issuing a certificate of angel invest-
42 ment, including but not limited to certifying that the life sciences
43 company in which the angel investor has made such investment is a quali-
44 fied life sciences company.

45 (3) The commissioner of economic development, after consulting with
46 the commissioner, shall promulgate regulations by October thirty-first,
47 two thousand seventeen to establish procedures for the allocation of tax
48 credits allowed under this section. Such rules and regulations shall
49 include provisions describing the application process for each credit,
50 the due dates for such applications, the eligibility standards for qual-
51 ified life sciences companies, the standards which shall be used to
52 evaluate the applications, the documentation that will be provided to
53 taxpayers to substantiate to the department the amount of tax credits
54 allocated to such taxpayers, and such other provisions as deemed neces-
55 sary and appropriate. Notwithstanding any other provisions to the
56 contrary in the state administrative procedure act, such rules and regu-

lations 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:

<u>(xliii) Life sciences research and development tax credit under paragraph one of subsection (hhh)</u>	<u>Amount of credit under paragraph (a) of subdivision fifty-two of section two hundred ten-B</u>
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<u>(xliv) Angel investor tax credit under paragraph two of subsection (hhh)</u>	<u>Amount of credit under paragraph (b) of subdivision fifty-two of section two hundred ten-B</u>
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§ 11. This act shall take effect immediately, and shall apply to taxable years beginning on or after January 1, 2018.

PART L

Section 1. Section 441 of the economic development law, as added by section 1 of part 0 of chapter 59 of the laws of 2015, is amended to read as follows:

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

1 1. "Approved provider" means an entity meeting such criteria as shall
2 be established by the commissioner in rules and regulations promulgated
3 pursuant to this article, that may provide eligible training to employ-
4 ees of a business entity participating in the employee training incen-
5 tive program; provided that, for internship programs, the business enti-
6 ty shall be an approved provider or an approved provider in contract
7 with such business entity. Such criteria shall ensure that any approved
8 provider possess adequate credentials to provide the training described
9 in an application by a business entity to the commissioner to partic-
10 ipate in the employee training incentive program.

11 2. "Commissioner" means the commissioner of economic development.

12 3. "Eligible training" means (a) training provided by an approved
13 provider that is:

14 (i) to upgrade, retrain or improve the productivity of employees;

15 (ii) provided to employees [~~filling net new jobs, or to existing~~
16 ~~employees~~] in connection with a significant capital investment by a
17 participating business entity;

18 (iii) determined by the commissioner to satisfy a business need on the
19 part of a participating business entity;

20 (iv) not designed to train or upgrade skills as required by a federal
21 or state entity;

22 (v) not training the completion of which may result in the awarding of
23 a license or certificate required by law in order to perform a job func-
24 tion; and

25 (vi) not culturally focused training; or

26 (b) an internship program in advanced technology or life sciences
27 approved by the commissioner and provided by an approved provider, on or
28 after August first, two thousand fifteen, to provide employment and
29 experience opportunities for current students, recent graduates, and
30 recent members of the armed forces.

31 4. [~~"Net new job" means a job created in this state that:~~

32 ~~(a) is new to the state,~~

33 ~~(b) has not been transferred from employment with another business~~
34 ~~located in this state through an acquisition, merger, consolidation or~~
35 ~~other reorganization of businesses or the acquisition of assets of~~
36 ~~another business, and has not been transferred from employment with a~~
37 ~~related person in this state,~~

38 ~~(c) is either a full-time wage-paying job or equivalent to a full-time~~
39 ~~wage-paying job requiring at least thirty-five hours per week,~~

40 ~~(d) is filled for more than six months,~~

41 ~~(e) is filled by a person who has received eligible training, and~~

42 ~~(f) is comprised of tasks the performance of which required the person~~
43 ~~filling the job to undergo eligible training.] "Life sciences" means the~~

44 field of biotechnology, pharmaceuticals, biomedical technologies, life
45 systems technologies, health informatics, health robotics or biomedical
46 devices. "Life sciences company" is a business entity or an organization
47 or institution that devotes the majority of its efforts in the various
48 stages of research, development, technology transfer and commercializa-
49 tion related to any life sciences field.

50 5. "Significant capital investment" means a capital investment [~~of at~~
51 ~~least one million dollars~~] in new business processes or equipment, the
52 cost of which is equal to or exceeds ten dollars for every one dollar of
53 tax credit allowed to an eligible business entity under this program
54 pursuant to subdivision fifty of section two hundred ten-B or subsection
55 (ddd) of section six hundred six of the tax law.

6. "Strategic industry" means an industry in this state, as established by the commissioner in regulations promulgated pursuant to this article, based upon the following criteria:

- (a) shortages of workers trained to work within the industry;
- (b) technological disruption in the industry, requiring significant capital investment for existing businesses to remain competitive;
- (c) the ability of businesses in the industry to relocate outside of the state in order to attract talent;
- (d) the potential to recruit minorities and women to be trained to work in the industry in which they are traditionally underrepresented;
- (e) the potential to create jobs in economically distressed areas, which shall be based on criteria indicative of economic distress, including poverty rates, numbers of persons receiving public assistance, and unemployment rates; or
- (f) such other criteria as shall be developed by the commissioner in consultation with the commissioner of labor.

§ 2. Section 442 of the economic development law, as added by section 1 of part 0 of chapter 59 of the laws of 2015, is amended to read as follows:

§ 442. Eligibility criteria. In order to participate in the employee training incentive program, a business entity must satisfy the following criteria:

- 1. (a) The business entity must operate in the state predominantly in a strategic industry;
 - (b) The business entity must demonstrate that it is obtaining eligible training from an approved provider;
 - (c) The business entity must ~~create at least ten net new jobs or~~ make a significant capital investment in connection with the eligible training; and
 - (d) The business entity must be in compliance with all worker protection and environmental laws and regulations. In addition, the business entity may not owe past due state taxes or local property taxes; or
 - 2. (a) The business entity, or an approved provider in contract with such business entity, must be approved by the commissioner to provide eligible training in the form of an internship program in advanced technology or at a life sciences company pursuant to paragraph (b) of subdivision three of section four hundred forty-one of this article;
 - (b) The business entity must be located in the state;
 - (c) The business entity must be in compliance with all worker protection and environmental laws and regulations. In addition, the business entity must not have past due state taxes or local property taxes;
 - (d) The internship program shall not displace regular employees;
 - (e) The business entity must have less than one hundred employees; and
 - (f) Participation of an individual in an internship program shall not last more than a total of twelve months.
- § 3. This act shall take effect immediately.

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 ~~nineteen~~ 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 ~~[nineteen]~~ 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 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

1 aggregate amount of tax credits available from additional pool 2 for the
2 empire state film production tax credit have been previously allocated,
3 and determines that the pending applications from eligible applicants
4 for the empire state film post production tax credit pursuant to section
5 thirty-one of this article is insufficient to utilize the balance of
6 unallocated empire state film post production tax credits from such
7 pool, the remainder, after such pending applications are considered,
8 shall be made available for allocation in the empire state film tax
9 credit pursuant to this section, subdivision twenty of section two
10 hundred ten-B and subsection (gg) of section six hundred six of this
11 chapter. Also, if the commissioner of economic development determines
12 that the aggregate amount of tax credits available from additional pool
13 2 for the empire state film post production tax credit have been previ-
14 ously allocated, and determines that the pending applications from
15 eligible applicants for the empire state film production tax credit
16 pursuant to this section is insufficient to utilize the balance of unal-
17 located film production tax credits from such pool, then all or part of
18 the remainder, after such pending applications are considered, shall be
19 made available for allocation for the empire state film post production
20 credit pursuant to this section, subdivision thirty-two of section two
21 hundred ten-B and subsection (qq) of section six hundred six of this
22 chapter. The governor's office for motion picture and television devel-
23 opment must notify taxpayers of their allocation year and include the
24 allocation year on the certificate of tax credit. Taxpayers eligible to
25 claim a credit must report the allocation year directly on their empire
26 state film production credit tax form for each year a credit is claimed
27 and include a copy of the certificate with their tax return. In the case
28 of a qualified film that receives funds from additional pool 2, no
29 empire state film production credit shall be claimed before the later of
30 the taxable year the production of the qualified film is complete, or
31 the taxable year immediately following the allocation year for which the
32 film has been allocated credit by the governor's office for motion
33 picture and television development.

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

37 (6) For the period two thousand fifteen through two thousand [~~nine-~~
38 ~~teen~~] twenty-two, in addition to the amount of credit established in
39 paragraph two of subdivision (a) of this section, a taxpayer shall be
40 allowed a credit equal to the product (or pro rata share of the product,
41 in the case of a member of a partnership) of ten percent and the amount
42 of wages or salaries paid to individuals directly employed (excluding
43 those employed as writers, directors, music directors, producers and
44 performers, including background actors with no scripted lines) for
45 services performed by those individuals in one of the counties specified
46 in this paragraph in connection with the post production work on a qual-
47 ified film with a minimum budget of five hundred thousand dollars at a
48 qualified post production facility in one of the counties listed in this
49 paragraph. For purposes of this additional credit, the services must be
50 performed in one or more of the following counties: Albany, Allegany,
51 Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton,
52 Cortland, Delaware, Erie, Essex, Franklin, Fulton, Genesee, Hamilton,
53 Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery,
54 Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Schenecta-
55 dy, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Tioga, Tompkins,
56 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

Section 1. The section heading and subdivisions (a), (d) and (e) of section 25-a of the labor law, the section heading and subdivisions (d) and (e) as amended by section 1 of part AA of chapter 56 of the laws of 2015 and subdivision (a) as amended by section 1 of part VV of chapter 60 of the laws of 2016, are amended to read as follows:

Power to administer the urban youth jobs program tax credit.

(a) The commissioner is authorized to establish and administer the program established under this section to provide tax incentives to employers for employing at risk youth in part-time and full-time positions. There will be ~~five~~ ten distinct pools of tax incentives. Program one will cover tax incentives allocated for two thousand twelve and two thousand thirteen. Program two will cover tax incentives allocated in two thousand fourteen. Program three will cover tax incentives allocated in two thousand fifteen. Program four will cover tax incentives allocated in two thousand sixteen. Program five will cover tax incentives allocated in two thousand seventeen. Program six will cover tax incentives allocated in two thousand eighteen. Program seven will cover tax incentives allocated in two thousand nineteen. Program eight will cover tax incentives allocated in two thousand twenty. Program nine will cover tax incentives allocated in two thousand twenty-one. Program ten will cover tax incentives allocated in two thousand twenty-two. The commissioner is authorized to allocate up to twenty-five million dollars of tax credits under program one, ten million dollars of tax credits under program two, twenty million dollars of tax credits under program three, and fifty million dollars of tax credits under each ~~of programs four and five~~ subsequent program.

(d) To participate in the program established under this section, an employer must submit an application (in a form prescribed by the commissioner) to the commissioner after January first, two thousand twelve but

1 no later than November thirtieth, two thousand twelve for program one,
2 after January first, two thousand fourteen but no later than November
3 thirtieth, two thousand fourteen for program two, after January first,
4 two thousand fifteen but no later than November thirtieth, two thousand
5 fifteen for program three, after January first, two thousand sixteen but
6 no later than November thirtieth, two thousand sixteen for program four,
7 [and] after January first, two thousand seventeen but no later than
8 November thirtieth, two thousand seventeen for program five, after Janu-
9 ary first, two thousand eighteen but no later than November thirtieth,
10 two thousand eighteen for program six, after January first, two thousand
11 nineteen but no later than November thirtieth, two thousand nineteen for
12 program seven, after January first, two thousand twenty but no later
13 than November thirtieth, two thousand twenty for program eight, after
14 January first, two thousand twenty-one but no later than November thir-
15 tieth, two thousand twenty-one for program nine, and after January
16 first, two thousand twenty-two but no later than November thirtieth, two
17 thousand twenty-two for program ten. The qualified employees must start
18 their employment on or after January first, two thousand twelve but no
19 later than December thirty-first, two thousand twelve for program one,
20 on or after January first, two thousand fourteen but no later than
21 December thirty-first, two thousand fourteen for program two, on or
22 after January first, two thousand fifteen but no later than December
23 thirty-first, two thousand fifteen for program three, on or after Janu-
24 ary first, two thousand sixteen but no later than December thirty-first,
25 two thousand sixteen for program four, [and] on or after January first,
26 two thousand seventeen but no later than December thirty-first, two
27 thousand seventeen for program five, after January first, two thousand
28 eighteen but no later than December thirty-first, two thousand eighteen
29 for program six, after January first, two thousand nineteen but no later
30 than December thirty-first, two thousand nineteen for program seven,
31 after January first, two thousand twenty but no later than December
32 thirty-first, two thousand twenty for program eight, after January
33 first, two thousand twenty-one but no later than December thirty-first,
34 two thousand twenty-one for program nine, and after January first, two
35 thousand twenty-two but no later than December thirty-first, two thou-
36 sand twenty-two for program ten. The commissioner shall establish
37 guidelines and criteria that specify requirements for employers to
38 participate in the program including criteria for certifying qualified
39 employees. Any regulations that the commissioner determines are neces-
40 sary may be adopted on an emergency basis notwithstanding anything to
41 the contrary in section two hundred two of the state administrative
42 procedure act. Such requirements may include the types of industries
43 that the employers are engaged in. The commissioner may give preference
44 to employers that are engaged in demand occupations or industries, or in
45 regional growth sectors, including those identified by the regional
46 economic development councils, such as clean energy, healthcare,
47 advanced manufacturing and conservation. In addition, the commissioner
48 shall give preference to employers who offer advancement and employee
49 benefit packages to the qualified individuals.

50 (e) If, after reviewing the application submitted by an employer, the
51 commissioner determines that such employer is eligible to participate in
52 the program established under this section, the commissioner shall issue
53 the employer a certificate of eligibility that establishes the employer
54 as a qualified employer. The certificate of eligibility shall specify
55 the maximum amount of tax credit that the employer will be allowed to
56 claim and the program year under which it can be claimed.

§ 2. The subdivision heading of subdivision 36 of section 210-B of the tax law, as amended by section 2 of part AA of chapter 56 of the laws of 2015, is amended to read as follows:

[Urban] New York youth jobs program tax credit.

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

[Urban] New York youth jobs program tax credit.

§ 4. Clause (xxxiii) of subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law, as amended by section 4 of part AA of chapter 56 of the laws of 2015, is amended to read as follows:

(xxxiii) [Urban] New York youth	Amount of credit under
jobs program tax credit	subdivision thirty-six
	of section two hundred ten-B

§ 5. This act shall take effect immediately.

PART O

Section 1. Subdivision 6 of section 187-b of the tax law, as amended by section 1 of part G of chapter 59 of the laws of 2013, is amended to read as follows:

6. Termination. The credit allowed by subdivision two of this section shall not apply in taxable years beginning after December thirty-first, two thousand [seventeen] twenty-two.

§ 2. Paragraph (f) of subdivision 30 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:

(f) Termination. The credit allowed by paragraph (b) of this subdivision shall not apply in taxable years beginning after December thirty-first, two thousand [seventeen] twenty-two.

§ 3. Paragraph 6 of subsection (p) of section 606 of the tax law, as amended by section 3 of part G of chapter 59 of the laws of 2013, is amended to read as follows:

(6) Termination. The credit allowed by this subsection shall not apply in taxable years beginning after December thirty-first, two thousand [seventeen] twenty-two.

§ 4. This act shall take effect immediately.

PART P

Section 1. Subparagraph (i) of paragraph (b) of subdivision 1 of section 210-B of the tax law, as amended by section 31 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

(i) A credit shall be allowed under this subdivision with respect to tangible personal property and other tangible property, including buildings and structural components of buildings, which are: depreciable pursuant to section one hundred sixty-seven of the internal revenue code, have a useful life of four years or more, are acquired by purchase as defined in section one hundred seventy-nine (d) of the internal revenue code, have a situs in this state and are (A) principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing, (B) industrial waste treatment facilities or air pollution control facilities, used in the taxpayer's trade or business, (C) research and development property, or (D) principally used in the ordinary course of the taxpayer's trade

1 or business as a broker or dealer in connection with the purchase or
2 sale (which shall include but not be limited to the issuance, entering
3 into, assumption, offset, assignment, termination, or transfer) of
4 stocks, bonds or other securities as defined in section four hundred
5 seventy-five (c)(2) of the Internal Revenue Code, or of commodities as
6 defined in section four hundred seventy-five (e) of the Internal Revenue
7 Code, (E) principally used in the ordinary course of the taxpayer's
8 trade or business of providing investment advisory services for a regu-
9 lated investment company as defined in section eight hundred fifty-one
10 of the Internal Revenue Code, or lending, loan arrangement or loan orig-
11 ination services to customers in connection with the purchase or sale
12 (which shall include but not be limited to the issuance, entering into,
13 assumption, offset, assignment, termination, or transfer) of securities
14 as defined in section four hundred seventy-five (c)(2) of the Internal
15 Revenue Code, (F) principally used in the ordinary course of the taxpay-
16 er's business as an exchange registered as a national securities
17 exchange within the meaning of sections 3(a)(1) and 6(a) of the Securi-
18 ties Exchange Act of 1934 or a board of trade as defined in subparagraph
19 one of paragraph (a) of section fourteen hundred ten of the not-for-pro-
20 fit corporation law or as an entity that is wholly owned by one or more
21 such national securities exchanges or boards of trade and that provides
22 automation or technical services thereto, or (G) principally used as a
23 qualified film production facility including qualified film production
24 facilities having a situs in an empire zone designated as such pursuant
25 to article eighteen-B of the general municipal law, where the taxpayer
26 is providing three or more services to any qualified film production
27 company using the facility, including such services as a studio lighting
28 grid, lighting and grip equipment, multi-line phone service, broadband
29 information technology access, industrial scale electrical capacity,
30 food services, security services, and heating, ventilation and air
31 conditioning. For purposes of clauses (D), (E) and (F) of this subpara-
32 graph, property purchased by a taxpayer affiliated with a regulated
33 broker, dealer, registered investment advisor, national securities
34 exchange or board of trade, is allowed a credit under this subdivision
35 if the property is used by its affiliated regulated broker, dealer,
36 registered investment advisor, national securities exchange or board of
37 trade in accordance with this subdivision. For purposes of determining
38 if the property is principally used in qualifying uses, the uses by the
39 taxpayer described in clauses (D) and (E) of this subparagraph may be
40 aggregated. In addition, the uses by the taxpayer, its affiliated regu-
41 lated broker, dealer and registered investment advisor under either or
42 both of those clauses may be aggregated. Provided, however, a taxpayer
43 shall not be allowed the credit provided by clauses (D), (E) and (F) of
44 this subparagraph unless the property is first placed in service before
45 October first, two thousand fifteen and (i) eighty percent or more of
46 the employees performing the administrative and support functions
47 resulting from or related to the qualifying uses of such equipment are
48 located in this state or (ii) the average number of employees that
49 perform the administrative and support functions resulting from or
50 related to the qualifying uses of such equipment and are located in this
51 state during the taxable year for which the credit is claimed is equal
52 to or greater than ninety-five percent of the average number of employ-
53 ees that perform these functions and are located in this state during
54 the thirty-six months immediately preceding the year for which the cred-
55 it is claimed, or (iii) the number of employees located in this state
56 during the taxable year for which the credit is claimed is equal to or

greater than ninety percent of the number of employees located in this state on December thirty-first, nineteen hundred ninety-eight or, if the taxpayer was not a calendar year taxpayer in nineteen hundred ninety-eight, the last day of its first taxable year ending after December thirty-first, nineteen hundred ninety-eight. If the taxpayer becomes subject to tax in this state after the taxable year beginning in nineteen hundred ninety-eight, then the taxpayer is not required to satisfy the employment test provided in the preceding sentence of this subparagraph for its first taxable year. For purposes of clause (iii) of this subparagraph the employment test will be based on the number of employees located in this state on the last day of the first taxable year the taxpayer is subject to tax in this state. If the uses of the property must be aggregated to determine whether the property is principally used in qualifying uses, then either each affiliate using the property must satisfy this employment test or this employment test must be satisfied through the aggregation of the employees of the taxpayer, its affiliated regulated broker, dealer, and registered investment adviser using the property. For purposes of ~~[this subdivision, the term "goods" shall not include electricity]~~ clause (A) of this subparagraph, tangible personal property and other tangible property shall not include property principally used by the taxpayer (I) in the production or distribution of electricity, natural gas, steam, or water delivered through pipes and mains, or (II) in the creation, production or reproduction, in any medium, of a film, visual or audio recording, or commercial, where the costs associated with such creation, production or reproduction are incurred outside of this state, or in the duplication, for purposes of broadcast in any medium, of a master of a film, visual or audio recording, or commercial, where the costs associated with such duplication are incurred outside of this state.

§ 2. Subparagraph (A) of paragraph 2 of subsection (a) of section 606 of the tax law, as amended by chapter 637 of the laws of 2008, is amended to read as follows:

(A) A credit shall be allowed under this subsection with respect to tangible personal property and other tangible property, including buildings and structural components of buildings, which are: depreciable pursuant to section one hundred sixty-seven of the internal revenue code, have a useful life of four years or more, are acquired by purchase as defined in section one hundred seventy-nine (d) of the internal revenue code, have a situs in this state and are (i) principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing, (ii) industrial waste treatment facilities or air pollution control facilities, used in the taxpayer's trade or business, (iii) research and development property, (iv) principally used in the ordinary course of the taxpayer's trade or business as a broker or dealer in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of stocks, bonds or other securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code, or of commodities as defined in section 475(e) of the Internal Revenue Code, (v) principally used in the ordinary course of the taxpayer's trade or business of providing investment advisory services for a regulated investment company as defined in section eight hundred fifty-one of the Internal Revenue Code, or lending, loan arrangement or loan origination services to customers in connection with the purchase or sale (which shall include

1 but not be limited to the issuance, entering into, assumption, offset,
2 assignment, termination, or transfer) of securities as defined in
3 section four hundred seventy-five (c)(2) of the Internal Revenue Code,
4 or (vi) principally used as a qualified film production facility includ-
5 ing qualified film production facilities having a situs in an empire
6 zone designated as such pursuant to article eighteen-B of the general
7 municipal law, where the taxpayer is providing three or more services to
8 any qualified film production company using the facility, including such
9 services as a studio lighting grid, lighting and grip equipment, multi-
10 line phone service, broadband information technology access, industrial
11 scale electrical capacity, food services, security services, and heat-
12 ing, ventilation and air conditioning. For purposes of clauses (iv) and
13 (v) of this subparagraph, property purchased by a taxpayer affiliated
14 with a regulated broker, dealer, or registered investment adviser is
15 allowed a credit under this subsection if the property is used by its
16 affiliated regulated broker, dealer or registered investment adviser in
17 accordance with this subsection. For purposes of determining if the
18 property is principally used in qualifying uses, the uses by the taxpay-
19 er described in clauses (iv) and (v) of this subparagraph may be aggre-
20 gated. In addition, the uses by the taxpayer, its affiliated regulated
21 broker, dealer and registered investment adviser under either or both of
22 those clauses may be aggregated. Provided, however, a taxpayer shall not
23 be allowed the credit provided by clauses (iv) and (v) of this subpara-
24 graph unless (I) eighty percent or more of the employees performing the
25 administrative and support functions resulting from or related to the
26 qualifying uses of such equipment are located in this state, or (II) the
27 average number of employees that perform the administrative and support
28 functions resulting from or related to the qualifying uses of such
29 equipment and are located in this state during the taxable year for
30 which the credit is claimed is equal to or greater than ninety-five
31 percent of the average number of employees that perform these functions
32 and are located in this state during the thirty-six months immediately
33 preceding the year for which the credit is claimed, or (III) the number
34 of employees located in this state during the taxable year for which the
35 credit is claimed is equal to or greater than ninety percent of the
36 number of employees located in this state on December thirty-first,
37 nineteen hundred ninety-eight or, if the taxpayer was not a calendar
38 year taxpayer in nineteen hundred ninety-eight, the last day of its
39 first taxable year ending after December thirty-first, nineteen hundred
40 ninety-eight. If the taxpayer becomes subject to tax in this state after
41 the taxable year beginning in nineteen hundred ninety-eight, then the
42 taxpayer is not required to satisfy the employment test provided in the
43 preceding sentence of this subparagraph for its first taxable year. For
44 the purposes of clause (III) of this subparagraph the employment test
45 will be based on the number of employees located in this state on the
46 last day of the first taxable year the taxpayer is subject to tax in
47 this state. If the uses of the property must be aggregated to determine
48 whether the property is principally used in qualifying uses, then either
49 each affiliate using the property must satisfy this employment test or
50 this employment test must be satisfied through the aggregation of the
51 employees of the taxpayer, its affiliated regulated broker, dealer, and
52 registered investment adviser using the property. For purposes of [~~this~~
53 ~~subsection, the term "goods" shall not include electricity~~] clause (i)
54 of this subparagraph, tangible personal property and other tangible
55 property shall not include property principally used by the taxpayer (a)
56 in the production or distribution of electricity, natural gas, steam, or

1 water delivered through pipes and mains, or (b) in the creation,
2 production or reproduction, in any medium, of a film, visual or audio
3 recording, or commercial, where the costs associated with such creation,
4 production or reproduction are incurred outside of this state, or in the
5 duplication, for purposes of broadcast in any medium, of a master of a
6 film, visual or audio recording, or commercial, where the costs associ-
7 ated with such duplication are incurred outside of this state.

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

10 PART Q

11 Section 1. Legislative findings. The legislature finds it necessary to
12 revise a decision of the tax appeals tribunal that disturbed the long-
13 standing policy of the department of taxation and finance that single
14 member limited liability companies that are treated as disregarded enti-
15 ties for federal income tax purposes also would be treated as disre-
16 garded entities for purposes of determining eligibility of the owners of
17 such entities for tax credits allowed under article 9, 9-A, 22, 32
18 (prior to its repeal) or 33 of the tax law. The decision of the tax
19 appeals tribunal, if allowed to stand, will result in the denial of tax
20 credits, such as empire zone tax credits, to taxpayers who in prior
21 years received those credits.

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

24 § 43. Single member limited liability companies and eligibility for
25 tax credits. A limited liability company that has a single member and is
26 disregarded as an entity separate from its owner for federal income tax
27 purposes (without reference to any special rules related to the imposi-
28 tion of certain federal taxes, including but not limited to certain
29 employment and excise taxes) shall be disregarded as an entity separate
30 from its owner for purposes of determining whether or not the taxpayer
31 that is the single member of such limited liability company satisfies
32 the requirements to be eligible for any tax credit allowed under article
33 nine, nine-A, twenty-two or thirty-three of this chapter or allowed
34 under article thirty-two of this chapter prior to the repeal of such
35 article. Such requirements, including but not limited to any necessary
36 certification, employment or investment thresholds, payment obligations,
37 and any time period for eligibility, shall be imposed on the taxpayer
38 and the determination of whether or not such requirements have been
39 satisfied and the computation of the credit shall be made by deeming
40 such taxpayer and such limited liability company to be a single entity.
41 If the taxpayer is the single member of more than one limited liability
42 company that is disregarded as an entity separate from its owner, the
43 determination of whether or not the requirements to be eligible for any
44 tax credit allowed under article nine, nine-A, twenty-two or thirty-
45 three of this chapter or allowed under article thirty-two of this chap-
46 ter prior to the repeal of such article have been satisfied and the
47 computation of the credit shall be made by deeming such taxpayer and
48 such limited liability companies to be a single entity.

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

53 PART R

Section 1. Subparagraph (B) of paragraph 1 of subsection (a) of section 601 of the tax law is REPEALED and a new subparagraph (B) is added to read as follows:

(B)(i) For taxable years beginning in two thousand eighteen the following rates shall apply:

<u>If the New York taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$17,150</u>	<u>4% of the New York taxable income</u>
<u>Over \$17,150 but not over \$23,600</u>	<u>\$686 plus 4.5% of excess over \$17,150</u>
<u>Over \$23,600 but not over \$27,900</u>	<u>\$976 plus 5.25% of excess over \$23,600</u>
<u>Over \$27,900 but not over \$43,000</u>	<u>\$1,202 plus 5.9% of excess over \$27,900</u>
<u>Over \$43,000 but not over \$161,550</u>	<u>\$2,093 plus 6.33% of excess over \$43,000</u>
<u>Over \$161,550 but not over \$323,200</u>	<u>\$9,597 plus 6.57% of excess over \$161,550</u>
<u>Over \$323,200 but not over \$2,155,350</u>	<u>\$20,218 plus 6.85% of excess over \$323,200</u>
<u>Over \$2,155,350</u>	<u>\$145,720 plus 8.82% of excess over \$2,155,350</u>

(ii) For taxable years beginning in two thousand nineteen the following rates shall apply:

<u>If the New York taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$17,150</u>	<u>4% of the New York taxable income</u>
<u>Over \$17,150 but not over \$23,600</u>	<u>\$686 plus 4.5% of excess over \$17,150</u>
<u>Over \$23,600 but not over \$27,900</u>	<u>\$976 plus 5.25% of excess over \$23,600</u>
<u>Over \$27,900 but not over \$43,000</u>	<u>\$1,202 plus 5.9% of excess over \$27,900</u>
<u>Over \$43,000 but not over \$161,550</u>	<u>\$2,093 plus 6.21% of excess over \$43,000</u>
<u>Over \$161,550 but not over \$323,200</u>	<u>\$9,455 plus 6.49% of excess over \$161,550</u>
<u>Over \$323,200 but not over \$2,155,350</u>	<u>\$19,946 plus 6.85% of excess over \$323,200</u>
<u>Over \$2,155,350</u>	<u>\$145,448 plus 8.82% of excess over \$2,155,350</u>

(iii) For taxable years beginning in two thousand twenty the following rates shall apply:

<u>If the New York taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$17,150</u>	<u>4% of the New York taxable income</u>
<u>Over \$17,150 but not over \$23,600</u>	<u>\$686 plus 4.5% of excess over \$17,150</u>
<u>Over \$23,600 but not over \$27,900</u>	<u>\$976 plus 5.25% of excess over \$23,600</u>
<u>Over \$27,900 but not over \$43,000</u>	<u>\$1,202 plus 5.9% of excess over \$27,900</u>
<u>Over \$43,000 but not over \$161,550</u>	<u>\$2,093 plus 6.09% of excess over \$43,000</u>
<u>Over \$161,550 but not over \$323,200</u>	<u>\$9,313 plus 6.41% of excess over \$161,550</u>
<u>Over \$323,200 but not over \$2,155,350</u>	<u>\$19,674 plus 6.85% of excess over</u>

1		<u>\$323,200</u>
2	<u>Over \$2,155,350</u>	<u>\$145,177 plus 8.82% of excess over</u>
3		<u>\$2,155,350</u>
4	<u>(iv) For taxable years beginning in two thousand twenty-one the</u>	
5	<u>following rates shall apply:</u>	
6	<u>If the New York taxable income is:</u>	<u>The tax is:</u>
7	<u>Not over \$17,150</u>	<u>4% of the New York taxable income</u>
8	<u>Over \$17,150 but not over \$23,600</u>	<u>\$686 plus 4.5% of excess over</u>
9		<u>\$17,150</u>
10	<u>Over \$23,600 but not over \$27,900</u>	<u>\$976 plus 5.25% of excess over</u>
11		<u>\$23,600</u>
12	<u>Over \$27,900 but not over \$43,000</u>	<u>\$1,202 plus 5.9% of excess over</u>
13		<u>\$27,900</u>
14	<u>Over \$43,000 but not over \$161,550</u>	<u>\$2,093 plus 5.97% of excess over</u>
15		<u>\$43,000</u>
16	<u>Over \$161,550 but not over \$323,200</u>	<u>\$9,170 plus 6.33% of excess over</u>
17		<u>\$161,550</u>
18	<u>Over \$323,200</u>	<u>\$19,403 plus 6.85% of excess over</u>
19		<u>\$323,200</u>
20	<u>(v) For taxable years beginning in two thousand twenty-two the follow-</u>	
21	<u>ing rates shall apply:</u>	
22	<u>If the New York taxable income is:</u>	<u>The tax is:</u>
23	<u>Not over \$17,150</u>	<u>4% of the New York taxable income</u>
24	<u>Over \$17,150 but not over \$23,600</u>	<u>\$686 plus 4.5% of excess over</u>
25		<u>\$17,150</u>
26	<u>Over \$23,600 but not over \$27,900</u>	<u>\$976 plus 5.25% of excess over</u>
27		<u>\$23,600</u>
28	<u>Over \$27,900 but not over \$161,550</u>	<u>\$1,202 plus 5.85% of excess over</u>
29		<u>\$27,900</u>
30	<u>Over \$161,550 but not over \$323,200</u>	<u>\$9,021 plus 6.25% of excess over</u>
31		<u>\$161,550</u>
32	<u>Over \$323,200</u>	<u>\$19,124 plus 6.85% of excess over</u>
33		<u>\$323,200</u>
34	<u>(vi) For taxable years beginning in two thousand twenty-three the</u>	
35	<u>following rates shall apply:</u>	
36	<u>If the New York taxable income is:</u>	<u>The tax is:</u>
37	<u>Not over \$17,150</u>	<u>4% of the New York taxable income</u>
38	<u>Over \$17,150 but not over \$23,600</u>	<u>\$686 plus 4.5% of excess over</u>
39		<u>\$17,150</u>
40	<u>Over \$23,600 but not over \$27,900</u>	<u>\$976 plus 5.25% of excess over</u>
41		<u>\$23,600</u>
42	<u>Over \$27,900 but not over \$161,550</u>	<u>\$1,202 plus 5.73% of excess over</u>
43		<u>\$27,900</u>
44	<u>Over \$161,550 but not over \$323,200</u>	<u>\$8,860 plus 6.17% of excess over</u>
45		<u>\$161,550</u>
46	<u>Over \$323,200</u>	<u>\$18,834 plus 6.85% of excess over</u>
47		<u>\$323,200</u>
48	<u>(vii) For taxable years beginning in two thousand twenty-four the</u>	
49	<u>following rates shall apply:</u>	
50	<u>If the New York taxable income is:</u>	<u>The tax is:</u>
51	<u>Not over \$17,150</u>	<u>4% of the New York taxable income</u>
52	<u>Over \$17,150 but not over \$23,600</u>	<u>\$686 plus 4.5% of excess over</u>
53		<u>\$17,150</u>
54	<u>Over \$23,600 but not over \$27,900</u>	<u>\$976 plus 5.25% of excess over</u>
55		<u>\$23,600</u>
56	<u>Over \$27,900 but not over \$161,550</u>	<u>\$1,202 plus 5.61% of excess over</u>

1		<u>\$27,900</u>
2	<u>Over \$161,550 but not over \$323,200</u>	<u>\$8,700 plus 6.09% of excess over</u>
3		<u>\$161,550</u>
4	<u>Over \$323,200</u>	<u>\$18,544 plus 6.85% of excess over</u>
5		<u>\$323,200</u>

6 (viii) For taxable years beginning after two thousand twenty-four the
 7 following rates shall apply:

8	<u>If the New York taxable income is:</u>	<u>The tax is:</u>
9	<u>Not over \$17,150</u>	<u>4% of the New York taxable income</u>
10	<u>Over \$17,150 but not over \$23,600</u>	<u>\$686 plus 4.5% of excess over</u>
11		<u>\$17,150</u>
12	<u>Over \$23,600 but not over \$27,900</u>	<u>\$976 plus 5.25% of excess over</u>
13		<u>\$23,600</u>
14	<u>Over \$27,900 but not over \$161,550</u>	<u>\$1,202 plus 5.5% of excess over</u>
15		<u>\$27,900</u>
16	<u>Over \$161,550 but not over \$323,200</u>	<u>\$8,553 plus 6.00% of excess over</u>
17		<u>\$161,550</u>
18	<u>Over \$323,200</u>	<u>\$18,252 plus 6.85% of excess over</u>
19		<u>\$323,200</u>

20 § 2. Subparagraph (B) of paragraph 1 of subsection (b) of section 601
 21 of the tax law is REPEALED and a new subparagraph (B) is added to read
 22 as follows:

23 (B)(i) For taxable years beginning in two thousand eighteen the
 24 following rates shall apply:

25	<u>If the New York taxable income is:</u>	<u>The tax is:</u>
26	<u>Not over \$12,800</u>	<u>4% of the New York taxable income</u>
27	<u>Over \$12,800 but not over \$17,650</u>	<u>\$512 plus 4.5% of excess over \$12,800</u>
28	<u>Over \$17,650 but not over \$20,900</u>	<u>\$730 plus 5.25% of excess over</u>
29		<u>\$17,650</u>
30	<u>Over \$20,900 but not over \$32,200</u>	<u>\$901 plus 5.9% of excess over \$20,900</u>
31	<u>Over \$32,200 but not over \$107,650</u>	<u>\$1,568 plus 6.33% of excess over</u>
32		<u>\$32,200</u>
33	<u>Over \$107,650 but not over \$269,300</u>	<u>\$6,344 plus 6.57% of excess over</u>
34		<u>\$107,650</u>
35	<u>Over \$269,300 but not over \$1,616,450</u>	<u>\$16,964 plus 6.85% of excess over</u>
36		<u>\$269,300</u>
37	<u>Over \$1,616,450</u>	<u>\$109,244 plus 8.82% of excess over</u>
38		<u>\$1,616,450</u>

39 (ii) For taxable years beginning in two thousand nineteen the follow-
 40 ing rates shall apply:

41	<u>If the New York taxable income is:</u>	<u>The tax is:</u>
42	<u>Not over \$12,800</u>	<u>4% of the New York taxable income</u>
43	<u>Over \$12,800 but not over \$17,650</u>	<u>\$512 plus 4.5% of excess over \$12,800</u>
44	<u>Over \$17,650 but not over \$20,900</u>	<u>\$730 plus 5.25% of excess over</u>
45		<u>\$17,650</u>
46	<u>Over \$20,900 but not over \$32,200</u>	<u>\$901 plus 5.9% of excess over \$20,900</u>
47	<u>Over \$32,200 but not over \$107,650</u>	<u>\$1,568 plus 6.21% of excess over</u>
48		<u>\$32,200</u>
49	<u>Over \$107,650 but not over \$269,300</u>	<u>\$6,253 plus 6.49% of excess over</u>
50		<u>\$107,650</u>
51	<u>Over \$269,300 but not over \$1,616,450</u>	<u>\$16,744 plus 6.85% of excess over</u>
52		<u>\$269,300</u>
53	<u>Over \$1,616,450</u>	<u>\$109,024 plus 8.82% of excess over</u>
54		<u>\$1,616,450</u>

55 (iii) For taxable years beginning in two thousand twenty the following
 56 rates shall apply:

If the New York taxable income is:

Not over \$12,800

Over \$12,800 but not over \$17,650

Over \$17,650 but not over \$20,900

Over \$20,900 but not over \$32,200

Over \$32,200 but not over \$107,650

Over \$107,650 but not over \$269,300

Over \$269,300 but not over \$1,616,450

Over \$1,616,450

(iv) For taxable years beginning in two thousand twenty-one the following rates shall apply:

If the New York taxable income is:

Not over \$12,800

Over \$12,800 but not over \$17,650

Over \$17,650 but not over \$20,900

Over \$20,900 but not over \$32,200

Over \$32,200 but not over \$107,650

Over \$107,650 but not over \$269,300

Over \$269,300

(v) For taxable years beginning in two thousand twenty-two the following rates shall apply:

If the New York taxable income is:

Not over \$12,800

Over \$12,800 but not over \$17,650

Over \$17,650 but not over \$20,900

Over \$20,900 but not over \$107,650

Over \$107,650 but not over \$269,300

Over \$269,300

(vi) For taxable years beginning in two thousand twenty-three the following rates shall apply:

If the New York taxable income is:

Not over \$12,800

Over \$12,800 but not over \$17,650

Over \$17,650 but not over \$20,900

Over \$20,900 but not over \$107,650

Over \$107,650 but not over \$269,300

The tax is:

4% of the New York taxable income

\$512 plus 4.5% of excess over \$12,800

\$730 plus 5.25% of excess over \$17,650

\$901 plus 5.9% of excess over \$20,900

\$1,568 plus 6.09% of excess over \$32,200

\$6,162 plus 6.41% of excess over \$107,650

\$16,524 plus 6.85% of excess over \$269,300

\$108,804 plus 8.82% of excess over \$1,616,450

The tax is:

4% of the New York taxable income

\$512 plus 4.5% of excess over \$12,800

\$730 plus 5.25% of excess over \$17,650

\$901 plus 5.9% of excess over \$20,900

\$1,568 plus 5.97% of excess over \$32,200

\$6,072 plus 6.33% of excess over \$107,650

\$16,304 plus 6.85% of excess over \$269,300

The tax is:

4% of the New York taxable income

\$512 plus 4.5% of excess over \$12,800

\$730 plus 5.25% of excess over \$17,650

\$901 plus 5.85% of excess over \$20,900

\$5,976 plus 6.25% of excess over \$107,650

\$16,079 plus 6.85% of excess over \$269,300

The tax is:

4% of the New York taxable income

\$512 plus 4.5% of excess over \$12,800

\$730 plus 5.25% of excess over \$17,650

\$901 plus 5.73% of excess over \$20,900

\$5,872 plus 6.17% of excess over

	<u>\$107,650</u>
<u>Over \$269,300</u>	<u>\$15,845 plus 6.85% of excess over</u>
	<u>\$269,300</u>
<u>(vii) For taxable years beginning in two thousand twenty-four the following rates shall apply:</u>	
<u>If the New York taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$12,800</u>	<u>4% of the New York taxable income</u>
<u>Over \$12,800 but not over \$17,650</u>	<u>\$512 plus 4.5% of excess over</u>
	<u>\$12,800</u>
<u>Over \$17,650 but not over \$20,900</u>	<u>\$730 plus 5.25% of excess over</u>
	<u>\$17,650</u>
<u>Over \$20,900 but not over \$107,650</u>	<u>\$901 plus 5.61% of excess over</u>
	<u>\$20,900</u>
<u>Over \$107,650 but not over \$269,300</u>	<u>\$5,768 plus 6.09% of excess over</u>
	<u>\$107,650</u>
<u>Over \$269,300</u>	<u>\$15,612 plus 6.85% of excess over</u>
	<u>\$269,300</u>

<u>(viii) For taxable years beginning after two thousand twenty-four the following rates shall apply:</u>	
<u>If the New York taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$12,800</u>	<u>4% of the New York taxable income</u>
<u>Over \$12,800 but not over \$17,650</u>	<u>\$512 plus 4.5% of excess over</u>
	<u>\$12,800</u>
<u>Over \$17,650 but not over \$20,900</u>	<u>\$730 plus 5.25% of excess over</u>
	<u>\$17,650</u>
<u>Over \$20,900 but not over \$107,650</u>	<u>\$901 plus 5.5% of excess over</u>
	<u>\$20,900</u>
<u>Over \$107,650 but not over \$269,300</u>	<u>\$5,672 plus 6.00% of excess over</u>
	<u>\$107,650</u>
<u>Over \$269,300</u>	<u>\$15,371 plus 6.85% of excess over</u>
	<u>\$269,300</u>

§ 3. Subparagraph (B) of paragraph 1 of subsection (c) of section 601 of the tax law is REPEALED and a new subparagraph (B) is added to read as follows:

<u>(B)(i) For taxable years beginning in two thousand eighteen the following rates shall apply:</u>	
<u>If the New York taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$8,500</u>	<u>4% of the New York taxable income</u>
<u>Over \$8,500 but not over \$11,700</u>	<u>\$340 plus 4.5% of excess over</u>
	<u>\$8,500</u>
<u>Over \$11,700 but not over \$13,900</u>	<u>\$484 plus 5.25% of excess over</u>
	<u>\$11,700</u>
<u>Over \$13,900 but not over \$21,400</u>	<u>\$600 plus 5.9% of excess over</u>
	<u>\$13,900</u>
<u>Over \$21,400 but not over \$80,650</u>	<u>\$1,042 plus 6.33% of excess over</u>
	<u>\$21,400</u>
<u>Over \$80,650 but not over \$215,400</u>	<u>\$4,793 plus 6.57% of excess over</u>
	<u>\$80,650</u>
<u>Over \$215,400 but not over \$1,077,550</u>	<u>\$13,646 plus 6.85% of excess over</u>
	<u>\$215,400</u>
<u>Over \$1,077,550</u>	<u>\$72,703 plus 8.82% of excess over</u>
	<u>\$1,077,550</u>

(ii) For taxable years beginning in two thousand nineteen the following rates shall apply:

If the New York taxable income is:

Not over \$8,500

Over \$8,500 but not over \$11,700

Over \$11,700 but not over \$13,900

Over \$13,900 but not over \$21,400

Over \$21,400 but not over \$80,650

Over \$80,650 but not over \$215,400

Over \$215,400 but not over \$1,077,550

Over \$1,077,550

(iii) For taxable years beginning in two thousand twenty the following rates shall apply:

If the New York taxable income is:

Not over \$8,500

Over \$8,500 but not over \$11,700

Over \$11,700 but not over \$13,900

Over \$13,900 but not over \$21,400

Over \$21,400 but not over \$80,650

Over \$80,650 but not over \$215,400

Over \$215,400 but not over \$1,077,550

Over \$1,077,550

(iv) For taxable years beginning in two thousand twenty-one the following rates shall apply:

If the New York taxable income is:

Not over \$8,500

Over \$8,500 but not over \$11,700

Over \$11,700 but not over \$13,900

Over \$13,900 but not over \$21,400

Over \$21,400 but not over \$80,650

Over \$80,650 but not over \$215,400

Over \$215,400

(v) For taxable years beginning in two thousand twenty-two the following rates shall apply:

If the New York taxable income is:

Not over \$8,500

Over \$8,500 but not over \$11,700

The tax is:

4% of the New York taxable income

\$340 plus 4.5% of excess over \$8,500

\$484 plus 5.25% of excess over \$11,700

\$600 plus 5.9% of excess over \$13,900

\$1,042 plus 6.21% of excess over \$21,400

\$4,721 plus 6.49% of excess over \$80,650

\$13,467 plus 6.85% of excess over \$215,400

\$72,524 plus 8.82% of excess over \$1,077,550

The tax is:

4% of the New York taxable income

\$340 plus 4.5% of excess over \$8,500

\$484 plus 5.25% of excess over \$11,700

\$600 plus 5.9% of excess over \$13,900

\$1,042 plus 6.09% of excess over \$21,400

\$4,650 plus 6.41% of excess over \$80,650

\$13,288 plus 6.85% of excess over \$215,400

\$72,345 plus 8.82% of excess over \$1,077,550

The tax is:

4% of the New York taxable income

\$340 plus 4.5% of excess over \$8,500

\$484 plus 5.25% of excess over \$11,700

\$600 plus 5.9% of excess over \$13,900

\$1,042 plus 5.97% of excess over \$21,400

\$4,579 plus 6.33% of excess over \$80,650

\$13,109 plus 6.85% of excess over \$215,400

The tax is:

4% of the New York taxable income

\$340 plus 4.5% of excess over

	<u>\$8,500</u>
<u>Over \$11,700 but not over \$13,900</u>	<u>\$484 plus 5.25% of excess over \$11,700</u>
<u>Over \$13,900 but not over \$80,650</u>	<u>\$600 plus 5.85% of excess over \$13,900</u>
<u>Over \$80,650 but not over \$215,400</u>	<u>\$4,504 plus 6.25% of excess over \$80,650</u>
<u>Over \$215,400</u>	<u>\$12,926 plus 6.85% of excess over \$215,400</u>

(vi) For taxable years beginning in two thousand twenty-three the following rates shall apply:

<u>If the New York taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$8,500</u>	<u>4% of the New York taxable income</u>
<u>Over \$8,500 but not over \$11,700</u>	<u>\$340 plus 4.5% of excess over \$8,500</u>
<u>Over \$11,700 but not over \$13,900</u>	<u>\$484 plus 5.25% of excess over \$11,700</u>
<u>Over \$13,900 but not over \$80,650</u>	<u>\$600 plus 5.73% of excess over \$13,900</u>
<u>Over \$80,650 but not over \$215,400</u>	<u>\$4,424 plus 6.17% of excess over \$80,650</u>
<u>Over \$215,400</u>	<u>\$12,738 plus 6.85% of excess over \$215,400</u>

(vii) For taxable years beginning in two thousand twenty-four the following rates shall apply:

<u>If the New York taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$8,500</u>	<u>4% of the New York taxable income</u>
<u>Over \$8,500 but not over \$11,700</u>	<u>\$340 plus 4.5% of excess over \$8,500</u>
<u>Over \$11,700 but not over \$13,900</u>	<u>\$484 plus 5.25% of excess over \$11,700</u>
<u>Over \$13,900 but not over \$80,650</u>	<u>\$600 plus 5.61% of excess over \$13,900</u>
<u>Over \$80,650 but not over \$215,400</u>	<u>\$4,344 plus 6.09% of excess over \$80,650</u>
<u>Over \$215,400</u>	<u>\$12,550 plus 6.85% of excess over \$215,400</u>

(viii) For taxable years beginning after two thousand twenty-four the following rates shall apply:

<u>If the New York taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$8,500</u>	<u>4% of the New York taxable income</u>
<u>Over \$8,500 but not over \$11,700</u>	<u>\$340 plus 4.5% of excess over \$8,500</u>
<u>Over \$11,700 but not over \$13,900</u>	<u>\$484 plus 5.25% of excess over \$11,700</u>
<u>Over \$13,900 but not over \$80,650</u>	<u>\$600 plus 5.50% of excess over \$13,900</u>
<u>Over \$80,650 but not over \$215,400</u>	<u>\$4,271 plus 6.00% of excess over \$80,650</u>
<u>Over \$215,400</u>	<u>\$12,356 plus 6.85% of excess over \$215,400</u>

§ 4. Subparagraph (D) of paragraph 1 of subsection (d-1) of section 601 of the tax law, as amended by section 5 of part FF of chapter 59 of the laws of 2013, is amended to read as follows:

(D) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection

(a) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (a) of this section less the sum of the tax table benefits in subparagraphs (A), (B) and (C) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over two million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand ~~eighteen~~ twenty-one.

§ 5. Subparagraph (C) of paragraph 2 of subsection (d-1) of section 601 of the tax law, as amended by section 6 of part FF of chapter 59 of the laws of 2013, is amended to read as follows:

(C) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (b) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (b) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one million five hundred thousand dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand ~~eighteen~~ twenty-one.

§ 6. Subparagraph (C) of paragraph 3 of subsection (d-1) of section 601 of the tax law, as amended by section 7 of part FF of chapter 59 of the laws of 2013, is amended to read as follows:

(C) The tax table benefit is the difference between (i) the amount of taxable income set forth in the tax table in paragraph one of subsection (c) of this section not subject to the 8.82 percent rate of tax for the taxable year multiplied by such rate and (ii) the dollar denominated tax for such amount of taxable income set forth in the tax table applicable to the taxable year in paragraph one of subsection (c) of this section less the sum of the tax table benefits in subparagraphs (A) and (B) of this paragraph. The fraction for this subparagraph is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one million dollars and the denominator is fifty thousand dollars. This subparagraph shall apply only to taxable years beginning on or after January first, two thousand twelve and before January first, two thousand ~~eighteen~~ twenty-one.

§ 7. This act shall take effect immediately.

PART S

Section 1. Subsection (g) of section 615 of the tax law, as amended by section 1 of part H of chapter 59 of the laws of 2015, is amended to read as follows:

(g)(1) With respect to an individual whose New York adjusted gross income is over one million dollars and no more than ten million dollars, the New York itemized deduction shall be an amount equal to fifty

percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code [~~for taxable years beginning after two thousand nine and before two thousand eighteen. With respect to an individual whose New York adjusted gross income is over one million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning in two thousand nine or after two thousand seven-~~teen].

(2) With respect to an individual whose New York adjusted gross income is over ten million dollars, the New York itemized deduction shall be an amount equal to twenty-five percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code [~~for taxable years beginning after two thousand nine and ending before two thousand eighteen~~].

§ 2. Subdivision (g) of section 11-1715 of the administrative code of the city of New York, as amended by section 2 of part H of chapter 59 of the laws of 2015, is amended to read as follows:

(g) (1) With respect to an individual whose New York adjusted gross income is over one million dollars but no more than ten million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code [~~for taxable years beginning after two thousand nine and before two thousand eighteen. With respect to an individual whose New York adjusted gross income is over one million dollars, the New York itemized deduction shall be an amount equal to fifty percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning in two thousand nine or after two thousand seven-~~teen].

(2) With respect to an individual whose New York adjusted gross income is over ten million dollars, the New York itemized deduction shall be an amount equal to twenty-five percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code [~~for taxable years beginning after two thousand nine and ending before two thousand eighteen~~].

§ 3. This act shall take effect immediately.

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 at least fifty thousand dollars but 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:

At least \$50,000 and less

1.1682

than \$55,000

At least \$55,000 and less

1.2733

than \$60,000

At least \$60,000 and less

2.322

than \$65,000

At least \$65,000 and less

1 than \$150,000

3.000

2 § 2. This act shall take effect immediately.

3 PART U

4 Section 1. Paragraph (a) of subdivision 1 and paragraph (a) of subdivision 2 of section 1701 of the tax law, as added by section 1 of part CC-1 of chapter 57 of the laws of 2008, are amended to read as follows:

7 (a) "Debt" means ~~[all]~~ past-due tax liabilities, including unpaid tax, interest, and penalty, that the commissioner is required by law to collect and that have ~~[been reduced to judgment by the docketing of a New York state tax warrant in the office of a county clerk located in the state of New York or by the filing of a copy of the warrant in the office of the department of state]~~ become fixed and final such that the taxpayer no longer has any right to administrative or judicial review.

14 (a) To assist the commissioner in the collection of debts, the department must develop and operate a financial institution data match system for the purpose of identifying and seizing the non-exempt assets of tax debtors as identified by the commissioner. The commissioner is authorized to designate a third party to develop and operate this system. Notwithstanding any other provisions of this chapter, the commissioner is authorized to disclose the debt and the debtor information to such third party and to financial institutions for purposes of this system. Any third party designated by the commissioner to develop and operate a financial data match system must keep all information it obtains from both the department and the financial institution confidential, and any employee, agent or representative of that third party is prohibited from disclosing that information to anyone other than the department or the financial institution.

27 § 2. This act shall take effect immediately.

29 PART V

30 Section 1. Subdivision 4 of section 50 of the civil service law is amended by adding a new closing paragraph to read as follows:

32 The department shall require a tax clearance from the department of taxation and finance, as provided for in section one hundred seventy-one-w of the tax law, for each applicant and shall refuse to examine an applicant, or after examination to certify an eligible for whom tax clearance is denied by the department of taxation and finance. A municipal commission, subject to the approval of the governing board or body of the city or county as the case may be, or a regional commission or personnel officer, pursuant to governmental agreement, may elect to require tax clearances for applicants and to refuse to examine an applicant, or after examination to certify an eligible for whom a tax clearance is denied by the department of taxation and finance. Provided, however, that the department and municipal commissions shall not require a tax clearance for (1) any current employee; or (2) a person who is considered an applicant by reason of (a) a transfer pursuant to section seventy of this chapter; or (b) a person who is on a preferred list subject to section eighty-one of this chapter; or (c) a person whose name is on an eligible list as defined in section fifty-six of this article and who has successfully completed a promotion exam subject to section fifty-two of this article. Where a tax clearance is required, the application for examination, or the instructions for such application, shall clearly inform the applicant that a tax clearance will be

1 performed and that, if the tax clearance is denied, the applicant must
2 contact the department of taxation and finance to resolve any past-due
3 tax liabilities or return filing compliance before the application for
4 examination may be resubmitted. Any applicant subject to tax clearance
5 shall be required to provide any information deemed necessary by the
6 department and the department of taxation and finance to efficiently and
7 accurately provide a tax clearance, and the failure by the applicant to
8 provide such information shall disqualify the applicant.

9 § 2. The tax law is amended by adding a new section 171-w to read as
10 follows:

11 § 171-w. Enforcement of delinquent tax liabilities through tax clear-
12 ances. (1) For the purposes of this section, the term "tax liabilities"
13 shall mean any tax, surcharge, or fee administered by the commissioner,
14 or any penalty or interest on such tax, surcharge, or fee, owed by an
15 individual or entity. The term "past-due tax liabilities" means any
16 unpaid tax liabilities that have become fixed and final such that the
17 taxpayer no longer has any right to administrative or judicial review.
18 The term "government entity" means the state of New York, or any of its
19 agencies, political subdivisions, instrumentalities, public corporations
20 (including a public corporation created pursuant to agreement or compact
21 with another state or Canada), or combination thereof.

22 (2) The commissioner, or his or her designee, shall cooperate with any
23 government entity that is required by law or has elected to require tax
24 clearances to establish procedures by which the department shall receive
25 a tax clearance request and transmit such tax clearance to the govern-
26 ment entity, and any other procedures deemed necessary to carry out the
27 provisions of this section. These procedures shall, to the extent prac-
28 ticable, require secure electronic communication between the department
29 and the requesting government entity for the transmission of tax clear-
30 ance requests to the department and transmission of tax clearances to
31 the requesting entity. Notwithstanding any other law to the contrary, a
32 government entity shall be authorized to share any applicant data or
33 information with the department that is necessary to ensure the proper
34 matching of the applicant to the tax records maintained by the depart-
35 ment.

36 (3) Upon receipt of a tax clearance request, the department shall
37 examine its records to determine whether the subject of the tax clear-
38 ance request has past-due tax liabilities equal to or in excess of the
39 dollar threshold applicable for such tax clearance request or, were no
40 threshold has been established by law or otherwise, equal to or in
41 excess of five hundred dollars. When a tax clearance request so
42 requires, the department shall also determine whether (i) the subject of
43 such request has complied with applicable tax return filing requirements
44 for each of the past three years; and/or (ii) whether a subject of such
45 request that is an individual or entity that is a person required to
46 register pursuant to section eleven hundred thirty-four of this chapter
47 is registered pursuant to such section. The department shall deny a tax
48 clearance if it determines that the subject of a tax clearance request
49 has past-due tax liabilities equal to or in excess of the applicable
50 threshold or, when the tax clearance request so requires, has not
51 complied with applicable return filing and/or registration requirements.

52 (4) If a tax clearance is denied, the government entity that requested
53 the clearance shall provide notice to the applicant to contact the
54 department. Such notice shall be made by first class mail with a certif-
55 icate of mailing and a copy of such notice also shall be provided to the
56 department. When the applicant contacts the department, the department

1 shall inform the applicant of the basis for the denial of the tax clear-
2 ance and shall also inform the applicant (i) that a tax clearance denied
3 due to past-due tax liabilities may be issued once the taxpayer fully
4 satisfies past-due tax liabilities or makes payment arrangements satis-
5 factory to the commissioner; (ii) that a tax clearance denied due to
6 failure to file tax returns may be issued once the applicant has satis-
7 fied the applicable return filing requirements; (iii) that a tax clear-
8 ance denied for failure to register pursuant to section eleven hundred
9 thirty-four of this chapter may be issued once the applicant has regis-
10 tered pursuant to such section; and (iv) the grounds for challenging the
11 denial of a tax clearance listed in subdivision five of this section.

12 (5) (a) Notwithstanding any other provision of law, and except as
13 specifically provided herein, an applicant denied a tax clearance shall
14 have no right to commence a court action or proceeding or seek any other
15 legal recourse against the department or the government entity related
16 to the denial of a tax clearance by the department.

17 (b) An applicant seeking to challenge the denial of a tax clearance
18 must protest to the department or the division of tax appeals no later
19 than sixty days from the date of the notification to the applicant that
20 the tax clearance was denied. An applicant may challenge a department
21 finding of past-due tax liabilities only on the grounds that (i) the
22 individual or entity denied the tax clearance is not the individual or
23 entity with the past-due tax liabilities at issue; (ii) the past-due tax
24 liabilities were satisfied; (iii) the applicant's wages are being
25 garnished for the payment of child support or combined child and spousal
26 support pursuant to an income execution issued pursuant to section fifty
27 two hundred forty-one or fifty two hundred forty-two of the civil prac-
28 tice law and rules or another state's income withholding order as
29 authorized under part five of article five-B of the family court act, or
30 garnished by the department for the payment of the past-due tax liabil-
31 ities at issue; or (iv) the applicant is making child support payments
32 or combined child and spousal support payments pursuant to a satisfac-
33 tory payment arrangement under section one hundred eleven-b of the
34 social services law with a support collection unit or otherwise making
35 periodic payments in accordance with section four hundred forty of the
36 family court act. An applicant may challenge a department finding of
37 failure to comply with tax return filing requirements only on the
38 grounds that all required tax returns have been filed for each of the
39 past three years.

40 (c) Nothing in this subdivision is intended to limit any applicant
41 from seeking relief from joint and several liability pursuant to section
42 six hundred fifty-four of this chapter, to the extent that he or she is
43 eligible pursuant to that section, or establishing to the department
44 that the enforcement of the underlying tax liabilities has been stayed
45 by the filing of a petition pursuant to the Bankruptcy Code of 1978
46 (Title Eleven of the United States Code).

47 (6) Notwithstanding any other provision of law, the department may
48 exchange with a government entity any data or information that, in the
49 discretion of the commissioner, is necessary for the implementation of a
50 tax clearance requirement. However, no government entity may re-disclose
51 this information to any other entity or person, other than for the
52 purpose of informing the applicant that a required tax clearance has
53 been denied, unless otherwise permitted by law.

54 (7) Except as otherwise provided in this section, the activities to
55 collect past-due tax liabilities undertaken by the department pursuant
56 to this section shall not in any way limit, restrict or impair the

1 department from exercising any other authority to collect or enforce tax
2 liabilities under any other applicable provision of law.

3 § 3. This act shall take effect June 1, 2017; provided, however, that
4 the department of taxation and finance, the department of civil service,
5 any municipal commission, and any other government entity electing to
6 receive a tax clearance from the department of taxation and finance may
7 work to execute the necessary procedures and technical changes to
8 support the tax clearance process as described in sections one and two
9 of this act before that date; provided, further, that this effective
10 date will not impact the administration of any tax clearance program
11 authorized by another provision of law.

12 PART W

13 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter 266
14 of the laws of 1986, amending the civil practice law and rules and other
15 laws relating to malpractice and professional medical conduct, as
16 amended by section 2 of part C of chapter 59 of the laws of 2016, is
17 amended to read as follows:

18 (a) The superintendent of financial services and the commissioner of
19 health or their designee shall, from funds available in the hospital
20 excess liability pool created pursuant to subdivision 5 of this section,
21 purchase a policy or policies for excess insurance coverage, as author-
22 ized by paragraph 1 of subsection (e) of section 5502 of the insurance
23 law; or from an insurer, other than an insurer described in section 5502
24 of the insurance law, duly authorized to write such coverage and actual-
25 ly writing medical malpractice insurance in this state; or shall
26 purchase equivalent excess coverage in a form previously approved by the
27 superintendent of financial services for purposes of providing equiv-
28 alent excess coverage in accordance with section 19 of chapter 294 of
29 the laws of 1985, for medical or dental malpractice occurrences between
30 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,
31 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June
32 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991
33 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July
34 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,
35 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June
36 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998
37 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July
38 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,
39 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June
40 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005
41 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July
42 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,
43 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June
44 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012
45 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July
46 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, ~~and~~
47 between July 1, 2016 and June 30, 2017, and between July 1, 2017 and
48 June 30, 2018 or reimburse the hospital where the hospital purchases
49 equivalent excess coverage as defined in subparagraph (i) of paragraph
50 (a) of subdivision 1-a of this section for medical or dental malpractice
51 occurrences between July 1, 1987 and June 30, 1988, between July 1, 1988
52 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July
53 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,
54 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June

1 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995
2 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July
3 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,
4 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June
5 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002
6 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July
7 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,
8 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June
9 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009
10 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July
11 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013,
12 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June
13 30, 2015, between July 1, 2015 and June 30, 2016, [~~and~~] between July 1,
14 2016 and June 30, 2017, and between July 1, 2017 and June 30, 2018 for
15 physicians or dentists certified as eligible for each such period or
16 periods pursuant to subdivision 2 of this section by a general hospital
17 licensed pursuant to article 28 of the public health law; provided that
18 no single insurer shall write more than fifty percent of the total
19 excess premium for a given policy year; and provided, however, that such
20 eligible physicians or dentists must have in force an individual policy,
21 from an insurer licensed in this state of primary malpractice insurance
22 coverage in amounts of no less than one million three hundred thousand
23 dollars for each claimant and three million nine hundred thousand
24 dollars for all claimants under that policy during the period of such
25 excess coverage for such occurrences or be endorsed as additional
26 insureds under a hospital professional liability policy which is offered
27 through a voluntary attending physician ("channeling") program previous-
28 ly permitted by the superintendent of financial services during the
29 period of such excess coverage for such occurrences; and provided that
30 such eligible physicians or dentists have received tax clearances from
31 the department of taxation and finance pursuant to section 171-w of the
32 tax law. During such period, such policy for excess coverage or such
33 equivalent excess coverage shall, when combined with the physician's or
34 dentist's primary malpractice insurance coverage or coverage provided
35 through a voluntary attending physician ("channeling") program, total an
36 aggregate level of two million three hundred thousand dollars for each
37 claimant and six million nine hundred thousand dollars for all claimants
38 from all such policies with respect to occurrences in each of such years
39 provided, however, if the cost of primary malpractice insurance coverage
40 in excess of one million dollars, but below the excess medical malprac-
41 tice insurance coverage provided pursuant to this act, exceeds the rate
42 of nine percent per annum, then the required level of primary malprac-
43 tice insurance coverage in excess of one million dollars for each claim-
44 ant shall be in an amount of not less than the dollar amount of such
45 coverage available at nine percent per annum; the required level of such
46 coverage for all claimants under that policy shall be in an amount not
47 less than three times the dollar amount of coverage for each claimant;
48 and excess coverage, when combined with such primary malpractice insur-
49 ance coverage, shall increase the aggregate level for each claimant by
50 one million dollars and three million dollars for all claimants; and
51 provided further, that, with respect to policies of primary medical
52 malpractice coverage that include occurrences between April 1, 2002 and
53 June 30, 2002, such requirement that coverage be in amounts no less than
54 one million three hundred thousand dollars for each claimant and three
55 million nine hundred thousand dollars for all claimants for such occur-
56 rences shall be effective April 1, 2002.

§ 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, as amended by section 3 of part C of chapter 59 of the laws of 2016, is amended to read as follows:

(3)(a) The superintendent of financial services shall determine and certify to each general hospital and to the commissioner of health the cost of excess malpractice insurance for medical or dental malpractice occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, and between July 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, and between July 1, 2016 and June 30, 2017, and between July 1, 2017 and June 30, 2018 allocable to each general hospital for physicians or dentists certified as eligible for purchase of a policy for excess insurance coverage by such general hospital in accordance with subdivision 2 of this section, and may amend such determination and certification as necessary.

(b) The superintendent of financial services shall determine and certify to each general hospital and to the commissioner of health the cost of excess malpractice insurance or equivalent excess coverage for medical or dental malpractice occurrences between July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016, and between July 1, 2016 and June 30, 2017, and between July 1, 2017 and June 30, 2018 allocable to each general hospital for physicians or dentists certified as eligible for purchase of a policy for excess insurance coverage or equivalent excess coverage by such general hospital in accordance with subdivision 2 of this section, and may amend such determination and certification as necessary. The superintendent of financial services shall determine and certify to each general hospital

1 and to the commissioner of health the ratable share of such cost alloca-
2 ble to the period July 1, 1987 to December 31, 1987, to the period Janu-
3 ary 1, 1988 to June 30, 1988, to the period July 1, 1988 to December 31,
4 1988, to the period January 1, 1989 to June 30, 1989, to the period July
5 1, 1989 to December 31, 1989, to the period January 1, 1990 to June 30,
6 1990, to the period July 1, 1990 to December 31, 1990, to the period
7 January 1, 1991 to June 30, 1991, to the period July 1, 1991 to December
8 31, 1991, to the period January 1, 1992 to June 30, 1992, to the period
9 July 1, 1992 to December 31, 1992, to the period January 1, 1993 to June
10 30, 1993, to the period July 1, 1993 to December 31, 1993, to the period
11 January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December
12 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period
13 July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June
14 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period
15 January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December
16 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period
17 July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June
18 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period
19 January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December
20 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period
21 July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30,
22 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1,
23 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to
24 the period July 1, 2006 and June 30, 2007, to the period July 1, 2007
25 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the
26 period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and
27 June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the
28 period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and
29 June 30, 2014, to the period July 1, 2014 and June 30, 2015, to the
30 period July 1, 2015 and June 30, 2016, and between July 1, 2016 and June
31 30, 2017, and to the period July 1, 2017 and June 30, 2018.

32 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
33 18 of chapter 266 of the laws of 1986, amending the civil practice law
34 and rules and other laws relating to malpractice and professional
35 medical conduct, as amended by section 4 of part C of chapter 59 of the
36 laws of 2016, are amended to read as follows:

37 (a) To the extent funds available to the hospital excess liability
38 pool pursuant to subdivision 5 of this section as amended, and pursuant
39 to section 6 of part J of chapter 63 of the laws of 2001, as may from
40 time to time be amended, which amended this subdivision, are insuffi-
41 cient to meet the costs of excess insurance coverage or equivalent
42 excess coverage for coverage periods during the period July 1, 1992 to
43 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
44 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
45 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
46 during the period July 1, 1997 to June 30, 1998, during the period July
47 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
48 2000, during the period July 1, 2000 to June 30, 2001, during the period
49 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
50 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
51 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
52 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
53 during the period July 1, 2006 to June 30, 2007, during the period July
54 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
55 2009, during the period July 1, 2009 to June 30, 2010, during the period
56 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June

30, 2012, during the period July 1, 2012 to June 30, 2013, during the period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to June 30, 2015, during the period July 1, 2015 and June 30, 2016, ~~[and between]~~ during the period July 1, 2016 and June 30, 2017, and during the period July 1, 2017 and June 30, 2018 allocated or reallocated in accordance with paragraph (a) of subdivision 4-a of this section to rates of payment applicable to state governmental agencies, each physician or dentist for whom a policy for excess insurance coverage or equivalent excess coverage is purchased for such period shall be responsible for payment to the provider of excess insurance coverage or equivalent excess coverage of an allocable share of such insufficiency, based on the ratio of the total cost of such coverage for such physician to the sum of the total cost of such coverage for all physicians applied to such insufficiency.

(b) Each provider of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or covering the period July 1, 2017 to June 30, 2018 shall notify a covered physician or dentist by mail, mailed to the address shown on the last application for excess insurance coverage or equivalent excess coverage, of the amount due to such provider from such physician or dentist for such coverage period determined in accordance with paragraph (a) of this subdivision. Such amount shall be due from such physician or dentist to such provider of excess insurance coverage or equivalent excess coverage in a time and manner determined by the superintendent of financial services.

(c) If a physician or dentist liable for payment of a portion of the costs of excess insurance coverage or equivalent excess coverage covering the period July 1, 1992 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or covering the period July 1, 2001 to October 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or covering the period July 1,

1 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
2 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
3 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
4 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
5 2011, or covering the period July 1, 2011 to June 30, 2012, or covering
6 the period July 1, 2012 to June 30, 2013, or covering the period July 1,
7 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,
8 2015, or covering the period July 1, 2015 to June 30, 2016, or covering
9 the period July 1, 2016 to June 30, 2017, or covering the period July 1,
10 2017 to June 30, 2018 determined in accordance with paragraph (a) of
11 this subdivision fails, refuses or neglects to make payment to the
12 provider of excess insurance coverage or equivalent excess coverage in
13 such time and manner as determined by the superintendent of financial
14 services pursuant to paragraph (b) of this subdivision, excess insurance
15 coverage or equivalent excess coverage purchased for such physician or
16 dentist in accordance with this section for such coverage period shall
17 be cancelled and shall be null and void as of the first day on or after
18 the commencement of a policy period where the liability for payment
19 pursuant to this subdivision has not been met.

20 (d) Each provider of excess insurance coverage or equivalent excess
21 coverage shall notify the superintendent of financial services and the
22 commissioner of health or their designee of each physician and dentist
23 eligible for purchase of a policy for excess insurance coverage or
24 equivalent excess coverage covering the period July 1, 1992 to June 30,
25 1993, or covering the period July 1, 1993 to June 30, 1994, or covering
26 the period July 1, 1994 to June 30, 1995, or covering the period July 1,
27 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30,
28 1997, or covering the period July 1, 1997 to June 30, 1998, or covering
29 the period July 1, 1998 to June 30, 1999, or covering the period July 1,
30 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,
31 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-
32 ing the period April 1, 2002 to June 30, 2002, or covering the period
33 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to
34 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or
35 covering the period July 1, 2005 to June 30, 2006, or covering the peri-
36 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to
37 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or
38 covering the period July 1, 2009 to June 30, 2010, or covering the peri-
39 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to
40 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or
41 covering the period July 1, 2013 to June 30, 2014, or covering the peri-
42 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to
43 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or
44 covering the period July 1, 2017 to June 30, 2018 that has made payment
45 to such provider of excess insurance coverage or equivalent excess
46 coverage in accordance with paragraph (b) of this subdivision and of
47 each physician and dentist who has failed, refused or neglected to make
48 such payment.

49 (e) A provider of excess insurance coverage or equivalent excess
50 coverage shall refund to the hospital excess liability pool any amount
51 allocable to the period July 1, 1992 to June 30, 1993, and to the period
52 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
53 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
54 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
55 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
56 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000

1 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
2 and to the period April 1, 2002 to June 30, 2002, and to the period July
3 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
4 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
5 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
6 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
7 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
8 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
9 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
10 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
11 to the period July 1, 2014 to June 30, 2015, and to the period July 1,
12 2015 to June 30, 2016, ~~and~~ to the period July 1, 2016 to June 30,
13 2017, and to the period July 1, 2017 to June 30, 2018 received from the
14 hospital excess liability pool for purchase of excess insurance coverage
15 or equivalent excess coverage covering the period July 1, 1992 to June
16 30, 1993, and covering the period July 1, 1993 to June 30, 1994, and
17 covering the period July 1, 1994 to June 30, 1995, and covering the
18 period July 1, 1995 to June 30, 1996, and covering the period July 1,
19 1996 to June 30, 1997, and covering the period July 1, 1997 to June 30,
20 1998, and covering the period July 1, 1998 to June 30, 1999, and cover-
21 ing the period July 1, 1999 to June 30, 2000, and covering the period
22 July 1, 2000 to June 30, 2001, and covering the period July 1, 2001 to
23 October 29, 2001, and covering the period April 1, 2002 to June 30,
24 2002, and covering the period July 1, 2002 to June 30, 2003, and cover-
25 ing the period July 1, 2003 to June 30, 2004, and covering the period
26 July 1, 2004 to June 30, 2005, and covering the period July 1, 2005 to
27 June 30, 2006, and covering the period July 1, 2006 to June 30, 2007,
28 and covering the period July 1, 2007 to June 30, 2008, and covering the
29 period July 1, 2008 to June 30, 2009, and covering the period July 1,
30 2009 to June 30, 2010, and covering the period July 1, 2010 to June 30,
31 2011, and covering the period July 1, 2011 to June 30, 2012, and cover-
32 ing the period July 1, 2012 to June 30, 2013, and covering the period
33 July 1, 2013 to June 30, 2014, and covering the period July 1, 2014 to
34 June 30, 2015, and covering the period July 1, 2015 to June 30, 2016,
35 and covering the period July 1, 2016 to June 30, 2017, and covering the
36 period July 1, 2017 to June 30, 2018 for a physician or dentist where
37 such excess insurance coverage or equivalent excess coverage is
38 cancelled in accordance with paragraph (c) of this subdivision.

39 § 4. Section 40 of chapter 266 of the laws of 1986, amending the civil
40 practice law and rules and other laws relating to malpractice and
41 professional medical conduct, as amended by section 5 of part C of chap-
42 ter 59 of the laws of 2016, is amended to read as follows:

43 § 40. The superintendent of financial services shall establish rates
44 for policies providing coverage for physicians and surgeons medical
45 malpractice for the periods commencing July 1, 1985 and ending June 30,
46 ~~2017~~ 2018; provided, however, that notwithstanding any other provision
47 of law, the superintendent shall not establish or approve any increase
48 in rates for the period commencing July 1, 2009 and ending June 30,
49 2010. The superintendent shall direct insurers to establish segregated
50 accounts for premiums, payments, reserves and investment income attrib-
51 utable to such premium periods and shall require periodic reports by the
52 insurers regarding claims and expenses attributable to such periods to
53 monitor whether such accounts will be sufficient to meet incurred claims
54 and expenses. On or after July 1, 1989, the superintendent shall impose
55 a surcharge on premiums to satisfy a projected deficiency that is
56 attributable to the premium levels established pursuant to this section

1 for such periods; provided, however, that such annual surcharge shall
2 not exceed eight percent of the established rate until July 1, [~~2017~~]
3 ~~2018~~, at which time and thereafter such surcharge shall not exceed twen-
4 ty-five percent of the approved adequate rate, and that such annual
5 surcharges shall continue for such period of time as shall be sufficient
6 to satisfy such deficiency. The superintendent shall not impose such
7 surcharge during the period commencing July 1, 2009 and ending June 30,
8 2010. On and after July 1, 1989, the surcharge prescribed by this
9 section shall be retained by insurers to the extent that they insured
10 physicians and surgeons during the July 1, 1985 through June 30, [~~2017~~]
11 ~~2018~~ policy periods; in the event and to the extent physicians and
12 surgeons were insured by another insurer during such periods, all or a
13 pro rata share of the surcharge, as the case may be, shall be remitted
14 to such other insurer in accordance with rules and regulations to be
15 promulgated by the superintendent. Surcharges collected from physicians
16 and surgeons who were not insured during such policy periods shall be
17 apportioned among all insurers in proportion to the premium written by
18 each insurer during such policy periods; if a physician or surgeon was
19 insured by an insurer subject to rates established by the superintendent
20 during such policy periods, and at any time thereafter a hospital,
21 health maintenance organization, employer or institution is responsible
22 for responding in damages for liability arising out of such physician's
23 or surgeon's practice of medicine, such responsible entity shall also
24 remit to such prior insurer the equivalent amount that would then be
25 collected as a surcharge if the physician or surgeon had continued to
26 remain insured by such prior insurer. In the event any insurer that
27 provided coverage during such policy periods is in liquidation, the
28 property/casualty insurance security fund shall receive the portion of
29 surcharges to which the insurer in liquidation would have been entitled.
30 The surcharges authorized herein shall be deemed to be income earned for
31 the purposes of section 2303 of the insurance law. The superintendent,
32 in establishing adequate rates and in determining any projected defi-
33 ciency pursuant to the requirements of this section and the insurance
34 law, shall give substantial weight, determined in his discretion and
35 judgment, to the prospective anticipated effect of any regulations
36 promulgated and laws enacted and the public benefit of stabilizing
37 malpractice rates and minimizing rate level fluctuation during the peri-
38 od of time necessary for the development of more reliable statistical
39 experience as to the efficacy of such laws and regulations affecting
40 medical, dental or podiatric malpractice enacted or promulgated in 1985,
41 1986, by this act and at any other time. Notwithstanding any provision
42 of the insurance law, rates already established and to be established by
43 the superintendent pursuant to this section are deemed adequate if such
44 rates would be adequate when taken together with the maximum authorized
45 annual surcharges to be imposed for a reasonable period of time whether
46 or not any such annual surcharge has been actually imposed as of the
47 establishment of such rates.

48 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of
49 chapter 63 of the laws of 2001, amending chapter 266 of the laws of
50 1986, amending the civil practice law and rules and other laws relating
51 to malpractice and professional medical conduct, as amended by section 6
52 of part C of chapter 59 of the laws of 2016, are amended to read as
53 follows:

54 § 5. The superintendent of financial services and the commissioner of
55 health shall determine, no later than June 15, 2002, June 15, 2003, June
56 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,

June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15, 2015, June 15, 2016, [~~and~~] June 15, 2017, and June 15, 2018 the amount of funds available in the hospital excess liability pool, created pursuant to section 18 of chapter 266 of the laws of 1986, and whether such funds are sufficient for purposes of purchasing excess insurance coverage for eligible participating physicians and dentists during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30, 2016, or July 1, 2016 to June 30, 2017, or to July 1, 2017 to June 30, 2018 as applicable.

(a) This section shall be effective only upon a determination, pursuant to section five of this act, by the superintendent of financial services and the commissioner of health, and a certification of such determination to the state director of the budget, the chair of the senate committee on finance and the chair of the assembly committee on ways and means, that the amount of funds in the hospital excess liability pool, created pursuant to section 18 of chapter 266 of the laws of 1986, is insufficient for purposes of purchasing excess insurance coverage for eligible participating physicians and dentists during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30, 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30, 2018 as applicable.

(e) The commissioner of health shall transfer for deposit to the hospital excess liability pool created pursuant to section 18 of chapter 266 of the laws of 1986 such amounts as directed by the superintendent of financial services for the purchase of excess liability insurance coverage for eligible participating physicians and dentists for the policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, as applicable, and the cost of administering the hospital excess liability pool for such applicable policy year, pursuant to the program established in chapter 266 of the laws of 1986, as amended, no later than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15, 2015, June 15, 2016, [~~and~~] June 15, 2017, and June 15, 2018 as applicable.

§ 6. Notwithstanding any law, rule or regulation to the contrary, only physicians or dentists who were eligible, and for whom the superintendent of financial services and the commissioner of health, or their designee, purchased, with funds available in the hospital excess liability pool, a full or partial policy for excess coverage or equivalent excess coverage for the coverage period ending the thirtieth of June, two thousand seventeen, shall be eligible to apply for such coverage for

1 the coverage period beginning the first of July, two thousand seventeen;
2 provided, however, if the total number of physicians or dentists for
3 whom such excess coverage or equivalent excess coverage was purchased
4 for the policy year ending the thirtieth of June, two thousand seventeen
5 exceeds the total number of physicians or dentists certified as eligible
6 for the coverage period beginning the first of July, two thousand seven-
7 teen, then the general hospitals may certify additional eligible physi-
8 cians or dentists in a number equal to such general hospital's propor-
9 tional share of the total number of physicians or dentists for whom
10 excess coverage or equivalent excess coverage was purchased with funds
11 available in the hospital excess liability pool as of the thirtieth of
12 June, two thousand seventeen, as applied to the difference between the
13 number of eligible physicians or dentists for whom a policy for excess
14 coverage or equivalent excess coverage was purchased for the coverage
15 period ending the thirtieth of June, two thousand seventeen and the
16 number of such eligible physicians or dentists who have applied for
17 excess coverage or equivalent excess coverage for the coverage period
18 beginning the first of July, two thousand seventeen.

19 § 7. The tax law is amended by adding a new section 171-w to read as
20 follows:

21 § 171-w. Enforcement of delinquent tax liabilities through tax clear-
22 ances. (1) For the purposes of this section, the term "tax liabilities"
23 shall mean any tax, surcharge, or fee administered by the commissioner,
24 or any penalty or interest on such tax, surcharge or fee, owed by an
25 individual or entity. The term "past-due tax liabilities" means any
26 unpaid tax liabilities that have become fixed and final such that the
27 taxpayer no longer has any right to administrative or judicial review.
28 The term "government entity" means the state of New York, or any of its
29 agencies, political subdivisions, instrumentalities, public corporations
30 (including a public corporation created pursuant to agreement or compact
31 with another state or Canada), or combination thereof.

32 (2) The commissioner, or his or her designee, shall cooperate with any
33 government entity that is required by law or has elected to require tax
34 clearances to establish procedures by which the department shall receive
35 a tax clearance request and transmit such tax clearance to the govern-
36 ment entity, and any other procedures deemed necessary to carry out the
37 provisions of this section. These procedures shall, to the extent prac-
38 ticable, require secure electronic communication between the department
39 and the requesting government entity for the transmission of tax clear-
40 ance requests to the department and transmission of tax clearances to
41 the requesting entity. Notwithstanding any other law to the contrary, a
42 government entity shall be authorized to share any applicant data or
43 information with the department that is necessary to ensure the proper
44 matching of the applicant to the tax records maintained by the depart-
45 ment.

46 (3) Upon receipt of a tax clearance request, the department shall
47 examine its records to determine whether the subject of the tax clear-
48 ance request has past-due tax liabilities equal to or in excess of the
49 dollar threshold applicable for such tax clearance request or, where no
50 threshold has been established by law or otherwise, equal to or in
51 excess of five hundred dollars. When a tax clearance request so
52 requires, the department shall also determine whether (i) the subject of
53 such request has complied with applicable tax return filing requirements
54 for each of the past three years; and/or (ii) whether a subject of such
55 request that is an individual or entity that is a person required to
56 register pursuant to section eleven hundred thirty-four of this chapter

1 is registered pursuant to such section. The department shall deny a tax
2 clearance if it determines that the subject of a tax clearance request
3 has past-due tax liabilities equal to or in excess of the applicable
4 threshold or, when the tax clearance request so requires, has not
5 complied with applicable return filing and/or registration requirements.

6 (4) If a tax clearance is denied, the government entity that requested
7 the clearance shall provide notice to the applicant to contact the
8 department. Such notice shall be made by first class mail with a certifi-
9 cate of mailing and a copy of such notice also shall be provided to the
10 department. When the applicant contacts the department, the department
11 shall inform the applicant of the basis for the denial of the tax clear-
12 ance and shall also inform the applicant (i) that a tax clearance denied
13 due to past-due tax liabilities may be issued once the taxpayer fully
14 satisfies past-due tax liabilities or makes payment arrangements satis-
15 factory to the commissioner; (ii) that a tax clearance denied due to
16 failure to file tax returns may be issued once the applicant has satis-
17 fied the applicable return filing requirements; (iii) that a tax clear-
18 ance denied for failure to register pursuant to section eleven hundred
19 thirty-four of this chapter may be issued once the applicant has regis-
20 tered pursuant to such section; and (iv) the grounds for challenging the
21 denial of a tax clearance listed in subdivision five of this section.

22 (5) (a) Notwithstanding any other provision of law, and except as
23 specifically provided herein, an applicant denied a tax clearance shall
24 have no right to commence a court action or proceeding or seek any other
25 legal recourse against the department or the government entity related
26 to the denial of a tax clearance by the department.

27 (b) An applicant seeking to challenge the denial of a tax clearance
28 must protest to the department or the division of tax appeals no later
29 than sixty days from the date of the notification to the applicant that
30 the tax clearance was denied. An applicant may challenge a department
31 finding of past-due tax liabilities only on the grounds that (i) the
32 individual or entity denied the tax clearance is not the individual or
33 entity with the past-due tax liabilities at issue; (ii) the past-due tax
34 liabilities were satisfied; (iii) the applicant's wages are being
35 garnished for the payment of child support or combined child and spousal
36 support pursuant to an income execution issued pursuant to section
37 fifty-two hundred forty-one or fifty-two hundred forty-two of the civil
38 practice law and rules or another state's income withholding order as
39 authorized under part five of article five-B of the family court act, or
40 garnished by the department for the payment of the past-due tax liabil-
41 ities at issue; or (iv) the applicant is making child support payments
42 or combined child and spousal support payments pursuant to a satisfac-
43 tory payment arrangement under section one hundred eleven-b of the
44 social services law with a support collection unit or otherwise making
45 periodic payments in accordance with section four hundred forty of the
46 family court act. An applicant may challenge a department finding of
47 failure to comply with tax return filing requirements only on the
48 grounds that all required tax returns have been filed for each of the
49 past three years.

50 (c) Nothing in this subdivision is intended to limit any applicant
51 from seeking relief from joint and several liability pursuant to section
52 six hundred fifty-four of this chapter, to the extent that he or she is
53 eligible pursuant to that section, or establishing to the department
54 that the enforcement of the underlying tax liabilities has been stayed
55 by the filing of a petition pursuant to the Bankruptcy Code of 1978
56 (title eleven of the United States Code).

(6) Notwithstanding any other provision of law, the department may exchange with a government entity any data or information that, in the discretion of the commissioner, is necessary for the implementation of a tax clearance requirement. However, no government entity may re-disclose this information to any other entity or person, other than for the purpose of informing the applicant that a required tax clearance has been denied, unless otherwise permitted by law.

(7) Except as otherwise provided in this section, the activities to collect past-due tax liabilities undertaken by the department pursuant to this section shall not in any way limit, restrict or impair the department from exercising any other authority to collect or enforce tax liabilities under any other applicable provision of law.

§ 8. This act shall take effect immediately.

PART X

Section 1. Section 2 of part Q of chapter 59 of the laws of 2013, amending the tax law, relating to serving an income execution with respect to individual tax debtors without filing a warrant, as amended by section 1 of part DD of chapter 59 of the laws of 2015, is amended to read as follows:

§ 2. This act shall take effect immediately ~~[and shall expire and be deemed repealed on and after April 1, 2017]~~.

§ 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 Y

Section 1. Subdivision 1-A 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:

1-A. The term "New York S corporation" means, with respect to any taxable year, a corporation subject to tax under this article ~~[for which an election is in effect pursuant to subsection (a) of section six hundred sixty of this chapter for such year]~~ and described in subsection (b) of section six hundred sixty of this chapter, and any such year shall be denominated a "New York S year" ~~[, and such election shall be denominated a "New York S election"]~~. The term "New York C corporation" means, with respect to any taxable year, a corporation subject to tax under this article which is not a New York S corporation, and any such year shall be denominated a "New York C year". The term "termination year" means any taxable year of a corporation during which the corporation's status as a New York S [election] corporation terminates on a day other than the first day of such year. The portion of the taxable year ending before the first day for which such termination is effective shall be denominated the "S short year", and the portion of such year beginning on such first day shall be denominated the "C short year". The term "New York S termination year" means any termination year which is ~~[not]~~ also an S termination year for federal purposes.

§ 2. Subdivision 1-B, paragraph (ii) of the opening paragraph and paragraph (k) of subdivision 9 of section 208 of the tax law are REPEALED.

§ 3. Subdivision 1 of section 210-A of the tax law, as amended by section 21 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

1 1. General. Business income and capital shall be apportioned to the
2 state by the apportionment factor determined pursuant to this section.
3 The apportionment factor is a fraction, determined by including only
4 those receipts, net income, net gains, and other items described in this
5 section that are included in the computation of the taxpayer's business
6 income (determined without regard to the modification provided in
7 subparagraph nineteen of paragraph (a) of subdivision nine of section
8 two hundred eight of this article) for the taxable year. The numerator
9 of the apportionment fraction shall be equal to the sum of all the
10 amounts required to be included in the numerator pursuant to the
11 provisions of this section and the denominator of the apportionment
12 fraction shall be equal to the sum of all the amounts required to be
13 included in the denominator pursuant to the provisions of this section.

14 For a New York S corporation, the receipts included in the apportionment
15 fraction are those receipts, net income (not less than zero), net gains
16 (not less than zero), and other items described in this section that are
17 included in the New York S corporation's nonseparately computed income
18 and loss or in the New York S corporation's separately stated items of
19 income and loss, determined pursuant to subdivision (a) of section 1366
20 of the internal revenue code.

21 § 4. Section 660 of the tax law, as amended by chapter 606 of the laws
22 of 1984, subsections (a) and (h) as amended by section 73 of part A of
23 chapter 59 of the laws of 2014, paragraph 3 of subsection (b) as amended
24 by section 51 of part A of chapter 389 of the laws of 1997, paragraphs 4
25 and 5 as added and paragraph 6 of subsection (b) as renumbered by
26 section 52 of part A of chapter 389 of the laws of 1997, subsection (d)
27 as added by chapter 760 of the laws of 1992, subsections (e) and (f) as
28 added and subsection (g) as relettered by section 53 of part A of chap-
29 ter 389 of the laws of 1997, subsection (i) as added by section 1 of
30 part L of chapter 60 of the laws of 2007, and paragraph 1 of subsection
31 (i) as amended by section 39 of part T of chapter 59 of the laws of
32 2015, is amended to read as follows:

33 § 660. [~~Election by shareholders of S corporations.~~] Tax treatment of
34 federal S corporations. (a) [~~Election.~~] If a corporation is an [~~eligi-~~
35 ~~ble~~] S corporation described in subsection (b) of this section, the
36 shareholders of the corporation [~~may elect in the manner set forth in~~
37 ~~subsection (b) of this section to~~] shall take into account, to the
38 extent provided for in this article (or in article thirteen of this
39 chapter, in the case of a shareholder which is a taxpayer under such
40 article), the S corporation items of income, loss, deduction and
41 reductions for taxes described in paragraphs two and three of subsection
42 (f) of section thirteen hundred sixty-six of the internal revenue code
43 which are taken into account for federal income tax purposes for the
44 taxable year. [~~No election under this subsection shall be effective~~
45 ~~unless all shareholders of the corporation have so elected. An eligible~~]

46 (b) A New York S corporation is (i) [an-S] a corporation that has made
47 a valid election to be an S corporation for federal income tax purposes
48 pursuant to section 1362 of the internal revenue code which is subject
49 to tax under article nine-A of this chapter, or (ii) [~~an-S~~] a corpo-
50 ration that has made a valid election to be an S corporation for federal
51 income tax purposes pursuant to section 1362 of the internal revenue
52 code which is the parent of a qualified subchapter S subsidiary as
53 defined in subparagraph (B) of paragraph three of subsection (b) of
54 section thirteen hundred sixty-one of the internal revenue code subject
55 to tax under article nine-A[~~, where the shareholders of such parent~~
56 ~~corporation are entitled to make the election under this subsection by~~

~~reason of subparagraph three of paragraph (k) of subdivision nine of section two hundred eight]~~ of this chapter.

~~[(b) Requirements of election. An election under subsection (a) of this section shall be made on such form and in such manner as the tax commission may prescribe by regulation or instruction.~~

~~(1) When made. An election under subsection (a) of this section may be made at any time during the preceding taxable year of the corporation or at any time during the taxable year of the corporation and on or before the fifteenth day of the third month of such taxable year.~~

~~(2) Certain elections made during first two and one-half months. If an election made under subsection (a) of this section is made for any taxable year of the corporation during such year and on or before the fifteenth day of the third month of such year, such election shall be treated as made for the following taxable year if~~

~~(A) on one or more days in such taxable year before the day on which the election was made the corporation did not meet the requirements of subsection (b) of section thirteen hundred sixty one of the internal revenue code or~~

~~(B) one or more of the shareholders who held stock in the corporation during such taxable year and before the election was made did not consent to the election.~~

~~(3) Elections made after first two and one-half months. If an election under subsection (a) of this section is made for any taxable year of the corporation and such election is made after the fifteenth day of the third month of such taxable year and on or before the fifteenth day of the third month of the following taxable year, such election shall be treated as made for the following taxable year.~~

~~(4) Taxable years of two and one-half months or less. For purposes of this subsection, an election for a taxable year made not later than two months and fifteen days after the first day of the taxable year shall be treated as timely made during such year.~~

~~(5) Authority to treat late elections, etc., as timely. If (A) an election under subsection (a) of this section is made for any taxable year (determined without regard to paragraph three of this subsection) after the date prescribed by this subsection for making such election for such taxable year, or if no such election is made for any taxable year, and~~

~~(B) the commissioner determines that there was reasonable cause for failure to timely make such election, then~~

~~(C) the commissioner may treat such an election as timely made for such taxable year (and paragraph three of this subsection shall not apply).~~

~~(6) Years for which effective. An election under subsection (a) of this section shall be effective for the taxable year of the corporation for which it is made and for all succeeding taxable years of the corporation until such election is terminated under subsection (c) of this section.]~~

(c) Termination. An ~~[election under subsection (a) of this section]~~ S corporation shall cease to be ~~[effective~~

~~(1)]~~ a New York S corporation on the day an election to be an S corporation ceases to be effective for federal income tax purposes pursuant to subsection (d) of section thirteen hundred sixty-two of the internal revenue code~~[, or~~

~~(2) if shareholders holding more than one-half of the shares of stock of the corporation on the day on which the revocation is made revoke~~

~~such election in the manner the tax commission may prescribe by regulation,~~

~~(A) on the first day of the taxable year of the corporation, if the revocation is made during such taxable year and on or before the fifteenth day of the third month thereof, or~~

~~(B) on the first day of the following taxable year of the corporation, if the revocation is made during the taxable year but after the fifteenth day of the third month thereof, or~~

~~(C) on and after the date so specified, if the revocation specifies a date for revocation which is on or after the day on which the revocation is made, or~~

~~(3) if any person who was not a shareholder of the corporation on the day on which the election is made becomes a shareholder in the corporation and affirmatively refuses to consent to such election in the manner the tax commission may prescribe by regulation, on the day such person becomes a shareholder].~~

(d) New York S termination year. In the case of a New York S termination year, the amount of any item of S corporation income, loss and deduction and reductions for taxes (as described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code) required to be taken account of under this article shall be adjusted in the same manner that the S corporation's items which are included in the shareholder's federal adjusted gross income are adjusted under subsection (s) of section six hundred twelve.

~~(e) [Inadvertent invalid elections. If (1) an election under subsection (a) of this section was not effective for the taxable year for which made (determined without regard to paragraph two of subsection (b) of this section) by reason of a failure to obtain shareholder consents,~~

~~(2) the commissioner determines that the circumstances resulting in such ineffectiveness were inadvertent,~~

~~(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness, steps were taken to acquire the required shareholder consents, and~~

~~(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as a New York S corporation) as may be required by the commissioner with respect to such period,~~

~~(5) then, notwithstanding the circumstances resulting in such ineffectiveness, such corporation shall be treated as a New York S corporation during the period specified by the commissioner.~~

~~(f) Validated federal elections. If (1) an election under subsection (a) of this section was made for a taxable year or years of a corporation, which years occur with or within the period for which the federal S election of such corporation has been validated pursuant to the provisions of subsection (f) of section thirteen hundred sixty-two of the internal revenue code, and~~

~~(2) the corporation, and each person who was a shareholder in the corporation at any time during such taxable year or years agrees to make such adjustments (consistent with the treatment of the corporation as a New York S corporation) as may be required by the commissioner with respect to such year or years,~~

~~(3) then such corporation shall be treated as a New York S corporation during such year or years.~~

~~(g) Transitional rule. Any election made under this section (as in effect for taxable years beginning before January first, nineteen hundred eighty-three) shall be treated as an election made under subsection (a) of this section.~~

(h) Qualified subchapter S subsidiaries. If an S corporation has elected to treat its wholly owned subsidiary as a qualified subchapter S subsidiary for federal income tax purposes under paragraph three of subsection (b) of section 1361 of the internal revenue code, such election shall be applicable for New York state tax purposes and

(1) the assets, liabilities, income, deductions, property, payroll, receipts, capital, credits, and all other tax attributes and elements of economic activity of the subsidiary shall be deemed to be those of the parent corporation,

(2) transactions between the parent corporation and the subsidiary, including the payment of interest and dividends, shall not be taken into account, and

(3) general executive officers of the subsidiary shall be deemed to be general executive officers of the parent corporation.

(f) Cross reference. For definitions relating to S corporations, see subdivision one-A of section two hundred eight of this chapter.

~~[(i) Mandated New York S corporation election. (1) Notwithstanding the provisions in subsection (a) of this section, in the case of an eligible S corporation for which the election under subsection (a) of this section is not in effect for the current taxable year, the shareholders of an eligible S corporation are deemed to have made that election effective for the eligible S corporation's entire current taxable year, if the eligible S corporation's investment income for the current taxable year is more than fifty percent of its federal gross income for such year. In determining whether an eligible S corporation is deemed to have made that election, the income of a qualified subchapter S subsidiary owned directly or indirectly by the eligible S corporation shall be included with the income of the eligible S corporation.~~

~~(2) For the purposes of this subsection, the term "eligible S corporation" has the same definition as in subsection (a) of this section.~~

~~(3) For the purposes of this subsection, the term "investment income" means the sum of an eligible S corporation's gross income from interest, dividends, royalties, annuities, rents and gains derived from dealings in property, including the corporation's share of such items from a partnership, estate or trust, to the extent such items would be includable in federal gross income for the taxable year.~~

~~(4) Estimated tax payments. When making estimated tax payments required to be made under this chapter in the current tax year, the eligible S corporation and its shareholders may rely on the eligible S corporation's filing status for the prior year. If the eligible S corporation's filing status changes from the prior tax year the corporation or the shareholders, as the case may be, which made the payments shall be entitled to a refund of such estimated tax payments. No additions to tax with respect to any required declarations or payments of estimated tax imposed under this chapter shall be imposed on the corporation or shareholders, whichever is the taxpayer for the current taxable year, if the corporation or the shareholders file such declarations and make such estimated tax payments by January fifteenth of the following calendar year, regardless of whether the taxpayer's tax year is a calendar or a fiscal year.]~~

§ 5. Subparagraph (A) of paragraph 18 of subsection (b) of section 612 of the tax law, as amended by chapter 28 of the laws of 1987, is amended to read as follows:

(A) ~~[where the election provided for in subsection (a) of section six hundred sixty is in effect with respect to such corporation]~~ that is a New York S corporation, an amount equal to his pro rata share of the corporation's reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code, and

§ 6. Paragraph 19 of subsection (b) of section 612 of the tax law is REPEALED.

§ 7. Paragraphs 20 and 21 of subsection (b) of section 612 of the tax law, paragraph 20 as amended by chapter 606 of the laws of 1984 and paragraph 21 as amended by section 70 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

(20) S corporation distributions to the extent not included in federal gross income for the taxable year because of the application of section thirteen hundred sixty-eight, subsection (e) of section thirteen hundred seventy-one or subsection (c) of section thirteen hundred seventy-nine of the internal revenue code which represent income not previously subject to tax under this article because the election provided for in subsection (a) of section six hundred sixty in effect for taxable years beginning before January first, two thousand eighteen had not been made. Any such distribution treated in the manner described in paragraph two of subsection (b) of section thirteen hundred sixty-eight of the internal revenue code for federal income tax purposes shall be treated as ordinary income for purposes of this article.

(21) In relation to the disposition of stock or indebtedness of a corporation which elected under subchapter s of chapter one of the internal revenue code for any taxable year of such corporation beginning, in the case of a corporation taxable under article nine-A of this chapter, after December thirty-first, nineteen hundred eighty and before January first, two thousand eighteen, the amount required to be added to federal adjusted gross income pursuant to subsection (n) of this section.

§ 8. Paragraph 21 of subsection (c) of section 612 of the tax law, as amended by section 70 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(21) In relation to the disposition of stock or indebtedness of a corporation which elected under subchapter s of chapter one of the internal revenue code for any taxable year of such corporation beginning, in the case of a corporation taxable under article nine-A of this chapter, after December thirty-first, nineteen hundred eighty and before January first, two thousand eighteen, the amounts required to be subtracted from federal adjusted gross income pursuant to subsection (n) of this section.

§ 9. Paragraph 22 of subsection (c) of section 612 of the tax law is REPEALED.

§ 10. Subsection (e) of section 612 of the tax law, as amended by chapter 166 of the laws of 1991 and paragraph 3 as added by chapter 760 of the laws of 1992, is amended to read as follows:

(e) Modifications of partners and shareholders of S corporations. (1) Partners and shareholders of S corporations ~~[which are not New York C corporations]~~. The amounts of modifications required to be made under this section by a partner or by a shareholder of an S corporation ~~[(other than an S corporation which is a New York C corporation)]~~, which

1 relate to partnership or S corporation items of income, gain, loss or
2 deduction shall be determined under section six hundred seventeen and,
3 in the case of a partner of a partnership doing an insurance business as
4 a member of the New York insurance exchange described in section six
5 thousand two hundred one of the insurance law, under section six hundred
6 seventeen-a of this article.

7 ~~(2) [Shareholders of S corporations which are New York C corporations.~~
8 ~~In the case of a shareholder of an S corporation which is a New York C~~
9 ~~corporation, the modifications under this section which relate to the~~
10 ~~corporation's items of income, loss and deduction shall not apply,~~
11 ~~except for the modifications provided under paragraph nineteen of~~
12 ~~subsection (b) and paragraph twenty-two of subsection (c) of this~~
13 ~~section.~~

14 ~~(3)]~~ New York S termination year. In the case of a New York S termi-
15 nation year, the amounts of the modifications required under this
16 section which relate to the S corporation's items of income, loss,
17 deduction and reductions for taxes (as described in paragraphs two and
18 three of subsection (f) of section thirteen hundred sixty-six of the
19 internal revenue code) shall be adjusted in the same manner that the S
20 corporation's items are adjusted under subsection (s) of ~~[section six~~
21 ~~hundred twelve]~~ this section.

22 § 11. Subsection (n) of section 612 of the tax law, as amended by
23 section 61 of part A of chapter 389 of the laws of 1997, is amended to
24 read as follows:

25 (n) Where gain or loss is recognized for federal income tax purposes
26 upon the disposition of stock or indebtedness of a corporation electing
27 under subchapter s of chapter one of the internal revenue code

28 (1) There shall be added to federal adjusted gross income the amount
29 of increase in basis with respect to such stock or indebtedness pursuant
30 to subsection (a) of section thirteen hundred seventy-six of the inter-
31 nal revenue code as such section was in effect for taxable years begin-
32 ning before January first, nineteen hundred eighty-three and subpara-
33 graphs (A) and (B) of paragraph one of subsection (a) of section
34 thirteen hundred sixty-seven of such code, for each taxable year of the
35 corporation beginning, in the case of a corporation taxable under arti-
36 cle nine-A of this chapter, after December thirty-first, nineteen
37 hundred eighty and before January first, two thousand eighteen, and in
38 the case of a corporation taxable under article thirty-two of this chap-
39 ter, after December thirty-first, nineteen hundred ninety-six and before
40 January first, two thousand fifteen, for which the election provided for
41 in subsection (a) of section six hundred sixty of this article was not
42 in effect, and

43 (2) There shall be subtracted from federal adjusted gross income

44 (A) the amount of reduction in basis with respect to such stock or
45 indebtedness pursuant to subsection (b) of section thirteen hundred
46 seventy-six of the internal revenue code as such section was in effect
47 for taxable years beginning before January first, nineteen hundred
48 eighty-three and subparagraphs (B) and (C) of paragraph two of
49 subsection (a) of section thirteen hundred sixty-seven of such code, for
50 each taxable year of the corporation beginning, in the case of a corpo-
51 ration taxable under article nine-A of this chapter, after December
52 thirty-first, nineteen hundred eighty and before January first, two
53 thousand eighteen, and in the case of a corporation taxable under arti-
54 cle thirty-two of this chapter, after December thirty-first, nineteen
55 hundred ninety-six and before January first, two thousand fifteen, for

1 which the election provided for in subsection (a) of section six hundred
2 sixty of this article was not in effect and

3 (B) the amount of any modifications to federal gross income with
4 respect to such stock pursuant to paragraph twenty of subsection (b) of
5 this section.

6 § 12. Subparagraph (E-1) of paragraph 1 of subsection (b) of section
7 631 of the tax law, as added by section 3 of part C of chapter 57 of the
8 laws of 2010, is amended to read as follows:

9 (E-1) in the case of [~~an~~] a New York S corporation [~~for which an~~
10 ~~election is in effect pursuant to subsection (a) of section six hundred~~
11 ~~sixty of this article~~] that terminates its taxable status in New York,
12 any income or gain recognized on the receipt of payments from an
13 installment sale contract entered into when the S corporation was
14 subject to tax in New York, allocated in a manner consistent with the
15 applicable methods and rules for allocation under article nine-A or
16 thirty-two of this chapter prior to its repeal, in the year that the S
17 corporation sold its assets.

18 § 13. The section heading and paragraph 2 of subsection (a) of section
19 632 of the tax law, the section heading as amended by chapter 606 of the
20 laws of 1984, paragraph 2 of subsection (a) as amended by section 71 of
21 part A of chapter 59 of the laws of 2014 and such section as renumbered
22 by chapter 28 of the laws of 1987, are amended to read as follows:

23 Nonresident partners and [~~electing~~] shareholders of S corporations.

24 (2) In determining New York source income of a nonresident shareholder
25 of [~~an~~] a New York S corporation [~~where the election provided for in~~
26 ~~subsection (a) of section six hundred sixty of this article is in~~
27 ~~effect~~], there shall be included only the portion derived from or
28 connected with New York sources of such shareholder's pro rata share of
29 items of S corporation income, loss and deduction entering into his
30 federal adjusted gross income, increased by reductions for taxes
31 described in paragraphs two and three of subsection (f) of section thir-
32 teen hundred sixty-six of the internal revenue code, as such portion
33 shall be determined under regulations of the commissioner consistent
34 with the applicable methods and rules for allocation under article
35 nine-A of this chapter, regardless of whether or not such item or
36 reduction is included in entire net income under article nine-A for the
37 tax year. If a nonresident is a shareholder in [~~an~~] a New York S corpo-
38 ration [~~where the election provided for in subsection (a) of section six~~
39 ~~hundred sixty of this article is in effect, and the S corporation~~] that
40 has distributed an installment obligation under section 453(h)(1)(A) of
41 the Internal Revenue Code, then any gain recognized on the receipt of
42 payments from the installment obligation for federal income tax purposes
43 will be treated as New York source income allocated in a manner consist-
44 ent with the applicable methods and rules for allocation under article
45 nine-A of this chapter in the year that the assets were sold. In addi-
46 tion, if the shareholders of the New York S corporation have made an
47 election under section 338(h)(10) of the Internal Revenue Code, then any
48 gain recognized on the deemed asset sale for federal income tax purposes
49 will be treated as New York source income allocated in a manner consist-
50 ent with the applicable methods and rules for allocation under article
51 nine-A of this chapter in the year that the shareholder made the section
52 338(h)(10) election. For purposes of a section 338(h)(10) election, when
53 a nonresident shareholder exchanges his or her S corporation stock as
54 part of the deemed liquidation, any gain or loss recognized shall be
55 treated as the disposition of an intangible asset and will not increase

1 or offset any gain recognized on the deemed assets sale as a result of
2 the section 338(h)(10) election.

3 § 14. Subparagraph (A) and the opening paragraph of subparagraph (B)
4 of paragraph 5 of subdivision (a) of section 292 of the tax law, as
5 added by section 48 of part A of chapter 389 of the laws of 1997, are
6 amended to read as follows:

7 (A) In the case of a shareholder of an S corporation,

8 (i) ~~[where the election provided for in subsection (a) of section six~~
9 ~~hundred sixty of this chapter is in effect with respect to such corpo-~~
10 ~~ration]~~ that is a New York S corporation, there shall be added to feder-
11 al unrelated business taxable income an amount equal to the sharehold-
12 er's pro rata share of the corporation's reductions for taxes described
13 in paragraphs two and three of subsection (f) of section thirteen
14 hundred sixty-six of the internal revenue code, and

15 (ii) ~~[where such election has not been made with respect to such~~
16 ~~corporation, there shall be subtracted from federal unrelated business~~
17 ~~taxable income any items of income of the corporation included therein,~~
18 ~~and there shall be added to federal unrelated business taxable income~~
19 ~~any items of loss or deduction included therein, and~~

20 ~~(iii)]~~ in the case of a New York S termination year, the amount of any
21 such items of S corporation income, loss, deduction and reductions for
22 taxes shall be adjusted in the manner provided in paragraph two or three
23 of subsection (s) of section six hundred twelve of this chapter.

24 In the case of a shareholder of a corporation which was, for any of
25 its taxable years beginning after nineteen hundred ninety-seven and
26 before two thousand eighteen, a federal S corporation but a New York C
27 corporation:

28 § 15. Transition rules. Any prior net operating loss conversion
29 subtraction pool and net operating loss carryforward that otherwise
30 would have been allowed under subparagraph (viii) of paragraph (a) of
31 subdivision 1 of section 210 of the tax law and subparagraph (ix) of
32 paragraph (a) of subdivision 1 of section 210 of the tax law, respec-
33 tively, for the 2018 or subsequent taxable years, to any taxpayer that
34 was a New York C corporation for the 2017 taxable year, and becomes a
35 New York S corporation for the 2018 taxable year as a result of the
36 amendments made by this act, shall be held in abeyance and be available
37 to such taxpayer if its election to be a federal S corporation is termi-
38 nated. Further, any credit carryforwards that otherwise would have been
39 allowed to such a taxpayer under section 210-B of the tax law for the
40 2018 or subsequent taxable years shall be held in abeyance and be avail-
41 able to such taxpayer if its election to be a federal S corporation is
42 terminated. However, the taxpayer's taxable years as a New York S corpo-
43 ration shall be counted for purposes of computing any time period appli-
44 cable to the allowance of the prior net operating loss conversion
45 subtraction, the net operating loss deduction or any credit carryfor-
46 ward.

47 § 16. This act shall take effect immediately and shall apply to taxa-
48 ble years beginning on or after January 1, 2018.

49 PART Z

50 Section 1. Clause 1 of subparagraph (A) of paragraph 1 of subsection
51 (b) of section 631 of the tax law, as added by section 1 of part F-1 of
52 chapter 57 of the laws of 2009, is amended to read as follows:

53 (1) For purposes of this subparagraph, the term "real property located
54 in this state" includes an interest in a partnership, limited liability

corporation, S corporation, or non-publicly traded C corporation with one hundred or fewer shareholders (hereinafter the "entity") that owns real property that is located in New York [~~and has a fair market value that~~] or owns shares of stock in a cooperative housing corporation where the cooperative units relating to the shares are located in New York; provided, that the sum of the fair market values of such real property, cooperative shares, and related cooperative units equals or exceeds fifty percent of all the assets of the entity on the date of sale or exchange of the taxpayer's interest in the entity. Only those assets that the entity owned for at least two years before the date of the sale or exchange of the taxpayer's interest in the entity are to be used in determining the fair market value of all the assets of the entity on the date of sale or exchange. The gain or loss derived from New York sources from the taxpayer's sale or exchange of an interest in an entity that is subject to the provisions of this subparagraph is the total gain or loss for federal income tax purposes from that sale or exchange multiplied by a fraction, the numerator of which is the fair market value of the real property, and the cooperative housing corporation stock and related cooperative units located in New York on the date of sale or exchange and the denominator of which is the fair market value of all the assets of the entity on the date of sale or exchange.

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

PART AA

Section 1. Paragraph 1 of subsection (a) of section 632 of the tax law, as amended by chapter 28 of the laws of 1987, is amended to read as follows:

(1) In determining New York source income of a nonresident partner of any partnership, there shall be included only the portion derived from or connected with New York sources of such partner's distributive share of items of partnership income, gain, loss and deduction entering into his federal adjusted gross income, as such portion shall be determined under regulations of the tax commission consistent with the applicable rules of section six hundred thirty-one of this part. If a nonresident is a partner in a partnership where a sale or transfer of the membership interest of the partner is subject to the provisions of section one-thousand sixty of the internal revenue code, then any gain recognized on the sale or transfer for federal income tax purposes shall be treated as New York source income allocated in a manner consistent with the applicable methods and rules for allocation under this article in the year that the assets were sold or transferred.

§ 2. This act shall take effect immediately

PART BB

Section 1. Section 1101 of the tax law is amended by adding a new subdivision (e) to read as follows:

(e) When used in this article for the purposes of the taxes imposed under subdivision (a) of section eleven hundred five of this article and by section eleven hundred ten of this article, the following terms shall mean:

(1) Marketplace provider. A person who, pursuant to an agreement with a marketplace seller, facilitates sales of tangible personal property by such marketplace seller or sellers. A person "facilitates a sale of

1 tangible personal property" for purposes of this paragraph when the
2 person meets both of the following conditions: (i) such person provides
3 the forum in which, or by means of which, the sale takes place or the
4 offer of sale is accepted, including a shop, store, or booth, an inter-
5 net website, catalog, or similar forum; and (ii) such person or an
6 affiliate of such person collects the receipts paid by a customer to a
7 marketplace seller for a sale of tangible personal property, or
8 contracts with a third party to collect such receipts. For purposes of
9 this paragraph, two persons are affiliated if one person has an owner-
10 ship interest of more than five percent, whether direct or indirect, in
11 the other, or where an ownership interest of more than five percent,
12 whether direct or indirect, is held in each of such persons by another
13 person or by a group of other persons that are affiliated persons with
14 respect to each other. Notwithstanding anything in this paragraph, a
15 person who facilitates sales exclusively by means of the internet is not
16 a marketplace provider for a sales tax quarter when such person can show
17 that it has facilitated less than one hundred million dollars of sales
18 annually for every calendar year after two thousand fifteen.

19 (2) Marketplace seller. Any person, whether or not such person is
20 required to obtain a certificate of authority under section eleven
21 hundred thirty-four of this article, who has an agreement with a market-
22 place provider under which the marketplace provider will facilitate
23 sales of tangible personal property by such person within the meaning of
24 paragraph one of this subdivision.

25 § 2. Subdivision 1 of section 1131 of the tax law, as amended by chap-
26 ter 576 of the laws of 1994, is amended to read as follows:

27 (1) "Persons required to collect tax" or "person required to collect
28 any tax imposed by this article" shall include: every vendor of tangible
29 personal property or services; every recipient of amusement charges;
30 ~~and~~ every operator of a hotel, and every marketplace provider with
31 respect to sales of tangible personal property it facilitates as
32 described in paragraph one of subdivision (e) of section eleven hundred
33 one of this article. Said terms shall also include any officer, director
34 or employee of a corporation or of a dissolved corporation, any employee
35 of a partnership, any employee or manager of a limited liability compa-
36 ny, or any employee of an individual proprietorship who as such officer,
37 director, employee or manager is under a duty to act for such corpo-
38 ration, partnership, limited liability company or individual proprietor-
39 ship in complying with any requirement of this article; and any member
40 of a partnership or limited liability company. Provided, however, that
41 any person who is a vendor solely by reason of clause (D) or (E) of
42 subparagraph (i) of paragraph (8) of subdivision (b) of section eleven
43 hundred one of this article shall not be a "person required to collect
44 any tax imposed by this article" until twenty days after the date by
45 which such person is required to file a certificate of registration
46 pursuant to section eleven hundred thirty-four of this part.

47 § 3. Section 1132 of the tax law is amended by adding a new subdivi-
48 sion (1) to read as follows:

49 (1) (1) A marketplace provider, with respect to a sale of tangible
50 personal property it facilitates: (i) shall have all the obligations and
51 rights of a vendor under this article and article twenty-nine of this
52 chapter and under any regulations adopted pursuant thereto, including,
53 but not limited to, the duty to obtain a certificate of authority, to
54 collect tax, file returns, remit tax, and the right to accept a certifi-
55 cate or other documentation from a customer substantiating an exemption
56 or exclusion from tax, the right to receive the refund authorized by

1 subdivision (e) of this section and the credit allowed by subdivision
2 (f) of section eleven hundred thirty-seven of this part subject to the
3 provisions of such subdivision; and (ii) shall keep such records and
4 information and cooperate with the commissioner to ensure the proper
5 collection and remittance of tax imposed collected or required to be
6 collected under this article and article twenty-nine of this chapter.

7 (2) A marketplace seller who is a vendor is relieved from the duty to
8 collect tax in regard to a particular sale of tangible personal property
9 subject to tax under subdivision (a) of section eleven hundred five of
10 this article and shall not include the receipts from such sale in its
11 taxable receipts for purposes of section eleven hundred thirty-six of
12 this part if, in regard to such sale: (i) the marketplace seller can
13 show that such sale was facilitated by a marketplace provider from whom
14 such seller has received in good faith a properly completed certificate
15 of collection in a form prescribed by the commissioner, certifying that
16 the marketplace provider is registered to collect sales tax and will
17 collect sales tax on all taxable sales of tangible personal property by
18 the marketplace seller facilitated by the marketplace provider, and with
19 such other information as the commissioner may prescribe; and (ii) any
20 failure of the marketplace provider to collect the proper amount of tax
21 in regard to such sale was not the result of such marketplace seller
22 providing the marketplace provider with incorrect information. This
23 provision shall be administered in a manner consistent with subparagraph
24 (i) of paragraph one of subdivision (c) of this section as if a certifi-
25 cate of collection were a resale or exemption certificate for purposes
26 of such subparagraph, including with regard to the completeness of such
27 certificate of collection and the timing of its acceptance by the
28 marketplace seller. Provided that, with regard to any sales of tangible
29 personal property by a marketplace seller that are facilitated by a
30 marketplace provider who is affiliated with such marketplace seller
31 within the meaning of paragraph one of subdivision (e) of section eleven
32 hundred one of this article, the marketplace seller shall be deemed
33 liable as a person under a duty to act for such marketplace provider for
34 purposes of subdivision one of section eleven hundred thirty-one of this
35 part.

36 (3) The commissioner may, in his or her discretion: (i) develop a
37 standard provision, or approve a provision developed by a marketplace
38 provider, in which the marketplace provider obligates itself to collect
39 the tax on behalf of all the marketplace sellers for whom the market-
40 place provider facilitates sales of tangible personal property, with
41 respect to all sales that it facilitates for such sellers where delivery
42 occurs in the state; and (ii) provide by regulation or otherwise that
43 the inclusion of such provision in the publicly-available agreement
44 between the marketplace provider and marketplace seller will have the
45 same effect as a marketplace seller's acceptance of a certificate of
46 collection from such marketplace provider under paragraph two of this
47 subdivision.

48 § 4. Section 1133 of the tax law is amended by adding a new subdivi-
49 sion (f) to read as follows:

50 (f) A marketplace provider is relieved of liability under this section
51 for failure to collect the correct amount of tax to the extent that the
52 marketplace provider can show that the error was due to incorrect infor-
53 mation given to the marketplace provider by the marketplace seller.
54 Provided, however, this subdivision shall not apply if the marketplace
55 seller and marketplace provider are affiliated within the meaning of

1 paragraph one of subdivision (e) of section eleven hundred one of this
2 article.

3 § 5. Paragraph 4 of subdivision (a) of section 1136 of the tax law, as
4 amended by section 46 of part K of chapter 61 of the laws of 2011, is
5 amended to read as follows:

6 (4) The return of a vendor of tangible personal property or services
7 shall show such vendor's receipts from sales and the number of gallons
8 of any motor fuel or diesel motor fuel sold and also the aggregate value
9 of tangible personal property and services and number of gallons of such
10 fuels sold by the vendor, the use of which is subject to tax under this
11 article, and the amount of tax payable thereon pursuant to the
12 provisions of section eleven hundred thirty-seven of this part. The
13 return of a recipient of amusement charges shall show all such charges
14 and the amount of tax thereon, and the return of an operator required to
15 collect tax on rents shall show all rents received or charged and the
16 amount of tax thereon. The return of a marketplace seller shall exclude
17 the receipts from a sale of tangible personal property facilitated by a
18 marketplace provider if, in regard to such sale: (A) the marketplace
19 seller has timely received in good faith a properly completed certifi-
20 cate of collection from the marketplace provider or the marketplace
21 provider has included a provision approved by the commissioner in the
22 publicly-available agreement between the marketplace provider and the
23 marketplace seller as described in subdivision (1) of section eleven
24 hundred thirty-two of this part, and (B) the information provided by the
25 marketplace seller to the marketplace provider about such tangible
26 personal property is accurate.

27 § 6. Section 1142 of the tax law is amended by adding a new subdivi-
28 sion 15 to read as follows:

29 15. To publish a list on the department's website of marketplace
30 providers whose certificate of authority has been revoked and, if neces-
31 sary to protect sales tax revenue, provide by regulation or otherwise
32 that a marketplace seller who is a vendor will be relieved of the duty
33 to collect tax for sales of tangible personal property facilitated by a
34 marketplace provider only if, in addition to the conditions prescribed
35 by paragraph two of subdivision (1) of section eleven hundred thirty-two
36 of this part being met, such marketplace provider is not on such list at
37 the commencement of the calendar year in which the sale was made.

38 § 7. This act shall take effect September 1, 2017, and shall apply to
39 sales made on or after that date.

40 PART CC

41 Section 1. Paragraph 4 of subdivision (b) of section 1101 of the tax
42 law is amended by adding a new subparagraph (v) to read as follows:

43 (v) Notwithstanding the provisions of subparagraph (i) of this para-
44 graph, the following sales of tangible personal property shall be deemed
45 to be retail sales: (A) a sale to a single member limited liability
46 company or a subsidiary for resale to its member or owner, where such
47 single member limited liability company or subsidiary is disregarded as
48 an entity separate from its owner for federal income tax purposes (with-
49 out reference to any special rules related to the imposition of certain
50 federal taxes), including but not limited to certain employment and
51 excise taxes; (B) a sale to a partnership for resale to one or more of
52 its partners; or (C) a sale to a trustee of a trust for resale to one or
53 more beneficiaries of such trust.

§ 2. Subdivision 2 of section 1118 of the tax law, as amended by section 4 of subpart B of part S of chapter 57 of the laws of 2010, is amended to read as follows:

(2)(a) In respect to the use of property or services purchased by the user while a nonresident of this state, except in the case of tangible personal property or services which the user, in the performance of a contract, incorporates into real property located in the state. A person while engaged in any manner in carrying on in this state any employment, trade, business or profession, shall not be deemed a nonresident with respect to the use in this state of property or services in such employment, trade, business or profession. This exemption does not apply to the use of qualified property where the qualified property is purchased primarily to carry individuals, whether or not for hire, who are agents, employees, officers, shareholders, members, managers, partners, or directors of (A) the purchaser, where any of those individuals was a resident of this state when the qualified property was purchased or (B) any affiliated person that was a resident when the qualified property was purchased. For purposes of this subdivision: (i) persons are affiliated persons with respect to each other where one of the 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, is held in each of the persons by another person or by a group of other persons that are affiliated persons with respect to each other; (ii) "qualified property" means ~~aircraft,~~ vessels and motor vehicles; and (iii) "carry" means to take any person from one point to another, whether for the business purposes or pleasure of that person. For an exception to the exclusions from the definition of "retail sale" applicable to ~~aircraft and~~ vessels, see subdivision (q) of section eleven hundred eleven of this article.

(b) Notwithstanding any provision of this article to the contrary, the exclusion in paragraph (a) of this subdivision shall not apply to the use within the state of property or a service purchased outside this state by a nonresident that is not an individual, unless such nonresident has been doing business outside the state for at least six months prior to the date such nonresident brought such property or service into this state.

§ 3. This act shall take effect immediately.

PART DD

Section 1. Section 1105-C of the tax law, as added by section 24-a of part Y of chapter 63 of the laws of 2000, and subdivision (d) as added by section 1 of part B of chapter 85 of the laws of 2002, is amended to read as follows:

§ 1105-C. Reduced tax rates with respect to certain gas service and electric service. Notwithstanding any other provisions of this article or article twenty-nine of this chapter:

(a) The rates of taxes imposed by this article and pursuant to the authority of article twenty-nine of this chapter on receipts from every sale of gas service or electric service of whatever nature (including the transportation, transmission or distribution of gas or electricity, but not including gas or electricity) shall be ~~[reduced each year on September first, beginning in the year two thousand, and each year thereafter, at the rate per year of twenty-five percent of the rates in effect on September first, two thousand, so that the rates of such taxes on such receipts shall be]~~ zero percent ~~[on and after September first,~~

~~two thousand three~~ unless the charge is by the vendor for transportation, transmission or distribution, regardless of whether such charges are separately stated in the written contract, if any, or on the bill rendered to such purchaser and regardless of whether such transportation, transmission, or distribution is provided by such vendor or a third party.

(b) ~~The provisions of subdivision (b) of section eleven hundred six of this article shall apply to the reduced rates described in subdivision (a) of this section, as if such section referred to this section, provided that any reference in subdivision (b) of such section eleven hundred six to the date August first, nineteen hundred sixty five, shall be deemed to refer, respectively, to September first of the applicable years described in subdivision (a) of this section, and any reference in subdivision (b) of such section eleven hundred six to July thirty-first, nineteen hundred sixty five, shall be deemed to refer to the day immediately preceding each such September first, respectively.~~

~~(c) Nothing in this section shall be deemed to exempt from the taxes imposed under this article or pursuant to the authority of article twenty-nine of this chapter any transaction which may not be subject to the reduced rates of such taxes, each year, as set forth in subdivision (a) of this section in effect on the respective September first.~~

~~(d)] For [the purpose] purposes of [the reduced rate of tax provided by] subdivision (a) of this section, [the following shall apply to a sale, other than a sale for resale, of the] where the transportation, transmission or distribution of gas or electricity [by a vendor not subject to the supervision of the public service commission where such transportation, transmission or distribution service being] is sold [is] wholly within a service area of the state wherein the public service commission [shall have] has approved by formal order a single retailer model for the regulated utility which has the responsibility to serve that area[. Where such a vendor makes a sale, other than a sale for resale, of gas or electricity to be delivered to a customer within such service area and, for the purpose of transporting, transmitting or distributing such gas or electricity, also makes a sale of transportation, transmission or distribution service to such customer], the charge for [the] such transportation, transmission or distribution [of gas or electricity wholly within such service area made by such vendor, notwithstanding paragraph three of subdivision (b) of section eleven hundred one of this article, shall not be included in the receipt for such gas or electricity, and, therefore,] when made by the provider who also sells, other than as a sale for resale, the gas or electricity, shall qualify for such reduced rate.~~

§ 2. This act shall take effect immediately.

PART EE

Section 1. Subdivision 1 of section 186-f of the tax law is amended by adding three new paragraphs (f), (g) and (h) to read as follows:

(f) "Prepaid wireless communications seller" means a person making a retail sale of prepaid wireless communications service or a prepaid wireless communications device.

(g) "Prepaid wireless communications device" means any equipment used to access a prepaid wireless communications service.

(h) "Prepaid wireless communications service" means a prepaid mobile calling service as defined in paragraph twenty-two of subdivision (b) of section eleven hundred one of this chapter.

§ 2. Subdivision 2 of section 186-f of the tax law, as added by section 3 of part B of chapter 56 of the laws of 2009, is amended to read as follows:

2. Public safety communications surcharge. (a) (1) A surcharge on wireless communications service provided to a wireless communications customer with a place of primary use in this state is imposed at the rate of one dollar and twenty cents per month on each wireless communications device in service during any part of each month. The surcharge must be reflected and made payable on bills rendered to the wireless communications customer for wireless communication service.

~~[(b)]~~ (2) Each wireless communications service supplier providing wireless communications service in New York state must act as a collection agent for the state for the collection of the surcharge. The wireless communications service supplier has no legal obligation to enforce the collection of the surcharge from its customers. However, each wireless communications service supplier must collect and retain the name and address of any wireless communications customer with a place of primary use in this state that refuses or fails to pay the surcharge, as well as the cumulative amount of the surcharge remaining unpaid, and must provide this information to the commissioner at the time and according to the procedures the commissioner may provide. The surcharge must be reported and paid to the commissioner on a quarterly basis on or before the fifteenth day of the month following each quarterly period ending on the last day of February, May, August and November, respectively. The payments must be accompanied by a return in the form and containing the information the commissioner may prescribe.

~~[(c)]~~ (3) The surcharge must be added as a separate line item to bills furnished by a wireless communications service supplier to its customers, and must be identified as the "public safety communications surcharge". Each wireless communications customer who is subject to the provisions of this section remains liable to the state for the surcharge due under this section until it has been paid to the state, except that payment to a wireless communications service supplier is sufficient to relieve the customer from further liability for the surcharge.

~~[(d) Each wireless communications service supplier is entitled to retain, as an administrative fee, an amount equal to two percent of fifty eight and three tenths percent of the total collections of the surcharge imposed by this section, provided that the supplier files any required return and remits the surcharge due to the commissioner on or before its due date.]~~

(b)(1) A surcharge is imposed on the retail sale of each prepaid wireless communications service or device at the rate of: (i) sixty cents per retail sale that does not exceed thirty dollars; and (ii) one dollar and twenty cents per retail sale that exceeds thirty dollars.

(2) For purposes of this paragraph, a sale of a prepaid wireless communications service or device occurs in this state if the sale takes place at a seller's business location in the state. If the sale does not take place at the seller's place of business, it shall be conclusively determined to take place at the purchaser's shipping address or, if there is no item shipped, at the purchaser's billing address, or, if the seller does not have that address, at such address as approved by the commissioner that reasonably reflects the customer's location at the time of the sale of the prepaid wireless communications service or device.

(3) Each prepaid wireless communications seller in New York state must act as a collection agent for the state for the collection of the

1 surcharge. The surcharge must be reported and paid to the commissioner
2 on a quarterly basis on or before the fifteenth day of the month follow-
3 ing each quarterly period ending on the last day of February, May,
4 August and November, respectively. The payments must be accompanied by a
5 return in the form and containing the information the commissioner may
6 prescribe.

7 (4) The surcharge must be added as a separate line item to a sales
8 slip, invoice, receipt, or other statement of the price, if any, that is
9 furnished by a prepaid wireless communications seller to a purchaser,
10 and must be identified as the "public safety communications surcharge."
11 Each purchaser of a prepaid wireless communications service or device in
12 this state remains liable to the state for the surcharge due under this
13 section until it has been paid to the state, except that payment to a
14 prepaid wireless communications seller is sufficient to relieve the
15 purchaser from further liability for such surcharge.

16 § 3. The county law is amended by adding a new section 309 to read as
17 follows:

18 § 309. Establishment of prepaid wireless surcharge for system costs.

19 1. Definitions. When used in this article, where not otherwise specif-
20 ically defined and unless the specific context clearly indicates other-
21 wise:

22 (a) "Prepaid wireless communications seller" means a person making a
23 retail sale of prepaid wireless communications service or a prepaid
24 wireless communications device.

25 (b) "Prepaid wireless communications device" means any equipment used
26 to access a prepaid wireless communications service.

27 (c) "Prepaid wireless communications service" means a prepaid mobile
28 calling service as defined in paragraph twenty-two of subdivision (b) of
29 section eleven hundred one of the tax law.

30 2. Notwithstanding the provisions of any law to the contrary, any
31 municipality, as defined in section three hundred one of this article,
32 that is authorized to impose an enhanced emergency telephone system
33 surcharge on wireless communications service under this article, is
34 hereby authorized and empowered to adopt, amend or repeal local laws,
35 acting through its board, to impose a surcharge on the retail sale of
36 each prepaid wireless communications service or device, in an amount not
37 to exceed thirty cents per retail sale within such municipality. The
38 proceeds from such surcharge shall be used to pay for the costs associ-
39 ated with obtaining, operating and maintaining the telecommunication
40 equipment and telephone services needed to provide an enhanced 911 emer-
41 gency telephone system to serve such municipality.

42 3. For purposes of this section, a sale of a prepaid wireless communi-
43 cations service or device occurs in a municipality if the sale takes
44 place at a seller's business location in the municipality. If the sale
45 does not take place at the seller's place of business, it shall be
46 conclusively determined to take place at the purchaser's shipping
47 address in the municipality or, if there is no item shipped, at the
48 purchaser's billing address in the municipality, or, if the seller does
49 not have that address, at such address that reasonably reflects the
50 customer's location at the time of the sale of the prepaid wireless
51 communications service or device.

52 4. Any such local law shall state the amount of the surcharge and the
53 date on which sellers in the municipality shall begin to collect such
54 surcharge. Any seller of a prepaid wireless communications service or
55 device within a municipality that has imposed a surcharge pursuant to
56 the provisions of this section shall be given a minimum of forty-five

1 days written notice prior to the date it shall be required to begin to
2 collect such surcharge or prior to any modification to or change in the
3 surcharge amount.

4 5. (a) Each prepaid wireless communications seller in a municipality
5 shall act as collection agent for such municipality and shall remit the
6 funds collected pursuant to a surcharge imposed under the provisions of
7 this section to the chief fiscal officer of the municipality every
8 month. Such funds shall be remitted no later than thirty days after the
9 last business day of the month.

10 (b) The seller shall be entitled to retain, as an administrative fee,
11 an amount equal to two percent of its collections of the surcharge
12 imposed under this article.

13 (c) The surcharge shall be added to and stated separately on a sales
14 slip, invoice, receipt, or other statement of the price, if any, that is
15 provided to the purchaser.

16 (d) The seller shall provide to the municipality an accounting of the
17 surcharge amounts collected no more frequently than annually upon writ-
18 ten request from the municipality's chief fiscal officer.

19 (e) Each purchaser of a prepaid wireless communications service or
20 device in a municipality that has imposed such surcharge shall be liable
21 to the municipality for the surcharge until it has been paid to the
22 municipality, except that payment to a prepaid wireless communications
23 seller is sufficient to relieve the purchaser from further liability for
24 such surcharge.

25 6. All surcharge monies remitted to a municipality by a prepaid wire-
26 less communications seller shall be expended only upon authorization of
27 the legislative body of a municipality and only for payment of eligible
28 wireless 911 service costs as defined in subdivision sixteen of section
29 three hundred twenty-five of this chapter. The municipality shall sepa-
30 rately account for and keep adequate books and records of the amount and
31 source of all such monies and of the amount and object or purpose of all
32 expenditures thereof. If, at the end of any fiscal year, the total
33 amount of all such monies exceeds the amount necessary for payment of
34 the above mentioned costs in such fiscal year, such excess shall be
35 reserved and carried over for the payment of those costs in the follow-
36 ing fiscal year.

37 § 4. This act shall take effect December 1, 2017.

38 PART FF

39 Section 1. Subdivision 8 of section 1399-n of the public health law,
40 as amended by chapter 13 of the laws of 2003, is amended and a new
41 subdivision 9 is added to read as follows:

42 8. "Smoking" means the burning of a lighted cigar, cigarette, pipe or
43 any other matter or substance which contains tobacco, the burning of an
44 herbal cigarette, or the use of a vapor product.

45 9. "Vapor product" means any noncombustible liquid or gel, regardless
46 of the presence of nicotine therein, that is manufactured into a
47 finished product for use in an electronic cigarette, electronic cigar,
48 electronic cigarillo, electronic pipe, vaping pen, hookah pen or other
49 similar device. "Vapor product" shall not include any product approved
50 by the United States food and drug administration as a drug or medical
51 device, or approved for use pursuant to section three thousand three
52 hundred sixty-two of this chapter.

§ 2. The article heading of article 13-F of the public health law, as amended by chapter 448 of the laws of 2012, is amended to read as follows:

REGULATION OF TOBACCO PRODUCTS, HERBAL CIGARETTES AND [~~SMOKING PARAPHERNALIA~~] VAPOR PRODUCTS; DISTRIBUTION TO MINORS

§ 3. Subdivisions 5, 8, and 13 of section 1399-aa of the public health law, subdivision 5 as amended by chapter 152 of the laws of 2004, subdivision 8 as added by chapter 13 of the laws of 2003, and subdivision 13 as amended by chapter 542 of the laws of 2014, are amended to read as follows:

5. "Tobacco products" means one or more cigarettes or cigars, bidis, chewing tobacco, powdered tobacco, shisha nicotine water or any other product containing or derived from tobacco [~~products~~].

8. "Tobacco business" means a sole proprietorship, corporation, limited liability company, partnership or other enterprise in which the primary activity is the sale, manufacture or promotion of tobacco, tobacco products, vapor products, and accessories, either at wholesale or retail, and in which the sale, manufacture or promotion of other products is merely incidental.

~~13. ["Electronic cigarette" or "e-cigarette" means an electronic device that delivers vapor which is inhaled by an individual user, and shall include any refill, cartridge and any other component of such a device.]~~ "Vapor product" means any noncombustible liquid or gel, regardless of the presence of nicotine therein, that is manufactured into a finished product for use in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, vaping pen, hookah pen or other similar device. "Vapor product" shall not include any product approved by the United States food and drug administration as a drug or medical device, or approved for use pursuant to section three thousand three hundred sixty-two of this chapter.

§ 4. Section 1399-bb of the public health law, as amended by chapter 508 of the laws of 2000, subdivision 2 as amended by chapter 13 of the laws of 2003, is amended to read as follows:

§ 1399-bb. Distribution of tobacco products [~~or~~], herbal cigarettes, or vapor products without charge. 1. No person engaged in the business of selling or otherwise distributing tobacco products [~~or~~], herbal cigarettes, or vapor products for commercial purposes, or any agent or employee of such person, shall knowingly, in furtherance of such business:

(a) distribute without charge any tobacco products [~~or~~], herbal cigarettes, or vapor products to any individual, provided that the distribution of a package containing tobacco products [~~or~~], herbal cigarettes, or vapor products in violation of this subdivision shall constitute a single violation without regard to the number of items in the package; or

(b) distribute coupons which are redeemable for tobacco products [~~or~~], herbal cigarettes, or vapor products to any individual, provided that this subdivision shall not apply to coupons contained in newspapers, magazines or other types of publications, coupons obtained through the purchase of tobacco products [~~or~~], herbal cigarettes, or vapor products or obtained at locations which sell tobacco products [~~or~~], herbal cigarettes, or vapor products provided that such distribution is confined to a designated area or to coupons sent through the mail.

2. The prohibitions contained in subdivision one of this section shall not apply to the following locations:

(a) private social functions when seating arrangements are under the control of the sponsor of the function and not the owner, operator, manager or person in charge of such indoor area;

(b) conventions and trade shows; provided that the distribution is confined to designated areas generally accessible only to persons over the age of eighteen;

(c) events sponsored by tobacco ~~[ex]~~, herbal cigarette, or vapor product manufacturers provided that the distribution is confined to designated areas generally accessible only to persons over the age of eighteen;

(d) bars as defined in subdivision one of section thirteen hundred ninety-nine-n of this chapter;

(e) tobacco businesses as defined in subdivision eight of section thirteen hundred ninety-nine-aa of this article;

(f) factories as defined in subdivision nine of section thirteen hundred ninety-nine-aa of this article and construction sites; provided that the distribution is confined to designated areas generally accessible only to persons over the age of eighteen.

3. No person shall distribute tobacco products ~~[ex]~~, herbal cigarettes, or vapor products at the locations set forth in paragraphs (b), (c) and (f) of subdivision two of this section unless such person gives five days written notice to the enforcement officer.

4. The distribution of tobacco products ~~[ex]~~, herbal cigarettes, or vapor products pursuant to subdivision two of this section shall be made only to an individual who demonstrates, through (a) a driver's license or [other photographie] non-driver's identification card issued by [a government entity or educational institution] the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or (b) a valid passport issued by the United States government or any other country, or (c) an identification card issued by the armed forces of the United States, indicating that the individual is at least eighteen years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age; provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of a tobacco product ~~[ex]~~, herbal cigarette, or vapor products to an individual.

§ 5. The section heading of section 1399-cc of the public health law, as amended by chapter 542 of the laws of 2014, is amended to read as follows:

Sale of tobacco products, herbal cigarettes, ~~[liquid nicotine, shisha, rolling papers]~~ vapor products or smoking paraphernalia to minors prohibited.

§ 6. Subdivisions 2, 3, 4, and 7 of section 1399-cc of the public health law, as amended by chapter 542 of the laws of 2014 are amended to read as follows:

2. Any person operating a place of business wherein tobacco products, herbal cigarettes, ~~[liquid nicotine, shisha]~~ or ~~[electronic cigarettes]~~ vapor products, are sold or offered for sale is prohibited from selling such products, herbal cigarettes, ~~[liquid nicotine, shisha, electronic cigarettes]~~ vapor products or smoking paraphernalia to individuals under eighteen years of age, and shall post in a conspicuous place a sign upon which there shall be imprinted the following statement, "SALE OF CIGARETTES, CIGARS, ~~[CHEWING TOBACCO, POWDERED TOBACCO,]~~ SHISHA OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, ~~[LIQUID NICOTINE, ELECTRONIC CIGA-~~

1 ~~RETTE~~] VAPOR PRODUCTS, [~~ROLLING PAPERS~~] OR SMOKING PARAPHERNALIA, TO
2 PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW." Such sign
3 shall be printed on a white card in red letters at least one-half inch
4 in height.

5 3. Sale of tobacco products, herbal cigarettes, [~~liquid nicotine,~~
6 ~~shisha~~] or [~~electronic cigarettes~~] vapor products in such places, other
7 than by a vending machine, shall be made only to an individual who
8 demonstrates, through (a) a valid driver's license or non-driver's iden-
9 tification card issued by the commissioner of motor vehicles, the feder-
10 al government, any United States territory, commonwealth or possession,
11 the District of Columbia, a state government within the United States or
12 a provincial government of the dominion of Canada, or (b) a valid pass-
13 port issued by the United States government or any other country, or (c)
14 an identification card issued by the armed forces of the United States,
15 indicating that the individual is at least eighteen years of age. Such
16 identification need not be required of any individual who reasonably
17 appears to be at least twenty-five years of age, provided, however, that
18 such appearance shall not constitute a defense in any proceeding alleg-
19 ing the sale of a tobacco product, herbal cigarettes, [~~liquid nicotine,~~
20 ~~shisha~~] or [~~electronic cigarettes~~] vapor products to an individual under
21 eighteen years of age.

22 4. (a) Any person operating a place of business wherein tobacco
23 products, herbal cigarettes, [~~liquid nicotine, shisha~~] or [~~electronic~~
24 ~~cigarettes~~] vapor products are sold or offered for sale may perform a
25 transaction scan as a precondition for such purchases.

26 (b) In any instance where the information deciphered by the trans-
27 action scan fails to match the information printed on the driver's
28 license or non-driver identification card, or if the transaction scan
29 indicates that the information is false or fraudulent, the attempted
30 transaction shall be denied.

31 (c) In any proceeding pursuant to section thirteen hundred ninety-
32 nine-ee of this article, it shall be an affirmative defense that such
33 person had produced a driver's license or non-driver identification card
34 apparently issued by a governmental entity, successfully completed that
35 transaction scan, and that the tobacco product, herbal cigarettes [~~or~~
36 ~~liquid nicotine~~], or vapor products had been sold, delivered or given to
37 such person in reasonable reliance upon such identification and trans-
38 action scan. In evaluating the applicability of such affirmative defense
39 the commissioner shall take into consideration any written policy
40 adopted and implemented by the seller to effectuate the provisions of
41 this chapter. Use of a transaction scan shall not excuse any person
42 operating a place of business wherein tobacco products, herbal ciga-
43 rettes, [~~liquid nicotine, shisha~~] or [~~electronic cigarettes~~] vapor
44 products are sold, or the agent or employee of such person, from the
45 exercise of reasonable diligence otherwise required by this chapter.
46 Notwithstanding the above provisions, any such affirmative defense shall
47 not be applicable in any civil or criminal proceeding, or in any other
48 forum.

49 7. No person operating a place of business wherein tobacco products,
50 herbal cigarettes, [~~liquid nicotine, shisha~~] or [~~electronic cigarettes~~]
51 vapor products are sold or offered for sale shall sell, permit to be
52 sold, offer for sale or display for sale any tobacco product, herbal
53 cigarettes, [~~liquid nicotine, shisha~~] or [~~electronic cigarettes~~] vapor
54 products in any manner, unless such products and cigarettes are stored
55 for sale (a) behind a counter in an area accessible only to the person-
56 nel of such business, or (b) in a locked container[~~, provided, however,~~

~~such restriction shall not apply to tobacco businesses, as defined in subdivision eight of section thirteen hundred ninety-nine-aa of this article, and to places to which admission is restricted to persons eighteen years of age or older].~~

§ 7. Section 1399-dd of the public health law, as amended by chapter 448 of the laws of 2012, is amended to read as follows:

§ 1399-dd. Sale of tobacco products, herbal cigarettes or [~~electronic cigarettes~~] vapor products in vending machines. No person, firm, partnership, company or corporation shall operate a vending machine which dispenses tobacco products, herbal cigarettes or [~~electronic cigarettes~~] vapor products unless such machine is located: (a) in a bar as defined in subdivision one of section thirteen hundred ninety-nine-n of this chapter, or the bar area of a food service establishment with a valid, on-premises full liquor license; (b) in a private club; (c) in a tobacco business as defined in subdivision eight of section thirteen hundred ninety-nine-aa of this article; or (d) in a place of employment which has an insignificant portion of its regular workforce comprised of people under the age of eighteen years and only in such locations that are not accessible to the general public; provided, however, that in such locations the vending machine is located in plain view and under the direct supervision and control of the person in charge of the location or his or her designated agent or employee.

§ 8. Subdivision 2 of section 1399-ee of the public health law, as amended by chapter 162 of the laws of 2002, is amended to read as follows:

2. If the enforcement officer determines after a hearing that a violation of this article has occurred, he or she shall impose a civil penalty of a minimum of three hundred dollars, but not to exceed one thousand dollars for a first violation, and a minimum of five hundred dollars, but not to exceed one thousand five hundred dollars for each subsequent violation, unless a different penalty is otherwise provided in this article. The enforcement officer shall advise the retail dealer that upon the accumulation of three or more points pursuant to this section the department of taxation and finance shall suspend the dealer's registration. If the enforcement officer determines after a hearing that a retail dealer was selling tobacco products or vapor products while their registration was suspended or permanently revoked pursuant to subdivision three or four of this section, he or she shall impose a civil penalty of twenty-five hundred dollars.

§ 9. Subdivision 1 of section 1399-ff of the public health law, as amended by chapter 448 of the laws of 2012, is amended to read as follows:

1. Where a civil penalty for a particular incident has not been imposed or an enforcement action regarding an alleged violation for a particular incident is not pending under section thirteen hundred ninety-nine-ee of this article, a parent or guardian of a minor to whom tobacco products, herbal cigarettes or [~~electronic cigarettes~~] vapor products are sold or distributed in violation of this article may submit a complaint to an enforcement officer setting forth the name and address of the alleged violator, the date of the alleged violation, the name and address of the complainant and the minor, and a brief statement describing the alleged violation. The enforcement officer shall notify the alleged violator by certified or registered mail, return receipt requested, that a complaint has been submitted, and shall set a date, at least fifteen days after the mailing of such notice, for a hearing on

1 the complaint. Such notice shall contain the information submitted by
2 the complainant.

3 § 10. Section 1399-hh of the public health law, as added by chapter
4 433 of the laws of 1997, is amended to read as follows:

5 § 1399-hh. Tobacco and vapor products enforcement. The commissioner
6 shall develop, plan and implement a comprehensive program to reduce the
7 prevalence of tobacco and vapor products use, particularly among persons
8 less than eighteen years of age. This program shall include, but not be
9 limited to, support for enforcement of article thirteen-F of this chap-
10 ter.

11 1. An enforcement officer, as defined in section thirteen hundred
12 ninety-nine-t of this chapter, may annually, on such dates as shall be
13 fixed by the commissioner, submit an application for such monies as are
14 made available for such purpose. Such application shall be in such form
15 as prescribed by the commissioner and shall include, but not be limited
16 to, plans regarding random spot checks, including the number and types
17 of compliance checks that will be conducted, and other activities to
18 determine compliance with this article. Each such plan shall include an
19 agreement to report to the commissioner: the names and addresses of
20 tobacco retailers and vendors determined to be unlicensed, if any; the
21 number of complaints filed against licensed tobacco retail outlets; and
22 the names of tobacco retailers and vendors who have paid fines, or have
23 been otherwise penalized, due to enforcement actions.

24 2. The commissioner shall distribute such monies as are made available
25 for such purpose to enforcement officers and, in so doing, consider the
26 number of retail locations registered to sell tobacco products within
27 the jurisdiction of the enforcement officer and the level of proposed
28 activities.

29 3. Monies made available to enforcement officers pursuant to this
30 section shall only be used for local tobacco, herbal cigarette and vapor
31 products enforcement activities approved by the commissioner.

32 § 11. The public health law is amended by adding a new section
33 1399-mm-1 to read as follows:

34 § 1399-mm-1. Vapor products; child-resistant containers required. No
35 person engaged in the business of manufacturing, selling or otherwise
36 distributing vapor products, may sell any component of such systems that
37 contains nicotine, including any refill, cartridge, or other component,
38 unless such component constitutes "special packaging" for the protection
39 of children, as defined in 15 U.S.C. 1471 or any superseding statute.

40 § 12. Subdivision 2 of section 409 of the education law, as amended by
41 chapter 449 of the laws of 2012, is amended to read as follows:

42 2. Notwithstanding the provisions of any other law, rule or regu-
43 lation, tobacco, herbal cigarette, and vapor products use shall not be
44 permitted and no person shall use [~~tobacco~~] such products on school
45 grounds. "School grounds" means any building, structure and surrounding
46 outdoor grounds, including entrances or exits, contained within a public
47 or private pre-school, nursery school, elementary or secondary school's
48 legally defined property boundaries as registered in a county clerk's
49 office.

50 § 13. Section 3624 of the education law, as amended by chapter 529 of
51 the laws of 2002, is amended to read as follows:

52 § 3624. Drivers, monitors and attendants. The commissioner shall
53 determine and define the qualifications of drivers, monitors and attend-
54 ants and shall make the rules and regulations governing the operation of
55 all transportation facilities used by pupils which rules and regulations
56 shall include, but not be limited to, a maximum speed of fifty-five

1 miles per hour for school vehicles engaged in pupil transportation that
2 are operated on roads, interstates or other highways, parkways or bridg-
3 es or portions thereof that have posted speed limits in excess of
4 fifty-five miles per hour, prohibitions relating to smoking and use of
5 vapor products, eating and drinking and any and all other acts or
6 conduct which would otherwise impair the safe operation of such trans-
7 portation facilities while actually being used for the transport of
8 pupils. The employment of each driver, monitor and attendant shall be
9 approved by the chief school administrator of a school district for each
10 school bus operated within his or her district. For the purpose of
11 determining his or her physical fitness, each driver, monitor and
12 attendant may be examined on order of the chief school administrator by
13 a duly licensed physician within two weeks prior to the beginning of
14 service in each school year as a school bus driver, monitor or attend-
15 ant. The report of the physician, in writing, shall be considered by the
16 chief school administrator in determining the fitness of the driver to
17 operate or continue to operate any transportation facilities used by
18 pupils and in determining the fitness of any monitor or attendant to
19 carry out his or her functions on such transportation facilities. Noth-
20 ing in this section shall prohibit a school district from imposing a
21 more restrictive speed limit policy for the operation of school vehicles
22 engaged in pupil transportation than the speed limit policy established
23 by the commissioner.

24 § 14. Subdivision 2 of section 470 of the tax law, as amended by
25 section 15 of part D of chapter 134 of the laws of 2010, is amended to
26 read as follows:

27 2. "Tobacco products." Any cigar, including a little cigar, a vapor
28 product, or tobacco, other than cigarettes, intended for consumption by
29 smoking, chewing, inhaling vapors, or as snuff.

30 § 15. Subdivision 12 of section 470 of the tax law, as added by chap-
31 ter 61 of the laws of 1989, is amended to read as follows:

32 12. "Distributor." Any person who imports or causes to be imported
33 into this state any tobacco product (in excess of fifty cigars ~~[or]~~, one
34 pound of tobacco, or one hundred milliliters of vapor product) for sale,
35 or who manufactures any tobacco product in this state, and any person
36 within or without the state who is authorized by the commissioner of
37 taxation and finance to make returns and pay the tax on tobacco products
38 sold, shipped or delivered by him to any person in the state.

39 § 16. Section 470 of the tax law is amended by adding a new subdivi-
40 sion 20 to read as follows:

41 20. "Vapor product." Any noncombustible liquid or gel, regardless of
42 the presence of nicotine therein, that is manufactured into a finished
43 product for use in an electronic cigarette, electronic cigar, electronic
44 cigarillo, electronic pipe, vaping pen, hookah pen or other similar
45 device. "Vapor product" shall not include any product approved by the
46 United States food and drug administration as a drug or medical device,
47 or approved for use pursuant to section three thousand three hundred
48 sixty-two of the public health law.

49 § 17. Subdivision (a) of subdivision 1 of section 471-b of the tax
50 law, as amended by section 18 of part D of chapter 134 of the laws of
51 2010, is amended to read as follows:

52 (a) Such tax on tobacco products other than snuff, ~~[and]~~ little
53 cigars, and vapor products shall be at the rate of seventy-five percent
54 of the wholesale price, and is intended to be imposed only once upon the
55 sale of any tobacco products other than snuff ~~[and]~~, little cigars, and
56 vapor products.

§ 18. Subdivision 1 of section 471-b of the tax law is amended by adding a new subdivision (d) to read as follows:

(d) Such tax on vapor products shall be at a rate of ten cents per fluid milliliter, or part thereof, of the vapor product. All invoices for vapor products issued by distributors and wholesalers must state the amount of vapor product in milliliters.

§ 19. The opening paragraph of subdivision (a) of section 471-c of the tax law, as amended by section 2 of part II of chapter 57 of the laws of 2009, is amended to read as follows:

There is hereby imposed and shall be paid a tax on all tobacco products used in the state by any person, except that no such tax shall be imposed (1) if the tax provided in section four hundred seventy-one-b of this article is paid, or (2) on the use of tobacco products which are exempt from the tax imposed by said section, or (3) on the use of two hundred fifty cigars or less, or five pounds or less of tobacco other than roll-your-own tobacco, or thirty-six ounces or less of roll-your-own tobacco, or five hundred milliliters or less of vapor product brought into the state on, or in the possession of, any person.

§ 20. Paragraph (i) of subdivision (a) of section 471-c of the tax law, as amended by section 20 of part D of chapter 134 of the laws of 2010, is amended to read as follows:

(i) Such tax on tobacco products other than snuff ~~and~~, little cigars and vapor products shall be at the rate of seventy-five percent of the wholesale price.

§ 21. Subdivision (a) of section 471-c of the tax law is amended by adding a new paragraph (iv) to read as follows:

(iv) Such tax on vapor products shall be at a rate of ten cents per fluid milliliter, or part thereof, of the vapor product. All invoices for vapor products issued by distributors and wholesalers must state the amount of vapor product in milliliters.

§ 22. Subdivision 2 of section 474 of the tax law, as amended by chapter 552 of the laws of 2008, is amended to read as follows:

2. Every person who shall possess or transport more than two hundred fifty cigars, or more than five pounds of tobacco other than roll-your-own tobacco, or more than thirty-six ounces of roll-your-own tobacco, or more than five hundred milliliters of vapor product upon the public highways, roads or streets of the state, shall be required to have in his actual possession invoices or delivery tickets for such tobacco products. Such invoices or delivery tickets shall show the name and address of the consignor or seller, the name and address of the consignee or purchaser, the quantity and brands of the tobacco products transported, and the name and address of the person who has or shall assume the payment of the tax and the wholesale price or the tax paid or payable. The absence of such invoices or delivery tickets shall be prima facie evidence that such person is a dealer in tobacco products in this state and subject to the requirements of this article.

§ 23. Subdivision 3 of section 474 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

3. Every dealer or distributor or employee thereof, or other person acting on behalf of a dealer or distributor, who shall possess or transport more than fifty cigars or more than one pound of tobacco, or more than one hundred milliliters of vapor product upon the public highways, roads or streets of the state, shall be required to have in his actual possession invoices or delivery tickets for such tobacco products. Such invoices or delivery tickets shall show the name and address of the consignor or seller, the name and address of the consignee or purchaser,

1 the quantity and brands of the tobacco products transported, and the
2 name and address of the person who has or shall assume the payment of
3 the tax and the wholesale price or the tax paid or payable. The absence
4 of such invoices or delivery tickets shall be prima facie evidence that
5 the tax imposed by this article on tobacco products has not been paid
6 and is due and owing.

7 § 24. Subparagraph (i) of paragraph (b) of subdivision 1 of section
8 481 of the tax law, as amended by section 1 of part O of chapter 59 of
9 the laws of 2013, is amended to read as follows:

10 (i) In addition to any other penalty imposed by this article, the
11 commissioner may (A) impose a penalty of not more than six hundred
12 dollars for each two hundred cigarettes, or fraction thereof, in excess
13 of one thousand cigarettes in unstamped or unlawfully stamped packages
14 in the possession or under the control of any person or (B) impose a
15 penalty of not more than two hundred dollars for each ten unaffixed
16 false, altered or counterfeit cigarette tax stamps, imprints or
17 impressions, or fraction thereof, in the possession or under the control
18 of any person. In addition, the commissioner may impose a penalty of not
19 more than seventy-five dollars for each fifty cigars ~~[or]~~, one pound of
20 tobacco, or one hundred milliliters of vapor product, or fraction there-
21 of, in excess of two hundred fifty cigars ~~[or]~~, five pounds of tobacco
22 or five hundred milliliters of vapor product in the possession or under
23 the control of any person and a penalty of not more than one hundred
24 fifty dollars for each fifty cigars ~~[or]~~, pound of tobacco, or one
25 hundred milliliters of vapor product, or fraction thereof, in excess of
26 five hundred cigars ~~[or]~~, ten pounds of tobacco, or one thousand milli-
27 liters of vapor product in the possession or under the control of any
28 person, with respect to which the tobacco products tax has not been paid
29 or assumed by a distributor or tobacco products dealer; provided, howev-
30 er, that any such penalty imposed shall not exceed seven thousand five
31 hundred dollars in the aggregate. The commissioner may impose a penalty
32 of not more than seventy-five dollars for each fifty cigars ~~[or]~~, one
33 pound of tobacco, or one hundred milliliters of vapor product, or frac-
34 tion thereof, in excess of fifty cigars ~~[or]~~, one pound of tobacco, or
35 one hundred milliliters of vapor product in the possession or under the
36 control of any tobacco products dealer or distributor appointed by the
37 commissioner, and a penalty of not more than one hundred fifty dollars
38 for each fifty cigars ~~[or]~~, pound of tobacco, or one hundred milliliters
39 of vapor product, or fraction thereof, in excess of two hundred fifty
40 cigars ~~[or]~~, five pounds of tobacco, or five hundred milliliters of
41 vapor product, in the possession or under the control of any such dealer
42 or distributor, with respect to which the tobacco products tax has not
43 been paid or assumed by a distributor or a tobacco products dealer;
44 provided, however, that any such penalty imposed shall not exceed
45 fifteen thousand dollars in the aggregate.

46 § 25. Clauses (B) and (C) of subparagraph (ii) of paragraph (b) of
47 subdivision 1 of section 481 of the tax law, as added by chapter 262 of
48 the laws of 2000, is amended to read as follows:

49 (B)(I) not less than twenty-five dollars but not more than one hundred
50 dollars for each fifty cigars ~~[or]~~, one pound of tobacco, or one hundred
51 milliliters of vapor product, or fraction thereof, in excess of two
52 hundred fifty cigars ~~[or]~~, five pounds of tobacco, or five hundred
53 milliliters of vapor product knowingly in the possession or knowingly
54 under the control of any person, with respect to which the tobacco
55 products tax has not been paid or assumed by a distributor or tobacco
56 products dealer; and

(II) not less than fifty dollars but not more than two hundred dollars for each fifty cigars ~~[or]~~, pound of tobacco, or one hundred milliliters of vapor product, or fraction thereof, in excess of five hundred cigars ~~[or]~~, ten pounds of tobacco, or one thousand milliliters of vapor product knowingly in the possession or knowingly under the control of any person, with respect to which the tobacco products tax has not been paid or assumed by a distributor or tobacco products dealer; provided, however, that any such penalty imposed under this clause shall not exceed ten thousand dollars in the aggregate.

(C)(I) not less than twenty-five dollars but not more than one hundred dollars for each fifty cigars ~~[or]~~, one pound of tobacco, or one hundred milliliters of vapor product, or fraction thereof, in excess of fifty cigars ~~[or]~~, one pound of tobacco, or one hundred milliliters of vapor product knowingly in the possession or knowingly under the control of any person, with respect to which the tobacco products tax has not been paid or assumed by a distributor or tobacco products dealer; and

(II) not less than fifty dollars but not more than two hundred dollars for each fifty cigars ~~[or]~~, pound of tobacco, or one hundred milliliters of vapor product, or fraction thereof, in excess of two hundred fifty cigars ~~[or]~~, five pounds of tobacco, or five hundred milliliters of vapor product knowingly in the possession or knowingly under the control of any person, with respect to which the tobacco products tax has not been paid or assumed by a distributor or a tobacco products dealer; provided, however, that any such penalty imposed under this clause shall not exceed twenty thousand dollars in the aggregate.

§ 26. Subdivisions (a) and (h) of section 1814 of the tax law, as amended by section 28 of subpart I of part VI of chapter 57 of the laws of 2009, are amended to read as follows:

(a) Any person who willfully attempts in any manner to evade or defeat the taxes imposed by article twenty of this chapter or payment thereof on (i) ten thousand cigarettes or more, (ii) twenty-two thousand cigars or more, ~~[or]~~ (iii) four hundred forty pounds of tobacco or more, or (iv) forty-four thousand milliliters of vapor product or more or has previously been convicted two or more times of a violation of paragraph ~~[one]~~ (i) of this subdivision shall be guilty of a class E felony.

(h) (1) Any dealer, other than a distributor appointed by the commissioner of taxation and finance under article twenty of this chapter, who shall knowingly transport or have in his custody, possession or under his control more than ten pounds of tobacco, or more than five hundred cigars, or more than one thousand milliliters of vapor product upon which the taxes imposed by article twenty of this chapter have not been assumed or paid by a distributor appointed by the commissioner of taxation and finance under article twenty of this chapter, or other person treated as a distributor pursuant to section four hundred seventy-one-d of this chapter, shall be guilty of a misdemeanor punishable by a fine of not more than five thousand dollars or by a term of imprisonment not to exceed thirty days.

(2) Any person, other than a dealer or a distributor appointed by the commissioner under article twenty of this chapter, who shall knowingly transport or have in his custody, possession or under his control more than fifteen pounds of tobacco, or more than seven hundred fifty cigars, or more than fifteen hundred milliliters or more of vapor product upon which the taxes imposed by article twenty of this chapter have not been assumed or paid by a distributor appointed by the commissioner under article twenty of this chapter, or other person treated as a distributor pursuant to section four hundred seventy-one-d of this chapter shall be

1 guilty of a misdemeanor punishable by a fine of not more than five thou-
2 sand dollars or by a term of imprisonment not to exceed thirty days.

3 (3) Any person, other than a distributor appointed by the commissioner
4 under article twenty of this chapter, who shall knowingly transport or
5 have in his custody, possession or under his control twenty-five hundred
6 or more cigars, or fifty or more pounds of tobacco, or five thousand
7 milliliters or more of vapor product upon which the taxes imposed by
8 article twenty of this chapter have not been assumed or paid by a
9 distributor appointed by the commissioner under article twenty of this
10 chapter, or other person treated as a distributor pursuant to section
11 four hundred seventy-one-d of this chapter shall be guilty of a misde-
12 meanor. Provided further, that any person who has twice been convicted
13 under this subdivision shall be guilty of a class E felony for any
14 subsequent violation of this section, regardless of the amount of tobac-
15 co products involved in such violation.

16 (4) For purposes of this subdivision, such person shall knowingly
17 transport or have in his custody, possession or under his control tobac-
18 co, ~~[or]~~ cigars, or vapor products on which such taxes have not been
19 assumed or paid by a distributor appointed by the commissioner where
20 such person has knowledge of the requirement of the tax on tobacco
21 products and, where to his knowledge, such taxes have not been assumed
22 or paid on such tobacco products by a distributor appointed by the
23 commissioner of taxation and finance.

24 § 27. Subdivisions (a) and (b) of section 1814-a of the tax law, as
25 added by chapter 61 of the laws of 1989, are amended to read as follows:

26 (a) Any person who, while not appointed as a distributor of tobacco
27 products pursuant to the provisions of article twenty of this chapter,
28 imports or causes to be imported into the state more than fifty cigars,
29 or more than one pound of tobacco, or more than one hundred milliliters
30 of vapor product for sale within the state, or produces, manufactures or
31 compounds tobacco products within the state shall be guilty of a misde-
32 meanor punishable by a fine of not more than five thousand dollars or by
33 a term of imprisonment not to exceed thirty days. If, within any ninety
34 day period, one thousand or more cigars, or five hundred pounds or more
35 of tobacco, or fifty thousand milliliters or more of vapor product are
36 imported or caused to be imported into the state for sale within the
37 state or are produced, manufactured or compounded within the state by
38 any person while not appointed as a distributor of tobacco products,
39 such person shall be guilty of a misdemeanor. Provided further, that any
40 person who has twice been convicted under this section shall be guilty
41 of a class E felony for any subsequent violation of this section,
42 regardless of the amount of tobacco products involved in such violation.

43 (b) For purposes of this section, the possession or transportation
44 within this state by any person, other than a tobacco products distribu-
45 tor appointed by the commissioner of taxation and finance, at any one
46 time of seven hundred fifty or more cigars ~~[or]~~, fifteen pounds or more
47 of tobacco, or fifteen hundred milliliters or more of vapor product
48 shall be presumptive evidence that such tobacco products are possessed
49 or transported for the purpose of sale and are subject to the tax
50 imposed by section four hundred seventy-one-b of this chapter. With
51 respect to such possession or transportation, any provisions of article
52 twenty of this chapter providing for a time period during which the tax
53 imposed by such article may be paid shall not apply.

54 § 28. Subdivision (a) of section 1846-a of the tax law, as amended by
55 chapter 556 of the laws of 2011, is amended to read as follows:

(a) Whenever a police officer designated in section 1.20 of the criminal procedure law or a peace officer designated in subdivision four of section 2.10 of such law, acting pursuant to his special duties, shall discover any tobacco products in excess of five hundred cigars ~~[or]~~, ten pounds of tobacco, or one thousand milliliters of vapor product which are being imported for sale in the state where the person importing or causing such tobacco products to be imported has not been appointed as a distributor pursuant to section four hundred seventy-two of this chapter, such police officer or peace officer is hereby authorized and empowered forthwith to seize and take possession of such tobacco products. Such tobacco products seized by a police officer or peace officer shall be turned over to the commissioner. Such seized tobacco products shall be forfeited to the state. All tobacco products forfeited to the state shall be destroyed or used for law enforcement purposes, except that tobacco products that violate, or are suspected of violating, federal trademark laws or import laws shall not be used for law enforcement purposes. If the commissioner determines the tobacco products may not be used for law enforcement purposes, the commissioner must, within a reasonable time thereafter, upon publication in the state registry of a notice to such effect before the day of destruction, destroy such forfeited tobacco products. The commissioner may, prior to any destruction of tobacco products, permit the true holder of the trademark rights in the tobacco products to inspect such forfeited products in order to assist in any investigation regarding such tobacco products.

§ 29. Subdivision (b) of section 1847 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

(b) Any peace officer designated in subdivision four of section 2.10 of the criminal procedure law, acting pursuant to his special duties, or any police officer designated in section 1.20 of the criminal procedure law may seize any vehicle or other means of transportation used to import tobacco products in excess of five hundred cigars ~~[or]~~, ten pounds of tobacco, or one thousand milliliters of vapor product for sale where the person importing or causing such tobacco products to be imported has not been appointed a distributor pursuant to section four hundred seventy-two of this chapter, other than a vehicle or other means of transportation used by any person as a common carrier in transaction of business as such common carrier, and such vehicle or other means of transportation shall be subject to forfeiture as hereinafter in this section provided.

§ 30. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to vapor products that first become subject to taxation under article 20 of the tax law on or after that date.

PART GG

Section 1. Subdivision (d) of section 1814 of the tax law, as amended by section 28 of subpart I of part V-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(d) For the purposes of this section, the possession or transportation within this state by any person, other than an agent, at any one time of ~~[five]~~ two thousand or more cigarettes in unstamped or unlawfully stamped packages shall be presumptive evidence that such cigarettes are possessed or transported for the purpose of sale and are subject to the tax imposed by section four hundred seventy-one of this chapter. With

1 respect to such possession or transportation any provisions of article
2 twenty of this chapter providing for a time period during which a use
3 tax imposed by such article may be paid on unstamped cigarettes or
4 unlawfully or improperly stamped cigarettes or during which such ciga-
5 rettes may be returned to an agent shall not apply. The possession with-
6 in this state of more than four hundred cigarettes in unstamped or
7 unlawfully stamped packages by any person other than an agent at any one
8 time shall be presumptive evidence that such cigarettes are subject to
9 tax as provided by article twenty of this chapter.

10 § 2. Subdivision (g) of section 1814 of the tax law, as amended by
11 section 28 of subpart I of part V-1 of chapter 57 of the laws of 2009,
12 is amended to read as follows:

13 (g) Any person who falsely or fraudulently makes, alters or counter-
14 feits any stamp prescribed by the tax commission under the provisions of
15 article twenty of this chapter, or causes or procures to be falsely or
16 fraudulently made, altered or counterfeited any such stamp, or knowingly
17 and willfully utters, purchases, passes or tenders as true any such
18 false, altered or counterfeited stamp, or knowingly and willfully
19 possesses any cigarettes in packages bearing any such false, altered or
20 counterfeited stamp, and any person who knowingly and willfully makes,
21 causes to be made, purchases or receives any device for forging or coun-
22 terfeiting any stamp, prescribed by the tax commission under the
23 provisions of article twenty of this chapter, or who knowingly and will-
24 fully possesses any such device, shall be guilty of a class [E] C felo-
25 ny. For the purposes of this subdivision, the words "stamp prescribed by
26 the tax commission" shall include a stamp, impression or imprint made by
27 a metering machine, the design of which has been approved by such
28 commission.

29 § 3. This act shall take effect immediately and apply to offenses
30 committed on and after such effective date.

31 PART HH

32 Section 1. The tax law is amended by adding a new section 478-a to
33 read as follows:

34 § 478-a. Jeopardy assessments. If the commissioner believes that the
35 collection of any tax will be jeopardized by delay, he or she may deter-
36 mine the amount of such tax and assess the same, together with all
37 interest and penalties provided by law, against any person liable there-
38 for prior to the filing of his or her return and prior to the date when
39 his or her return is required to be filed. The amount so determined
40 shall become due and payable to the commissioner by the person against
41 whom such a jeopardy assessment is made, as soon as notice thereof is
42 given to him or her. The provisions of section four hundred seventy-
43 eight of this article shall apply to any such determination except to
44 the extent that they may be inconsistent with the provisions of this
45 section. The commissioner may abate any jeopardy assessment if he or she
46 finds that jeopardy does not exist. The collection of any jeopardy
47 assessment may be stayed by filing with the commissioner a bond issued
48 by a surety company authorized to transact business in this state and
49 approved by the superintendent of financial services as to solvency and
50 responsibility, or such other security acceptable to the commissioner,
51 conditioned upon payment of the amount assessed and interest thereon, or
52 any lesser amount to which such assessment may be reduced by the divi-
53 sion of tax appeals or by a proceeding under article seventy-eight of
54 the civil practice law and rules as provided in section four hundred

seventy-eight of this article, such payment to be made when the assessment or any such reduction thereof becomes final and not subject to further review. If such a bond is filed and thereafter a proceeding under article seventy-eight of the civil practice law and rules is commenced as provided in section four hundred seventy-eight of this article, deposit of the taxes, interest and penalties assessed shall not be required as a condition precedent to the commencement of such proceeding. Where a jeopardy assessment is made, any property seized for the collection of the tax shall not be sold: (1) until expiration of the time to apply for a hearing as provided in section four hundred seventy-eight of this article, and (2) if such application is timely filed, until the expiration of the time to file an exception to the determination of the administrative law judge or, if an exception is timely filed, until four months after the tax appeals tribunal has given notice of its decision to the person against whom the assessment is made; provided, however, such property may be sold at any time if such person has failed to attend a hearing of which he or she has been duly notified, or if he or she consents to the sale, or if the commissioner determines that the expenses of conservation and maintenance will greatly reduce the net proceeds, or if the property is perishable.

§ 2. This act shall take effect immediately.

PART II

Section 1. Paragraph (a) of subdivision 1 of section 471-b of the tax law, as amended by section 18 of part D of chapter 134 of the laws of 2010, is amended to read as follows:

(a) Such tax on tobacco products other than snuff ~~[and]~~, little cigars, and cigars shall be at the rate of seventy-five percent of the wholesale price, and is intended to be imposed only once upon the sale of any tobacco products other than snuff ~~[and]~~, little cigars and cigars.

§ 2. Subdivision 1 of section 471-b of the tax law is amended by adding a new paragraph (d) to read as follows:

(d) Such tax on cigars as defined in subdivision nineteen of section four hundred seventy of this article shall be at a rate of forty-five cents per cigar.

§ 3. Paragraph (i) of subdivision (a) of section 471-c of the tax law, as amended by section 20 of part D of chapter 134 of the laws of 2010, is amended to read as follows:

(i) Such tax on tobacco products other than snuff ~~[and]~~, little cigars and cigars shall be at the rate of seventy-five percent of the wholesale price.

§ 4. Subdivision (a) of section 471-c of the tax law is amended by adding a new paragraph (iv) to read as follows:

(iv) Such tax on cigars as defined in subdivision nineteen of section four hundred seventy of this article shall be at a rate of forty-five cents per cigar.

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

PART JJ

Section 1. Subdivision (e) of section 1401 of the tax law, as amended by chapter 760 of the laws of 1992, is amended to read as follows:

(e) "Conveyance" means the transfer or transfers of any interest in real property by any method, including but not limited to sale,

1 exchange, assignment, surrender, mortgage foreclosure, transfer in lieu
2 of foreclosure, option, trust indenture, taking by eminent domain,
3 conveyance upon liquidation or by a receiver, or transfer or acquisition
4 of a controlling interest in any entity with an interest in real proper-
5 ty. Conveyance also includes the transfer of an interest in a partner-
6 ship, limited liability corporation, S corporation or non-publicly trad-
7 ed C corporation with fewer than one hundred shareholders that owns an
8 interest in real property that is located in New York and has a fair
9 market value that equals or exceeds fifty percent of all the assets of
10 the entity on the date of the transfer of an interest in the entity.
11 Only those assets that the entity owned for at least two years before
12 the date of the transfer of the taxpayer's interest in the entity shall
13 be used in determining the fair market value of all the assets of the
14 entity on the date of the transfer. Transfer of an interest in real
15 property shall include the creation of a leasehold or sublease only
16 where (i) the sum of the term of the lease or sublease and any options
17 for renewal exceeds forty-nine years, (ii) substantial capital improve-
18 ments are or may be made by or for the benefit of the lessee or subles-
19 see, and (iii) the lease or sublease is for substantially all of the
20 premises constituting the real property. Notwithstanding the foregoing,
21 conveyance of real property shall not include a conveyance pursuant to
22 devise, bequest or inheritance; the creation, modification, extension,
23 spreading, severance, consolidation, assignment, transfer, release or
24 satisfaction of a mortgage; a mortgage subordination agreement, a mort-
25 gage severance agreement, an instrument given to perfect or correct a
26 recorded mortgage; or a release of lien of tax pursuant to this chapter
27 or the internal revenue code.

28 § 2. Subdivision (d) of section 1401 of the tax law is amended by
29 adding a new paragraph (vi) to read as follows:

30 (vi) In the case of a transfer of an interest in a partnership, limit-
31 ed liability corporation, S corporation or non-publicly traded C corpo-
32 ration with one hundred or fewer shareholders that owns real property
33 that is located in New York and has a fair market value that equals or
34 exceeds fifty percent of all the assets of the entity on the date of the
35 transfer of an interest in the entity, the consideration for the convey-
36 ance shall be calculated by multiplying (1) the fair market value of the
37 real property that is located in New York that is owned by the entity
38 and (2) the percentage of the entity that is transferred.

39 § 3. This act shall take effect immediately and shall apply to trans-
40 fers occurring on and after the effective date.

41 PART KK

42 Section 1. Section 1402-a of the tax law is amended by adding a new
43 subdivision (b-1) to read as follows:

44 (b-1) The commissioner is authorized to treat as subject to tax under
45 this section any conveyance of an interest in real property made pursu-
46 ant to an agreement, understanding or arrangement that results in the
47 avoidance or evasion of the tax imposed by this section.

48 § 2. This act shall take effect immediately.

49 PART LL

50 Section 1. Section 902 of the racing, pari-mutuel wagering and breed-
51 ing law, as amended by chapter 60 of the laws of 1993, subdivision 1 as

1 amended by chapter 15 of the laws of 2010 and subdivision 2 as amended
2 by chapter 18 of the laws of 2008, is amended to read as follows:

3 § 902. Equine drug testing and expenses. 1. In order to assure the
4 public's confidence and continue the high degree of integrity in racing
5 at the pari-mutuel betting tracks, equine drug testing at race meetings
6 shall be conducted by a [~~state college within this state with an~~
7 ~~approved equine science program~~] suitable laboratory or laboratories
8 located in New York state, as the gaming commission may determine in its
9 discretion. The [~~state racing and wagering board~~] gaming commission
10 shall promulgate any rules and regulations necessary to implement the
11 provisions of this section, including administrative penalties of loss
12 of purse money, fines, or denial, suspension[7] or revocation of a
13 license for racing drugged horses.

14 2. Notwithstanding any inconsistent provision of law, all costs and
15 expenses of the [~~state racing and wagering board~~] gaming commission for
16 equine drug testing and research shall be paid from [~~an appropriation~~
17 ~~from the state treasury, on the certification of the chairman of the~~
18 ~~state racing and wagering board, upon the audit and warrant of the comp-~~
19 ~~troller and pursuant to a plan developed by the state racing and wager-~~
20 ~~ing board as approved by the director of the budget~~] an assessment the
21 commission may make on horsemen entering horses in races, an assessment
22 the commission may make on racetracks, or both.

23 § 2. Subdivision 2 of section 228 of the racing, pari-mutuel wagering
24 and breeding law, as amended by chapter 18 of the laws of 2008 and the
25 opening paragraph as amended by chapter 291 of the laws of 2016, is
26 amended to read as follows:

27 2. The New York state gaming commission shall, as a condition of
28 racing, require any franchised corporation and every other corporation
29 subject to its jurisdiction to withhold one percent of all purses,
30 except that for the franchised corporation, starting on September first,
31 two thousand seven and continuing through August thirty-first, two thou-
32 sand seventeen, two percent of all purses shall be withheld, and, in the
33 case of the franchised corporation, to pay such sum to the horsemen's
34 organization or its successor that was first entitled to receive
35 payments pursuant to this section in accordance with rules of the
36 commission adopted effective November third, nineteen hundred eighty-
37 three representing at least fifty-one percent of the owners and trainers
38 [~~utilizing~~] using the facilities of such franchised corporation, on the
39 condition that such horsemen's organization shall expend [~~as much as is~~
40 ~~necessary, but not to exceed~~] one-half of one percent of such total
41 sum[7] to acquire and maintain the equipment required to [~~establish a~~
42 ~~program at a state college within this state with an approved equine~~
43 ~~science program to~~] test, at a suitable laboratory located in New York
44 state, as the gaming commission may determine in its discretion, for the
45 presence of [~~steroids~~] impermissible drugs or other substances that
46 might be classified as impermissible substances in horses, provided
47 further that the qualified organization shall also, in an amount to be
48 determined by its board of directors, annually include in its expendi-
49 tures for benevolence programs, funds to support an organization provid-
50 ing services necessary to backstretch employees, and, in the case of
51 every other corporation, to pay such one percent sum of purses to the
52 horsemen's organization or its successor that was first entitled to
53 receive payments pursuant to this section in accordance with rules of
54 the commission adopted effective May twenty-third, nineteen hundred
55 eighty-six representing at least fifty-one percent of the owners and
56 trainers [~~utilizing~~] using the facilities of such corporation.

In either case, any other horsemen's organization may apply to the [board] commission to be approved as the qualified organization to receive payment of the one percent of all purses by submitting to the [board] commission proof of both, that (i) it represents more than fifty-one percent of all the owners and trainers [utilizing] using the same facilities and (ii) the horsemen's organization previously approved as qualified by the [board] commission does not represent fifty-one percent of all the owners and trainers [utilizing] using the same facilities. If the [board] commission is satisfied that the documentation submitted with the application of any other horsemen's organization is conclusive with respect to items (i) and (ii) of this paragraph, it may approve the applicant as the qualified recipient organization.

In the best interests of racing, upon receipt of such an application, the [board] commission may direct the payments to the previously qualified horsemen's organization to continue uninterrupted, or it may direct the payments to be withheld and placed in interest-bearing accounts for a period not to exceed ninety days, during which time the [board] commission shall review and approve or disapprove the application. Funds held in such manner shall be paid to the organization approved by the [board] commission. In no event shall the [board] commission accept more than one such application in any calendar year from the same horsemen's organization.

The funds authorized to be paid by the [board] commission are to be used exclusively for the benefit of those horsemen racing in New York state through the administrative purposes of such qualified organization, benevolent activities on behalf of backstretch employees, and for the promotion of equine research.

§ 3. This act shall take effect immediately.

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.

§ 1-c. Article 34 of the tax 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 1. "Authorized bingo lessor" shall mean a person, firm or corporation
2 other than a licensee to conduct bingo under the provisions of this
3 article, who or which owns or is a net lessee of premises and offer the
4 same for leasing by him, her or it to an authorized organization for any
5 consideration whatsoever, direct or indirect, for the purpose of
6 conducting bingo therein, provided, that he, she or it, as the case may
7 be, shall not be:

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

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

14 (c) a public officer who receives any consideration, direct or indi-
15 rect, as owner or lessor of premises offered for the purpose of conduct-
16 ing bingo therein; or

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

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

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

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

48 4. "Authorized supplier of games of chance equipment" shall mean any
49 person, firm, partnership, corporation or organization licensed by the
50 commission to sell or lease games of chance equipment or paraphernalia
51 that meets the specifications and regulations established by the commis-
52 sion. Nothing herein shall prevent an authorized organization from
53 purchasing common articles, such as cards and dice, from normal sources
54 of supply of such articles or from constructing equipment and parapher-
55 naliam for games of chance for its own use. However, no such equipment
56 or paraphernalia, constructed or owned by an authorized organization

1 shall be sold or leased to any other authorized organization, without
2 written permission from the commission.

3 5. "Bell jars" shall mean and include those games in which a partic-
4 ipant shall draw a card that contains numbers, colors or symbols that
5 are covered and that, when uncovered, may reveal that a prize shall be
6 awarded on the basis of a designated winning number, color or symbol or
7 combination of numbers, colors or symbols. Such card shall be drawn from
8 a jar, vending machine or other suitable device or container. Bell jars
9 shall also include seal cards, coin boards, event games and merchandise
10 boards.

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

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

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

17 9. "Bonus ball" shall mean a bingo game that is played in conjunction
18 with one or more regular or special bingo games designated as bonus ball
19 games by the licensed authorized organization during one or more consec-
20 utive bingo occasions in which a prize is awarded to the player obtain-
21 ing a specified winning bingo pattern when the last number called by the
22 licensed authorized organization is the designated bonus ball number.
23 The bonus ball prize shall be based upon a percentage of the sales from
24 opportunities to participate in bonus ball games not to exceed seventy-
25 five percent of the sum of money received from the sale of bonus ball
26 opportunities or ten thousand dollars, whichever shall be less, and
27 which is not subject to the prize limits imposed by subdivisions five
28 and six of section fifteen hundred twenty-three and paragraph (a) of
29 subdivision one of section fifteen hundred twenty-five of this article.
30 The percentage shall be specified both in the application for the bingo
31 license and the licensee. Notwithstanding section fifteen hundred thir-
32 ty-one of this article, not more than one dollar shall be charged per
33 player for an opportunity to participate in all bonus ball games
34 conducted during a single bingo occasion, and the total amount collected
35 from the sale of bonus ball opportunities and the amount of the prize to
36 be awarded shall be announced prior to the start of each bingo occasion.

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

42 11. "Clerk" shall mean the clerk of a municipality outside the city of
43 New York.

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

46 13. "Early bird" shall mean a bingo game that is played as a special
47 game, conducted not more than twice during a bingo occasion, in which
48 prizes are awarded based upon a percentage not to exceed seventy-five
49 percent of the sum of money received from the sale of the early bird
50 cards and that is neither subject to the prize limits imposed by subdi-
51 visions five and six of section fifteen hundred twenty-three and para-
52 graph (a) of subdivision one of section fifteen hundred twenty-five, nor
53 the special game opportunity charge limit imposed by section fifteen
54 hundred thirty-one of this article. The percentage shall be specified
55 both in the application for bingo license and the license. Not more
56 than one dollar shall be charged per card with the total amount

1 collected from the sale of the early bird cards and the prize for each
2 game to be announced before the commencement of each game.

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

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

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

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

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

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

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

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

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

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

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

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

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

54 18. "License period" shall mean:

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

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

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

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

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

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

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

25 23. "Net proceeds" shall mean:

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

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

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

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

54 (e) in relation to the gross rent received by an authorized games of
55 chance lessor for the use of its premises by a game of chance licensee,
56 the amount that shall remain after deducting the reasonable sums neces-

1 sarily and actually expended for janitorial services and utility
2 supplies directly attributable thereto if any.

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

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

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

18 (d) For the purposes of the game of chance known as raffle "one occa-
19 sion" shall mean a calendar year during which successive operations of
20 such game are conducted.

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

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

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

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

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

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

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

50 30. "Series of prizes" shall mean the total amount of single prizes
51 minus the total amount of wagers lost during the successive operations
52 of a single type of game of chance, except that for merchandise wheels
53 and raffles, "series of prizes" shall mean the sum of cash and the fair
54 market value of merchandise awarded as single prizes during the succes-
55 sive operations of any single merchandise wheel or raffle. In the game

1 of raffle, a series of prizes may include a percentage of the sum of
2 cash received from the sale of raffle tickets.

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

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

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

17 § 1501. Forms. The commission shall, to the greatest extent practica-
18 ble, make forms and applications required by this article or related
19 rules and regulations of the commission available in electronic formats
20 that minimize paperwork and are designed to maximize efficiency for
21 authorized organizations, municipalities and the commission.

22 § 1502. Participation by persons under the age of eighteen. 1. No
23 person under the age of eighteen years shall be permitted to play any
24 game of bingo or any game of chance conducted pursuant to this article.

25 2. No person under the age of eighteen years shall be permitted to
26 conduct, operate or assist in the conduct of any game of bingo or game
27 of chance conducted pursuant to this article.

28 3. Persons under the age of eighteen years may be permitted to attend
29 games of chance at the discretion of the games of chance licensee.

30 § 1503. Sundays. A municipality may restrict a license to conduct
31 bingo or games of chance by providing that no bingo or games of chance
32 shall be conducted on the first day of the week, commonly known as
33 Sunday, if the provisions of a local law or an ordinance duly adopted by
34 the governing body of the municipality issuing the license prohibits the
35 conduct of bingo or games of chance pursuant to this title on such days.

36 § 1504. Advertising of charitable games. A licensee may advertise the
37 conduct of an occasion of bingo or games of chance event to the general
38 public by means of newspaper, radio, circular, handbill and poster, by
39 one sign not exceeding sixty square feet in area, which may be displayed
40 on or adjacent to the premises owned or occupied by a licensed author-
41 ized organization, by other signs as may be permitted by the rules and
42 regulations of the commission and through the internet as may be permit-
43 ted by the rules and regulations of the commission. When an organization
44 is licensed or authorized to conduct bingo occasions or games of chance
45 events on the premises of another licensed authorized organization or of
46 an authorized bingo lessor or authorized games of chance lessor, one
47 additional such sign may be displayed on or adjacent to the premises in
48 which the occasions are to be conducted. Additional signs may be
49 displayed upon any firefighting equipment belonging to any licensed
50 authorized organization that is a volunteer fire company, or upon any
51 equipment of a first aid or rescue squad in and throughout the community
52 served by such volunteer fire company or such first aid or rescue squad,
53 as the case may be. All advertisements shall be limited to:

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

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

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

5 (d) the prizes offered; and

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

8 § 1505. Sanctions for violations. The commission shall have the power
9 to issue letters of reprimand or impose fines in any amount up to the
10 maximum authorized by section one hundred sixteen of this chapter for
11 any violation of this article or the rules and regulations of the
12 commission. A person or entity that has been fined may request a de novo
13 hearing before the commission to review and determine such fine, pursu-
14 ant to the rules and regulations of the commission.

15 § 1506. Severability. If any provision of this article or the applica-
16 tion thereof to any municipality, person or circumstances shall be
17 adjudged unconstitutional by any court of competent jurisdiction, the
18 remainder of this article or the application thereof to other munici-
19 palities, persons and circumstances shall not be affected thereby, and
20 the legislature hereby declares that it would have enacted this title
21 without the invalid provision or application, as the case may be, had
22 such invalidity been apparent.

23 TITLE 2

24 BINGO CONTROL

25 Section 1510. Short title.

26 1511. Purpose of title.

27 1512. Other agency assistance.

28 1513. Powers and duties of the commission.

29 1514. Hearings; immunity.

30 1515. Place of investigations and hearings; witnesses; books and
31 documents.

32 1516. Privilege against self-incrimination.

33 1517. Filing and availability of rules and regulations.

34 1518. Municipality to file copies of local laws and ordinances;
35 reports.

36 § 1510. Short title. This title shall be known and may be cited as the
37 bingo control law.

38 § 1511. Purpose of title. The purpose of this title is to implement
39 section nine of article one of the state constitution, as amended by
40 vote of the people at the general election in November, nineteen hundred
41 fifty-seven. The legislature hereby declares that the raising of funds
42 for the promotion of bona fide charitable, educational, scientific,
43 health, religious, civic and patriotic causes and undertakings, where
44 the beneficiaries are indefinite, is in the public interest. It hereby
45 finds that, as conducted prior to the enactment of this title, bingo was
46 the subject of exploitation by professional gamblers, promoters and
47 commercial interests. It is hereby declared to be the policy of the
48 legislature that all phases of the supervision, licensing and the regu-
49 lation of bingo and of the conduct of bingo games, should be controlled
50 closely and that the laws and regulations pertaining thereto should be
51 construed strictly and enforced rigidly; that the conduct of bingo and
52 all attendant activities should be so regulated and adequate controls so
53 instituted as to discourage commercialization in all its forms, includ-
54 ing the rental of commercial premises for bingo games, and to ensure a
55 maximum availability of the net proceeds of bingo exclusively for appli-
56 cation to the worthy causes and undertakings specified herein; that the

1 only justification for this title is to foster and support such worthy
2 causes and undertakings, and that the mandate of section nine of article
3 one of the state constitution, as amended, should be carried out by
4 rigid regulation to prevent commercialized gambling, prevent partic-
5 ipation by criminal and other undesirable elements and prevent the
6 diversion of funds from the purposes herein authorized.

7 § 1512. Other agency assistance. To effectuate the purposes of this
8 title, the governor may authorize any department, division, board,
9 bureau, commission or agency of the state or in any political subdivi-
10 sion thereof to provide such facilities, assistance and data as will
11 enable the commission properly to carry out its activities and effectu-
12 ate its purposes hereunder.

13 § 1513. Powers and duties of the commission. 1. The commission shall
14 have the power and it shall be its duty to:

15 (a) supervise the administration of the bingo licensing law and adopt,
16 amend and repeal rules and regulations governing the issuance and amend-
17 ment of licenses thereunder and the conducting of bingo under such
18 licenses, which rules and regulations shall have the force and effect of
19 law and shall be binding upon all municipalities issuing licenses and
20 upon licensees thereunder and licensees of the commission, to the end
21 that such licenses shall be issued to qualified licensees only and that
22 said bingo games shall be fairly and properly conducted for the purposes
23 and in the manner in the said bingo licensing law prescribed and to
24 prevent the bingo games thereby authorized to be conducted from being
25 conducted for commercial purposes or purposes other than those therein
26 authorized, participated in by criminal or other undesirable elements
27 and the funds derived from the bingo games being diverted from the
28 purposes authorized, and, to provide uniformity in the administration of
29 said law throughout the state, the commission shall prescribe forms of
30 application for licenses, licenses, amendment of licenses, reports of
31 the conduct of bingo games and other matters incident to the adminis-
32 tration of such law;

33 (b) conduct, anywhere within the state, investigations of the adminis-
34 tration, enforcement and potential or actual violations of the bingo
35 licensing law and of the rules and regulations of the commission;

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

41 (d) suspend or revoke a license, after hearing, for any violation of
42 the provisions of this title or the rules and regulations of the commis-
43 sion;

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

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

52 (g) carry on continuous study of the operation of the bingo licensing
53 law to ascertain from time to time defects therein jeopardizing or
54 threatening to jeopardize the purposes of this title and to formulate
55 and recommend changes in such law and in other laws of the state that
56 the commission may determine to be necessary for the realization of such

1 purposes, and to the same end to make a continuous study of the opera-
2 tion and administration of similar laws that may be in effect in other
3 states of the United States;

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

7 (i) issue an identification number to an applicant authorized organ-
8 ization if the commission determines that the applicant satisfies the
9 requirements of the bingo licensing law and the rules and regulations of
10 the commission.

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

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

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

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

41 (i) the name and address of the applicant;

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

44 (iii) the amount of gross receipts realized on the sale or distrib-
45 ution of bingo supplies and equipment to duly licensed organizations
46 during the last preceding calendar or fiscal year; and

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

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

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

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

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

3 (3) a public officer or employee;

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

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

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

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

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

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

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

46 § 1514. Hearings; immunity. 1. A hearing upon any investigation or
47 review authorized by this article may be conducted by two or more
48 members of the commission or by a hearing officer duly designated by the
49 commission, as the commission shall determine.

50 2. A person who has violated any provision of this article, or of the
51 rules and regulations of the commission, or any term of any license
52 issued under this article or such rules and regulations, is a competent
53 witness against another person so charged. In any hearing upon any
54 investigation or review authorized by this article, for or relating to a
55 violation of any provision of said article or of the rules and regu-
56 lations of the commission or of the term of any such license, the

1 commission may confer immunity upon such witness in accordance with the
2 provisions of section 50.20 of the criminal procedure law. Such immuni-
3 ty shall be conferred only upon the vote of at least three members of
4 the commission and only after affording the attorney general and the
5 appropriate district attorney a reasonable opportunity to be heard with
6 respect to any objections that they or either of them may have to the
7 granting of such immunity.

8 § 1515. Place of investigations and hearings; witnesses; books and
9 documents. The commission may conduct investigations and hearings within
10 or without the state and shall have power to compel the attendance of
11 witnesses, the production of books, records, documents and other
12 evidence by the issuance of a subpoena signed by a person authorized by
13 the commission to do so.

14 § 1516. Privilege against self-incrimination. The willful refusal to
15 answer a material question or the assertion of privilege against self-
16 incrimination during a hearing upon any investigation or review author-
17 ized by this article by any licensee or any person identified with any
18 licensee as an officer, director, stockholder, partner, member, employee
19 or agent thereof shall constitute sufficient cause for the revocation or
20 suspension of any license issued under this title or under the licensing
21 law, as the commission or as the municipal governing body may determine.

22 § 1517. Filing and availability of rules and regulations. A copy of
23 every rule and regulation adopted and promulgated by the commission
24 shall be made available to the various municipalities operating under
25 the bingo licensing law.

26 § 1518. Municipality to file copies of local laws and ordinances;
27 reports. Each municipality in which the bingo licensing law is adopted
28 shall file with the commission a copy of each local law or ordinance
29 enacted pursuant thereto within ten days after the same has been
30 approved by a majority of the electors voting on a proposition submitted
31 at a general or special election, or within ten days after the same has
32 been amended or repealed by the common council or other local legisla-
33 tive body and on or before February first of each year, and at any other
34 time or times that the commission may determine, make a report to the
35 commission of the number of licenses issued therein under the bingo
36 licensing law, the names and addresses of the licensees, the aggregate
37 amount of license fees collected, the names and addresses of all persons
38 detected of violating the bingo licensing law, this title or the rules
39 and regulations adopted by the commission pursuant hereto, and of all
40 persons prosecuted for such violations and the result of each such pros-
41 ecution, the penalties imposed therein during the preceding calendar
42 year, or the period for which the report is required, which report may
43 contain any recommendations for improvement of the bingo licensing law
44 or the administration thereof that the governing body of the munici-
45 pality deems desirable.

46 TITLE 3

47 LOCAL OPTION FOR CONDUCT OF BINGO BY CERTAIN ORGANIZATIONS

48 Section 1520. Short title; purpose of title.

49 1521. Local option.

50 1522. Local laws and ordinances.

51 1523. Restrictions upon conduct of bingo games.

52 1524. Application for license.

53 1525. Investigation; matters to be determined; issuance of
54 license; fees; duration of license.

55 1526. Hearing; amendment of license.

56 1527. Form and contents of license; display of license.

1 1528. Control and supervision; suspension of licenses;
2 inspection of premises.

3 1529. Frequency of game; sale of alcoholic beverages.

4 1530. Persons operating and conducting bingo games; equipment;
5 expenses; compensation.

6 1531. Charge for admission and participation; amount of prizes;
7 award of prizes.

8 1532. Statement of receipts, expenses; additional license fees.

9 1533. Examination of books and records; examination of managers,
10 etc.; disclosure of information.

11 1534. Appeals from municipal governing body to commission.

12 1535. Exemption from prosecution.

13 1536. Offenses; forfeiture of license; ineligibility to apply
14 for license.

15 1537. Unlawful bingo.

16 1538. Title inoperative until adopted by voters.

17 1539. Amendment and repeal of local laws and ordinances.

18 1540. Delegation of authority.

19 1541. Powers and duties of mayors or managers of certain cities.

20 § 1520. Short title; purpose of title. This title shall be known and
21 may be cited as the bingo licensing law. The legislature hereby declares
22 that the raising of funds for the promotion of bona fide charitable,
23 educational, scientific, health, religious, civic and patriotic causes
24 and undertakings, where the beneficiaries are indefinite, is in the
25 public interest. It hereby finds that, as conducted prior to the effec-
26 tive date of this title, bingo was the subject of exploitation by
27 professional gamblers, promoters, and commercial interests. It is hereby
28 declared to be the policy of the legislature that all phases of the
29 supervision, licensing and regulation of bingo and of the conduct of
30 bingo games, should be closely controlled and that the laws and regu-
31 lations pertaining thereto should be strictly construed and rigidly
32 enforced; that the conduct of the bingo game and all attendant activ-
33 ities should be so regulated and adequate controls so instituted as to
34 discourage commercialization in all its forms, including the rental of
35 commercial premises for bingo games, and to ensure a maximum availabili-
36 ty of the net proceeds of bingo exclusively for application to the
37 worthy causes and undertakings specified herein; that the only justi-
38 fication for this title is to foster and support such worthy causes and
39 undertakings, and that the mandate of section nine of article one of the
40 state constitution, as amended, should be carried out by rigid regu-
41 lation to prevent commercialized gambling, prevent participation by
42 criminal and other undesirable elements and prevent the diversion of
43 funds from the purposes herein authorized.

44 § 1521. Local option. Subject to the provisions of this title, and
45 pursuant to the direction contained in subdivision two of section nine
46 of article one of the constitution of the state, the legislature hereby
47 gives and grants to every municipality the right, power and authority to
48 authorize the conduct of bingo games by authorized organizations within
49 the territorial limits of such municipality provided, however, that
50 where the electors of a village hereafter approve a local law or ordi-
51 nance pursuant to section fifteen hundred twenty-three of this title,
52 the right, power and authority under this title of any town in which
53 such village is located shall not extend to such village during such
54 time as such village local law or ordinance is in effect.

55 § 1522. Local laws and ordinances. 1. The common council or other
56 local legislative body of any municipality may, either by local law or

1 ordinance, provide that it shall be lawful for any authorized organiza-
2 tion, upon obtaining a license therefor as provided in this title, to
3 conduct the game of bingo within the territorial limits of such munici-
4 pality, subject to the provisions of such local law or ordinance, the
5 provisions of this title and the provisions of the bingo control law.

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

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

19 § 1523. Restrictions upon conduct of bingo games. The conduct of bingo
20 games authorized by local law or ordinance shall be subject to the
21 following restrictions without regard to whether such restrictions are
22 contained in such local law or ordinance, but nothing in this section
23 shall be construed to prevent the inclusion within such local law or
24 ordinance of other provisions imposing additional restrictions upon the
25 conduct of bingo games:

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

28 (a) conduct bingo; or

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

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

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

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

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

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

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

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

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

55 10. No person licensed to sell bingo supplies or equipment, or any
56 agent of such person, shall conduct, participate in or assist in the

1 conduct of bingo. Nothing herein shall prohibit a licensed distributor
2 from selling, offering for sale or explaining a product to an authorized
3 organization or installing or servicing bingo equipment upon the prem-
4 ises of a bingo game licensee.

5 11. Limited-period bingo shall be conducted in accordance with the
6 provisions of this title and the rules and regulations of the commis-
7 sion.

8 § 1524. Application for license. 1. To conduct bingo. (a) Each appli-
9 cant for a license to conduct bingo shall, after obtaining an identifi-
10 cation number from the commission, file with the clerk of the municipi-
11 ality an application therefor in the form prescribed in the rules and
12 regulations of the commission, duly executed and verified, in which such
13 applicant shall state:

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

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

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

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

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

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

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

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

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

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

49 2. Bingo lessor. (a) Each applicant for a license to lease premises to
50 a licensed organization for the purposes of conducting bingo therein
51 shall file with the clerk of the municipality an application therefor in
52 a form prescribed in the rules and regulations of the commission duly
53 executed and verified, which shall set forth:

54 (1) the name and address of the applicant;

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

1 (3) lawful capacity for public assembly purposes;
2 (4) cost of premises and assessed valuation for real estate tax
3 purposes, or annual net lease rent, whichever is applicable;
4 (5) gross rentals received and itemized expenses for the immediately
5 preceding calendar or fiscal year, if any;
6 (6) gross rentals, if any, derived from bingo during the last preced-
7 ing calendar or fiscal year;
8 (7) computation by which proposed rental schedule was determined;
9 (8) number of occasions on which applicant anticipates receiving rent
10 for bingo during the ensuing year or shorter period if applicable;
11 (9) proposed rent for each such occasion; estimated gross rental
12 income from all other sources during the ensuing year;
13 (10) estimated expenses itemized for ensuing year and amount of each
14 item allocated to bingo rentals;
15 (11) a statement that the applicant in all respects conforms with the
16 specifications contained in the definition of "authorized bingo lessor"
17 set forth in section fifteen hundred of this article; and
18 (12) such other information as shall be prescribed by the rules and
19 regulations of the commission.

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

28 § 1525. Investigation; matters to be determined; issuance of license;
29 fees; duration of license. 1. The governing body of the municipality
30 shall make an investigation of the qualifications of each applicant and
31 the merits of each application, with due expedition after the filing of
32 the application.

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

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

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

44 (3) that such games of bingo are to be conducted in accordance with
45 the provisions of this title and in accordance with the rules and regu-
46 lations of the commission;

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

49 (5) if the governing body is satisfied that no commission, salary,
50 compensation, reward or recompense whatever will be paid or given to any
51 person holding, operating or conducting or assisting in the holding,
52 operation and conduct of any such games of bingo except as in this title
53 otherwise provided; and

54 (6) that no prize will be offered and given in excess of the sum or
55 value of five thousand dollars in any single game of bingo and that the
56 aggregate of all prizes offered and given in all of such games of bingo

1 conducted on a single occasion, under said license shall not exceed the
2 sum or value of fifteen thousand dollars, then the municipality shall
3 issue a license to the applicant for the conduct of bingo upon payment
4 of a license fee for each bingo occasion, to be established by regu-
5 lation of the commission. Notwithstanding anything to the contrary in
6 this paragraph, the governing body shall refuse to issue a license to an
7 applicant seeking to conduct bingo in premises of a licensed bingo
8 lessor where such governing body determines that the premises presently
9 owned or occupied by such applicant are in every respect adequate and
10 suitable for conducting bingo games.

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

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

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

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

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

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

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

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

35 2. On or before the thirtieth day of each month, the treasurer of the
36 municipality shall transmit to the state comptroller a sum equal to
37 fifty percent of all bingo lessor license fees and an amount established
38 by regulation of the commission per occasion of all license fees for the
39 conduct of bingo collected by such municipality pursuant to this section
40 during the preceding calendar month.

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

49 § 1526. Hearing; amendment of license. 1. No application for the issu-
50 ance of a license shall be denied by the governing body until after a
51 hearing, held on due notice to the applicant, at which the applicant
52 shall be entitled to be heard upon the qualifications of the applicant
53 and the merits of the application.

54 2. Any license issued under this title may be amended, upon applica-
55 tion made to the governing body of the municipality that issued such
56 license, if the subject matter of the proposed amendment could lawfully

1 and properly have been included in the original license and upon payment
2 of such additional license fee if any, as would have been payable if
3 such amendment had been so included.

4 § 1527. Form and contents of license; display of license. 1. Each
5 license to conduct bingo shall be in such form as the rules and regu-
6 lations of the commission prescribe and shall contain:

7 (a) the name and address of the licensee;

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

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

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

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

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

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

28 § 1528. Control and supervision; suspension of licenses; inspection of
29 premises. 1. The governing body of any municipality issuing any license
30 under this title shall have and exercise rigid control and close super-
31 vision over all games of bingo conducted under such license, to the end
32 that the same are fairly conducted in accordance with the provisions of
33 such license, the provisions of the rules and regulations of the commis-
34 sion and the provisions of this title and such governing body.

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

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

51 § 1529. Frequency of game; sale of alcoholic beverages. No game or
52 games of bingo, except limited-period bingo, shall be conducted under
53 any license issued under this title more often than on eighteen days in
54 any three successive calendar months. No game or games of limited-period
55 bingo shall be conducted between the hours of twelve midnight and noon,
56 and no more than sixty games may be conducted on any single occasion of

1 limited-period bingo. No game or games of bingo shall be conducted in
2 any room or outdoor area where alcoholic beverages are sold, served or
3 consumed during the progress of the game or games.

4 § 1530. Persons operating and conducting bingo games; equipment;
5 expenses; compensation. 1. (a) No person shall hold, operate or conduct
6 any game of bingo under any license issued under this title except a
7 bona fide member of the authorized organization to which the license is
8 issued. No person shall assist in the holding, operating or conducting
9 of any game of bingo under such license except such a bona fide member
10 or a bona fide member of an organization or association that is an
11 auxiliary to the licensee or a bona fide member of an organization or
12 association of which such licensee is an auxiliary or a bona fide member
13 of an organization or association that is affiliated with the licensee
14 by being, with it, auxiliary to another organization or association and
15 except bookkeepers or accountants as hereinafter provided, but any
16 person may assist the licensed organization in any activity related to
17 the game of bingo that does not actually involve the holding, conduct-
18 ing, managing or operating of such game of bingo.

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

23 (c) Lease terms and conditions shall be subject to the rules and regu-
24 lations of the commission.

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

28 (e) No items of expense shall be incurred or paid in connection with
29 the conducting of any game of bingo pursuant to any license issued under
30 this title, except those that are reasonable and are necessarily
31 expended for bingo supplies and equipment, prizes, stated rental, if
32 any, bookkeeping or accounting services according to a schedule of
33 compensation prescribed by the commission, janitorial services and util-
34 ity supplies, if any, and license fees, and the cost of bus transporta-
35 tion, if authorized by the commission.

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

44 § 1531. Charge for admission and participation; amount of prizes;
45 award of prizes. 1. Except in the conduct of limited-period bingo, the
46 regulations of the commission shall establish a maximum amount to be
47 charged by any licensee for admission to any room or place in which any
48 game or games of bingo are to be conducted under any license issued
49 under this title, which admission fee, upon payment thereof, shall enti-
50 tle the person paying the same to participate without additional charge
51 in all regular games of bingo to be played under such license on such
52 occasion.

53 2. In the conduct of limited-period bingo:

54 (a) no admission fee shall be charged;

55 (b) not more than an amount established by regulation of the commis-
56 sion shall be charged for a single opportunity to participate in any one

1 game of bingo, which charge, upon payment thereof, shall entitle the
2 person paying the same to one card for participation in one such game;
3 and

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

9 § 1532. Statement of receipts, expenses; additional license fees. 1.
10 Within seven days after the conclusion of any occasion of bingo, the
11 authorized organization that conducted the same, and such authorized
12 organization's members who were in charge thereof, and when applicable
13 the authorized organization that rented its premises therefor, shall
14 each furnish to the clerk or the department a statement subscribed by
15 the member in charge and affirmed by such person as true, under the
16 penalties of perjury, showing the amount of the gross receipts derived
17 therefrom and each item of expense incurred, or paid, and each item of
18 expenditure made or to be made, the name and address of each person to
19 whom each such item has been paid, or is to be paid, with a detailed
20 description of the merchandise purchased or the services rendered there-
21 for, the net proceeds derived from such game or rental, as the case may
22 be, and the use to which such proceeds have been or are to be applied
23 and a list of prizes offered and given, with the respective values ther-
24 eof. A clerk or the department shall make provisions for the electronic
25 filing of such statement. It shall be the duty of each licensee to main-
26 tain and keep such books and records as may be necessary to substantiate
27 the particulars of each such statement and within fifteen days after the
28 end of each calendar quarter during which there has been any occasion of
29 bingo, a summary statement of such information, in form prescribed by
30 the commission, shall be furnished in the same manner to the commission.

31 2. Upon the filing of such statement of receipts, the authorized
32 organization furnishing the same shall pay to the clerk of the municipi-
33 ality as and for an additional license fee a sum based upon the
34 reported net proceeds, if any, for the occasion covered by such state-
35 ment and determined in accordance with such schedule as shall be estab-
36 lished from time to time by the commission to defray the cost to municipi-
37 palities of administering the provisions of this article.

38 § 1533. Examination of books and records; examination of managers,
39 etc.; disclosure of information. 1. The governing body of the municipi-
40 ality and the commission shall have power to examine or cause to be
41 examined the books and records of any:

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

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

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

1 § 1534. Appeals from municipal governing body to commission. Any
2 applicant for, or holder of, any license issued or to be issued under
3 this title aggrieved by any action of the governing body of the munici-
4 pality to which such application has been made or by which such license
5 has been issued, may appeal to the commission from the determination of
6 said governing body by filing with the governing body a written notice
7 of appeal within thirty days after the determination or action appealed
8 from. Upon the hearing of such appeal, the evidence, if any, taken
9 before the governing body and any additional evidence may be produced
10 and shall be considered in arriving at a determination of the matters in
11 issue. Action of the commission upon said appeal shall be binding upon
12 said governing body and all parties to said appeal.

13 § 1535. Exemption from prosecution. No person or corporation lawfully
14 conducting, or participating in the conduct of bingo or permitting the
15 conduct upon any premises owned or leased by him, her or it under any
16 license lawfully issued pursuant to this title, shall be liable to pros-
17 ecution or conviction for violation of any provision of article two
18 hundred twenty-five of the penal law or any other law or ordinance to
19 the extent that such conduct is specifically authorized by this title,
20 but this immunity shall not extend to any person or corporation knowin-
21 gly conducting or participating in the conduct of bingo under any license
22 obtained by any false pretense or by any false statement made in any
23 application for license or otherwise, or permitting the conduct upon any
24 premises owned or leased by him, her or it of any game of bingo
25 conducted under any license known to him, her or it to have been
26 obtained by any such false pretense or statement.

27 § 1536. Offenses; forfeiture of license; ineligibility to apply for
28 license. Any person who, or association or corporation that:

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

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

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

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

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

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

49 § 1537. Unlawful bingo. 1. For the purposes of this section, bingo
50 shall include a game of bingo whether or not a person who participates
51 as a player furnishes something of value for the opportunity to partic-
52 ipate.

53 2. Any person, firm, partnership, association, corporation or organ-
54 ization holding, operating or conducting bingo is guilty of a misdemea-
55 nor, except when operating, holding or conducting:

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

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

5 (1) within the confines of a home for purposes of amusement or recre-
6 ation where no player or other person furnishes anything of value for
7 the opportunity to participate and the prizes awarded or to be awarded
8 are nominal.

9 (2) within any apartment, condominium or cooperative complex, retire-
10 ment community, or other group residential complex or facility where:

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

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

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

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

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

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

24 (3) on behalf of any bona fide social, charitable, educational, recre-
25 ational, fraternal or age-group organization, club or association solely
26 for the purpose of amusement and recreation of its members or benefici-
27 aries where:

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

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

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

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

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

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

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

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

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

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

49 (v) the game or games are not conducted in the same room where alco-
50 holic beverages are sold.

51 (5) The commission and the governing body of the municipality in which
52 bingo games are conducted pursuant to paragraph (b) of subdivision two
53 of this section shall have the authority to regulate the conduct of such
54 games. Any bingo game or games, in which no participant or other person
55 furnishes anything of value for the opportunity to participate, that is
56 or are operated in violation of paragraph (b) of subdivision two of this

1 section, a civil penalty of not more than one hundred dollars may be
2 imposed for the first such violation, a civil penalty of not more than
3 one hundred fifty dollars may be imposed for the second such violation
4 in a period of three years and a civil penalty of not more than two
5 hundred dollars may be imposed for the third or subsequent such
6 violation in a period of five years.

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

10 § 1538. Title inoperative until adopted by voters. Except as provided
11 in section fifteen hundred forty, the provisions of this title shall
12 remain inoperative in any municipality unless and until a proposition
13 therefor submitted at a general or special election in such municipality
14 is approved by a vote of the majority of the qualified electors in such
15 municipality voting thereon.

16 § 1539. Amendment and repeal of local laws and ordinances. 1. Any
17 local law or ordinance concerning bingo may be amended, from time to
18 time, or repealed by the common council or other local legislative body
19 of the municipality that enacted it and such amendment or repeal, as the
20 case may be, may be made effective and operative not earlier than thirty
21 days following the effective date of the local law or ordinance effect-
22 ing such amendment or repeal, as the case may be.

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

26 § 1540. Delegation of authority. The governing body of a municipality
27 may delegate to a municipal officer or officers designated by such muni-
28 cipality for that purpose any of the authority granted to it hereby in
29 relation to the issuance, amendment and cancellation of licenses, the
30 conduct of investigations and hearings, the supervision of the operation
31 of the games and the collection and transmission of fees.

32 § 1541. Powers and duties of mayors or managers of certain cities.
33 Notwithstanding any other provision of this title, whenever the charter
34 of any city, or any special or local law, provides that the mayor or
35 manager of such city is the chief law enforcement officer thereof, then
36 and in that event such mayor or manager, as the case may be, shall have,
37 exercise and perform all the powers and duties otherwise prescribed by
38 this title to be exercised and performed by the governing body of such
39 city except those prescribed by section fifteen hundred twenty-two of
40 this title, and in any such case, the term "governing body of a muni-
41 city" as used in this title shall be deemed to mean and include the
42 mayor or manager of any such city.

43 TITLE 4

44 LOCAL OPTION FOR CONDUCT OF GAMES OF CHANCE BY CERTAIN 45 ORGANIZATIONS

46 Section 1550. Short title; purpose of title.

47 1551. Local option.

48 1552. Local laws and ordinances.

49 1553. Powers and duties of the commission.

50 1554. Restrictions upon conduct of games of chance.

51 1555. Authorized supplier of games of chance equipment.

52 1556. Declaration of state's exemption from operation of
53 provisions of 15 U.S.C. § 1172.

54 1557. Legal shipments of gaming devices into New York state.

55 1558. Application for license.

56 1559. Raffles; license not required.

1 1560. Investigation; matters to be determined; issuance of
2 license; fees; duration of license.

3 1561. Hearing; amendment of license.

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5 1563. Control and supervision; suspension of identification
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10 1566. Charge for admission and participation; amount of prizes;
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12 1567. Statement of receipts and expenses; additional license
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16 1569. Appeals for the decision of a municipal officer, clerk or
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18 1570. Exemption from prosecution.

19 1571. Offenses; forfeiture of license; ineligibility to apply
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21 1572. Unlawful games of chance.

22 1573. Title inoperative until adopted by voters.

23 1574. Amendment and repeal of local laws and ordinances.

24 1575. Manufacturers of bell jars; reports and records.

25 1576. Distributor of bell jars; reports and records.

26 1577. Transfer restrictions.

27 1578. Bell jars compliance and enforcement.

28 § 1550. Short title; purpose of title. This title shall be known and
29 may be cited as the games of chance licensing law. The legislature here-
30 by declares that the raising of funds for the promotion of bona fide
31 charitable, educational, scientific, health, religious and patriotic
32 causes and undertakings, where the beneficiaries are undetermined, is in
33 the public interest. The legislature hereby finds that, as conducted
34 prior to the effective date of this title, games of chance were the
35 subject of exploitation by professional gamblers, promoters and commer-
36 cial interests. It is hereby declared to be the policy of the legisla-
37 ture that all phases of the supervision, licensing and regulation of
38 games of chance and of the conduct of games of chance should be closely
39 controlled and that the laws and regulations pertaining thereto should
40 be strictly construed and rigidly enforced; that the conduct of the game
41 and all attendant activities should be so regulated and adequate
42 controls so instituted as to discourage commercialization of gambling in
43 all its forms, including the rental of commercial premises for games of
44 chance, and to ensure a maximum availability of the net proceeds of
45 games of chance exclusively for application to the worthy causes and
46 undertakings specified herein; that the only justification for this
47 title is to foster and support such worthy causes and undertakings, and
48 that the mandate of subdivision two of section nine of article one of
49 the state constitution, as amended, should be carried out by rigid regu-
50 lations to prevent commercialized gambling, prevent participation by
51 criminal and other undesirable elements and prevent the diversion of
52 funds from the purposes herein authorized.

53 § 1551. Local option. Subject to the provisions of this title, and
54 pursuant to the direction contained in subdivision two of section nine
55 of article one of the state constitution, the legislature hereby gives
56 and grants to every municipality the right, power and authority to

1 authorize the conduct of games of chance by authorized organizations
2 within the territorial limits of such municipality. A local law or ordi-
3 nance adopted by a town shall be operative in any village or within any
4 part of any village located within such town if, after adoption of such
5 local law or ordinance, the board of trustees of such village adopts a
6 local law or resolution subject to a permissive referendum as provided
7 in article nine of the village law authorizing the issuance of licenses
8 by the town for games of chance within such village. Such local law or
9 resolution may be repealed only by a local law or resolution that shall
10 also be subject to a permissive referendum, or by enactment of a local
11 law authorizing games of chance as provided in section fifteen hundred
12 fifty-two of this title.

13 § 1552. Local laws and ordinances. 1. The common council or other
14 local legislative body of any municipality may, either by local law or
15 ordinance, provide that it shall be lawful for any authorized organiza-
16 tion, upon obtaining a license therefor as hereinafter provided, to
17 conduct games of chance within the territorial limits of such munici-
18 pality, subject to the provisions of such local law or ordinance, the
19 provisions of this title and the provisions set forth by the commission.

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

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

33 § 1553. Powers and duties of the commission. The commission shall have
34 the power and it shall be the duty of the commission to:

35 1. supervise the administration of the games of chance licensing law
36 and to adopt, amend and repeal rules and regulations governing the iss-
37 uance and amendment of licenses thereunder and the conducting of games
38 under such licenses, which rules and regulations shall have the force
39 and effect of law and shall be binding upon all municipalities issuing
40 licenses, and upon licensees of the commission, to the end that such
41 licenses shall be issued to qualified licensees only, and that said
42 games shall be fairly and properly conducted for the purposes and in the
43 manner of the said games of chance licensing law prescribed and to
44 prevent the games of chance thereby authorized to be conducted from
45 being conducted for commercial purposes or purposes other than those
46 therein authorized, participated in by criminal or other undesirable
47 elements and the funds derived from the games being diverted from the
48 purposes authorized, and to provide uniformity in the administration of
49 said law throughout the state, the commission shall prescribe forms of
50 application for licenses, licensees, amendment of licenses, reports of
51 the conduct of games and other matters incident to the administration of
52 such law.

53 2. conduct, anywhere in the state, investigations of the adminis-
54 tration, enforcement and potential or actual violations of the games of
55 chance licensing law and of the rules and regulations of the commission.

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

6 4. suspend or revoke a license, after hearing, for any violation of
7 the provisions of this title or the rules and regulations of the commis-
8 sion.

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

15 6. carry on continuous study of the operation of the games of chance
16 licensing law to ascertain from time to time defects therein jeopardiz-
17 ing or threatening to jeopardize the purposes of this title, and to
18 formulate and recommend changes in such law and in other laws of the
19 state that the commission may determine to be necessary for the realiza-
20 tion of such purposes, and to the same end to make a continuous study of
21 the operation and administration of similar laws that may be in effect
22 in other states of the United States.

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

26 8. issue an identification number to an applicant authorized organiza-
27 tion if the commission determines that the applicant satisfies the
28 requirements of the games of chance licensing law and the rules and
29 regulations of the commission.

30 9. approve and establish a standard set of games of chance equipment
31 and by rules and regulations prescribe the manner in which such equip-
32 ment is to be reproduced and distributed to licensed authorized organ-
33 izations. The sale or distribution to a licensed authorized organization
34 of any equipment other than that contained in the standard set of games
35 of chance equipment shall constitute a violation of this section.

36 § 1554. Restrictions upon conduct of games of chance. The conduct of
37 games of chance authorized by local law or ordinance shall be subject to
38 the following restrictions without regard to whether the restrictions
39 are contained in such local law or ordinance, but nothing herein shall
40 be construed to prevent the inclusion within such local law or ordinance
41 of other provisions imposing additional restrictions upon the conduct of
42 such games:

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

46 (a) conduct such game; or

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

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

54 3. No authorized organization licensed under the provisions of this
55 title shall purchase, lease, or receive any supplies or equipment
56 specifically designed or adapted for use in the conduct of games of

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

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

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

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

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

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

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

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

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

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

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

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

45 8. (a) Except for merchandise wheels and raffles, no series of prizes
46 on any one occasion shall aggregate more than four hundred dollars when
47 the licensed authorized organization conducts five single types of games
48 of chance during any one license period. Except for merchandise wheels,
49 raffles and bell jars, no series of prizes on any one occasion shall
50 aggregate more than five hundred dollars when the licensed authorized
51 organization conducts fewer than five single types of games of chance,
52 exclusive of merchandise wheels, raffles and bell jars, during any one
53 license period.

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

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

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

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

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

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

15 13. (a) No game of chance, other than a raffle that complies with
16 paragraph (b) of this subdivision, shall be conducted on other than the
17 premises of an authorized organization or an authorized games of chance
18 lessor.

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

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

25 (2) is located in the county in which the municipality issuing the
26 raffle license is located or in a county that is contiguous to the coun-
27 ty in which the municipality issuing the raffle license is located; and

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

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

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

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

41 14. No person licensed to manufacture, distribute or sell games of
42 chance supplies or equipment, or their agents, shall conduct, partic-
43 ipate in, or assist in the conduct of games of chance. Nothing herein
44 shall prohibit a licensed distributor from selling, offering for sale or
45 explaining a product to an authorized organization or installing or
46 servicing games of chance equipment upon the premises of games of chance
47 licensees.

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

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

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

55 § 1555. Authorized supplier of games of chance equipment. 1. No
56 person, firm, partnership, corporation or organization shall sell or

1 distribute supplies or equipment specifically designed or adapted for
2 use in conduct of games of chance without having first obtained a
3 license therefor upon written application made, verified and filed with
4 the commission in the form prescribed by the rules and regulations of
5 the commission. As a part of the commission's determination concerning
6 the applicant's suitability for licensing as a games of chance supplier,
7 the commission shall require the applicant to furnish to the commission
8 two sets of fingerprints. Such fingerprints shall be submitted to the
9 division of criminal justice services for a state criminal history
10 record check, as defined in subdivision one of section three thousand
11 thirty-five of the education law, and may be submitted to the federal
12 bureau of investigation for a national criminal history record check.
13 Manufacturers of bell jar tickets shall be considered suppliers of such
14 equipment. In each such application for a license under this section
15 shall be stated the name and address of the applicant; the names and
16 addresses of its officers, directors, shareholders or partners; the
17 amount of gross receipts realized on the sale and rental of games of
18 chance supplies and equipment to duly licensed authorized organizations
19 during the last preceding calendar or fiscal year, and such other infor-
20 mation as shall be prescribed by such rules and regulations. The fee for
21 such license shall be a sum equal to an amount established by commission
22 regulation plus an amount equal to two percent of the gross sales and
23 rentals, if any, of games of chance equipment and supplies to authorized
24 organizations or authorized games of chance lessors by the applicant
25 during the preceding calendar year, or fiscal year if the applicant
26 maintains his accounts on a fiscal year basis. No license granted
27 pursuant to the provisions of this section shall be effective for a
28 period of more than one year.

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

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

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

36 (c) a public officer or employee;

37 (d) an authorized games of chance lessor; or

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

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

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

51 5. Any person who willfully makes any material false statement in any
52 application for a license authorized to be issued under this section or
53 who willfully violates any of the provisions of this section or of any
54 license issued hereunder shall be guilty of a misdemeanor and, in addi-
55 tion to the penalties in such case made and provided, shall forfeit any

1 license issued to him, her or it under this section and be ineligible to
2 apply for a license under this section for one year thereafter.

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

10 § 1556. Declaration of state's exemption from operation of provisions
11 of 15 U.S.C. § 1172. Pursuant to section two of an Act of Congress of
12 the United States entitled "An act to prohibit transportation of gambl-
13 ing devices in interstate and foreign commerce," approved January
14 second, nineteen hundred fifty-one, being chapter 1194, 64 Stat. 1134,
15 and also designated as 15 U.S.C. §§ 1171-1177, the state of New York,
16 acting by and through the duly elected and qualified members of its
17 legislature, does hereby, in accordance with and in compliance with the
18 provisions of section two of said Act of Congress, declare and proclaim
19 that it is exempt from the provisions of section two of said Act of
20 Congress.

21 § 1557. Legal shipments of gaming devices into New York state. All
22 shipments into this state of gaming devices, excluding slot machines and
23 coin operated gambling devices, as defined in subdivision seven-a of
24 section 225.00 of the penal law, the registering, recording and labeling
25 of which has been duly had by the manufacturer or dealer thereof in
26 accordance with sections three and four of an Act of Congress of the
27 United States entitled "An act to prohibit transportation of gambling
28 devices in interstate and foreign commerce," approved January second,
29 nineteen hundred fifty-one, being chapter 1194, 64 Stat. 1134, and also
30 designated as 15 U.S.C. §§ 1171-1177, shall be deemed legal shipments
31 thereof into this state.

32 § 1558. Application for license. 1. To conduct games of chance. (a)
33 Each applicant for a license shall, after obtaining an identification
34 number from the commission, file with the clerk or department, an appli-
35 cation therefor in a form to be prescribed by the commission, duly
36 executed and verified, in which shall be stated:

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

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

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

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

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

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

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

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

16 (a) the name and address of the applicant;

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

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

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

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

40 4. (a) Notwithstanding and in lieu of the licensing requirements set
41 forth in this title, an authorized organization defined in section
42 fifteen hundred of this article may file a verified statement, for which
43 no fee shall be required, with the clerk or department and the commis-
44 sion attesting that such organization shall derive net proceeds or net
45 profits from raffles in an amount less than thirty thousand dollars
46 during one occasion or part thereof at which raffles are to be
47 conducted. Such statement shall be on a single-page form prescribed by
48 the commission, and shall be deemed a license to conduct raffles:

49 (1) under this title; and

50 (2) within the municipalities in which the authorized organization is
51 domiciled that have passed a local law, ordinance or resolution in
52 accordance with sections fifteen hundred fifty-one and fifteen hundred
53 fifty-two of this title approving the conduct of games of chance, and in
54 municipalities that have passed a local law, ordinance or resolution in
55 accordance with sections fifteen hundred fifty-one and fifteen hundred
56 fifty-two of this title approving the conduct of games of chance that

1 are located in the county in which the municipality issuing the license
2 is located and in the counties that are contiguous to the county in
3 which the municipality issuing the raffle license is located, provided
4 those municipalities have authorized the licensee, in writing, to sell
5 such raffle tickets therein.

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

14 § 1559. Raffles; license not required. 1. Notwithstanding the licens-
15 ing requirements set forth in this title and their filing requirements
16 set forth in subdivision four of section fifteen hundred fifty-eight of
17 this title, an authorized organization may conduct a raffle without
18 complying with such licensing requirements or such filing requirements,
19 provided, that such organization shall derive net proceeds from raffles
20 in an amount less than five thousand dollars during the conduct of one
21 raffle and shall derive net proceeds from raffles in an amount less than
22 thirty thousand dollars during one calendar year.

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

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

35 § 1560. Investigation; matters to be determined; issuance of license;
36 fees; duration of license. 1. The clerk or department shall make an
37 investigation of the qualifications of each applicant and the merits of
38 each application, with due expedition after the filing of the applica-
39 tion.

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

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

44 (2) that the member or members of the applicant designated in the
45 application to manage games of chance are bona fide active members of
46 the applicant and are persons of good moral character and have never
47 been convicted of a crime if there is a direct relationship between one
48 or more of the previous criminal offenses and the integrity of charita-
49 ble gaming, considering the factors set forth in section seven hundred
50 fifty-three of the correction law;

51 (3) that such games are to be conducted in accordance with the
52 provisions of this title and in accordance with the rules and regu-
53 lations of the commission and applicable local laws or ordinances and
54 that the proceeds thereof are to be disposed of as provided by this
55 title; and

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

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

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

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

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

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

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

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

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

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

43 2. On or before the last day of each month, the treasurer of the muni-
44 cipality in which the licensed property is located shall transmit to the
45 state comptroller a sum equal to fifty percent of all authorized games
46 of chance lessor license fees and a sum established by regulation of the
47 commission per license period for the conduct of games of chance
48 collected by such clerk or department pursuant to this section during
49 the preceding calendar month.

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

52 § 1561. Hearing; amendment of license. 1. No application for the iss-
53 uance of a license to conduct games of chance or lease premises to an
54 authorized organization shall be denied by the clerk or department,
55 until after a hearing, held on due notice to the applicant, at which the

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

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

9 § 1562. Form and contents of license; display of license. 1. Each
10 license to conduct games of chance shall be in such form as shall be
11 prescribed in the rules and regulations of the commission and shall
12 contain:

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

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

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

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

23 (e) any other information that may be required by the rules and regu-
24 lations of the commission to be contained therein.

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

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

36 § 1563. Control and supervision; suspension of identification numbers
37 and licenses; inspections of premises. 1. The municipal officer or
38 department shall have and exercise rigid control and close supervision
39 over all games of chance conducted under such license, to the end that
40 the same are conducted fairly in accordance with the provisions of such
41 license, the provisions of the rules and regulations promulgated by the
42 commission and the provisions of this title. Such municipal officer or
43 department and the commission shall have the power and the authority to
44 suspend temporarily any license issued by the clerk or department and/or
45 impose fines for violations not to exceed one thousand dollars. Tempo-
46 rary suspension of licenses shall be followed promptly by a hearing, and
47 after notice and hearing, the clerk, department or the commission may
48 suspend or revoke the same and declare the violator ineligible to apply
49 for a license for a period not exceeding twelve months thereafter. Any
50 fines tendered to the clerk, department or the commission shall not be
51 paid from funds derived from the conduct of games of chance. The munici-
52 pal officer and the department or the commission shall additionally have
53 the right of entry, by their respective municipal officers and agents,
54 at all times into any premises where any game of chance is being
55 conducted or where it is intended that any such game shall be conducted,
56 or where any equipment being used or intended to be used in the conduct

1 thereof is found, for the purpose of inspecting the same. Upon suspen-
2 sion or revocation of any license or upon declaration of ineligibility
3 to apply for a license, the commission may suspend or revoke the iden-
4 tification number issued pursuant to section fifteen hundred fifty-three
5 of this title. An agent of the appropriate municipal officer or depart-
6 ment shall make an on-site inspection during the conduct of all games of
7 chance licensed pursuant to this title.

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

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

25 § 1564. Frequency of games. 1. No game or games of chance shall be
26 conducted under any license issued under this title more often than
27 twelve times in any calendar year. No particular premises shall be used
28 for the conduct of games of chance on more than twenty-four license
29 periods during any one calendar year.

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

36 § 1565. Persons operating games; equipment; expenses; compensation. 1.
37 No person shall operate any game of chance under any license issued
38 under this title except a bona fide member of the authorized organiza-
39 tion to which the license is issued, or a bona fide member of an organ-
40 ization or association that is an auxiliary to the licensee or a bona
41 fide member of an organization or association of which such licensee is
42 an auxiliary or a bona fide member of an organization or association
43 that is affiliated with the licensee by being, with it, auxiliary to
44 another organization or association. Nothing herein shall be construed
45 to limit the number of games of chance licensees for whom such persons
46 may operate games of chance nor to prevent non-members from assisting
47 the licensee in any activity other than managing or operating games. For
48 the purpose of the sale of tickets for the game of raffle, the term
49 "operate" shall not include the sale of such tickets by persons of
50 lineal or collateral consanguinity to members of an authorized organiza-
51 tion licensed to conduct a raffle.

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

1 authorized organization to another, with or without payment of any
2 compensation thereof.

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

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

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

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

24 § 1566. Charge for admission and participation; amount of prizes;
25 award of prizes. 1. A fee may be charged by any licensee for admission
26 to any game or games of chance conducted under any license issued under
27 this title. The clerk or department may in its discretion fix a minimum
28 fee.

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

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

35 § 1567. Statement of receipts and expenses; additional license fees.
36 1. Within seven days after the conclusion of any license period other
37 than a license period for a raffle, or as otherwise prescribed by the
38 commission, the authorized organization that conducted the same, and its
39 members who were in charge thereof, and when applicable the authorized
40 games of chance lessor that rented its premises therefor, shall each
41 furnish to the clerk or department a statement subscribed by the member
42 in charge and affirmed by him or her as true, under the penalties of
43 perjury, showing the amount of the gross receipts derived therefrom and
44 each item of expense incurred, or paid, and each item of expenditure
45 made or to be made other than prizes, the name and address of each
46 person to whom each such item of expense has been paid, or is to be
47 paid, with a detailed description of the merchandise purchased or the
48 services rendered therefor, the net proceeds derived from the conduct of
49 games of chance during such license period, and the use to which such
50 proceeds have been or are to be applied. It shall be the duty of each
51 licensee to maintain and keep such books and records as may be necessary
52 to substantiate the particulars of each such statement.

53 2. Within thirty days after the conclusion of an occasion during which
54 a raffle was conducted, the authorized organization conducting such
55 raffle and the members in charge of such raffle, and, when applicable,
56 the authorized games of chance lessor that rented its premises therefor,

1 shall each furnish to the clerk or department a statement on a form
2 prescribed by the commission, subscribed by the member in charge and
3 affirmed by him or her as true, under the penalties of perjury, showing:

4 (a) the number of tickets printed;

5 (b) the number of tickets sold;

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

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

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

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

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

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

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

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

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

38 4. Upon the filing of such statement of receipts pursuant to subdivi-
39 sion one or two of this section, the authorized organization furnishing
40 the same shall pay to the clerk or department as and for an additional
41 license fee a sum based upon the reported net proceeds, if any, for the
42 license period, or in the case of raffles, for the occasion covered by
43 such statement and determined in accordance with such schedule as shall
44 be established from time to time by the commission to defray the actual
45 cost to municipalities or counties of administering the provisions of
46 this title, but such additional license fee shall not exceed five
47 percent of the net proceeds for such license period. The provisions of
48 this subdivision shall not apply to the net proceeds from the sale of
49 bell jar tickets. No fee shall be required where the net proceeds or net
50 profits derived from the conduct of a raffle or raffles are less than
51 thirty thousand dollars during any one occasion.

52 § 1568. Examination of books and records; examination of officers and
53 employees; disclosure of information. The clerk or department and the
54 commission shall have power to examine or cause to be examined the books
55 and records of:

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

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

16 § 1569. Appeals for the decision of a municipal officer, clerk or
17 department to the commission. Any applicant for, or holder of, any
18 license issued or to be issued under this title aggrieved by any action
19 of a municipal officer, clerk or department, to which such application
20 has been made or by which such license has been issued, may appeal to
21 the commission from the determination of said municipal officer, clerk
22 or department by filing with such municipal officer, clerk or department
23 a written notice of appeal within thirty days after the determination or
24 action appealed from, and upon the hearing of such appeal, the evidence,
25 if any, taken before such municipal officer, clerk or department and any
26 additional evidence may be produced and shall be considered in arriving
27 at a determination of the matters in issue, and the action of the
28 commission upon said appeal shall be binding upon such municipal offi-
29 cer, clerk or department and all parties to said appeal.

30 § 1570. Exemption from prosecution. No person, firm, partnership,
31 corporation or organization lawfully conducting, or participating in the
32 conduct of, games of chance, or permitting the conduct upon any premises
33 owned or leased by him, her or it under any license lawfully issued
34 pursuant to this title, shall be liable to prosecution or conviction for
35 violation of any provision of article two hundred twenty-five of the
36 penal law or any other law or ordinance to the extent that such conduct
37 is specifically authorized by this title, but this immunity shall not
38 extend to any person or corporation knowingly conducting or participat-
39 ing in the conduct of games of chance under any license obtained by any
40 false pretense or by any false statement made in any application for
41 license or otherwise, or permitting the conduct upon any premises owned
42 or leased by him, her or it of any game of chance conducted under any
43 license known to him, her or it to have been obtained by any such false
44 pretense or statement.

45 § 1571. Offenses; forfeiture of license; ineligibility to apply for
46 license. Any person, firm, partnership, corporation or organization who
47 or that shall:

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

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

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

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

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

11 § 1572. Unlawful games of chance. 1. Any person, association, corpo-
12 ration or organization holding, operating or conducting a game or games
13 of chance is guilty of a misdemeanor, except when operating, holding or
14 conducting:

15 (a) in accordance with a valid license issued pursuant to this title;
16 (b) on behalf of a bona fide organization of persons sixty years of
17 age or over, commonly referred to as senior citizens, solely for the
18 purpose of amusement and recreation of its members where:

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

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

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

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

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

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

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

33 § 1573. Title inoperative until adopted by voters. Except as provided
34 in section fifteen hundred seventy-two of this title, the provisions of
35 this title shall remain inoperative in any municipality unless and until
36 a proposition therefor submitted at a general or special election in
37 such municipality shall be approved by a vote of the majority of the
38 qualified electors in such municipality voting thereon.

39 § 1574. Amendment and repeal of local laws and ordinances. Any such
40 local law or ordinance may be amended, from time to time, or repealed by
41 the common council or other local legislative body of the municipality
42 that enacted it, by a two-thirds vote of such legislative body and such
43 amendment or repeal, as the case may be, may be made effective and oper-
44 ative not earlier than thirty days following the effective date of the
45 local law or ordinance effecting such amendment or repeal, as the case
46 may be, and the approval of a majority of the electors of such munici-
47 pality shall not be a condition prerequisite to the taking effect of
48 such local law or ordinance.

49 § 1575. Manufacturers of bell jars; reports and records. 1. Distrib-
50 ution; manufacturers. For business conducted in this state, manufactur-
51 ers licensed by the commission to sell bell jar tickets shall sell such
52 tickets only to distributors licensed by the commission. Manufacturers
53 of bell jar tickets, seal cards, merchandise boards and coin boards may
54 submit samples, artists' renderings or color photocopies of proposed
55 bell jar tickets, seal cards, merchandise boards, coin boards, payout
56 cards and flares for review and approval by the commission. Within thir-

1 ty days of receipt of such sample or rendering, the commission shall
2 approve or deny such bell jar tickets. Following approval of a rendering
3 of a bell jar ticket, seal card, merchandise board or coin board by the
4 commission, the manufacturer shall submit to the commission a sample of
5 the printed bell jar ticket, seal card, merchandise board, coin board,
6 payout card and flare for such game. Such sample shall be submitted
7 prior to the sale of the game to any licensed distributor for resale in
8 this state. For coin boards and merchandise boards, nothing herein shall
9 require the submittal of actual coins or merchandise as part of the
10 approval process. Any licensed manufacturer who willfully violates the
11 provisions of this section shall:

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

14 (b) upon such second offense, participate in a hearing to be conducted
15 by the commission, and surrender its license for such period as recom-
16 mended by the commission; and

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

21 2. Bar codes. The manufacturer shall affix to the flare of each bell
22 jar game a bar code that provides all information prescribed by the
23 commission and shall require that the bar code include the serial number
24 of the game the flare describes. A manufacturer shall also affix to the
25 outside of the container or wrapping containing a deal of bell jar tick-
26 ets a bar code providing all information prescribed by the commission
27 and containing the same information as the bar code affixed to the
28 flare. The commission may also prescribe additional bar code require-
29 ments. No person may alter the bar code that appears on the flare or on
30 the outside of the container or wrapping containing a deal of bell jar
31 tickets. Possession of a deal of bell jar tickets that has a bar code
32 different from the serial number of the deal inside the container or
33 wrapping as evidenced on the flare is prima facie evidence that the
34 possessor has altered the bar code on the container or wrapping.

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

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

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

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

49 (1) the game code;

50 (2) the serial number of the game;

51 (3) the name of the manufacturer; and

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

53 The serial number included on the bar code shall be the same as the
54 serial number of the tickets included in the deal. A manufacturer who
55 manufactures a deal of bell jar tickets shall affix to the outside of

1 the container or wrapping containing the bell jar tickets the same bar
2 code that is affixed to the flare for that deal.

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

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

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

18 § 1576. Distributor of bell jars; reports and records. 1. Distrib-
19 ution; distributors. Any distributor licensed in accordance with section
20 fifteen hundred fifty-five of this title to distribute bell jar tickets
21 shall purchase bell jar tickets only from licensed manufacturers and may
22 manufacture coin boards and merchandise boards only as authorized in
23 subdivision two of this section. Licensed distributors of bell jar tick-
24 ets shall sell such tickets only to not-for-profit, charitable or reli-
25 gious organizations registered by the commission. Any licensed distribu-
26 tor who willfully violates the provisions of this section shall:

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

29 (b) upon such second offense, participate in a hearing to be conducted
30 by the commission, and surrender its license for such period as recom-
31 ended by the commission; and

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

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

50 3. Business records. A distributor shall keep at each place of busi-
51 ness complete and accurate records for that place of business, including
52 itemized invoices of bell jar tickets held and purchased. The records
53 must show the names and addresses of purchasers, the inventory at the
54 close of each period for which a return is required, all bell jar tick-
55 ets on hand and other pertinent papers and documents relating to the
56 purchase, sale or disposition of bell jar tickets as may be required by

1 the commission. Books, records, itemized invoices and other papers and
2 documents required by this section shall be kept for a period of at
3 least four years after the date of the documents, or the date of the
4 entries appearing in the records, unless the commission authorizes in
5 writing their destruction or disposal at an earlier date. A person who
6 violates this section shall be guilty of a misdemeanor.

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

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

12 (b) the serial number of the product;

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

15 (d) the date of the sale;

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

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

18 (g) the type of product;

19 (h) the serial number of the product;

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

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

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

27 (a) the distributor's name and address;

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

29 (c) the date of the sale;

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

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

34 (f) the description of the deals, including the form number, the seri-
35 al number and the ideal gross from every deal of bell jar or similar
36 game.

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

44 7. The commission may inspect the premises, books, records and inven-
45 tory of a distributor without notice during the normal business hours of
46 the distributor.

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

51 § 1577. Transfer restrictions. Not-for-profit, charitable or religious
52 organizations authorized to sell bell jar tickets in accordance with
53 this title shall purchase bell jar tickets only from distributors
54 licensed by the commission. No not-for-profit, charitable or religious
55 organization shall sell, donate or otherwise transfer bell jar tickets
56 to any other not-for-profit, charitable or religious organization.

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

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

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

16 4. The commission shall submit to the director of the division of the
17 budget an annual plan that details the amount of money the commission
18 deems necessary to maintain operations, compliance and enforcement of
19 the provisions of this title and the collection of the license fee
20 authorized by this section. Contingent upon the approval of the direc-
21 tor of the division of the budget, the commission shall pay into an
22 account, to be known as the bell jar collection account, under the joint
23 custody of the comptroller and the commission, the total amount of
24 license fees collected pursuant to this section. With the approval of
25 the director of the division of the budget, monies to be used to main-
26 tain the operations necessary to enforce the provisions of this title
27 and the collection of the license fee imposed by this section shall be
28 paid out of such account on the audit and warrant of the comptroller on
29 vouchers certified or approved by the director of the division of the
30 budget or the director's duly designated official. Those monies that are
31 not used to maintain operations necessary to enforce the provisions of
32 this title and the collection of the license fee authorized by this
33 section shall be paid out of such amount on the audit and warrant of the
34 state comptroller and shall be credited to the general fund.

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

38 § 129. Construction of other laws or provisions. Unless the context
39 [~~shall require~~] requires otherwise, the terms "division of the lottery",
40 "state quarter horse racing commission", "state racing commission",
41 "state harness racing commission", "state racing and wagering board" or
42 "board" wherever occurring in any of the provisions of this chapter or
43 of any other law, or, in any official books, records, instruments, rules
44 or papers, shall hereafter mean and refer to the state gaming commission
45 created by section one hundred two of this article. The provisions of
46 article three of this chapter shall be inapplicable to article two of
47 this chapter; and the provisions of such article two shall be inapplica-
48 ble to such article three, except that section two hundred thirty-one of
49 such article two shall apply to such article three. Unless the context
50 requires otherwise, any reference to "article 19-B of the executive law"
51 wherever occurring in any law, or, in any official books, records,
52 instruments, rules or papers, shall hereafter mean and refer to titles
53 one and two of article fifteen of this chapter. Unless the context
54 requires otherwise, any reference to "article 14-H of the general munic-
55 ipal law" wherever occurring in any law, or, in any official books,
56 records, instruments, rules or papers, shall hereafter mean and refer to

1 titles one and three of article fifteen of this chapter. Unless the
2 context requires otherwise, any reference to "article 9-A of the general
3 municipal law" wherever occurring in any law, or, in any official books,
4 records, instruments, rules or papers, shall hereafter mean and refer to
5 titles one and four of article fifteen of this chapter.

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

9 (b) Charitable gaming. The division of charitable gaming shall be
10 responsible for the supervision and administration of the games of
11 chance licensing law, bingo licensing law and bingo control law as
12 prescribed by [~~articles nine A and fourteen H of the general municipal~~
13 ~~law and nineteen B of the executive law~~] article fifteen of this
14 chapter.

15 § 5. Subdivision 1 and paragraph (b) of subdivision 3 of section 151
16 of the social services law, subdivision 1 as amended and paragraph (b)
17 of subdivision 3 as added by section 2 of part F of chapter 58 of the
18 laws of 2014, are amended to read as follows:

19 1. Unauthorized transactions. Except as otherwise provided in subdivi-
20 sion two of this section, no person, firm, establishment, entity, or
21 corporation (a) licensed under the provisions of the alcoholic beverage
22 control law to sell liquor and/or wine at retail for off-premises
23 consumption; (b) licensed to sell beer at wholesale and also authorized
24 to sell beer at retail for off-premises consumption; (c) licensed or
25 authorized to conduct pari-mutuel wagering activity under the racing,
26 pari-mutuel wagering and breeding law; (d) licensed to participate in
27 charitable gaming under [~~article fourteen H of the general municipal~~
28 title three of article fifteen of the racing, pari-mutuel wagering and
29 breeding law; (e) licensed to participate in the operation of a video
30 lottery facility under section one thousand six hundred seventeen-a of
31 the tax law; (f) licensed to operate a gaming facility under section
32 [~~one thousand three~~] thirteen hundred eleven of the racing, pari-mutuel
33 wagering and breeding law; or (g) providing adult-oriented entertainment
34 in which performers disrobe or perform in an unclothed state for enter-
35 tainment, or making available the venue in which performers disrobe or
36 perform in an unclothed state for entertainment, shall cash or accept
37 any public assistance check or electronic benefit transfer device issued
38 by a public welfare official or department, or agent thereof, as and for
39 public assistance.

40 (b) A violation of the provisions of subdivision one of this section
41 by any person, corporation or entity licensed to operate a gaming facil-
42 ity under section one thousand three hundred eleven of the racing, pari-
43 mutuel wagering and breeding law; licensed under section one thousand
44 six hundred seventeen-a of the tax law to participate in the operation
45 of a video lottery facility; licensed or authorized to conduct pari-mu-
46 tuel wagering under the racing, pari-mutuel wagering and breeding law;
47 or licensed to participate in charitable gaming under [~~article four-~~
48 ~~teen H of the general municipal~~] title three of article fifteen of the
49 racing, pari-mutuel wagering and breeding law, shall subject such
50 person, corporation or entity to disciplinary action pursuant to section
51 one hundred four of the racing, pari-mutuel wagering and breeding law
52 and section one thousand six hundred seven of the tax law, which may
53 include revocation, cancellation or suspension of such license or
54 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. Section 207 of the racing, pari-mutuel wagering and breeding law, as added by chapter 18 of the laws of 2008, paragraphs a, b and c of subdivision 1 as added by section 4, paragraph c of subdivision 1 as added by section 5 and subdivision 5 as added by section 6 of chapter 457 of the laws of 2012, and paragraph d of subdivision 1 as amended by section 1 of part C of chapter 73 of the laws of 2016, is amended to read as follows:

§ 207. Board of directors of a franchised corporation. 1. a. The board of directors, to be called the New York racing association ~~[reorganization]~~ board, shall consist of ~~[seventeen]~~ fifteen members ~~[, five of whom shall be elected by the present class A directors of The New York Racing Association, Inc., eight to be]~~ who shall have equal voting rights: six appointed by the governor ~~[, two to]~~ each of whom must be a resident of New York state, and one of whom shall be appointed ~~[by]~~ on the recommendation of the temporary president of the senate and ~~[two to]~~ one of whom shall be appointed ~~[by]~~ on the recommendation of the speaker of the assembly; eight appointed by the executive committee of the New York racing association reorganization board of directors constituted pursuant to chapter four hundred fifty-seven of the laws of two thousand twelve, which shall continue to exist until such time as the appointments required hereunder are made; and one who shall be the president and chief executive officer of the franchised corporation, ex officio and without term limitation. The New York racing association board shall have two ex officio, non-voting members: one appointed by the New York Thoroughbred Breeders, Inc., and one appointed by the New York thoroughbred horsemen's association representing at least fifty-one percent of the horsemen using the facilities of the franchised corporation. The New York racing association board may include additional ex officio, non-voting members as appointed pursuant to a majority vote of the board.

(i) The governor shall nominate a member to serve as chair for an initial term of three years, who shall serve at the pleasure of the governor, subject to confirmation by majority vote of the board ~~[of directors. All non-ex officio members shall have equal voting rights]~~. Thereafter, the board shall elect its chair, who shall serve at the pleasure of the board, from among its members.

(ii) The term of voting membership on the New York racing association board shall be three years. Individual appointees shall be limited to serving as a voting member the lesser of three terms or nine years. Notwithstanding the foregoing, the initial term of two members appointed by the governor and three members appointed by the New York racing association reorganization board shall expire March thirty-first, two thousand eighteen; the initial term of two members appointed by the New York racing association reorganization board and three members appointed by

1 the governor shall expire on March thirty-first, two thousand nineteen;
2 and the remaining members shall serve full three-year terms.

3 (iii) In the event of a member vacancy occurring by death, resignation
4 or otherwise, the respective appointing [~~officer or officers~~] authority
5 shall appoint a successor who shall hold office for the unexpired
6 portion of the term. [~~A vacancy from the members appointed from the~~
7 ~~present board of The New York Racing Association, Inc., shall be filled~~
8 ~~by the remaining such members~~] In the case of vacancies among members
9 appointed by the executive committee of the New York racing association
10 reorganization board of directors constituted pursuant to chapter four
11 hundred fifty-seven of the laws of two thousand twelve, appointments
12 thereafter shall be made by the executive committee of the New York
13 racing association board as constituted by the chapter of the laws of
14 two thousand seventeen that amended this section.

15 b. The franchised corporation shall establish a compensation committee
16 to fix salary guidelines, such guidelines to be consistent with an oper-
17 ation of other first class thoroughbred racing operations in the United
18 States; a finance and audit committee, to review annual operating and
19 capital budgets for each of the three racetracks; a nominating and
20 governance committee, to nominate any new directors to be designated by
21 the franchised corporation to replace its existing directors and be
22 responsible for all issues affecting the governance of the franchised
23 corporation; an equine safety committee; a racing committee to address
24 all issues related to racing operations; and an executive committee.
25 Each of the compensation, finance, nominating and executive committees
26 shall include at least one [~~of~~] public member from among the directors
27 appointed by the governor[, ~~and the executive committee shall include at~~
28 ~~least one of the directors appointed by the temporary president of the~~
29 ~~senate and at least one of the directors appointed by the speaker of the~~
30 ~~assembly~~].

31 [~~b. In addition to these voting members, the board shall have two ex~~
32 ~~officio members to advise on critical economic and equine health~~
33 ~~concerns of the racing industry, one appointed by the New York Thorough-~~
34 ~~bred Breeders Inc., and one appointed by the New York thoroughbred~~
35 ~~horsemen's association (or such other entity as is certified and~~
36 ~~approved pursuant to section two hundred twenty-eight of this article).~~

37 ~~c. All directors shall serve at the pleasure of their appointing~~
38 ~~authority.~~

39 c. Upon the effective date of this paragraph, the structure of the New
40 York racing association board [~~of the franchised corporation~~] shall be
41 deemed to be incorporated within and made part of the certificate of
42 incorporation of the franchised corporation, and no amendment to such
43 certificate of incorporation shall be necessary to give effect to any
44 such provision, and any provision contained within such certificate
45 inconsistent in any manner shall be superseded by the provisions of this
46 section. Such board shall, however, make appropriate conforming changes
47 to all governing documents of the franchised corporation including but
48 not limited to corporate by-laws. Following such conforming changes,
49 amendments to the by-laws of the franchised corporation shall [~~only~~] be
50 made only by unanimous vote of the board.

51 [~~d. The board, which shall become effective upon appointment of a~~
52 ~~majority of public members, shall terminate five years from its date of~~
53 ~~creation.~~]

54 2. Members of the New York racing association board [~~of directors~~]
55 shall serve without compensation for their services, but [~~publicly~~
56 ~~appointed members of the board~~] shall be entitled to reimbursement from

1 the franchised corporation for actual and necessary expenses incurred in
2 the performance of their [~~official~~] duties for the board.

3 3. Members of the New York racing association board [~~of directors~~],
4 except as otherwise provided by law, may engage in public or private
5 employment, or in a profession or business, however no member shall have
6 any direct or indirect economic interest in any video lottery gaming
7 facility, excluding incidental benefits based on purses or awards won in
8 the ordinary conduct of racing operations, or any direct or indirect
9 interest in any development undertaken at the racetracks of the state
10 racing franchise.

11 4. The affirmative vote of a majority of members of the New York
12 racing association board [~~of directors~~] shall be necessary for the tran-
13 saction of any business or the exercise of any power or function of the
14 franchised corporation. The franchised corporation may delegate on an
15 annual basis to one or more of its members, or its officers, agents or
16 employees, such powers and duties as it may deem proper.

17 5. Each voting member of the New York racing association board [~~of~~
18 ~~directors~~] of the franchised corporation shall annually make a written
19 disclosure to [~~the~~] such board of any interest held by the director,
20 such director's spouse or unemancipated child, in any entity undertaking
21 business in the racing or breeding industry. Such interest disclosure
22 shall be promptly updated, in writing, in the event of any material
23 change.

24 The New York racing association board shall establish parameters for
25 the reporting and disclosure of such director interests.

26 6. Each voting member of the New York racing association board
27 appointed by the executive committee of the New York racing association
28 reorganization board of directors shall seek a racetrack management
29 license issued by the gaming commission, any fees for which shall be
30 waived by the commission. No voting member of the board required by the
31 foregoing to seek a racetrack management license may vote on any board
32 matter until such license is issued.

33 7. For purposes of section two hundred twelve of this article, the
34 establishment of The New York Racing Association, Inc. board of direc-
35 tors under this section shall not constitute the assumption of the fran-
36 chise by a successor entity.

37 § 2. Subparagraphs (ii), (iii), (vii) and (xvii) of paragraph a of
38 subdivision 8 of section 212 of the racing, pari-mutuel wagering and
39 breeding law, as added by chapter 18 of the laws of 2008, are amended,
40 subparagraph (xviii) is renumbered subparagraph (xx) and two new subpar-
41 agraphs (xviii) and (xix) are added to read as follows:

42 (ii) monitor and enforce compliance with definitive documents that
43 comprise the franchise agreement between the franchised corporation and
44 the state of New York governing the franchised corporation's operation
45 of thoroughbred racing and pari-mutuel wagering at the racetracks. The
46 franchise agreement shall contain objective performance standards that
47 shall allow contract review in a manner consistent with this chapter.
48 The franchise oversight board shall notify the franchised corporation
49 authorized by this chapter in writing of any material breach of the
50 performance standards or repeated non-material breaches which the fran-
51 chise oversight board may determine collectively constitute a material
52 breach of the performance standards. Prior to taking any action against
53 such franchised corporation, the franchise oversight board shall provide
54 the franchised corporation with the reasonable opportunity to cure any
55 material breach of the performance standards or repeated non-material
56 breaches which the franchise oversight board may determine collectively

1 constitute a material breach of the performance standards. Upon a writ-
2 ten finding of a material breach of the performance standards or
3 repeated non-material breaches which the franchise oversight board may
4 determine collectively constitute a material breach of the performance
5 standards, the franchise oversight board may recommend that the fran-
6 chise agreement be terminated. The franchise oversight board shall refer
7 such recommendation to the [~~rac~~~~ing and w~~~~agering board~~] commission for a
8 hearing conducted pursuant to section two hundred forty-five of this
9 article for a determination of whether to terminate the franchise agree-
10 ment with the franchised corporation;

11 (iii) oversee, monitor and review all significant transactions and
12 operations of the franchised corporation authorized by this chapter;
13 provided, however, that nothing in this section shall be deemed to
14 reduce, diminish or impede the authority of the [~~state rac~~~~ing and w~~~~ager-~~
15 ~~ing board~~] commission to, pursuant to article one of this chapter,
16 determine and enforce compliance by the franchised corporation with
17 terms of racing laws and regulations. Such oversight shall include, but
18 not be limited to:

19 (A) review and make recommendations concerning the annual operating
20 budgets of such franchised corporation;

21 (B) review and make recommendations concerning operating revenues and
22 the establishment of a financial plan;

23 (C) review and make recommendations concerning accounting, internal
24 control systems and security procedures;

25 (D) review such franchised corporation's revenue and expenditure
26 [~~polices~~] policies which shall include collective bargaining agreements
27 management and employee compensation plans, vendor contracts and capital
28 improvement plans;

29 (E) review such franchise corporation's compliance with the laws,
30 rules and regulations applicable to its activities;

31 (F) make recommendations for establishing model governance principles
32 to improve accountability and transparency; and

33 (G) receive, review, approve or disapprove capital expense plans
34 submitted annually by the franchised corporation.

35 (vii) review and provide any recommendations on all simulcasting
36 contracts (buy and sell) that are also subject to prior approval of the
37 [~~rac~~~~ing and w~~~~agering board~~] commission;

38 (xvii) request and accept the assistance of any state agency, includ-
39 ing but not limited to, the [~~rac~~~~ing and w~~~~agering board, the division of~~
40 ~~the lottery~~] commission, office of parks, recreation and historic pres-
41 ervation, the department of environmental conservation and the depart-
42 ment of taxation and finance, in obtaining information related to the
43 franchised corporation's compliance with the terms of the franchise
44 agreement; [~~and~~]

45 (xviii) when the franchise oversight board determines the financial
46 position of the franchised corporation has deviated materially from the
47 franchised corporation's financial plan, or other such related documents
48 provided to the franchise oversight board, or when the implementation of
49 such plan would, in the opinion of the franchise oversight board, pose a
50 significant risk to the liquidity of the franchised corporation, in any
51 order or combination;

52 (A) hire, at the expense of the franchised corporation, an independent
53 financial adviser to evaluate the financial position of the franchised
54 corporation and report on such to the franchise oversight board; and

1 (B) require the franchised corporation to submit for the franchise
2 oversight board's approval a corrective action plan addressing any
3 concerns identified as risks by the franchise oversight board.

4 (xix) when the franchise oversight board finds the franchised corpo-
5 ration has experienced two consecutive years of material losses due to
6 circumstances within the control of the franchised corporation, as
7 determined by the franchise oversight board, the board may by majority
8 vote request the director of the budget to impound and escrow racing
9 supporting payments accruing to the benefit of the franchised corpo-
10 ration until the franchised corporation achieves the goals of a board-
11 approved corrective action plan addressing concerns identified by the
12 board. The director of the budget may, upon warrant of the franchise
13 oversight board, approve the use of withheld racing support payments
14 necessary to satisfy financial instruments used to fund board-approval
15 capital investments.

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

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

37 2. Notwithstanding any other provision of law to the contrary, a fran-
38 chised corporation shall be permitted to conduct races after sunset at
39 the Belmont Park racetrack, but only if such races conclude before elev-
40 en o'clock post meridian. The franchised corporation shall coordinate
41 with a harness racing association or corporation authorized to operate
42 in Westchester county to ensure that the starting times of all such
43 races are staggered.

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

51 § 4. Subparagraph (i) of paragraph (d) of subdivision 1 of section 238
52 of the racing, pari-mutuel wagering and breeding law, as amended by
53 section 2 of part BB of chapter 60 of the laws of 2016, is amended to
54 read as follows:

55 (i) The pari-mutuel tax rate authorized by paragraph (a) of this
56 subdivision shall be effective so long as a franchised corporation noti-

1 files the gaming commission by August fifteenth of each year that such
2 pari-mutuel tax rate is effective of its intent to conduct a race meet-
3 ing at Aqueduct racetrack during the months of December, January, Febru-
4 ary, March and April. For purposes of this paragraph such race meeting
5 shall consist of not less than ninety-five days of racing unless other-
6 wise agreed to in writing by the New York Thoroughbred Breeders Inc.,
7 the New York thoroughbred horsemen's association (or such other entity
8 as is certified and approved pursuant to section two hundred twenty-
9 eight of this article) and approved by the commission. Not later than
10 May first of each year that such pari-mutuel tax rate is effective, the
11 gaming commission shall determine whether a race meeting at Aqueduct
12 racetrack consisted of the number of days as required by this paragraph.
13 In determining the number of race days, cancellation of a race day
14 because of an act of God that the gaming commission approves or because
15 of weather conditions that are unsafe or hazardous which the gaming
16 commission approves shall not be construed as a failure to conduct a
17 race day. Additionally, cancellation of a race day because of circum-
18 stances beyond the control of such franchised corporation for which the
19 gaming commission gives approval shall not be construed as a failure to
20 conduct a race day. If the gaming commission determines that the number
21 of days of racing as required by this paragraph have not occurred then
22 the pari-mutuel tax rate in paragraph (a) of this subdivision shall
23 revert to the pari-mutuel tax rates in effect prior to January first,
24 nineteen hundred ninety-five.

25 § 5. This act shall take effect April 1, 2017; provided, however, that
26 section one of this act shall take effect upon the appointment of a
27 majority of board members; provided, further, that the state franchise
28 oversight board shall notify the legislative bill drafting commission
29 upon the occurrence of such appointments in order that the commission
30 may maintain an accurate and timely effective data base of the official
31 text of the laws of the state of New York in furtherance of effectuating
32 the provisions of section 44 of the legislative law and section 70-b of
33 the public officers law; provided further that the amendments to section
34 212 of the racing, pari-mutuel wagering and breeding law made by section
35 two of this act shall not affect the repeal of such section and shall be
36 deemed repealed therewith.

37 PART 00

38 Section 1. Paragraph (a) of subdivision 1 of section 1003 of the
39 racing, pari-mutuel wagering and breeding law, as amended by section 1
40 of part FF of chapter 60 of the laws of 2016, is amended to read as
41 follows:

42 (a) Any racing association or corporation or regional off-track
43 betting corporation, authorized to conduct pari-mutuel wagering under
44 this chapter, desiring to display the simulcast of horse races on which
45 pari-mutuel betting shall be permitted in the manner and subject to the
46 conditions provided for in this article may apply to the commission for
47 a license so to do. Applications for licenses shall be in such form as
48 may be prescribed by the commission and shall contain such information
49 or other material or evidence as the commission may require. No license
50 shall be issued by the commission authorizing the simulcast transmission
51 of thoroughbred races from a track located in Suffolk county. The fee
52 for such licenses shall be five hundred dollars per simulcast facility
53 and for account wagering licensees that do not operate either a simul-
54 cast facility that is open to the public within the state of New York or

1 a licensed racetrack within the state, twenty thousand dollars per year
2 payable by the licensee to the commission for deposit into the general
3 fund. Except as provided in this section, the commission shall not
4 approve any application to conduct simulcasting into individual or group
5 residences, homes or other areas for the purposes of or in connection
6 with pari-mutuel wagering. The commission may approve simulcasting into
7 residences, homes or other areas to be conducted jointly by one or more
8 regional off-track betting corporations and one or more of the follow-
9 ing: a franchised corporation, thoroughbred racing corporation or a
10 harness racing corporation or association; provided (i) the simulcasting
11 consists only of those races on which pari-mutuel betting is authorized
12 by this chapter at one or more simulcast facilities for each of the
13 contracting off-track betting corporations which shall include wagers
14 made in accordance with section one thousand fifteen, one thousand
15 sixteen and one thousand seventeen of this article; provided further
16 that the contract provisions or other simulcast arrangements for such
17 simulcast facility shall be no less favorable than those in effect on
18 January first, two thousand five; (ii) that each off-track betting
19 corporation having within its geographic boundaries such residences,
20 homes or other areas technically capable of receiving the simulcast
21 signal shall be a contracting party; (iii) the distribution of revenues
22 shall be subject to contractual agreement of the parties except that
23 statutory payments to non-contracting parties, if any, may not be
24 reduced; provided, however, that nothing herein to the contrary shall
25 prevent a track from televising its races on an irregular basis primari-
26 ly for promotional or marketing purposes as found by the commission. For
27 purposes of this paragraph, the provisions of section one thousand thir-
28 teen of this article shall not apply. Any agreement authorizing an
29 in-home simulcasting experiment commencing prior to May fifteenth, nine-
30 teen hundred ninety-five, may, and all its terms, be extended until June
31 thirtieth, two thousand [~~seventeen~~ eighteen]; provided, however, that
32 any party to such agreement may elect to terminate such agreement upon
33 conveying written notice to all other parties of such agreement at least
34 forty-five days prior to the effective date of the termination, via
35 registered mail. Any party to an agreement receiving such notice of an
36 intent to terminate, may request the commission to mediate between the
37 parties new terms and conditions in a replacement agreement between the
38 parties as will permit continuation of an in-home experiment until June
39 thirtieth, two thousand [~~seventeen~~ eighteen]; and (iv) no in-home simul-
40 casting in the thoroughbred special betting district shall occur without
41 the approval of the regional thoroughbred track.

42 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section
43 1007 of the racing, pari-mutuel wagering and breeding law, as amended by
44 section 2 of part FF of chapter 60 of the laws of 2016, is amended to
45 read as follows:

46 (iii) Of the sums retained by a receiving track located in Westchester
47 county on races received from a franchised corporation, for the period
48 commencing January first, two thousand eight and continuing through June
49 thirtieth, two thousand [~~seventeen~~ eighteen], the amount used exclusive-
50 ly for purses to be awarded at races conducted by such receiving track
51 shall be computed as follows: of the sums so retained, two and one-half
52 percent of the total pools. Such amount shall be increased or decreased
53 in the amount of fifty percent of the difference in total commissions
54 determined by comparing the total commissions available after July twen-
55 ty-first, nineteen hundred ninety-five to the total commissions that

1 would have been available to such track prior to July twenty-first,
2 nineteen hundred ninety-five.

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

7 The provisions of this section shall govern the simulcasting of races
8 conducted at thoroughbred tracks located in another state or country on
9 any day during which a franchised corporation is conducting a race meet-
10 ing in Saratoga county at Saratoga thoroughbred racetrack until June
11 thirtieth, two thousand [~~seventeen~~] eighteen and on any day regardless
12 of whether or not a franchised corporation is conducting a race meeting
13 in Saratoga county at Saratoga thoroughbred racetrack after June thirti-
14 eth, two thousand [~~seventeen~~] eighteen. On any day on which a fran-
15 chised corporation has not scheduled a racing program but a thoroughbred
16 racing corporation located within the state is conducting racing, every
17 off-track betting corporation branch office and every simulcasting
18 facility licensed in accordance with section one thousand seven (that
19 have entered into a written agreement with such facility's represen-
20 tative horsemen's organization, as approved by the commission), one
21 thousand eight, or one thousand nine of this article shall be authorized
22 to accept wagers and display the live simulcast signal from thoroughbred
23 tracks located in another state or foreign country subject to the
24 following provisions:

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

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

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

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

54 § 6. The opening paragraph of section 1018 of the racing, pari-mutuel
55 wagering and breeding law, as amended by section 6 of part FF of chapter
56 60 of the laws of 2016, is amended to read as follows:

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

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

20 § 32. This act shall take effect immediately and the pari-mutuel tax
21 reductions in section six of this act shall expire and be deemed
22 repealed on July 1, [~~2017~~ **2018**]; provided, however, that nothing
23 contained herein shall be deemed to affect the application, qualifica-
24 tion, expiration, or repeal of any provision of law amended by any
25 section of this act, and such provisions shall be applied or qualified
26 or shall expire or be deemed repealed in the same manner, to the same
27 extent and on the same date as the case may be as otherwise provided by
28 law; provided further, however, that sections twenty-three and twenty-
29 five of this act shall remain in full force and effect only until May 1,
30 1997 and at such time shall be deemed to be repealed.

31 § 8. Section 54 of chapter 346 of the laws of 1990, amending the
32 racing, pari-mutuel wagering and breeding law and other laws relating to
33 simulcasting and the imposition of certain taxes, as amended by section
34 8 of part FF of chapter 60 of the laws of 2016, is amended to read as
35 follows:

36 § 54. This act shall take effect immediately; provided, however,
37 sections three through twelve of this act shall take effect on January
38 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-
39 ing law, as added by section thirty-eight of this act, shall expire and
40 be deemed repealed on July 1, [~~2017~~ **2018**]; and section eighteen of this
41 act shall take effect on July 1, 2008 and sections fifty-one and fifty-
42 two of this act shall take effect as of the same date as chapter 772 of
43 the laws of 1989 took effect.

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

47 (a) The franchised corporation authorized under this chapter to
48 conduct pari-mutuel betting at a race meeting or races run thereat shall
49 distribute all sums deposited in any pari-mutuel pool to the holders of
50 winning tickets therein, provided such tickets be presented for payment
51 before April first of the year following the year of their purchase,
52 less an amount which shall be established and retained by such fran-
53 chised corporation of between twelve to seventeen per centum of the
54 total deposits in pools resulting from on-track regular bets, and four-
55 teen to twenty-one per centum of the total deposits in pools resulting
56 from on-track multiple bets and fifteen to twenty-five per centum of the

1 total deposits in pools resulting from on-track exotic bets and fifteen
2 to thirty-six per centum of the total deposits in pools resulting from
3 on-track super exotic bets, plus the breaks. The retention rate to be
4 established is subject to the prior approval of the gaming commission.
5 Such rate may not be changed more than once per calendar quarter to be
6 effective on the first day of the calendar quarter. "Exotic bets" and
7 "multiple bets" shall have the meanings set forth in section five
8 hundred nineteen of this chapter. "Super exotic bets" shall have the
9 meaning set forth in section three hundred one of this chapter. For
10 purposes of this section, a "pick six bet" shall mean a single bet or
11 wager on the outcomes of six races. The breaks are hereby defined as the
12 odd cents over any multiple of five for payoffs greater than one dollar
13 five cents but less than five dollars, over any multiple of ten for
14 payoffs greater than five dollars but less than twenty-five dollars,
15 over any multiple of twenty-five for payoffs greater than twenty-five
16 dollars but less than two hundred fifty dollars, or over any multiple of
17 fifty for payoffs over two hundred fifty dollars. Out of the amount so
18 retained there shall be paid by such franchised corporation to the
19 commissioner of taxation and finance, as a reasonable tax by the state
20 for the privilege of conducting pari-mutuel betting on the races run at
21 the race meetings held by such franchised corporation, the following
22 percentages of the total pool for regular and multiple bets five per
23 centum of regular bets and four per centum of multiple bets plus twenty
24 per centum of the breaks; for exotic wagers seven and one-half per
25 centum plus twenty per centum of the breaks, and for super exotic bets
26 seven and one-half per centum plus fifty per centum of the breaks. For
27 the period June first, nineteen hundred ninety-five through September
28 ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be
29 three per centum and such tax on multiple wagers shall be two and one-
30 half per centum, plus twenty per centum of the breaks. For the period
31 September tenth, nineteen hundred ninety-nine through March thirty-
32 first, two thousand one, such tax on all wagers shall be two and six-
33 tenths per centum and for the period April first, two thousand one
34 through December thirty-first, two thousand ~~seventeen~~ **eighteen**, such
35 tax on all wagers shall be one and six-tenths per centum, plus, in each
36 such period, twenty per centum of the breaks. Payment to the New York
37 state thoroughbred breeding and development fund by such franchised
38 corporation shall be one-half of one per centum of total daily on-track
39 pari-mutuel pools resulting from regular, multiple and exotic bets and
40 three per centum of super exotic bets provided, however, that for the
41 period September tenth, nineteen hundred ninety-nine through March thir-
42 ty-first, two thousand one, such payment shall be six-tenths of one per
43 centum of regular, multiple and exotic pools and for the period April
44 first, two thousand one through December thirty-first, two thousand
45 ~~seventeen~~ **eighteen**, such payment shall be seven-tenths of one per
46 centum of such pools.

47 § 10. This act shall take effect immediately.

48 PART PP

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

52 (F) notwithstanding clauses (A), (B), (C), (D) and (E) of this subpar-
53 agraph, when a vendor track, is located in Sullivan county and within
54 sixty miles from any gaming facility in a contiguous state such vendor

1 fee shall, for a period of [~~nine~~] ~~ten~~ years commencing April first, two
2 thousand eight, be at a rate of forty-one percent of the total revenue
3 wagered at the vendor track after payout for prizes pursuant to this
4 chapter, after which time such rate shall be as for all tracks in clause
5 (C) of this subparagraph.

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

8

PART QQ

9 Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivi-
10 sion b of section 1612 of the tax law, as separately amended by section
11 1 of part GG and section 2 of part SS of chapter 60 of the laws of 2016,
12 is amended to read as follows:

13 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of
14 this subparagraph, the track operator of a vendor track and in the case
15 of Aqueduct, the video lottery terminal facility operator, shall be
16 eligible for a vendor's capital award of up to four percent of the total
17 revenue wagered at the vendor track after payout for prizes pursuant to
18 this chapter, which shall be used exclusively for capital project
19 investments to improve the facilities of the vendor track which promote
20 or encourage increased attendance at the video lottery gaming facility
21 including, but not limited to hotels, other lodging facilities, enter-
22 tainment facilities, retail facilities, dining facilities, events
23 arenas, parking garages and other improvements that enhance facility
24 amenities; provided that such capital investments shall be approved by
25 the division, in consultation with the state racing and wagering board,
26 and that such vendor track demonstrates that such capital expenditures
27 will increase patronage at such vendor track's facilities and increase
28 the amount of revenue generated to support state education programs. The
29 annual amount of such vendor's capital awards that a vendor track shall
30 be eligible to receive shall be limited to two million five hundred
31 thousand dollars, except for Aqueduct racetrack, for which there shall
32 be no annual limit, provided, however, that any such capital award for
33 the Aqueduct video lottery terminal facility operator shall be one
34 percent of the total revenue wagered at the video lottery terminal
35 facility after payout for prizes pursuant to this chapter until the
36 earlier of the designation of one thousand video lottery devices as
37 hosted pursuant to paragraph four of subdivision a of section sixteen
38 hundred seventeen-a of this chapter or April first, two thousand nine-
39 teen and shall then be four percent of the total revenue wagered at the
40 video lottery terminal facility after payout for prizes pursuant to this
41 chapter, provided, further, that such capital award shall only be
42 provided pursuant to an agreement with the operator to construct an
43 expansion of the facility, hotel, and convention and exhibition space
44 requiring a minimum capital investment of three hundred million dollars.
45 Except for tracks having less than one thousand one hundred video gaming
46 machines, and except for a vendor track located west of State Route 14
47 from Sodus Point to the Pennsylvania border within New York, and except
48 for Aqueduct racetrack each track operator shall be required to co-in-
49 vest an amount of capital expenditure equal to its cumulative vendor's
50 capital award. For all tracks, except for Aqueduct racetrack, the amount
51 of any vendor's capital award that is not used during any one year peri-
52 od may be carried over into subsequent years ending before April first,
53 two thousand [~~seventeen~~] ~~eighteen~~. Any amount attributable to a capital
54 expenditure approved prior to April first, two thousand [~~seventeen~~]

1 ~~eighteen~~ and completed before April first, two thousand [~~nineteen~~] ~~twen-~~
2 ~~ty~~; or approved prior to April first, two thousand [~~twenty-one~~] ~~twenty-~~
3 ~~two~~ and completed before April first, two thousand [~~twenty-three~~] ~~twen-~~
4 ~~ty-four~~ for a vendor track located west of State Route 14 from Sodus
5 Point to the Pennsylvania border within New York, shall be eligible to
6 receive the vendor's capital award. In the event that a vendor track's
7 capital expenditures, approved by the division prior to April first, two
8 thousand [~~seventeen~~] ~~eighteen~~ and completed prior to April first, two
9 thousand [~~nineteen~~] ~~twenty~~, exceed the vendor track's cumulative capital
10 award during the five year period ending April first, two thousand
11 [~~seventeen~~] ~~eighteen~~, the vendor shall continue to receive the capital
12 award after April first, two thousand [~~seventeen~~] ~~eighteen~~ until such
13 approved capital expenditures are paid to the vendor track subject to
14 any required co-investment. In no event shall any vendor track that
15 receives a vendor fee pursuant to clause (F) or (G) of this subparagraph
16 be eligible for a vendor's capital award under this section. Any opera-
17 tor of a vendor track which has received a vendor's capital award,
18 choosing to divest the capital improvement toward which the award was
19 applied, prior to the full depreciation of the capital improvement in
20 accordance with generally accepted accounting principles, shall reim-
21 burse the state in amounts equal to the total of any such awards. Any
22 capital award not approved for a capital expenditure at a video lottery
23 gaming facility by April first, two thousand [~~seventeen~~] ~~eighteen~~ shall
24 be deposited into the state lottery fund for education aid; and
25 § 2. This act shall take effect immediately.

PART RR

27 Section 1. Paragraph c of subdivision 3 of section 97-nnnn of the
28 state finance law, as added by chapter 174 of the laws of 2013, is
29 amended to read as follows:

30 c. ten percent of the moneys in such fund, as attributable to a
31 specific licensed gaming facility, shall be appropriated or transferred
32 from the commercial gaming revenue fund among counties within the
33 region, as defined by section one thousand three hundred ten of the
34 racing, pari-mutuel wagering and breeding law, hosting said facility for
35 the purpose of real property tax relief and for education assistance.
36 Such distribution shall be made among the counties on a per capita
37 basis, subtracting the population of host municipality and county.
38 Provided, however, such amount shall be reduced by one million four
39 hundred thousand dollars in state fiscal year two thousand seventeen --
40 two thousand eighteen and by one million five hundred fifty thousand
41 dollars every year thereafter. Such funds attributable to this reduction
42 shall be transferred to the general fund and the reduction shall be
43 distributed among such eligible counties proportional to total distrib-
44 utions during the fiscal year.

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

48 3. Moneys of the account, following the segregation of appropriations
49 enacted by the legislature, shall be available for purposes including
50 but not limited to: (a) reimbursements or payments to municipal govern-
51 ments that host tribal casinos pursuant to a tribal-state compact for
52 costs incurred in connection with services provided to such casinos or
53 arising as a result thereof, for economic development opportunities and
54 job expansion programs authorized by the executive law; provided, howev-

er, 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 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. Additionally, the state shall distribute an additional annual sum of two and one-quarter million dollars to a county in which a gaming facility is located but does not receive a percent of the negotiated percentage of the net drop from gaming devices the state receives pursuant to a compact.

§ 3. Subdivision 3-a of section 99-h of the state finance law, as amended by section 4 of part EE of chapter 59 of the laws of 2014, is amended to read as follows:

3-a. Ten percent of any of the funds actually received by the state pursuant to the tribal-state compacts and agreements described in subdivision two of this section prior to the transfer of unsegregated moneys to the general fund required by such subdivision, shall be distributed to counties in each respective exclusivity zone provided they do not otherwise receive a share of said revenues pursuant to this section. Such distribution shall be made among such counties on a per capita basis, excluding the population of any municipality that receives a distribution pursuant to subdivision three of this section. Provided, however, such amount shall be reduced by six hundred thousand dollars in state fiscal year two thousand seventeen -- two thousand eighteen and by five hundred thousand dollars every year thereafter. The reduction shall

1 be distributed among such eligible counties proportional to total
2 distributions during the fiscal year.

3 § 4. Paragraph b of subdivision 2 of section 54-1 of the state finance
4 law, as amended by section 1 of part X of chapter 55 of the laws of
5 2014, is amended to read as follows:

6 b. Within the amounts appropriated therefor, eligible municipalities
7 shall receive an amount equal to seventy percent of the state aid
8 payment received in the state fiscal year commencing April first, two
9 thousand eight from an appropriation for aid to municipalities with
10 video lottery gaming facilities. Provided, however, such amount shall
11 be reduced by two hundred fifty thousand dollars in the state fiscal
12 year commencing April first, two thousand seventeen and by two hundred
13 thousand dollars every year thereafter. Such reduction shall be distrib-
14 uted among such eligible municipalities proportional to payments
15 received by such eligible municipalities in the state fiscal year
16 commencing April first, two thousand sixteen.

17 § 5. This act shall take effect April 1, 2017 and shall expire and be
18 deemed repealed March 31, 2020 notwithstanding section 2 of chapter 747
19 of the laws of 2006, as amended.

20 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
21 sion, section or part of this act shall be adjudged by any court of
22 competent jurisdiction to be invalid, such judgment shall not affect,
23 impair, or invalidate the remainder thereof, but shall be confined in
24 its operation to the clause, sentence, paragraph, subdivision, section
25 or part thereof directly involved in the controversy in which such judg-
26 ment shall have been rendered. It is hereby declared to be the intent of
27 the legislature that this act would have been enacted even if such
28 invalid provisions had not been included herein.

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