

# STATE OF NEW YORK

3009--B

## IN ASSEMBLY

January 23, 2017

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT intentionally omitted (Part A); intentionally omitted (Part B); to amend the tax law and the administrative code of the city of New York, in relation to the school tax reduction credit for residents of a city with a population of one million or more; and to repeal section 54-f of the state finance law relating thereto (Part C); intentionally omitted (Part D); intentionally omitted (Part E); to amend the real property tax law, in relation to authorizing partial payments of property taxes (Part F); intentionally omitted (Part G); intentionally omitted (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); intentionally omitted (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 the tax law, in relation to a program to provide tax incentives for employers employing at risk youth (Subpart A); to amend the labor law, in relation to establishing the empire state apprenticeship tax credit program and granting the commissioner of the department of labor the power to administer such program; to amend the tax law, in relation to the empire state apprenticeship tax credit (Subpart B) (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); intentionally omitted (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 contrib-

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

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ution 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); intentionally omitted (Part V); intentionally omitted (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 extending the provisions authorizing service of income executions on individual tax debtors without filing a warrant (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 amend the tax law, in relation to closing 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); intentionally omitted (Part GG); intentionally omitted (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); intentionally omitted (Part LL); to amend the executive law and the general municipal law, in relation to licensing for certain games of chance (Part MM); to amend the racing, pari-mutuel wagering and breeding law, in relation to allowing for the reprivatization of NYRA 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); intentionally omitted (Part RR); to amend the tax law, in relation to the business income base rate and expanding the small business subtraction modification (Part SS); to amend the tax law, in relation to income tax reform (Part TT); to amend the tax law, in relation to increasing the amount of certain investment tax credits (Part UU); to amend the economic development law, in relation to excelsior research and development tax credits (Part VV); to amend the

economic development law, in relation to eligibility to participate in the excelsior jobs program (Part WW); to amend the tax law, in relation to the earned income credit (Part XX); to amend the tax law, in relation to providing a tax credit for universal visitability; and providing for the repeal of such provisions upon the expiration thereof (Part YY); intentionally omitted (Part ZZ); to amend the tax law and the economic development law, in relation to the creation of the empire state music production credit and the empire state digital gaming media production credit; to repeal subdivision 11 of section 352 of the economic development law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part AAA); to amend the real property tax law and the tax law, in relation to removing references to the school tax relief credit; and to repeal certain provisions of such laws relating thereto (Part BBB); to amend the private housing finance law, in relation to the provision of rental assistance for low income elderly families, and to amend the administrative code of the city of New York, in relation to imposing a tax on conveyances or transfers of residential real property whose consideration is greater than two million dollars (Part CCC); to amend the tax law, in relation to a credit for donations to a food bank or other emergency food program by New York state farmers (Part DDD); to amend the tax law, in relation to establishing an education loan interest deduction credit (Part EEE); to amend the tax law, in relation to providing insurance corporations with a tax credit for investments made in rural business growth funds; and to amend the state finance law, in relation to establishing the New York agriculture and rural jobs fund (Part FFF); to amend the racing, pari-mutuel wagering and breeding law and the workers' compensation law, in relation to the New York Jockey Injury Compensation Fund, Inc. (Part GGG); and to amend the tax law, in relation to the operation of video lottery terminals at Aqueduct racetrack; and providing for the repeal of certain provisions upon expiration thereof (Part HHH)

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 HHH. The effective date for each partic-  
 5 ular provision contained within such Part is set forth in the last  
 6 section of such Part. Any provision in any section contained within a  
 7 Part, including the effective date of the Part, which makes a refer-  
 8 ence to a section "of this act", when used in connection with that particu-  
 9 lar component, shall be deemed to mean and refer to the corresponding  
 10 section of the Part in which it is found. Section three of this act sets  
 11 forth the general effective date of this act.

- 12 PART A
- 13 Intentionally Omitted
- 14 PART B
- 15 Intentionally Omitted

1

## PART C

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

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

7 (ggg) School tax reduction credit for residents of a city with a popu-  
8 lation over one million. (1) For taxable years beginning after two thou-  
9 sand fifteen, a school tax reduction credit shall be allowed to a resi-  
10 dent individual of the state who is a resident of a city with a  
11 population over one million, as provided below. The credit shall be  
12 allowed against the taxes authorized by this article reduced by the  
13 credits permitted by this article. If the credit exceeds the tax as so  
14 reduced, the excess shall be treated as an overpayment of tax to be  
15 credited or refunded in accordance with the provisions of section six  
16 hundred eighty-six of this article, provided however, that no interest  
17 will be paid thereon. For purposes of this subsection, no credit shall  
18 be granted to an individual with respect to whom a deduction under  
19 subsection (c) of section one hundred fifty-one of the internal revenue  
20 code is allowable to another taxpayer for the taxable year.

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

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

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

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

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

40 (4-a) The "fixed" amount of the credit shall be determined as provided  
41 in this paragraph, provided that any taxpayer with income of more than  
42 two hundred fifty thousand dollars shall not receive such amount.

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

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

50 (4-b) The "rate reduction" amount of the credit shall be determined as  
51 provided in this paragraph, provided that any taxpayer with income of  
52 more than five hundred thousand dollars shall not receive such amount.

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

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

6	<u>(B) For a head of household:</u>	
7	<u>If the city taxable income is:</u>	<u>The "rate reduction" amount is:</u>
8	<u>Not over \$14,400</u>	<u>0.171% of the city taxable income</u>
9	<u>Over \$14,400 but not over \$500,000</u>	<u>\$25 plus 0.228% of excess over</u>
10		<u>\$14,400</u>
11	<u>Over \$500,000</u>	<u>Not applicable</u>

12	<u>(C) For an unmarried individual or a married individual filing</u>	
13	<u>a separate return:</u>	
14	<u>If the city taxable income is:</u>	<u>The "rate reduction" amount is:</u>
15	<u>Not over \$12,000</u>	<u>0.171% of the city taxable income</u>
16	<u>Over \$12,000 but not over \$500,000</u>	<u>\$21 plus 0.228% of excess over</u>
17		<u>\$12,000</u>
18	<u>Over \$500,000</u>	<u>Not applicable</u>

19 [~~3~~] (5) Part-year residents. If a taxpayer changes status during the  
 20 taxable year from resident to nonresident, or from nonresident to resi-  
 21 dent, the school tax reduction credit authorized by this subsection  
 22 shall be prorated according to the number of months in the period of  
 23 residence.

24 § 3. Paragraphs 1, 2 and 3 of subsection (a) of section 1304 of the  
 25 tax law, as amended by section 2 of part B of chapter 59 of the laws of  
 26 2015, are amended to read as 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 subsection  
 31 (b) of section thirteen hundred six of this article and on the city  
 32 taxable income of every city resident surviving spouse shall be deter-  
 33 mined in accordance with the following tables:

34	<u>(A) For taxable years beginning after two thousand [<del>fourteen</del>] <del>sixteen</del>:</u>	
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	<u>(B) For taxable year beginning after two thousand fourteen</u>	
44	<u>and before two thousand seventeen:</u>	
45	<u>If the city taxable income is:</u>	<u>The tax is:</u>
46	<u>Not over \$21,600</u>	<u>2.55% of the city taxable income</u>
47	<u>Over \$21,600 but not</u>	<u>\$551 plus 3.1% of excess</u>
48	<u>over \$45,000</u>	<u>over \$21,600</u>
49	<u>Over \$45,000 but not</u>	<u>\$1,276 plus 3.15% of excess</u>
50	<u>over \$90,000</u>	<u>over \$45,000</u>
51	<u>Over \$90,000 but not</u>	<u>\$2,694 plus 3.2% of excess</u>
52	<u>over \$500,000</u>	<u>over \$90,000</u>
53	<u>Over \$500,000</u>	<u>\$16,803 plus 3.4% of excess</u>

1		over \$500,000
2	<del>(B)</del> (C)	For taxable years beginning after two thousand nine and
3		before two thousand fifteen:
4	If the city taxable income is:	The tax is:
5	Not over \$21,600	2.55% of the city taxable income
6	Over \$21,600 but not	\$551 plus 3.1% of excess
7	over \$45,000	over \$21,600
8	Over \$45,000 but not	\$1,276 plus 3.15% of excess
9	over \$90,000	over \$45,000
10	Over \$90,000 but not	\$2,694 plus 3.2% of excess
11	over \$500,000	over \$90,000
12	Over \$500,000	\$15,814 plus 3.4% of excess
13		over \$500,000

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

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

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

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

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

38 ~~(B)~~ (C) For taxable years beginning after two thousand nine and before  
 39 two thousand fifteen:

40	If the city taxable income is:	The tax is:
41	Not over \$14,400	2.55% of the city taxable income
42	Over \$14,400 but not	\$367 plus 3.1% of excess
43	over \$30,000	over \$14,400
44	Over \$30,000 but not	\$851 plus 3.15% of excess
45	over \$60,000	over \$30,000
46	Over \$60,000 but not	\$1,796 plus 3.2% of excess
47	over \$500,000	over \$60,000
48	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 city resident married individual  
6 who makes a single return jointly with his or her spouse under  
7 subsection (b) of section thirteen hundred six of this article or a city  
8 resident head of household or a city resident surviving spouse, and on  
9 the city taxable income of every city resident estate and trust shall be  
10 determined in accordance 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 seventeen:

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%
31	of excess 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%
43	of excess over \$500,000

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

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

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

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

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

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

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

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

If the city taxable income is:	The tax is:
29 Not over \$21,600	2.55% of the city taxable income
30 Over \$21,600 but not	\$551 plus 3.1% of excess
31 over \$45,000	over \$21,600
32 Over \$45,000 but not	\$1,276 plus 3.15% of excess
33 over \$90,000	over \$45,000
34 Over \$90,000 but not	\$2,694 plus 3.2% of excess
35 over \$500,000	over \$90,000
36 Over \$500,000	\$15,814 plus 3.4% of excess
37	over \$500,000

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

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

<u>If the city taxable income is:</u>	<u>The tax is:</u>
43 <u>Not over \$14,400</u>	<u>2.7% of the city taxable income</u>
44 <u>Over \$14,400 but not</u>	<u>\$389 plus 3.3% of excess</u>
45 <u>over \$30,000</u>	<u>over \$14,400</u>
46 <u>Over \$30,000 but not</u>	<u>\$904 plus 3.35% of excess</u>
47 <u>over \$60,000</u>	<u>over \$30,000</u>
48 <u>Over \$60,000</u>	<u>\$1,909 plus 3.4% of excess</u>
49	<u>over \$60,000</u>

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

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

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

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

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

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

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

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

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

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

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

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

17 § 5. Notwithstanding any provision of law to the contrary, the method  
18 of determining the amount to be deducted and withheld from wages on  
19 account of taxes imposed by or pursuant to the authority of article 30  
20 of the tax law in connection with the implementation of the provisions  
21 of this act shall be prescribed by the commissioner of taxation and  
22 finance with due consideration to the effect such withholding tables and  
23 methods would have on the receipt and amount of revenue. The commission-  
24 er of taxation and finance shall adjust such withholding tables and  
25 methods in regard to taxable years beginning in 2017 and after in such  
26 manner as to result, so far as practicable, in withholding from an  
27 employee's wages an amount substantially equivalent to the tax reason-  
28 ably estimated to be due for such taxable years as a result of the  
29 provisions of this act. Provided, however, for tax year 2017 the with-  
30 holding tables shall reflect as accurately as practicable the full  
31 amount of tax year 2017 liability so that such amount is withheld by  
32 December 31, 2017. In carrying out his or her duties and responsibil-  
33 ities under this section, the commissioner of taxation and finance may  
34 prescribe a similar procedure with respect to the taxes required to be  
35 deducted and withheld by local laws imposing taxes pursuant to the  
36 authority of articles 30, 30-A and 30-B of the tax law, the provisions  
37 of any other law in relation to such a procedure to the contrary  
38 notwithstanding.

39 § 6. 1. Notwithstanding any provision of law to the contrary, no addi-  
40 tion to tax shall be imposed for failure to pay the estimated tax in  
41 subsection (c) of section 685 of the tax law and subdivision (c) of  
42 section 11-1785 of the administrative code of the city of New York with  
43 respect to any underpayment of a required installment due prior to, or  
44 within thirty days of, the effective date of this act to the extent that  
45 such underpayment was created or increased by the amendments made by  
46 this act, provided, however, that the taxpayer remits the amount of any  
47 underpayment prior to or with his or her next quarterly estimated tax  
48 payment.

49 2. The commissioner of taxation and finance shall take steps to publi-  
50 cize the necessary adjustments to estimated tax and, to the extent  
51 reasonably possible, to inform the taxpayer of the tax liability changes  
52 made by this act.

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

3 PART D

4 Intentionally Omitted

5 PART E

6 Intentionally Omitted

7 PART F

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

13 § 928-a. Partial payment of taxes. 1. (a) Notwithstanding the  
14 provisions of any general or special law to the contrary, [~~the board of~~  
15 ~~supervisors or the county legislature of any county may by resolution~~  
16 ~~authorize the collecting officers in one or more of the classes of~~  
17 ~~municipal corporations described herein]~~ each collecting officer is  
18 hereby authorized to accept from any taxpayer at any time partial  
19 payments for or on account of taxes, special ad valorem levies or  
20 special assessments [~~in such amount or manner~~] and apply such payments  
21 on the account [~~thereof in such manner as may be prescribed by such~~  
22 ~~resolution; provided, however, that such resolution~~], following the  
23 adoption of a resolution by the governing body of the municipal corpo-  
24 ration that employs the collecting officer allowing partial payments.  
25 Such resolution may limit the conditions under which partial payments  
26 will be accepted, in which case partial payments shall be accepted in  
27 accordance with the conditions set forth in the resolution.

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

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

33 (d) Where school district taxes are payable to the collecting officer  
34 of a city or town that has acted to allow partial payments, the govern-  
35 ing body of the school district may pass a resolution allowing partial  
36 payments for school district purposes. Such resolution may limit the  
37 conditions under which partial payments may be accepted. Where a school  
38 district has passed a resolution allowing partial payments the collect-  
39 ing officer shall be authorized to accept partial payments of school  
40 district taxes under the same conditions as may apply to city or town  
41 taxes or under the conditions specified in the school district's resol-  
42 ution.

43 (e) Any resolution adopted pursuant to this section shall be adopted  
44 at least sixty days prior to the preparation and delivery of the tax  
45 rolls to the appropriate collecting officers. A copy of any resolution  
46 [~~enacting, amending or repealing any such partial payment program~~]  
47 adopted pursuant to this section, or amending or repealing a resolution  
48 adopted pursuant to this section, shall be filed with the commissioner  
49 and, in the case of a resolution adopted by a school district, with the

1 city or town clerk, no later than thirty days after the adoption there-  
2 of.

3 2. [~~Such resolution shall apply to one or more of the following class-~~  
4 ~~es of municipal corporations: (a) all towns within the county; (b) all~~  
5 ~~cities for which the county enforces the collection of delinquent taxes;~~  
6 ~~or (c) all villages for which the county enforces the collection of~~  
7 ~~delinquent taxes. If the resolution does not specify the class or class-~~  
8 ~~es of municipal corporations to which it applies, it shall be deemed to~~  
9 ~~apply only to the towns in the county.~~

10 ~~3.~~] After any partial payment authorized pursuant to this section has  
11 been paid, interest and penalties shall be charged against the unpaid  
12 balance only. The acceptance of a partial payment by any official pursu-  
13 ant to this section shall not be deemed to affect any liens and powers  
14 of any [~~county~~] municipal corporation conferred in any general or  
15 special act, but such rights and powers shall remain in full force and  
16 effect to enforce collection of the unpaid balance of such tax or tax  
17 liens together with interest, penalties and other lawful charges.

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

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

24 5. Nothing contained herein shall limit the ability of a collecting  
25 officer to accept partial payments of taxes authorized under any other  
26 general or special law.

27 § 2. This act shall take effect immediately.

28 PART G

29 Intentionally Omitted

30 PART H

31 Intentionally Omitted

32 PART I

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

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

46 § 2. This act shall take effect immediately.

47 PART J

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

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

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

11 PART K

12 Intentionally Omitted

13 PART L

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

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

19 1. "Approved provider" means an entity meeting such criteria as shall  
20 be established by the commissioner in rules and regulations promulgated  
21 pursuant to this article, that may provide eligible training to employ-  
22 ees of a business entity participating in the employee training incen-  
23 tive program; provided that, for internship programs, the business enti-  
24 ty shall be an approved provider or an approved provider in contract  
25 with such business entity. Such criteria shall ensure that any approved  
26 provider possess adequate credentials to provide the training described  
27 in an application by a business entity to the commissioner to partic-  
28 ipate in the employee training incentive program.

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

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

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

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

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

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

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

43 (vi) not culturally focused training; or

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

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

50 ~~(a) is new to the state;~~

51 ~~(b) has not been transferred from employment with another business~~  
52 ~~located in this state through an acquisition, merger, consolidation or~~

~~1 other reorganization of businesses or the acquisition of assets of  
2 another business, and has not been transferred from employment with a  
3 related person in this state;~~

~~4 (c) is either a full-time wage-paying job or equivalent to a full-time  
5 wage-paying job requiring at least thirty five hours per week;~~

~~6 (d) is filled for more than six months;~~

~~7 (e) is filled by a person who has received eligible training; and~~

~~8 (f) is comprised of tasks the performance of which required the person  
9 filling the job to undergo eligible training.] "Life sciences" means the~~

~~10 field of biotechnology, pharmaceuticals, biomedical technologies, life  
11 systems technologies, health informatics, health robotics or biomedical  
12 devices. "Life sciences company" is a business entity or an organization  
13 or institution that devotes the majority of its efforts in the various  
14 stages of research, development, technology transfer and commercializa-  
15 tion related to any life sciences field.~~

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

22 6. "Strategic industry" means an industry in this state, as estab-  
23 lished by the commissioner in regulations promulgated pursuant to this  
24 article, based upon the following criteria:

25 (a) shortages of workers trained to work within the industry;

26 (b) technological disruption in the industry, requiring significant  
27 capital investment for existing businesses to remain competitive;

28 (c) the ability of businesses in the industry to relocate outside of  
29 the state in order to attract talent;

30 (d) the potential to recruit minorities and women to be trained to  
31 work in the industry in which they are traditionally underrepresented;

32 (e) the potential to create jobs in economically distressed areas,  
33 which shall be based on criteria indicative of economic distress,  
34 including poverty rates, numbers of persons receiving public assistance,  
35 and unemployment rates; or

36 (f) such other criteria as shall be developed by the commissioner in  
37 consultation with the commissioner of labor.

38 § 2. Section 442 of the economic development law, as added by section  
39 1 of part O of chapter 59 of the laws of 2015, is amended to read as  
40 follows:

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

44 1. (a) The business entity must operate in the state predominantly in  
45 a strategic industry;

46 (b) The business entity must demonstrate that it is obtaining eligible  
47 training from an approved provider;

48 (c) The business entity must [~~create at least ten net new jobs or~~]  
49 make a significant capital investment in connection with the eligible  
50 training; and

51 (d) The business entity must be in compliance with all worker  
52 protection and environmental laws and regulations. In addition, the  
53 business entity may not owe past due state taxes or local property  
54 taxes; or

55 2. (a) The business entity, or an approved provider in contract with  
56 such business entity, must be approved by the commissioner to provide

1 eligible training in the form of an internship program in advanced tech-  
2 nology or at a life sciences company pursuant to paragraph (b) of subdivi-  
3 sion three of section four hundred forty-one of this article;

4 (b) The business entity must be located in the state;

5 (c) The business entity must be in compliance with all worker  
6 protection and environmental laws and regulations. In addition, the  
7 business entity must not have past due state taxes or local property  
8 taxes;

9 (d) The internship program shall not displace regular employees;

10 (e) The business entity must have less than one hundred employees; and

11 (f) Participation of an individual in an internship program shall not  
12 last more than a total of twelve months.

13 § 3. This act shall take effect immediately.

14 PART M

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

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

1 total of the credits allocated under this paragraph and the credits  
2 allocated under paragraph [~~five~~] six of subdivision (a) of section thir-  
3 ty-one of this article exceed five million dollars in any year during  
4 the period two thousand fifteen through two thousand [~~nineteen~~] twenty-  
5 two.

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

9 (4) Additional pool 2 - The aggregate amount of tax credits allowed in  
10 subdivision (a) of this section shall be increased by an additional four  
11 hundred twenty million dollars in each year starting in two thousand ten  
12 through two thousand [~~nineteen~~] twenty-two provided however, seven  
13 million dollars of the annual allocation shall be available for the  
14 empire state film post production credit pursuant to section thirty-one  
15 of this article in two thousand thirteen and two thousand fourteen and  
16 twenty-five million dollars of the annual allocation shall be available  
17 for the empire state film post production credit pursuant to section  
18 thirty-one of this article in each year starting in two thousand fifteen  
19 through two thousand [~~nineteen~~] twenty-two. This amount shall be allo-  
20 cated by the governor's office for motion picture and television devel-  
21 opment among taxpayers in accordance with subdivision (a) of this  
22 section. If the commissioner of economic development determines that the  
23 aggregate amount of tax credits available from additional pool 2 for the  
24 empire state film production tax credit have been previously allocated,  
25 and determines that the pending applications from eligible applicants  
26 for the empire state film post production tax credit pursuant to section  
27 thirty-one of this article is insufficient to utilize the balance of  
28 unallocated empire state film post production tax credits from such  
29 pool, the remainder, after such pending applications are considered,  
30 shall be made available for allocation in the empire state film tax  
31 credit pursuant to this section, subdivision twenty of section two  
32 hundred ten-B and subsection (gg) of section six hundred six of this  
33 chapter. Also, if the commissioner of economic development determines  
34 that the aggregate amount of tax credits available from additional pool  
35 2 for the empire state film post production tax credit have been previ-  
36 ously allocated, and determines that the pending applications from  
37 eligible applicants for the empire state film production tax credit  
38 pursuant to this section is insufficient to utilize the balance of unal-  
39 located film production tax credits from such pool, then all or part of  
40 the remainder, after such pending applications are considered, shall be  
41 made available for allocation for the empire state film post production  
42 credit pursuant to this section, subdivision thirty-two of section two  
43 hundred ten-B and subsection (qq) of section six hundred six of this  
44 chapter. The governor's office for motion picture and television devel-  
45 opment must notify taxpayers of their allocation year and include the  
46 allocation year on the certificate of tax credit. Taxpayers eligible to  
47 claim a credit must report the allocation year directly on their empire  
48 state film production credit tax form for each year a credit is claimed  
49 and include a copy of the certificate with their tax return. In the case  
50 of a qualified film that receives funds from additional pool 2, no  
51 empire state film production credit shall be claimed before the later of  
52 the taxable year the production of the qualified film is complete, or  
53 the taxable year immediately following the allocation year for which the  
54 film has been allocated credit by the governor's office for motion  
55 picture and television development.

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

4 (6) For the period two thousand fifteen through two thousand [~~nine-~~  
5 ~~teen~~] twenty-two, in addition to the amount of credit established in  
6 paragraph two of subdivision (a) of this section, a taxpayer shall be  
7 allowed a credit equal to the product (or pro rata share of the product,  
8 in the case of a member of a partnership) of ten percent and the amount  
9 of wages or salaries paid to individuals directly employed (excluding  
10 those employed as writers, directors, music directors, producers and  
11 performers, including background actors with no scripted lines) for  
12 services performed by those individuals in one of the counties specified  
13 in this paragraph in connection with the post production work on a qual-  
14 ified film with a minimum budget of five hundred thousand dollars at a  
15 qualified post production facility in one of the counties listed in this  
16 paragraph. For purposes of this additional credit, the services must be  
17 performed in one or more of the following counties: Albany, Allegany,  
18 Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton,  
19 Cortland, Delaware, Erie, Essex, Franklin, Fulton, Genesee, Hamilton,  
20 Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery,  
21 Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Schenecta-  
22 dy, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Tioga, Tompkins,  
23 Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed  
24 pursuant to the authority of this paragraph shall be five million  
25 dollars each year during the period two thousand fifteen through two  
26 thousand [~~nineteen~~] twenty-two of the annual allocation made available  
27 to the empire state film post production credit pursuant to paragraph  
28 four of subdivision (e) of section twenty-four of this article. Such  
29 aggregate amount of credits shall be allocated by the governor's office  
30 for motion picture and television development among taxpayers in order  
31 of priority based upon the date of filing an application for allocation  
32 of post production credit with such office. If the total amount of allo-  
33 cated credits applied for under this paragraph in any year exceeds the  
34 aggregate amount of tax credits allowed for such year under this para-  
35 graph, such excess shall be treated as having been applied for on the  
36 first day of the next year. If the total amount of allocated tax credits  
37 applied for under this paragraph at the conclusion of any year is less  
38 than five million dollars, the remainder shall be treated as part of the  
39 annual allocation for two thousand seventeen made available to the  
40 empire state film post production credit pursuant to paragraph four of  
41 subdivision (e) of section twenty-four of this article. However, in no  
42 event may the total of the credits allocated under this paragraph and  
43 the credits allocated under paragraph five of subdivision (a) of section  
44 twenty-four of this article exceed five million dollars in any year  
45 during the period two thousand fifteen through two thousand [~~nineteen~~]  
46 twenty-two.

47 § 4. This act shall take effect immediately.

48

## PART N

49 Section 1. This act enacts into law major components of legislation  
50 which relate to tax incentives. Each component is wholly contained  
51 within a Subpart identified as Subparts A and B. The effective date for  
52 each particular provision contained within such Subpart is set forth in  
53 the last section of such Subpart. Any provision in any section contained  
54 within a Subpart, including the effective date of the Subpart, which

1 makes a reference to a section "of this act", when used in connection  
2 with that particular component, shall be deemed to mean and refer to the  
3 corresponding section of the Subpart in which it is found. Section three  
4 of this act sets forth the general effective date of this act.

5 SUBPART A

6 Section 1. The section heading and subdivision (a), paragraph 3 of  
7 subdivision (b), and subdivisions (d) and (e) of section 25-a of the  
8 labor law, the section heading and subdivisions (d) and (e) as amended  
9 by section 1 of part AA of chapter 56 of the laws of 2015, subdivision  
10 (a) as amended by section 1 of part VV of chapter 60 of the laws of  
11 2016, and paragraph 3 of subdivision (b) as added by section 2 of part  
12 VV of chapter 60 of the laws of 2016, are amended to read as follows:

13 Power to administer the [~~urban~~] New York youth jobs program tax cred-  
14 it.

15 (a) The commissioner is authorized to establish and administer the  
16 program established under this section to provide tax incentives to  
17 employers for employing at risk youth in part-time and full-time posi-  
18 tions. There will be [~~five~~] ten distinct pools of tax incentives.  
19 Program one will cover tax incentives allocated for two thousand twelve  
20 and two thousand thirteen. Program two will cover tax incentives allo-  
21 cated in two thousand fourteen. Program three will cover tax incentives  
22 allocated in two thousand fifteen. Program four will cover tax incen-  
23 tives allocated in two thousand sixteen. Program five will cover tax  
24 incentives allocated in two thousand seventeen. Program six will cover  
25 tax incentives allocated in two thousand eighteen. Program seven will  
26 cover tax incentives allocated in two thousand nineteen. Program eight  
27 will cover tax incentives allocated in two thousand twenty. Program  
28 nine will cover tax incentives allocated in two thousand twenty-one.  
29 Program ten will cover tax incentives allocated in two thousand twenty-  
30 two. The commissioner is authorized to allocate up to twenty-five  
31 million dollars of tax credits under program one, ten million dollars of  
32 tax credits under program two, twenty million dollars of tax credits  
33 under program three, and fifty million dollars of tax credits under each  
34 [~~of programs four and five~~] subsequent program.

35 (3) For programs four [~~and~~], five, six, seven, eight, nine and ten,  
36 the tax credit under each program shall be allocated as follows: (i)  
37 [~~thirty~~] twenty-five million dollars of tax credit for qualified employ-  
38 ees; [~~and~~] (ii) [~~twenty~~] fifteen million dollars of tax credit for indi-  
39 viduals who meet all of the requirements for a qualified employee except  
40 for the residency requirement of subparagraph (ii) of paragraph two of  
41 this subdivision, which individuals shall be deemed to meet the residen-  
42 cy requirements of subparagraph (ii) of paragraph two of this subdivi-  
43 sion if they reside in New York state; and (iii) ten million dollars of  
44 tax credit for the empire state apprenticeship program tax credit estab-  
45 lished under section twenty-five-c of the labor law.

46 (d) To participate in the program established under this section, an  
47 employer must submit an application (in a form prescribed by the commis-  
48 sioner) to the commissioner after January first, [~~two thousand twelve~~]  
49 but no later than November thirtieth[~~, two thousand twelve for program~~  
50 ~~one, after January first, two thousand fourteen but no later than Novem-~~  
51 ~~ber thirtieth, two thousand fourteen for program two, after January~~  
52 ~~first, two thousand fifteen but no later than November thirtieth, two~~  
53 ~~thousand fifteen for program three, after January first, two thousand~~  
54 ~~sixteen but no later than November thirtieth, two thousand sixteen for~~

1 ~~program four, and after January first, two thousand seventeen but no~~  
 2 ~~later than November thirtieth, two thousand seventeen for program five]~~  
 3 of each program year. The qualified employees must start their employ-  
 4 ment on or after January first, [~~two thousand twelve~~] but no later than  
 5 December thirty-first, [~~two thousand twelve for program one, on or after~~  
 6 ~~January first, two thousand fourteen but no later than December thirty-~~  
 7 ~~first, two thousand fourteen for program two, on or after January first,~~  
 8 ~~two thousand fifteen but no later than December thirty-first, two thou-~~  
 9 ~~sand fifteen for program three, on or after January first, two thousand~~  
 10 ~~sixteen but no later than December thirty-first, two thousand sixteen~~  
 11 ~~for program four, and on or after January first, two thousand seventeen~~  
 12 ~~but no later than December thirty-first, two thousand seventeen for~~  
 13 ~~program five] of each program year. The commissioner shall establish  
 14 guidelines and criteria that specify requirements for employers to  
 15 participate in the program including criteria for certifying qualified  
 16 employees, ensuring that the process established will minimize any undue  
 17 delay in issuing the certificate of eligibility. Any regulations that  
 18 the commissioner determines are necessary may be adopted on an emergency  
 19 basis notwithstanding anything to the contrary in section two hundred  
 20 two of the state administrative procedure act. Such requirements may  
 21 include the types of industries that the employers are engaged in and  
 22 may include on-the-job training and skill development opportunities such  
 23 employer can provide to the qualified individual. The commissioner may  
 24 give preference to employers that are engaged in demand occupations or  
 25 industries, or in regional growth sectors, including but not limited to  
 26 those identified by the regional economic development councils, such as  
 27 clean energy, healthcare, advanced manufacturing and conservation. In  
 28 addition, the commissioner shall give preference to employers who offer  
 29 advancement and employee benefit packages to the qualified individuals.~~

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

37 § 2. The subdivision heading of subdivision 36 of section 210-B of the  
 38 tax law, as amended by section 2 of part AA of chapter 56 of the laws of  
 39 2015, is amended to read as follows:

40 [~~Urban~~] New York youth jobs program tax credit.

41 § 3. The subsection heading of subsection (tt) of section 606 of the  
 42 tax law, as amended by section 3 of part AA of chapter 56 of the laws of  
 43 2015, is amended to read as follows:

44 [~~Urban~~] New York youth jobs program tax credit.

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

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

51 § 5. This act shall take effect immediately; provided, however, the  
 52 amendments to paragraph 3 of subdivision (b) of section 25-a of the  
 53 labor law made by section one of this act shall apply to taxable years  
 54 commencing on or after January 1, 2018.

1 Section 1. The labor law is amended by adding a new section 25-c to  
2 read as follows:

3 § 25-c. Power to administer the empire state apprenticeship tax credit  
4 program. (a) The commissioner is authorized to establish and administer  
5 the empire state apprenticeship tax credit program to provide tax incen-  
6 tives to qualified and certified employers for employing qualified  
7 apprentices pursuant to an apprenticeship agreement registered with the  
8 department pursuant to paragraph (d) of subdivision one of section eight  
9 hundred eleven of this chapter. The commissioner is authorized to  
10 provide tax credits to be allocated up to ten million dollars of tax  
11 credits annually, beginning taxable year two thousand eighteen and  
12 ending before taxable year two thousand twenty-three pursuant to subpar-  
13 agraph (iii) of paragraph three of subdivision (b) of section twenty-  
14 five-a of this article. Those employers who are eligible for a tax cred-  
15 it under this program and hire an apprentice within this timeframe are  
16 eligible to continue receiving this tax credit until the apprentice has  
17 completed the apprenticeship for a period of time not to exceed five  
18 years. Any unused allocation of the credit shall be made available in  
19 each of the subsequent taxable years for all eligible years of the  
20 apprenticeship allowed under subdivisions (c) and (d) of this section.  
21 Any amount of tax credits not awarded for a particular year in years two  
22 thousand eighteen through two thousand twenty-two may be used by the  
23 commissioner to award tax credits in another taxable year.

24 (b) Definitions. (1) The term "apprenticeship agreement" means the  
25 agreement as defined by section eight hundred sixteen of this chapter.

26 (2) The term "qualified employer" means an employer that has entered  
27 into a registered apprenticeship agreement. For the purposes of this  
28 section a "qualified employer" shall not include an employer that is a  
29 contractor or subcontractor who is a partnership, firm, corporation,  
30 limited liability company, association or other legal entity permitted  
31 by law to do business within the state who engages in construction as  
32 defined in this section and whose apprenticeship agreement includes  
33 skills related to the construction industry.

34 (3) For purposes of this section, the term "construction" means  
35 constructing, reconstructing, altering, maintaining, moving, rehabili-  
36 tating, repairing, renovating, fabricating, servicing, or demolition of  
37 any building, structure, or improvement, or component, or relating to  
38 the excavation of or other development or improvement to land.

39 (4) The term "certified employer" means a qualified employer that has  
40 been certified as eligible by the commissioner to participate in the  
41 empire state apprenticeship tax credit program established in this  
42 section.

43 (5) The term "qualified apprentice" means an individual employed in a  
44 full time position for at least six months of a taxable year and who has  
45 entered into an agreement with a qualified employer pursuant to section  
46 eight hundred sixteen of this chapter.

47 (6) The term "disadvantaged youth" means an individual:

48 (i) who is between the age of sixteen and twenty-four when they begin  
49 their apprenticeship; and

50 (ii) who is low-income or at-risk, as those terms are defined by the  
51 commissioner.

52 (7) The term "mentor" means an individual who provides instruction,  
53 guidance, and support to the apprentice on a regular basis throughout  
54 their apprenticeship until the completion of their apprenticeship and  
55 for the year after they complete their apprenticeship as the apprentice  
56 seeks employment in the field or industry of their apprenticeship. The

1 goal of the mentor is to help train the apprentice in his or her trade  
2 and to help the apprentice successfully complete the apprenticeship and  
3 to secure and retain employment.

4 (c) A certified employer shall be entitled to a tax credit against  
5 income tax for each qualified apprentice for tax year equal to: (1) the  
6 lesser of two thousand dollars or the total amount of wages paid for the  
7 first year of the apprenticeship; (2) the lesser of three thousand  
8 dollars or the total amount of wages paid for the second year of the  
9 apprenticeship; and (3) the lesser of four thousand dollars or the total  
10 amount of wages paid for each of the third, fourth, and fifth years of  
11 the apprenticeship.

12 (d) (1) A certified employer shall be entitled to a tax credit in lieu  
13 of the credit as specified in subdivision (c) of this section against  
14 income tax for each qualified apprentice who is considered a disadvan-  
15 tagged youth for each tax year equal to: (A) the lesser of five thousand  
16 dollars or the total amount of wages paid for the first year of the  
17 apprenticeship; (B) the lesser of six thousand dollars or the total  
18 amount of wages paid for the second year of the apprenticeship; and (C)  
19 the lesser of seven thousand dollars or the total amount of wages paid  
20 for each of the third, fourth, and fifth years of the apprenticeship. If  
21 a disadvantaged youth begins an apprenticeship before the age of twen-  
22 ty-five, a certified employer shall be eligible to continue to receive  
23 the tax credit for which the employer was certified until said appren-  
24 tice completes the apprenticeship.

25 (2) A certified employer shall be entitled to an enhanced tax credit  
26 if the employer can show that the apprentice for which the employer  
27 received the tax credit pursuant to this subdivision is being trained in  
28 his or her trade by a mentor as defined in this section. The enhanced  
29 credit shall be an additional five hundred dollars for each year of the  
30 apprenticeship in addition to the base tax credit described in this  
31 subdivision and subdivision (c) of this section.

32 (e) To participate in the program established under this section, a  
33 qualified employer must submit an application (in a form prescribed by  
34 the commissioner) to the commissioner after January first, but no later  
35 than November thirtieth of each year during taxable years the credit is  
36 allocated. A qualified apprentice must start employment on or after  
37 January first but no later than December thirty-first, of the year for  
38 which the qualified employer seeks the tax credit.

39 (f) As part of such application, each qualified employer must:

40 (1) Agree to allow the department of taxation and finance to share its  
41 tax information with the department. However, any information shared as  
42 a result of this agreement shall not be available for disclosure or  
43 inspection under the state freedom of information law.

44 (2) Allow the department and its agents access to any and all books  
45 and records the department may require to monitor compliance.

46 (g) The commissioner shall establish guidelines and criteria that  
47 specify requirements for qualified employers to participate in the  
48 program including criteria for certifying qualified apprentices. Any  
49 regulations that the commissioner determines are necessary and are  
50 consistent with the purpose of this article may be adopted on an emer-  
51 gency basis notwithstanding any provisions to the contrary in the state  
52 administrative procedure act.

53 (h)(i) If, after reviewing the application submitted by a qualified  
54 employer, the commissioner determines that such qualified employer is  
55 eligible to participate in the program established under this section,  
56 the commissioner shall issue the qualified employer a certificate within

1 ninety days of application of eligibility that establishes the qualified  
2 employer as a certified employer. The certificate of eligibility shall  
3 specify the maximum amount of tax credit that the certified employer  
4 will be allowed to claim.

5 (ii) For each subsequent annual application submitted by a qualified  
6 employer who was certified by the commissioner in a prior tax year, the  
7 commissioner may consider the following factors when determining if the  
8 qualified employer should be re-certified:

9 (A) the length of the apprenticeship agreement the employer has  
10 entered into;

11 (B) how many apprentices have graduated from the apprenticeship  
12 program to which the qualified apprentice employed by the employer  
13 belongs;

14 (C) how many apprentices in the first, second, third, fourth, or fifth  
15 year of an apprenticeship program the qualified employer has hired; and

16 (D) any other factors the commissioner deems relevant.

17 (i) A certified employer that employs a qualified apprentice pursuant  
18 to an apprenticeship agreement as defined by section eight hundred  
19 sixteen of this article that requires the apprentice to be taught trade  
20 or craft divisions by more than one employer shall be eligible for the  
21 credit based on the total number of hours such apprentice is employed by  
22 each such employer if the total number of hours employed exceeds the  
23 minimum number of hours required to be a qualified apprenticeship under  
24 paragraph five of subdivision (b) of this section, as determined pursu-  
25 ant to regulations of the department.

26 (j) The commissioner shall annually publish a report within one  
27 hundred eighty days of the close of the tax year. Such report must  
28 contain the names and addresses of any certified employer issued a  
29 certificate of eligibility under this section, the maximum amount of  
30 empire state apprenticeship tax credit allowed to the certified employer  
31 as specified on such certificate of eligibility, the number of employers  
32 who received tax credits for employing one or more disadvantaged youths,  
33 the total number of disadvantaged youths for which such credits are  
34 awarded, the number of apprentices hired broken down by age, race,  
35 gender, and how they meet the definition of disadvantaged as defined in  
36 paragraph six of subdivision (b) of this section, the number of total  
37 and new certificates granted each year, the total dollar amount of cred-  
38 its claimed to date, and the number of years credits have been received  
39 for individual apprentices. The commissioner shall include in such  
40 report recommendations for legislative or other action to further the  
41 intent and purpose of the empire state apprenticeship tax credit  
42 program. The annual report shall be aligned with the goals of the New  
43 York state workforce innovation and opportunity act four year combine  
44 state plan where appropriate.

45 (k) The commissioner shall promote, publish and disseminate informa-  
46 tion concerning the empire state apprenticeship tax credit and other  
47 available funding, particularly targeting industries and fields of busi-  
48 ness not currently taking advantage of apprenticeships, employers  
49 engaged in demand occupations or industries, or in regional growth  
50 sectors, including those identified by the department, such as clean  
51 energy, health care, advanced manufacturing and conservation, and minor-  
52 ity- and women-owned businesses.

53 § 2. Section 210-B of the tax law is amended by adding a new subdivi-  
54 sion 49 to read as follows:

55 49. Empire state apprenticeship tax credit. (a) A taxpayer that has  
56 been certified by the commissioner of labor as a certified employer

1 pursuant to section twenty-five-c of the labor law shall be allowed a  
2 credit against the tax imposed by this article, for each qualified  
3 apprentice, up to (i) two thousand five hundred dollars for the first  
4 year of the apprenticeship; (ii) three thousand five hundred dollars for  
5 the second year of the apprenticeship; (iii) four thousand five hundred  
6 dollars for the third year of the apprenticeship; (iv) four thousand  
7 five hundred dollars for the fourth year of the apprenticeship; and (v)  
8 four thousand five hundred dollars for the fifth year of the apprentice-  
9 ship. For purposes of this subdivision, the term "qualified apprentice"  
10 shall have the same meaning as set forth in subdivision (b) of section  
11 twenty-five-c of the labor law. The portion of the credit described in  
12 subparagraphs (i) through (v) of this paragraph shall be allowed for the  
13 taxable years in which the wages are paid to the qualified apprentice.

14 (b) The credit allowed under this subdivision for any taxable year may  
15 not reduce the tax due for that year to less than the amount prescribed  
16 in paragraph (d) of subdivision one of section two hundred ten of this  
17 article. However, if the amount of the credit allowed under this subdivi-  
18 vision for any taxable year reduces the tax to that amount or if the  
19 taxpayer otherwise pays tax based on the fixed dollar minimum amount,  
20 any amount of credit not deductible in that taxable year will be treated  
21 as an overpayment of tax to be credited or refunded in accordance with  
22 the provisions of section one thousand eighty-six of this chapter.  
23 Provided, however, no interest will be paid thereon.

24 (c) A taxpayer shall be entitled to a tax credit, in lieu of the cred-  
25 it as specified in subdivision (c) of section twenty-five-c of the labor  
26 law, against income tax for each qualified apprentice who is considered  
27 a disadvantaged youth, pursuant to section twenty-five-c of the labor  
28 law, for each tax year equal to: (i) the lesser of five thousand five  
29 hundred dollars or the total amount of wages paid for the first year of  
30 the apprenticeship; (ii) the lesser of six thousand five hundred dollars  
31 of the total amount of wages paid for the second year of the apprentice-  
32 ship; and (iii) the lesser of seven thousand five hundred dollars or the  
33 total amount of wages paid for each of the third, fourth, and fifth  
34 years of the apprenticeship.

35 (d) The taxpayer shall be required to attach to its tax return its  
36 certificate of eligibility issued by the commissioner of labor pursuant  
37 to section twenty-five-c of the labor law. In no event shall the taxpay-  
38 er be allowed a credit greater than the amount of the credit listed on  
39 the certificate of eligibility. Notwithstanding any provision of this  
40 chapter to the contrary, the commissioner and the commissioner's desig-  
41 nees shall release the names and addresses of any taxpayer claiming this  
42 credit and the amount of the credit earned by the taxpayer. Provided,  
43 however, if a taxpayer claims this credit because it is a member of a  
44 limited liability company or a partner in a partnership, only the amount  
45 of credit earned by the entity and not the amount of credit claimed by  
46 the taxpayer may be released.

47 (e) No wage paid by a taxpayer as the basis for the allowance of the  
48 credit provided under this section shall be used by such taxpayer to  
49 claim or calculate any other tax credit provided under this chapter.

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

52 (ccc) Empire state apprenticeship tax credit. (1)(A) (i) A taxpayer  
53 that has been certified by the commissioner of labor as a certified  
54 employer pursuant to section twenty-five-c of the labor law shall be  
55 allowed a credit against the tax imposed by this article, for each qual-  
56 ified apprentice, up to (I) two thousand five hundred dollars for the

1 first year of the apprenticeship; (II) three thousand five hundred  
 2 dollars for the second year of the apprenticeship; (III) four thousand  
 3 five hundred dollars for the third year of the apprenticeship; (IV) four  
 4 thousand five hundred dollars for the fourth year of the apprenticeship;  
 5 and (V) four thousand five hundred dollars for the fifth year of the  
 6 apprenticeship.

7 (ii) A taxpayer that has been certified by the commissioner of labor  
 8 as a certified employer pursuant to section twenty-five-c of the labor  
 9 law shall be allowed a credit, in lieu of the credit as specified in  
 10 subdivision (c) of section twenty-five-c of the labor law, against the  
 11 tax imposed by this article, for each qualified apprentice who is  
 12 considered a disadvantaged youth, pursuant to section twenty-five-c of  
 13 the labor law, up to (I) the five thousand five hundred dollars or the  
 14 total amount of wages paid for the first year of the apprenticeship;  
 15 (II) six thousand five hundred dollars for the second year of the  
 16 apprenticeship; and (III) seven thousand five hundred dollars for each  
 17 of the third, fourth, and fifth years of the apprenticeship.

18 (B) A taxpayer that is a partner in a partnership, member of a limited  
 19 liability company or shareholder in an S corporation that has been  
 20 certified by the commissioner of labor as a certified employer pursuant  
 21 to section twenty-five-c of the labor law shall be allowed its pro rata  
 22 share of the credit earned by the partnership, limited liability company  
 23 or S corporation.

24 (C) For purposes of this subsection, the term "qualified apprentice"  
 25 shall have the same meaning as set forth in subdivision (b) of section  
 26 twenty-five-c of the labor law. The portion of the credit described in  
 27 item (I) through (V) of clause (i) of subparagraph (A) of this paragraph  
 28 shall be allowed for the taxable years in which the wages are paid to  
 29 the qualified apprentice.

30 (2) If the amount of the credit allowed under this subsection exceeds  
 31 the taxpayer's tax for the taxable year, any amount of credit not deduc-  
 32 ible in that taxable year will be treated as an overpayment of tax to  
 33 be credited or refunded in accordance with the provisions of section six  
 34 hundred eighty-six of this article. Provided, however, no interest will  
 35 be paid thereon.

36 (3) The taxpayer shall be required to attach to its tax return its  
 37 certificate of eligibility issued by the commissioner of labor pursuant  
 38 to section twenty-five-c of the labor law. In no event shall the taxpay-  
 39 er be allowed a credit greater than the amount of the credit listed on  
 40 the certificate of eligibility. Notwithstanding any provision of this  
 41 chapter to the contrary, the commissioner and the commissioner's desig-  
 42 nees shall release the names and addresses of any taxpayer claiming this  
 43 credit and the amount of the credit earned by the taxpayer. Provided,  
 44 however, if a taxpayer claims this credit because it is a member of a  
 45 limited liability company, a partner in a partnership, or a shareholder  
 46 in a subchapter S corporation, only the amount of credit earned by the  
 47 entity and not the amount of credit claimed by the taxpayer may be  
 48 released.

49 (4) No wage paid by a taxpayer as the basis for the allowance of the  
 50 credit provided under this section shall be used by such taxpayer to  
 51 claim or calculate any other tax credit provided under this chapter.

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

55 <u>(xliiii) Empire state apprenticeship</u>	<u>Amount of credit under</u>
56 <u>tax credit under subsection</u>	<u>subdivision forty-nine of</u>

1 (ccc) section two hundred ten-B

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

4 § 2. This act shall take effect immediately provided, however, that  
5 the applicable effective date of Subparts A and B of this act shall be  
6 as specifically set forth in the last section of such Subparts.

7 PART O

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

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

14 § 2. Paragraph (f) of subdivision 30 of section 210-B of the tax law,  
15 as added by section 17 of part A of chapter 59 of the laws of 2014, is  
16 amended to read as follows:

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

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

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

26 § 4. This act shall take effect immediately.

27 PART P

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

31 (i) A credit shall be allowed under this subdivision with respect to  
32 tangible personal property and other tangible property, including build-  
33 ings and structural components of buildings, which are: depreciable  
34 pursuant to section one hundred sixty-seven of the internal revenue  
35 code, have a useful life of four years or more, are acquired by purchase  
36 as defined in section one hundred seventy-nine (d) of the internal  
37 revenue code, have a situs in this state and are (A) principally used by  
38 the taxpayer in the production of goods by manufacturing, processing,  
39 assembling, refining, mining, extracting, farming, agriculture, horti-  
40 culture, floriculture, viticulture or commercial fishing, (B) industrial  
41 waste treatment facilities or air pollution control facilities, used in  
42 the taxpayer's trade or business, (C) research and development property,  
43 or (D) principally used in the ordinary course of the taxpayer's trade  
44 or business as a broker or dealer in connection with the purchase or  
45 sale (which shall include but not be limited to the issuance, entering  
46 into, assumption, offset, assignment, termination, or transfer) of  
47 stocks, bonds or other securities as defined in section four hundred  
48 seventy-five (c)(2) of the Internal Revenue Code, or of commodities as  
49 defined in section four hundred seventy-five (e) of the Internal Revenue  
50 Code, (E) principally used in the ordinary course of the taxpayer's  
51 trade or business of providing investment advisory services for a regu-  
52 lated investment company as defined in section eight hundred fifty-one

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

1 subparagraph the employment test will be based on the number of employ-  
2 ees located in this state on the last day of the first taxable year the  
3 taxpayer is subject to tax in this state. If the uses of the property  
4 must be aggregated to determine whether the property is principally used  
5 in qualifying uses, then either each affiliate using the property must  
6 satisfy this employment test or this employment test must be satisfied  
7 through the aggregation of the employees of the taxpayer, its affiliated  
8 regulated broker, dealer, and registered investment adviser using the  
9 property. For purposes of [~~this subdivision, the term "goods" shall not~~  
10 ~~include electricity~~] clause (A) of this subparagraph, tangible personal  
11 property and other tangible property shall not include property princi-  
12 pally used by the taxpayer (I) in the production or distribution of  
13 electricity, natural gas, steam, or water delivered through pipes and  
14 mains, or (II) in the creation, production or reproduction, in any medi-  
15 um, of a film, visual or audio recording, or commercial, where the costs  
16 associated with such creation, production or reproduction are incurred  
17 outside of this state, or in the duplication, for purposes of broadcast  
18 in any medium, of a master of a film, visual or audio recording, or  
19 commercial, where the costs associated with such duplication are  
20 incurred outside of this state.

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

24 (A) A credit shall be allowed under this subsection with respect to  
25 tangible personal property and other tangible property, including build-  
26 ings and structural components of buildings, which are: depreciable  
27 pursuant to section one hundred sixty-seven of the internal revenue  
28 code, have a useful life of four years or more, are acquired by purchase  
29 as defined in section one hundred seventy-nine (d) of the internal  
30 revenue code, have a situs in this state and are (i) principally used by  
31 the taxpayer in the production of goods by manufacturing, processing,  
32 assembling, refining, mining, extracting, farming, agriculture, horti-  
33 culture, floriculture, viticulture or commercial fishing, (ii) indus-  
34 trial waste treatment facilities or air pollution control facilities,  
35 used in the taxpayer's trade or business, (iii) research and development  
36 property, (iv) principally used in the ordinary course of the taxpayer's  
37 trade or business as a broker or dealer in connection with the purchase  
38 or sale (which shall include but not be limited to the issuance, enter-  
39 ing into, assumption, offset, assignment, termination, or transfer) of  
40 stocks, bonds or other securities as defined in section four hundred  
41 seventy-five (c)(2) of the Internal Revenue Code, or of commodities as  
42 defined in section 475(e) of the Internal Revenue Code, (v) principally  
43 used in the ordinary course of the taxpayer's trade or business of  
44 providing investment advisory services for a regulated investment compa-  
45 ny as defined in section eight hundred fifty-one of the Internal Revenue  
46 Code, or lending, loan arrangement or loan origination services to  
47 customers in connection with the purchase or sale (which shall include  
48 but not be limited to the issuance, entering into, assumption, offset,  
49 assignment, termination, or transfer) of securities as defined in  
50 section four hundred seventy-five (c)(2) of the Internal Revenue Code,  
51 or (vi) principally used as a qualified film production facility includ-  
52 ing qualified film production facilities having a situs in an empire  
53 zone designated as such pursuant to article eighteen-B of the general  
54 municipal law, where the taxpayer is providing three or more services to  
55 any qualified film production company using the facility, including such  
56 services as a studio lighting grid, lighting and grip equipment, multi-

1 line phone service, broadband information technology access, industrial  
2 scale electrical capacity, food services, security services, and heat-  
3 ing, ventilation and air conditioning. For purposes of clauses (iv) and  
4 (v) of this subparagraph, property purchased by a taxpayer affiliated  
5 with a regulated broker, dealer, or registered investment adviser is  
6 allowed a credit under this subsection if the property is used by its  
7 affiliated regulated broker, dealer or registered investment adviser in  
8 accordance with this subsection. For purposes of determining if the  
9 property is principally used in qualifying uses, the uses by the taxpay-  
10 er described in clauses (iv) and (v) of this subparagraph may be aggre-  
11 gated. In addition, the uses by the taxpayer, its affiliated regulated  
12 broker, dealer and registered investment adviser under either or both of  
13 those clauses may be aggregated. Provided, however, a taxpayer shall not  
14 be allowed the credit provided by clauses (iv) and (v) of this subpara-  
15 graph unless (I) eighty percent or more of the employees performing the  
16 administrative and support functions resulting from or related to the  
17 qualifying uses of such equipment are located in this state, or (II) the  
18 average number of employees that perform the administrative and support  
19 functions resulting from or related to the qualifying uses of such  
20 equipment and are located in this state during the taxable year for  
21 which the credit is claimed is equal to or greater than ninety-five  
22 percent of the average number of employees that perform these functions  
23 and are located in this state during the thirty-six months immediately  
24 preceding the year for which the credit is claimed, or (III) the number  
25 of employees located in this state during the taxable year for which the  
26 credit is claimed is equal to or greater than ninety percent of the  
27 number of employees located in this state on December thirty-first,  
28 nineteen hundred ninety-eight or, if the taxpayer was not a calendar  
29 year taxpayer in nineteen hundred ninety-eight, the last day of its  
30 first taxable year ending after December thirty-first, nineteen hundred  
31 ninety-eight. If the taxpayer becomes subject to tax in this state after  
32 the taxable year beginning in nineteen hundred ninety-eight, then the  
33 taxpayer is not required to satisfy the employment test provided in the  
34 preceding sentence of this subparagraph for its first taxable year. For  
35 the purposes of clause (III) of this subparagraph the employment test  
36 will be based on the number of employees located in this state on the  
37 last day of the first taxable year the taxpayer is subject to tax in  
38 this state. If the uses of the property must be aggregated to determine  
39 whether the property is principally used in qualifying uses, then either  
40 each affiliate using the property must satisfy this employment test or  
41 this employment test must be satisfied through the aggregation of the  
42 employees of the taxpayer, its affiliated regulated broker, dealer, and  
43 registered investment adviser using the property. For purposes of [~~this  
44 subsection, the term "goods" shall not include electricity~~] clause (i)  
45 of this subparagraph, tangible personal property and other tangible  
46 property shall not include property principally used by the taxpayer (a)  
47 in the production or distribution of electricity, natural gas, steam, or  
48 water delivered through pipes and mains, or (b) in the creation,  
49 production or reproduction, in any medium, of a film, visual or audio  
50 recording, or commercial, where the costs associated with such creation,  
51 production or reproduction are incurred outside of this state, or in the  
52 duplication, for purposes of broadcast in any medium, of a master of a  
53 film, visual or audio recording, or commercial, where the costs associ-  
54 ated with such duplication are incurred outside of this state.

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

1

PART Q

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

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

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

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

44

PART R

45

Intentionally Omitted

46

PART S

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

50 (g)(1) With respect to an individual whose New York adjusted gross  
 51 income is over one million dollars and no more than ten million dollars,

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

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

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

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

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

38 § 3. This act shall take effect immediately.

39 PART T

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

42 (1-a) For taxable years beginning after two thousand seventeen, for a  
 43 taxpayer with New York adjusted gross income of at least fifty thousand  
 44 dollars but less than one hundred fifty thousand dollars, the applicable  
 45 percentage shall be the applicable percentage otherwise computed under  
 46 paragraph one of this subsection multiplied by a factor as follows:

<u>If New York adjusted gross</u>	<u>The factor is:</u>
<u>income is:</u>	
<u>At least \$50,000 and less</u>	
<u>than \$55,000</u>	<u>1.1682</u>
<u>At least \$55,000 and less</u>	
<u>than \$60,000</u>	<u>1.2733</u>
<u>At least \$60,000 and less</u>	
<u>than \$65,000</u>	<u>2.322</u>

1 At least \$65,000 and less  
 2 than \$150,000 3.000  
 3 § 2. This act shall take effect immediately.

4 PART U

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

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

15 (a) To assist the commissioner in the collection of debts, the depart-  
 16 ment must develop and operate a financial institution data match system  
 17 for the purpose of identifying and seizing the non-exempt assets of tax  
 18 debtors as identified by the commissioner. The commissioner is author-  
 19 ized to designate a third party to develop and operate this system.  
 20 Notwithstanding any other provisions of this chapter, the commissioner  
 21 is authorized to disclose the debt and the debtor information to such  
 22 third party and to financial institutions for purposes of this system.  
 23 Any third party designated by the commissioner to develop and operate a  
 24 financial data match system must keep all information it obtains from  
 25 both the department and the financial institution confidential, and any  
 26 employee, agent or representative of that third party is prohibited from  
 27 disclosing that information to anyone other than the department or the  
 28 financial institution.

29 § 2. This act shall take effect immediately.

30 PART V

31 Intentionally Omitted

32 PART W

33 Intentionally Omitted

34 PART X

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

40 § 2. This act shall take effect immediately and shall expire and be  
 41 deemed repealed on and after April 1, [~~2017~~] 2019.

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

44 PART Y

1 Section 1. Subdivision 1-A of section 208 of the tax law, as amended  
2 by section 4 of part A of chapter 59 of the laws of 2014, is amended to  
3 read as follows:

4 1-A. The term "New York S corporation" means, with respect to any  
5 taxable year, a corporation subject to tax under this article [~~for which~~  
6 ~~an election is in effect pursuant to subsection (a) of section six~~  
7 ~~hundred sixty of this chapter for such year~~] and described in subsection  
8 (b) of section six hundred sixty of this chapter, and any such year  
9 shall be denominated a "New York S year" [~~, and such election shall be~~  
10 ~~denominated a "New York S election"~~]. The term "New York C corporation"  
11 means, with respect to any taxable year, a corporation subject to tax  
12 under this article which is not a New York S corporation, and any such  
13 year shall be denominated a "New York C year". The term "termination  
14 year" means any taxable year of a corporation during which the corpo-  
15 ration's status as a New York S [election] corporation terminates on a  
16 day other than the first day of such year. The portion of the taxable  
17 year ending before the first day for which such termination is effective  
18 shall be denominated the "S short year", and the portion of such year  
19 beginning on such first day shall be denominated the "C short year". The  
20 term "New York S termination year" means any termination year which is  
21 [~~not~~] also an S termination year for federal purposes.

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

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

28 1. General. Business income and capital shall be apportioned to the  
29 state by the apportionment factor determined pursuant to this section.  
30 The apportionment factor is a fraction, determined by including only  
31 those receipts, net income, net gains, and other items described in this  
32 section that are included in the computation of the taxpayer's business  
33 income (determined without regard to the modification provided in  
34 subparagraph nineteen of paragraph (a) of subdivision nine of section  
35 two hundred eight of this article) for the taxable year. The numerator  
36 of the apportionment fraction shall be equal to the sum of all the  
37 amounts required to be included in the numerator pursuant to the  
38 provisions of this section and the denominator of the apportionment  
39 fraction shall be equal to the sum of all the amounts required to be  
40 included in the denominator pursuant to the provisions of this section.  
41 For a New York S corporation, the receipts included in the apportionment  
42 fraction are those receipts, net income (not less than zero), net gains  
43 (not less than zero), and other items described in this section that are  
44 included in the New York S corporation's nonseparately computed income  
45 and loss or in the New York S corporation's separately stated items of  
46 income and loss, determined pursuant to subdivision (a) of section 1366  
47 of the internal revenue code.

48 § 4. Section 660 of the tax law, as amended by chapter 606 of the laws  
49 of 1984, subsections (a) and (h) as amended by section 73 of part A of  
50 chapter 59 of the laws of 2014, paragraph 3 of subsection (b) as amended  
51 by section 51 of part A of chapter 389 of the laws of 1997, paragraphs 4  
52 and 5 as added and paragraph 6 of subsection (b) as renumbered by  
53 section 52 of part A of chapter 389 of the laws of 1997, subsection (d)  
54 as added by chapter 760 of the laws of 1992, subsections (e) and (f) as  
55 added and subsection (g) as relettered by section 53 of part A of chap-  
56 ter 389 of the laws of 1997, subsection (i) as added by section 1 of

1 part L of chapter 60 of the laws of 2007, and paragraph 1 of subsection  
2 (i) as amended by section 39 of part T of chapter 59 of the laws of  
3 2015, is amended to read as follows:

4 § 660. [~~Election by shareholders of S corporations.~~] Tax treatment of  
5 federal S corporations. (a) [~~Election.~~] If a corporation is an [~~eligi-~~  
6 ~~ble~~] S corporation described in subsection (b) of this section, the  
7 shareholders of the corporation [~~may elect in the manner set forth in~~  
8 ~~subsection (b) of this section to~~] shall take into account, to the  
9 extent provided for in this article (or in article thirteen of this  
10 chapter, in the case of a shareholder which is a taxpayer under such  
11 article), the S corporation items of income, loss, deduction and  
12 reductions for taxes described in paragraphs two and three of subsection  
13 (f) of section thirteen hundred sixty-six of the internal revenue code  
14 which are taken into account for federal income tax purposes for the  
15 taxable year. [~~No election under this subsection shall be effective~~  
16 ~~unless all shareholders of the corporation have so elected. An eligible~~]

17 (b) A New York S corporation is (i) [an-S] a corporation that has made  
18 a valid election to be an S corporation for federal income tax purposes  
19 pursuant to section 1362 of the internal revenue code which is subject  
20 to tax under article nine-A of this chapter, or (ii) [~~an-S~~] a corpo-  
21 ration that has made a valid election to be an S corporation for federal  
22 income tax purposes pursuant to section 1362 of the internal revenue  
23 code which is the parent of a qualified subchapter S subsidiary as  
24 defined in subparagraph (B) of paragraph three of subsection (b) of  
25 section thirteen hundred sixty-one of the internal revenue code subject  
26 to tax under article nine-A[, ~~where the shareholders of such parent~~  
27 ~~corporation are entitled to make the election under this subsection by~~  
28 ~~reason of subparagraph three of paragraph (k) of subdivision nine of~~  
29 ~~section two hundred eight~~] of this chapter.

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

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

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

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

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

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

55 ~~(4) Taxable years of two and one-half months or less. For purposes of~~  
56 ~~this subsection, an election for a taxable year made not later than two~~

1 ~~months and fifteen days after the first day of the taxable year shall be~~  
2 ~~treated as timely made during such year.~~

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

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

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

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

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

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

25 ~~(2) if shareholders holding more than one half of the shares of stock~~  
26 ~~of the corporation on the day on which the revocation is made revoke~~  
27 ~~such election in the manner the tax commission may prescribe by regu-~~  
28 ~~lation,~~

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

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

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

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

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

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

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

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

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

11 ~~(5) then, notwithstanding the circumstances resulting in such ineffec-~~  
12 ~~tiveness, such corporation shall be treated as a New York S corporation~~  
13 ~~during the period specified by the commissioner.~~

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

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

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

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

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

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

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

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

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

47 ~~[(i) Mandated New York S corporation election. (1) Notwithstanding~~  
48 ~~the provisions in subsection (a) of this section, in the case of an~~  
49 ~~eligible S corporation for which the election under subsection (a) of~~  
50 ~~this section is not in effect for the current taxable year, the share-~~  
51 ~~holders of an eligible S corporation are deemed to have made that~~  
52 ~~election effective for the eligible S corporation's entire current taxa-~~  
53 ~~ble year, if the eligible S corporation's investment income for the~~  
54 ~~current taxable year is more than fifty percent of its federal gross~~  
55 ~~income for such year. In determining whether an eligible S corporation~~  
56 ~~is deemed to have made that election, the income of a qualified subchap-~~

~~ter 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

1 January first, two thousand eighteen, the amount required to be added to  
 2 federal adjusted gross income pursuant to subsection (n) of this  
 3 section.

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

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

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

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

20 (e) Modifications of partners and shareholders of S corporations. (1)  
 21 Partners and shareholders of S corporations [~~which are not New York C~~  
 22 ~~corporations~~]. The amounts of modifications required to be made under  
 23 this section by a partner or by a shareholder of an S corporation  
 24 [~~(other than an S corporation which is a New York C corporation)~~], which  
 25 relate to partnership or S corporation items of income, gain, loss or  
 26 deduction shall be determined under section six hundred seventeen and,  
 27 in the case of a partner of a partnership doing an insurance business as  
 28 a member of the New York insurance exchange described in section six  
 29 thousand two hundred one of the insurance law, under section six hundred  
 30 seventeen-a of this article.

31 (2) [~~Shareholders of S corporations which are New York C corporations.~~  
 32 ~~In the case of a shareholder of an S corporation which is a New York C~~  
 33 ~~corporation, the modifications under this section which relate to the~~  
 34 ~~corporation's items of income, loss and deduction shall not apply,~~  
 35 ~~except for the modifications provided under paragraph nineteen of~~  
 36 ~~subsection (b) and paragraph twenty two of subsection (c) of this~~  
 37 ~~section.~~

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

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

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

52 (1) There shall be added to federal adjusted gross income the amount  
 53 of increase in basis with respect to such stock or indebtedness pursuant  
 54 to subsection (a) of section thirteen hundred seventy-six of the inter-  
 55 nal revenue code as such section was in effect for taxable years begin-  
 56 ning before January first, nineteen hundred eighty-three and subpara-

1 graphs (A) and (B) of paragraph one of subsection (a) of section  
2 thirteen hundred sixty-seven of such code, for each taxable year of the  
3 corporation beginning, in the case of a corporation taxable under arti-  
4 cle nine-A of this chapter, after December thirty-first, nineteen  
5 hundred eighty and before January first, two thousand eighteen, and in  
6 the case of a corporation taxable under article thirty-two of this chap-  
7 ter, after December thirty-first, nineteen hundred ninety-six and before  
8 January first, two thousand fifteen, for which the election provided for  
9 in subsection (a) of section six hundred sixty of this article was not  
10 in effect, and

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

12 (A) the amount of reduction in basis with respect to such stock or  
13 indebtedness pursuant to subsection (b) of section thirteen hundred  
14 seventy-six of the internal revenue code as such section was in effect  
15 for taxable years beginning before January first, nineteen hundred  
16 eighty-three and subparagraphs (B) and (C) of paragraph two of  
17 subsection (a) of section thirteen hundred sixty-seven of such code, for  
18 each taxable year of the corporation beginning, in the case of a corpo-  
19 ration taxable under article nine-A of this chapter, after December  
20 thirty-first, nineteen hundred eighty and before January first, two  
21 thousand eighteen, and in the case of a corporation taxable under arti-  
22 cle thirty-two of this chapter, after December thirty-first, nineteen  
23 hundred ninety-six and before January first, two thousand fifteen, for  
24 which the election provided for in subsection (a) of section six hundred  
25 sixty of this article was not in effect and

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

29 § 12. Subparagraph (E-1) of paragraph 1 of subsection (b) of section  
30 631 of the tax law, as added by section 3 of part C of chapter 57 of the  
31 laws of 2010, is amended to read as follows:

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

41 § 13. The section heading and paragraph 2 of subsection (a) of section  
42 632 of the tax law, the section heading as amended by chapter 606 of the  
43 laws of 1984, paragraph 2 of subsection (a) as amended by section 71 of  
44 part A of chapter 59 of the laws of 2014 and such section as renumbered  
45 by chapter 28 of the laws of 1987, are amended to read as follows:

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

47 (2) In determining New York source income of a nonresident shareholder  
48 of [~~an~~] a New York S corporation [~~where the election provided for in~~  
49 ~~subsection (a) of section six hundred sixty of this article is in~~  
50 ~~effect~~], there shall be included only the portion derived from or  
51 connected with New York sources of such shareholder's pro rata share of  
52 items of S corporation income, loss and deduction entering into his  
53 federal adjusted gross income, increased by reductions for taxes  
54 described in paragraphs two and three of subsection (f) of section thir-  
55 teen hundred sixty-six of the internal revenue code, as such portion  
56 shall be determined under regulations of the commissioner consistent

1 with the applicable methods and rules for allocation under article  
2 nine-A of this chapter, regardless of whether or not such item or  
3 reduction is included in entire net income under article nine-A for the  
4 tax year. If a nonresident is a shareholder in [~~an~~] a New York S corpo-  
5 ration [~~where the election provided for in subsection (a) of section six~~  
6 ~~hundred sixty of this article is in effect, and the S corporation~~] that  
7 has distributed an installment obligation under section 453(h)(1)(A) of  
8 the Internal Revenue Code, then any gain recognized on the receipt of  
9 payments from the installment obligation for federal income tax purposes  
10 will be treated as New York source income allocated in a manner consist-  
11 ent with the applicable methods and rules for allocation under article  
12 nine-A of this chapter in the year that the assets were sold. In addi-  
13 tion, if the shareholders of the New York S corporation have made an  
14 election under section 338(h)(10) of the Internal Revenue Code, then any  
15 gain recognized on the deemed asset sale for federal income tax purposes  
16 will be treated as New York source income allocated in a manner consist-  
17 ent with the applicable methods and rules for allocation under article  
18 nine-A of this chapter in the year that the shareholder made the section  
19 338(h)(10) election. For purposes of a section 338(h)(10) election, when  
20 a nonresident shareholder exchanges his or her S corporation stock as  
21 part of the deemed liquidation, any gain or loss recognized shall be  
22 treated as the disposition of an intangible asset and will not increase  
23 or offset any gain recognized on the deemed assets sale as a result of  
24 the section 338(h)(10) election.

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

29 (A) In the case of a shareholder of an S corporation,  
30 (i) [~~where the election provided for in subsection (a) of section six~~  
31 ~~hundred sixty of this chapter is in effect with respect to such corpo-~~  
32 ~~ration~~] that is a New York S corporation, there shall be added to federal  
33 unrelated business taxable income an amount equal to the sharehold-  
34 er's pro rata share of the corporation's reductions for taxes described  
35 in paragraphs two and three of subsection (f) of section thirteen  
36 hundred sixty-six of the internal revenue code, and  
37 (ii) [~~where such election has not been made with respect to such~~  
38 ~~corporation, there shall be subtracted from federal unrelated business~~  
39 ~~taxable income any items of income of the corporation included therein,~~  
40 ~~and there shall be added to federal unrelated business taxable income~~  
41 ~~any items of loss or deduction included therein, and~~  
42 ~~(iii)~~] in the case of a New York S termination year, the amount of any  
43 such items of S corporation income, loss, deduction and reductions for  
44 taxes shall be adjusted in the manner provided in paragraph two or three  
45 of subsection (s) of section six hundred twelve of this chapter.

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

50 § 15. Transition rules. Any prior net operating loss conversion  
51 subtraction pool and net operating loss carryforward that otherwise  
52 would have been allowed under subparagraph (viii) of paragraph (a) of  
53 subdivision 1 of section 210 of the tax law and subparagraph (ix) of  
54 paragraph (a) of subdivision 1 of section 210 of the tax law, respec-  
55 tively, for the 2018 or subsequent taxable years, to any taxpayer that  
56 was a New York C corporation for the 2017 taxable year, and becomes a

1 New York S corporation for the 2018 taxable year as a result of the  
2 amendments made by this act, shall be held in abeyance and be available  
3 to such taxpayer if its election to be a federal S corporation is termi-  
4 nated. Further, any credit carryforwards that otherwise would have been  
5 allowed to such a taxpayer under section 210-B of the tax law for the  
6 2018 or subsequent taxable years shall be held in abeyance and be avail-  
7 able to such taxpayer if its election to be a federal S corporation is  
8 terminated. However, the taxpayer's taxable years as a New York S corpo-  
9 ration shall be counted for purposes of computing any time period appli-  
10 cable to the allowance of the prior net operating loss conversion  
11 subtraction, the net operating loss deduction or any credit carryfor-  
12 ward.

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

15

## PART Z

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

19 (1) For purposes of this subparagraph, the term "real property located  
20 in this state" includes an interest in a partnership, limited liability  
21 corporation, S corporation, or non-publicly traded C corporation with  
22 one hundred or fewer shareholders (hereinafter the "entity") that owns  
23 real property that is located in New York [~~and has a fair market value~~  
24 ~~that~~] or owns shares of stock in a cooperative housing corporation where  
25 the cooperative units relating to the shares are located in New York;  
26 provided, that the sum of the fair market values of such real property,  
27 cooperative shares, and related cooperative units equals or exceeds  
28 fifty percent of all the assets of the entity on the date of sale or  
29 exchange of the taxpayer's interest in the entity. Only those assets  
30 that the entity owned for at least two years before the date of the sale  
31 or exchange of the taxpayer's interest in the entity are to be used in  
32 determining the fair market value of all the assets of the entity on the  
33 date of sale or exchange. The gain or loss derived from New York sources  
34 from the taxpayer's sale or exchange of an interest in an entity that is  
35 subject to the provisions of this subparagraph is the total gain or loss  
36 for federal income tax purposes from that sale or exchange multiplied by  
37 a fraction, the numerator of which is the fair market value of the real  
38 property, and the cooperative housing corporation stock and related  
39 cooperative units located in New York on the date of sale or exchange  
40 and the denominator of which is the fair market value of all the assets  
41 of the entity on the date of sale or exchange.

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

44

## PART AA

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

48 (1) In determining New York source income of a nonresident partner of  
49 any partnership, there shall be included only the portion derived from  
50 or connected with New York sources of such partner's distributive share  
51 of items of partnership income, gain, loss and deduction entering into  
52 his federal adjusted gross income, as such portion shall be determined

1 under regulations of the tax commission consistent with the applicable  
2 rules of section six hundred thirty-one of this part. If a nonresident  
3 is a partner in a partnership where a sale or transfer of the membership  
4 interest of the partner is subject to the provisions of section one-  
5 thousand sixty of the internal revenue code, then any gain recognized on  
6 the sale or transfer for federal income tax purposes shall be treated as  
7 New York source income allocated in a manner consistent with the appli-  
8 cable methods and rules for allocation under this article in the year  
9 that the assets were sold or transferred.

10 § 2. This act shall take effect immediately.

11 PART BB

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

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

18 (1) Marketplace provider. A person who, pursuant to an agreement with  
19 a marketplace seller, facilitates sales of tangible personal property by  
20 such marketplace seller or sellers. A person "facilitates a sale of  
21 tangible personal property" for purposes of this paragraph when the  
22 person meets both of the following conditions: (i) such person provides  
23 the forum in which, or by means of which, the sale takes place or the  
24 offer of sale is accepted, including a shop, store, or booth, an inter-  
25 net website, catalog, or similar forum; and (ii) such person or an  
26 affiliate of such person collects the receipts paid by a customer to a  
27 marketplace seller for a sale of tangible personal property, or  
28 contracts with a third party to collect such receipts. For purposes of  
29 this paragraph, two persons are affiliated if one person has an owner-  
30 ship interest of more than five percent, whether direct or indirect, in  
31 the other, or where an ownership interest of more than five percent,  
32 whether direct or indirect, is held in each of such persons by another  
33 person or by a group of other persons that are affiliated persons with  
34 respect to each other. Notwithstanding anything in this paragraph, a  
35 person who facilitates sales exclusively by means of the internet is not  
36 a marketplace provider for a sales tax quarter when such person can show  
37 that it has facilitated less than one hundred million dollars of sales  
38 annually for every calendar year after two thousand fifteen.

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

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

47 (1) "Persons required to collect tax" or "person required to collect  
48 any tax imposed by this article" shall include: every vendor of tangible  
49 personal property or services; every recipient of amusement charges;  
50 [~~and~~] every operator of a hotel, and every marketplace provider with  
51 respect to sales of tangible personal property it facilitates as  
52 described in paragraph one of subdivision (e) of section eleven hundred  
53 one of this article. Said terms shall also include any officer, director  
54 or employee of a corporation or of a dissolved corporation, any employee

1 of a partnership, any employee or manager of a limited liability compa-  
2 ny, or any employee of an individual proprietorship who as such officer,  
3 director, employee or manager is under a duty to act for such corpo-  
4 ration, partnership, limited liability company or individual proprietor-  
5 ship in complying with any requirement of this article; and any member  
6 of a partnership or limited liability company. Provided, however, that  
7 any person who is a vendor solely by reason of clause (D) or (E) of  
8 subparagraph (i) of paragraph (8) of subdivision (b) of section eleven  
9 hundred one of this article shall not be a "person required to collect  
10 any tax imposed by this article" until twenty days after the date by  
11 which such person is required to file a certificate of registration  
12 pursuant to section eleven hundred thirty-four of this part.

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

15 (1) (1) A marketplace provider, with respect to a sale of tangible  
16 personal property it facilitates: (i) shall have all the obligations and  
17 rights of a vendor under this article and article twenty-nine of this  
18 chapter and under any regulations adopted pursuant thereto, including,  
19 but not limited to, the duty to obtain a certificate of authority, to  
20 collect tax, file returns, remit tax, and the right to accept a certifi-  
21 cate or other documentation from a customer substantiating an exemption  
22 or exclusion from tax, the right to receive the refund authorized by  
23 subdivision (e) of this section and the credit allowed by subdivision  
24 (f) of section eleven hundred thirty-seven of this part subject to the  
25 provisions of such subdivision; and (ii) shall keep such records and  
26 information and cooperate with the commissioner to ensure the proper  
27 collection and remittance of tax imposed collected or required to be  
28 collected under this article and article twenty-nine of this chapter.

29 (2) A marketplace seller who is a vendor is relieved from the duty to  
30 collect tax in regard to a particular sale of tangible personal property  
31 subject to tax under subdivision (a) of section eleven hundred five of  
32 this article and shall not include the receipts from such sale in its  
33 taxable receipts for purposes of section eleven hundred thirty-six of  
34 this part if, in regard to such sale: (i) the marketplace seller can  
35 show that such sale was facilitated by a marketplace provider from whom  
36 such seller has received in good faith a properly completed certificate  
37 of collection in a form prescribed by the commissioner, certifying that  
38 the marketplace provider is registered to collect sales tax and will  
39 collect sales tax on all taxable sales of tangible personal property by  
40 the marketplace seller facilitated by the marketplace provider, and with  
41 such other information as the commissioner may prescribe; and (ii) any  
42 failure of the marketplace provider to collect the proper amount of tax  
43 in regard to such sale was not the result of such marketplace seller  
44 providing the marketplace provider with incorrect information. This  
45 provision shall be administered in a manner consistent with subparagraph  
46 (i) of paragraph one of subdivision (c) of this section as if a certifi-  
47 cate of collection were a resale or exemption certificate for purposes  
48 of such subparagraph, including with regard to the completeness of such  
49 certificate of collection and the timing of its acceptance by the  
50 marketplace seller. Provided that, with regard to any sales of tangible  
51 personal property by a marketplace seller that are facilitated by a  
52 marketplace provider who is affiliated with such marketplace seller  
53 within the meaning of paragraph one of subdivision (e) of section eleven  
54 hundred one of this article, the marketplace seller shall be deemed  
55 liable as a person under a duty to act for such marketplace provider for

1 purposes of subdivision one of section eleven hundred thirty-one of this  
2 part.

3 (3) The commissioner may, in his or her discretion: (i) develop a  
4 standard provision, or approve a provision developed by a marketplace  
5 provider, in which the marketplace provider obligates itself to collect  
6 the tax on behalf of all the marketplace sellers for whom the market-  
7 place provider facilitates sales of tangible personal property, with  
8 respect to all sales that it facilitates for such sellers where delivery  
9 occurs in the state; and (ii) provide by regulation or otherwise that  
10 the inclusion of such provision in the publicly-available agreement  
11 between the marketplace provider and marketplace seller will have the  
12 same effect as a marketplace seller's acceptance of a certificate of  
13 collection from such marketplace provider under paragraph two of this  
14 subdivision.

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

17 (f) A marketplace provider is relieved of liability under this section  
18 for failure to collect the correct amount of tax to the extent that the  
19 marketplace provider can show that the error was due to incorrect infor-  
20 mation given to the marketplace provider by the marketplace seller.  
21 Provided, however, this subdivision shall not apply if the marketplace  
22 seller and marketplace provider are affiliated within the meaning of  
23 paragraph one of subdivision (e) of section eleven hundred one of this  
24 article.

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

28 (4) The return of a vendor of tangible personal property or services  
29 shall show such vendor's receipts from sales and the number of gallons  
30 of any motor fuel or diesel motor fuel sold and also the aggregate value  
31 of tangible personal property and services and number of gallons of such  
32 fuels sold by the vendor, the use of which is subject to tax under this  
33 article, and the amount of tax payable thereon pursuant to the  
34 provisions of section eleven hundred thirty-seven of this part. The  
35 return of a recipient of amusement charges shall show all such charges  
36 and the amount of tax thereon, and the return of an operator required to  
37 collect tax on rents shall show all rents received or charged and the  
38 amount of tax thereon. The return of a marketplace seller shall exclude  
39 the receipts from a sale of tangible personal property facilitated by a  
40 marketplace provider if, in regard to such sale: (A) the marketplace  
41 seller has timely received in good faith a properly completed certif-  
42 icate of collection from the marketplace provider or the marketplace  
43 provider has included a provision approved by the commissioner in the  
44 publicly-available agreement between the marketplace provider and the  
45 marketplace seller as described in subdivision (1) of section eleven  
46 hundred thirty-two of this part, and (B) the information provided by the  
47 marketplace seller to the marketplace provider about such tangible  
48 personal property is accurate.

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

51 15. To publish a list on the department's website of marketplace  
52 providers whose certificate of authority has been revoked and, if neces-  
53 sary to protect sales tax revenue, provide by regulation or otherwise  
54 that a marketplace seller who is a vendor will be relieved of the duty  
55 to collect tax for sales of tangible personal property facilitated by a  
56 marketplace provider only if, in addition to the conditions prescribed

1 by paragraph two of subdivision (1) of section eleven hundred thirty-two  
2 of this part being met, such marketplace provider is not on such list at  
3 the commencement of the calendar year in which the sale was made.

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

6 PART CC

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

9 (v) Notwithstanding the provisions of subparagraph (i) of this para-  
10 graph, the following sales of tangible personal property shall be deemed  
11 to be retail sales: (A) a sale to a single member limited liability  
12 company or a subsidiary for resale to its member or owner, where such  
13 single member limited liability company or subsidiary is disregarded as  
14 an entity separate from its owner for federal income tax purposes (with-  
15 out reference to any special rules related to the imposition of certain  
16 federal taxes), including but not limited to certain employment and  
17 excise taxes; (B) a sale to a partnership for resale to one or more of  
18 its partners; or (C) a sale to a trustee of a trust for resale to one or  
19 more beneficiaries of such trust.

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

23 (2)(a) In respect to the use of property or services purchased by the  
24 user while a nonresident of this state, except in the case of tangible  
25 personal property or services which the user, in the performance of a  
26 contract, incorporates into real property located in the state. A person  
27 while engaged in any manner in carrying on in this state any employment,  
28 trade, business or profession, shall not be deemed a nonresident with  
29 respect to the use in this state of property or services in such employ-  
30 ment, trade, business or profession. This exemption does not apply to  
31 the use of qualified property where the qualified property is purchased  
32 primarily to carry individuals, whether or not for hire, who are agents,  
33 employees, officers, shareholders, members, managers, partners, or  
34 directors of (A) the purchaser, where any of those individuals was a  
35 resident of this state when the qualified property was purchased or (B)  
36 any affiliated person that was a resident when the qualified property  
37 was purchased. For purposes of this subdivision: (i) persons are affil-  
38 iated persons with respect to each other where one of the persons has an  
39 ownership interest of more than five percent, whether direct or indi-  
40 rect, in the other, or where an ownership interest of more than five  
41 percent, whether direct or indirect, is held in each of the persons by  
42 another person or by a group of other persons that are affiliated  
43 persons with respect to each other; (ii) "qualified property" means  
44 [~~aircraft~~] vessels and motor vehicles; and (iii) "carry" means to take  
45 any person from one point to another, whether for the business purposes  
46 or pleasure of that person. For an exception to the exclusions from the  
47 definition of "retail sale" applicable to [~~aircraft and~~] vessels, see  
48 subdivision (q) of section eleven hundred eleven of this article.

49 (b) Notwithstanding any provision of this article to the contrary, the  
50 exclusion in paragraph (a) of this subdivision shall not apply to the  
51 use within the state of property or a service purchased outside this  
52 state by a nonresident that is not an individual, unless such nonresi-  
53 dent has been doing business outside the state for at least six months

1 prior to the date such nonresident brought such property or service into  
2 this state.

3 § 3. This act shall take effect immediately.

4 PART DD

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

9 § 1105-C. Reduced tax rates with respect to certain gas service and  
10 electric service. Notwithstanding any other provisions of this article  
11 or article twenty-nine of this chapter:

12 (a) The rates of taxes imposed by this article and pursuant to the  
13 authority of article twenty-nine of this chapter on receipts from every  
14 sale of gas service or electric service of whatever nature (including  
15 the transportation, transmission or distribution of gas or electricity,  
16 but not including gas or electricity) shall be [~~reduced each year on~~  
17 ~~September first, beginning in the year two thousand, and each year ther-~~  
18 ~~eafter, at the rate per year of twenty five percent of the rates in~~  
19 ~~effect on September first, two thousand, so that the rates of such taxes~~  
20 ~~on such receipts shall be]~~ zero percent [~~on and after September first,~~  
21 ~~two thousand three]~~ unless the charge is by the vendor for transporta-  
22 tion, transmission or distribution, regardless of whether such charges  
23 are separately stated in the written contract, if any, or on the bill  
24 rendered to such purchaser and regardless of whether such transporta-  
25 tion, transmission, or distribution is provided by such vendor or a  
26 third party.

27 (b) [~~The provisions of subdivision (b) of section eleven hundred six~~  
28 ~~of this article shall apply to the reduced rates described in subdivi-~~  
29 ~~sion (a) of this section, as if such section referred to this section,~~  
30 ~~provided that any reference in subdivision (b) of such section eleven~~  
31 ~~hundred six to the date August first, nineteen hundred sixty five, shall~~  
32 ~~be deemed to refer, respectively, to September first of the applicable~~  
33 ~~years described in subdivision (a) of this section, and any reference in~~  
34 ~~subdivision (b) of such section eleven hundred six to July thirty first,~~  
35 ~~nineteen hundred sixty five, shall be deemed to refer to the day imme-~~  
36 ~~diately preceding each such September first, respectively.~~

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

42 (d) For [~~the purpose~~] purposes of [~~the reduced rate of tax provided~~  
43 ~~by]~~ subdivision (a) of this section, [~~the following shall apply to a~~  
44 ~~sale, other than a sale for resale, of the]~~ where the transportation,  
45 transmission or distribution of gas or electricity [~~by a vendor not~~  
46 ~~subject to the supervision of the public service commission where such~~  
47 ~~transportation, transmission or distribution service being]~~ is sold [~~is]~~  
48 wholly within a service area of the state wherein the public service  
49 commission [~~shall have~~] has approved by formal order a single retailer  
50 model for the regulated utility which has the responsibility to serve  
51 that area[~~. Where such a vendor makes a sale, other than a sale for~~  
52 ~~resale, of gas or electricity to be delivered to a customer within such~~  
53 ~~service area and, for the purpose of transporting, transmitting or~~  
54 ~~distributing such gas or electricity, also makes a sale of transporta-~~

tion, ~~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.

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

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

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

21 (3) Each prepaid wireless communications seller in New York state must  
22 act as a collection agent for the state for the collection of the  
23 surcharge. The surcharge must be reported and paid to the commissioner  
24 on a quarterly basis on or before the fifteenth day of the month follow-  
25 ing each quarterly period ending on the last day of February, May,  
26 August and November, respectively. The payments must be accompanied by a  
27 return in the form and containing the information the commissioner may  
28 prescribe.

29 (4) The surcharge must be added as a separate line item to a sales  
30 slip, invoice, receipt, or other statement of the price, if any, that is  
31 furnished by a prepaid wireless communications seller to a purchaser,  
32 and must be identified as the "public safety communications surcharge."  
33 Each purchaser of a prepaid wireless communications service or device in  
34 this state remains liable to the state for the surcharge due under this  
35 section until it has been paid to the state, except that payment to a  
36 prepaid wireless communications seller is sufficient to relieve the  
37 purchaser from further liability for such surcharge.

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

40 § 309. Establishment of prepaid wireless surcharge for system costs.  
41 1. Definitions. When used in this article, where not otherwise specif-  
42 ically defined and unless the specific context clearly indicates other-  
43 wise:

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

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

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

52 2. Notwithstanding the provisions of any law to the contrary, any  
53 municipality, as defined in section three hundred one of this article,  
54 that is authorized to impose an enhanced emergency telephone system  
55 surcharge on wireless communications service under this article, is  
56 hereby authorized and empowered to adopt, amend or repeal local laws,

1 acting through its board, to impose a surcharge on the retail sale of  
2 each prepaid wireless communications service or device, in an amount not  
3 to exceed thirty cents per retail sale within such municipality. The  
4 proceeds from such surcharge shall be used to pay for the costs associ-  
5 ated with obtaining, operating and maintaining the telecommunication  
6 equipment and telephone services needed to provide an enhanced 911 emer-  
7 gency telephone system to serve such municipality.

8 3. For purposes of this section, a sale of a prepaid wireless communi-  
9 cations service or device occurs in a municipality if the sale takes  
10 place at a seller's business location in the municipality. If the sale  
11 does not take place at the seller's place of business, it shall be  
12 conclusively determined to take place at the purchaser's shipping  
13 address in the municipality or, if there is no item shipped, at the  
14 purchaser's billing address in the municipality, or, if the seller does  
15 not have that address, at such address that reasonably reflects the  
16 customer's location at the time of the sale of the prepaid wireless  
17 communications service or device.

18 4. Any such local law shall state the amount of the surcharge and the  
19 date on which sellers in the municipality shall begin to collect such  
20 surcharge. Any seller of a prepaid wireless communications service or  
21 device within a municipality that has imposed a surcharge pursuant to  
22 the provisions of this section shall be given a minimum of forty-five  
23 days written notice prior to the date it shall be required to begin to  
24 collect such surcharge or prior to any modification to or change in the  
25 surcharge amount.

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

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

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

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

41 (e) Each purchaser of a prepaid wireless communications service or  
42 device in a municipality that has imposed such surcharge shall be liable  
43 to the municipality for the surcharge until it has been paid to the  
44 municipality, except that payment to a prepaid wireless communications  
45 seller is sufficient to relieve the purchaser from further liability for  
46 such surcharge.

47 6. All surcharge monies remitted to a municipality by a prepaid wire-  
48 less communications seller shall be expended only upon authorization of  
49 the legislative body of a municipality and only for payment of eligible  
50 wireless 911 service costs as defined in subdivision sixteen of section  
51 three hundred twenty-five of this chapter. The municipality shall sepa-  
52 rately account for and keep adequate books and records of the amount and  
53 source of all such monies and of the amount and object or purpose of all  
54 expenditures thereof. If, at the end of any fiscal year, the total  
55 amount of all such monies exceeds the amount necessary for payment of  
56 the above mentioned costs in such fiscal year, such excess shall be

reserved and carried over for the payment of those costs in the following fiscal year.

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

PART FF

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

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

9. "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.

§ 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 ciga-

1 rettes, or vapor products for commercial purposes, or any agent or  
2 employee of such person, shall knowingly, in furtherance of such busi-  
3 ness:

4 (a) distribute without charge any tobacco products [~~or~~], herbal ciga-  
5 rettes, or vapor products to any individual, provided that the distrib-  
6 ution of a package containing tobacco products [~~or~~], herbal cigarettes,  
7 or vapor products in violation of this subdivision shall constitute a  
8 single violation without regard to the number of items in the package;  
9 or

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

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

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

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

26 (c) events sponsored by tobacco [~~or~~], herbal cigarette, or vapor prod-  
27 uct manufacturers provided that the distribution is confined to desig-  
28 nated areas generally accessible only to persons over the age of eigh-  
29 teen;

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

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

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

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

42 4. The distribution of tobacco products [~~or~~], herbal cigarettes, or  
43 vapor products pursuant to subdivision two of this section shall be made  
44 only to an individual who demonstrates, through (a) a driver's license  
45 or [~~other photographic~~] non-driver's identification card issued by [~~a~~  
46 ~~government entity or educational institution~~] the commissioner of motor  
47 vehicles, the federal government, any United States territory, common-  
48 wealth or possession, the District of Columbia, a state government with-  
49 in the United States or a provincial government of the dominion of Cana-  
50 da, or (b) a valid passport issued by the United States government or  
51 any other country, or (c) an identification card issued by the armed  
52 forces of the United States, indicating that the individual is at least  
53 eighteen years of age. Such identification need not be required of any  
54 individual who reasonably appears to be at least twenty-five years of  
55 age; provided, however, that such appearance shall not constitute a

1 defense in any proceeding alleging the sale of a tobacco product [~~or~~],  
2 herbal cigarette, or vapor products to an individual.

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

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

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

12 2. Any person operating a place of business wherein tobacco products,  
13 herbal cigarettes, [~~liquid nicotine, shisha~~] or [~~electronic cigarettes~~]  
14 vapor products, are sold or offered for sale is prohibited from selling  
15 such products, herbal cigarettes, [~~liquid nicotine, shisha, electronic~~  
16 ~~cigarettes~~] vapor products or smoking paraphernalia to individuals under  
17 eighteen years of age, and shall post in a conspicuous place a sign upon  
18 which there shall be imprinted the following statement, "SALE OF CIGA-  
19 RETTES, CIGARS, [~~CHEWING TOBACCO, POWDERED TOBACCO,~~] SHISHA OR OTHER  
20 TOBACCO PRODUCTS, HERBAL CIGARETTES, [~~LIQUID NICOTINE, ELECTRONIC CIGA-~~  
21 ~~RETTES~~] VAPOR PRODUCTS, [~~ROLLING PAPERS~~] OR SMOKING PARAPHERNALIA, TO  
22 PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW." Such sign  
23 shall be printed on a white card in red letters at least one-half inch  
24 in height.

25 3. Sale of tobacco products, herbal cigarettes, [~~liquid nicotine,~~  
26 ~~shisha~~] or [~~electronic cigarettes~~] vapor products in such places, other  
27 than by a vending machine, shall be made only to an individual who  
28 demonstrates, through (a) a valid driver's license or non-driver's iden-  
29 tification card issued by the commissioner of motor vehicles, the feder-  
30 al government, any United States territory, commonwealth or possession,  
31 the District of Columbia, a state government within the United States or  
32 a provincial government of the dominion of Canada, or (b) a valid pass-  
33 port issued by the United States government or any other country, or (c)  
34 an identification card issued by the armed forces of the United States,  
35 indicating that the individual is at least eighteen years of age. Such  
36 identification need not be required of any individual who reasonably  
37 appears to be at least twenty-five years of age, provided, however, that  
38 such appearance shall not constitute a defense in any proceeding alleg-  
39 ing the sale of a tobacco product, herbal cigarettes, [~~liquid nicotine,~~  
40 ~~shisha~~] or [~~electronic cigarettes~~] vapor products to an individual under  
41 eighteen years of age.

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

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

51 (c) In any proceeding pursuant to section thirteen hundred ninety-  
52 nine-ee of this article, it shall be an affirmative defense that such  
53 person had produced a driver's license or non-driver identification card  
54 apparently issued by a governmental entity, successfully completed that  
55 transaction scan, and that the tobacco product, herbal cigarettes [~~or~~  
56 liquid nicotine], or vapor products had been sold, delivered or given to

1 such person in reasonable reliance upon such identification and trans-  
2 action scan. In evaluating the applicability of such affirmative defense  
3 the commissioner shall take into consideration any written policy  
4 adopted and implemented by the seller to effectuate the provisions of  
5 this chapter. Use of a transaction scan shall not excuse any person  
6 operating a place of business wherein tobacco products, herbal ciga-  
7 rettes, [~~liquid nicotine, shisha~~] or [~~electronic cigarettes~~] vapor  
8 products are sold, or the agent or employee of such person, from the  
9 exercise of reasonable diligence otherwise required by this chapter.  
10 Notwithstanding the above provisions, any such affirmative defense shall  
11 not be applicable in any civil or criminal proceeding, or in any other  
12 forum.

13 7. No person operating a place of business wherein tobacco products,  
14 herbal cigarettes, [~~liquid nicotine, shisha~~] or [~~electronic cigarettes~~]  
15 vapor products are sold or offered for sale shall sell, permit to be  
16 sold, offer for sale or display for sale any tobacco product, herbal  
17 cigarettes, [~~liquid nicotine, shisha~~] or [~~electronic cigarettes~~] vapor  
18 products in any manner, unless such products and cigarettes are stored  
19 for sale (a) behind a counter in an area accessible only to the person-  
20 nel of such business, or (b) in a locked container; provided, however,  
21 such restriction shall not apply to tobacco businesses, as defined in  
22 subdivision eight of section thirteen hundred ninety-nine-aa of this  
23 article, and to places to which admission is restricted to persons eigh-  
24 teen years of age or older.

25 § 7. Section 1399-dd of the public health law, as amended by chapter  
26 448 of the laws of 2012, is amended to read as follows:

27 § 1399-dd. Sale of tobacco products, herbal cigarettes or [~~electronic~~  
28 ~~cigarettes~~] vapor products in vending machines. No person, firm, part-  
29 nership, company or corporation shall operate a vending machine which  
30 dispenses tobacco products, herbal cigarettes or [~~electronic cigarettes~~]  
31 vapor products unless such machine is located: (a) in a bar as defined  
32 in subdivision one of section thirteen hundred ninety-nine-n of this  
33 chapter, or the bar area of a food service establishment with a valid,  
34 on-premises full liquor license; (b) in a private club; (c) in a tobacco  
35 business as defined in subdivision eight of section thirteen hundred  
36 ninety-nine-aa of this article; or (d) in a place of employment which  
37 has an insignificant portion of its regular workforce comprised of  
38 people under the age of eighteen years and only in such locations that  
39 are not accessible to the general public; provided, however, that in  
40 such locations the vending machine is located in plain view and under  
41 the direct supervision and control of the person in charge of the  
42 location or his or her designated agent or employee.

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

46 2. If the enforcement officer determines after a hearing that a  
47 violation of this article has occurred, he or she shall impose a civil  
48 penalty of a minimum of three hundred dollars, but not to exceed one  
49 thousand dollars for a first violation, and a minimum of five hundred  
50 dollars, but not to exceed one thousand five hundred dollars for each  
51 subsequent violation, unless a different penalty is otherwise provided  
52 in this article. The enforcement officer shall advise the retail dealer  
53 that upon the accumulation of three or more points pursuant to this  
54 section the department of taxation and finance shall suspend the deal-  
55 er's registration. If the enforcement officer determines after a hearing  
56 that a retail dealer was selling tobacco products or vapor products

1 while their registration was suspended or permanently revoked pursuant  
2 to subdivision three or four of this section, he or she shall impose a  
3 civil penalty of twenty-five hundred dollars.

4 § 8-a. Paragraph (a) of subdivision 3 of section 1399-ee of the public  
5 health law, as amended by chapter 162 of the laws of 2002, is amended to  
6 read as follows:

7 (a) Imposition of points. If the enforcement officer determines, after  
8 a hearing, that the retail dealer violated subdivision [~~one~~] two of  
9 section thirteen hundred ninety-nine-cc of this article with respect to  
10 a prohibited sale to a minor, he or she shall, in addition to imposing  
11 any other penalty required or permitted pursuant to this section, assign  
12 two points to the retail dealer's record where the individual who  
13 committed the violation did not hold a certificate of completion from a  
14 state certified tobacco sales training program and one point where the  
15 retail dealer demonstrates that the person who committed the violation  
16 held a certificate of completion from a state certified tobacco sales  
17 training program.

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

21 1. Where a civil penalty for a particular incident has not been  
22 imposed or an enforcement action regarding an alleged violation for a  
23 particular incident is not pending under section thirteen hundred nine-  
24 ty-nine-ee of this article, a parent or guardian of a minor to whom  
25 tobacco products, herbal cigarettes or [~~electronic cigarettes~~] vapor  
26 products are sold or distributed in violation of this article may submit  
27 a complaint to an enforcement officer setting forth the name and address  
28 of the alleged violator, the date of the alleged violation, the name and  
29 address of the complainant and the minor, and a brief statement describ-  
30 ing the alleged violation. The enforcement officer shall notify the  
31 alleged violator by certified or registered mail, return receipt  
32 requested, that a complaint has been submitted, and shall set a date, at  
33 least fifteen days after the mailing of such notice, for a hearing on  
34 the complaint. Such notice shall contain the information submitted by  
35 the complainant.

36 § 10. Section 1399-hh of the public health law, as added by chapter  
37 433 of the laws of 1997, is amended to read as follows:

38 § 1399-hh. Tobacco and vapor products enforcement. The commissioner  
39 shall develop, plan and implement a comprehensive program to reduce the  
40 prevalence of tobacco and vapor products use, particularly among persons  
41 less than eighteen years of age. This program shall include, but not be  
42 limited to, support for enforcement of article thirteen-F of this chap-  
43 ter.

44 1. An enforcement officer, as defined in section thirteen hundred  
45 ninety-nine-t of this chapter, may annually, on such dates as shall be  
46 fixed by the commissioner, submit an application for such monies as are  
47 made available for such purpose. Such application shall be in such form  
48 as prescribed by the commissioner and shall include, but not be limited  
49 to, plans regarding random spot checks, including the number and types  
50 of compliance checks that will be conducted, and other activities to  
51 determine compliance with this article. Each such plan shall include an  
52 agreement to report to the commissioner: the names and addresses of  
53 tobacco retailers and vendors determined to be unlicensed, if any; the  
54 number of complaints filed against licensed tobacco retail outlets; and  
55 the names of tobacco retailers and vendors who have paid fines, or have  
56 been otherwise penalized, due to enforcement actions.

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

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

9 § 11. The public health law is amended by adding a new section  
10 1399-mm-1 to read as follows:

11 § 1399-mm-1. Vapor products; child-resistant containers required. No  
12 person engaged in the business of manufacturing, selling or otherwise  
13 distributing vapor products, as such term is defined in subdivision nine  
14 of section thirteen hundred ninety-nine-n of this chapter, may sell any  
15 component of such systems including any refill, cartridge, or other  
16 component, unless such component constitutes "special packaging" for the  
17 protection of children, as defined in 15 U.S.C. 1471 or any superseding  
18 statute.

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

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

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

31 § 3624. Drivers, monitors and attendants. The commissioner shall  
32 determine and define the qualifications of drivers, monitors and attend-  
33 ants and shall make the rules and regulations governing the operation of  
34 all transportation facilities used by pupils which rules and regulations  
35 shall include, but not be limited to, a maximum speed of fifty-five  
36 miles per hour for school vehicles engaged in pupil transportation that  
37 are operated on roads, interstates or other highways, parkways or bridg-  
38 es or portions thereof that have posted speed limits in excess of  
39 fifty-five miles per hour, prohibitions relating to smoking and use of  
40 vapor products, eating and drinking and any and all other acts or  
41 conduct which would otherwise impair the safe operation of such trans-  
42 portation facilities while actually being used for the transport of  
43 pupils. The employment of each driver, monitor and attendant shall be  
44 approved by the chief school administrator of a school district for each  
45 school bus operated within his or her district. For the purpose of  
46 determining his or her physical fitness, each driver, monitor and  
47 attendant may be examined on order of the chief school administrator by  
48 a duly licensed physician within two weeks prior to the beginning of  
49 service in each school year as a school bus driver, monitor or attend-  
50 ant. The report of the physician, in writing, shall be considered by the  
51 chief school administrator in determining the fitness of the driver to  
52 operate or continue to operate any transportation facilities used by  
53 pupils and in determining the fitness of any monitor or attendant to  
54 carry out his or her functions on such transportation facilities. Noth-  
55 ing in this section shall prohibit a school district from imposing a  
56 more restrictive speed limit policy for the operation of school vehicles

1 engaged in pupil transportation than the speed limit policy established  
2 by the commissioner.

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

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

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

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

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

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

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

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

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

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

42 § 19. The opening paragraph of subdivision (a) of section 471-c of the  
43 tax law, as amended by section 2 of part I1 of chapter 57 of the laws of  
44 2009, is amended to read as follows:

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

54 § 20. Paragraph (i) of subdivision (a) of section 471-c of the tax  
55 law, as amended by section 20 of part D of chapter 134 of the laws of  
56 2010, is amended to read as follows:

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

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

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

10 § 22. Subdivision 2 of section 474 of the tax law, as amended by chap-  
11 ter 552 of the laws of 2008, is amended to read as follows:

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

26 § 23. Subdivision 3 of section 474 of the tax law, as added by chapter  
27 61 of the laws of 1989, is amended to read as follows:

28 3. Every dealer or distributor or employee thereof, or other person  
29 acting on behalf of a dealer or distributor, who shall possess or trans-  
30 port more than fifty cigars or more than one pound of tobacco, or more  
31 than one hundred milliliters of vapor product upon the public highways,  
32 roads or streets of the state, shall be required to have in his actual  
33 possession invoices or delivery tickets for such tobacco products. Such  
34 invoices or delivery tickets shall show the name and address of the  
35 consignor or seller, the name and address of the consignee or purchaser,  
36 the quantity and brands of the tobacco products transported, and the  
37 name and address of the person who has or shall assume the payment of  
38 the tax and the wholesale price or the tax paid or payable. The absence  
39 of such invoices or delivery tickets shall be prima facie evidence that  
40 the tax imposed by this article on tobacco products has not been paid  
41 and is due and owing.

42 § 24. Subparagraph (i) of paragraph (b) of subdivision 1 of section  
43 481 of the tax law, as amended by section 1 of part 0 of chapter 59 of  
44 the laws of 2013, is amended to read as follows:

45 (i) In addition to any other penalty imposed by this article, the  
46 commissioner may (A) impose a penalty of not more than six hundred  
47 dollars for each two hundred cigarettes, or fraction thereof, in excess  
48 of one thousand cigarettes in unstamped or unlawfully stamped packages  
49 in the possession or under the control of any person or (B) impose a  
50 penalty of not more than two hundred dollars for each ten unaffixed  
51 false, altered or counterfeit cigarette tax stamps, imprints or  
52 impressions, or fraction thereof, in the possession or under the control  
53 of any person. In addition, the commissioner may impose a penalty of not  
54 more than seventy-five dollars for each fifty cigars [~~or~~], one pound of  
55 tobacco, or one hundred milliliters of vapor product, or fraction there-  
56 of, in excess of two hundred fifty cigars [~~or~~], five pounds of tobacco

1 or five hundred milliliters of vapor product in the possession or under  
2 the control of any person and a penalty of not more than one hundred  
3 fifty dollars for each fifty cigars [~~or~~], pound of tobacco, or one  
4 hundred milliliters of vapor product, or fraction thereof, in excess of  
5 five hundred cigars [~~or~~], ten pounds of tobacco, or one thousand milli-  
6 liters of vapor product in the possession or under the control of any  
7 person, with respect to which the tobacco products tax has not been paid  
8 or assumed by a distributor or tobacco products dealer; provided, howev-  
9 er, that any such penalty imposed shall not exceed seven thousand five  
10 hundred dollars in the aggregate. The commissioner may impose a penalty  
11 of not more than seventy-five dollars for each fifty cigars [~~or~~], one  
12 pound of tobacco, or one hundred milliliters of vapor product, or frac-  
13 tion thereof, in excess of fifty cigars [~~or~~], one pound of tobacco, or  
14 one hundred milliliters of vapor product in the possession or under the  
15 control of any tobacco products dealer or distributor appointed by the  
16 commissioner, and a penalty of not more than one hundred fifty dollars  
17 for each fifty cigars [~~or~~], pound of tobacco, or one hundred milliliters  
18 of vapor product, or fraction thereof, in excess of two hundred fifty  
19 cigars [~~or~~], five pounds of tobacco, or five hundred milliliters of  
20 vapor product, in the possession or under the control of any such dealer  
21 or distributor, with respect to which the tobacco products tax has not  
22 been paid or assumed by a distributor or a tobacco products dealer;  
23 provided, however, that any such penalty imposed shall not exceed  
24 fifteen thousand dollars in the aggregate.

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

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

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

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

52 (II) not less than fifty dollars but not more than two hundred dollars  
53 for each fifty cigars [~~or~~], pound of tobacco, or one hundred milliliters  
54 of vapor product, or fraction thereof, in excess of two hundred fifty  
55 cigars [~~or~~], five pounds of tobacco, or five hundred milliliters of  
56 vapor product knowingly in the possession or knowingly under the control

1 of any person, with respect to which the tobacco products tax has not  
2 been paid or assumed by a distributor or a tobacco products dealer;  
3 provided, however, that any such penalty imposed under this clause shall  
4 not exceed twenty thousand dollars in the aggregate.

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

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

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

27 (2) Any person, other than a dealer or a distributor appointed by the  
28 commissioner under article twenty of this chapter, who shall knowingly  
29 transport or have in his custody, possession or under his control more  
30 than fifteen pounds of tobacco, or more than seven hundred fifty cigars,  
31 or more than fifteen hundred milliliters or more of vapor product upon  
32 which the taxes imposed by article twenty of this chapter have not been  
33 assumed or paid by a distributor appointed by the commissioner under  
34 article twenty of this chapter, or other person treated as a distributor  
35 pursuant to section four hundred seventy-one-d of this chapter shall be  
36 guilty of a misdemeanor punishable by a fine of not more than five thou-  
37 sand dollars or by a term of imprisonment not to exceed thirty days.

38 (3) Any person, other than a distributor appointed by the commissioner  
39 under article twenty of this chapter, who shall knowingly transport or  
40 have in his custody, possession or under his control twenty-five hundred  
41 or more cigars, or fifty or more pounds of tobacco, or five thousand  
42 milliliters or more of vapor product upon which the taxes imposed by  
43 article twenty of this chapter have not been assumed or paid by a  
44 distributor appointed by the commissioner under article twenty of this  
45 chapter, or other person treated as a distributor pursuant to section  
46 four hundred seventy-one-d of this chapter shall be guilty of a misde-  
47 meanor. Provided further, that any person who has twice been convicted  
48 under this subdivision shall be guilty of a class E felony for any  
49 subsequent violation of this section, regardless of the amount of tobac-  
50 co products involved in such violation.

51 (4) For purposes of this subdivision, such person shall knowingly  
52 transport or have in his custody, possession or under his control tobac-  
53 co, ~~(i)~~ cigars, or vapor products on which such taxes have not been  
54 assumed or paid by a distributor appointed by the commissioner where  
55 such person has knowledge of the requirement of the tax on tobacco  
56 products and, where to his knowledge, such taxes have not been assumed

1 or paid on such tobacco products by a distributor appointed by the  
2 commissioner of taxation and finance.

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

5 (a) Any person who, while not appointed as a distributor of tobacco  
6 products pursuant to the provisions of article twenty of this chapter,  
7 imports or causes to be imported into the state more than fifty cigars,  
8 or more than one pound of tobacco, or more than one hundred milliliters  
9 of vapor product for sale within the state, or produces, manufactures or  
10 compounds tobacco products within the state shall be guilty of a misde-  
11 meanor punishable by a fine of not more than five thousand dollars or by  
12 a term of imprisonment not to exceed thirty days. If, within any ninety  
13 day period, one thousand or more cigars, or five hundred pounds or more  
14 of tobacco, or fifty thousand milliliters or more of vapor product are  
15 imported or caused to be imported into the state for sale within the  
16 state or are produced, manufactured or compounded within the state by  
17 any person while not appointed as a distributor of tobacco products,  
18 such person shall be guilty of a misdemeanor. Provided further, that any  
19 person who has twice been convicted under this section shall be guilty  
20 of a class E felony for any subsequent violation of this section,  
21 regardless of the amount of tobacco products involved in such violation.

22 (b) For purposes of this section, the possession or transportation  
23 within this state by any person, other than a tobacco products distribu-  
24 tor appointed by the commissioner of taxation and finance, at any one  
25 time of seven hundred fifty or more cigars [~~or~~], fifteen pounds or more  
26 of tobacco, or fifteen hundred milliliters or more of vapor product  
27 shall be presumptive evidence that such tobacco products are possessed  
28 or transported for the purpose of sale and are subject to the tax  
29 imposed by section four hundred seventy-one-b of this chapter. With  
30 respect to such possession or transportation, any provisions of article  
31 twenty of this chapter providing for a time period during which the tax  
32 imposed by such article may be paid shall not apply.

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

35 (a) Whenever a police officer designated in section 1.20 of the crimi-  
36 nal procedure law or a peace officer designated in subdivision four of  
37 section 2.10 of such law, acting pursuant to his special duties, shall  
38 discover any tobacco products in excess of five hundred cigars [~~or~~], ten  
39 pounds of tobacco, or one thousand milliliters of vapor product which  
40 are being imported for sale in the state where the person importing or  
41 causing such tobacco products to be imported has not been appointed as a  
42 distributor pursuant to section four hundred seventy-two of this chap-  
43 ter, such police officer or peace officer is hereby authorized and  
44 empowered forthwith to seize and take possession of such tobacco  
45 products. Such tobacco products seized by a police officer or peace  
46 officer shall be turned over to the commissioner. Such seized tobacco  
47 products shall be forfeited to the state. All tobacco products forfeited  
48 to the state shall be destroyed or used for law enforcement purposes,  
49 except that tobacco products that violate, or are suspected of violat-  
50 ing, federal trademark laws or import laws shall not be used for law  
51 enforcement purposes. If the commissioner determines the tobacco  
52 products may not be used for law enforcement purposes, the commissioner  
53 must, within a reasonable time thereafter, upon publication in the state  
54 registry of a notice to such effect before the day of destruction,  
55 destroy such forfeited tobacco products. The commissioner may, prior to  
56 any destruction of tobacco products, permit the true holder of the

1 trademark rights in the tobacco products to inspect such forfeited  
2 products in order to assist in any investigation regarding such tobacco  
3 products.

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

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

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

23 PART GG

24 Intentionally Omitted

25 PART HH

26 Intentionally Omitted

27 PART II

28 Section 1. Paragraph (a) of subdivision 1 of section 471-b of the tax  
29 law, as amended by section 18 of part D of chapter 134 of the laws of  
30 2010, is amended to read as follows:

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

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

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

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

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

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

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

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

5 PART JJ

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

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

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

39 (vi) In the case of a transfer of an interest in a partnership, limit-  
40 ed liability corporation, S corporation or non-publicly traded C corpo-  
41 ration with one hundred or fewer shareholders that owns real property  
42 that is located in New York and has a fair market value that equals or  
43 exceeds fifty percent of all the assets of the entity on the date of the  
44 transfer of an interest in the entity, the consideration for the convey-  
45 ance shall be calculated by multiplying (1) the fair market value of the  
46 real property that is located in New York that is owned by the entity  
47 and (2) the percentage of the entity that is transferred.

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

50 PART KK

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

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

§ 2. This act shall take effect immediately.

PART LL

Intentionally Omitted

PART MM

Section 1. Paragraphs (b) and (c) of subdivision 2 of section 435 of the executive law, paragraph (b) as amended by chapter 164 of the laws of 2003, paragraph (c) as amended by chapter 437 of the laws of 1962, clause 1 of paragraph (c) as amended by chapter 371 of the laws of 1974, are amended to read as follows:

(b) No person, firm or corporation, other than an organization which is or has been during the preceding twelve months duly licensed to conduct bingo games, shall sell or distribute bingo supplies or equipment without having first obtained a license therefor upon written application made, verified and filed with the commission in the form prescribed by the rules and regulations of the commission. As a part of its determination concerning the applicant's suitability for licensing as a bingo supplier, the New York state ~~[racing and wagering board]~~ gaming commission shall require the applicant to furnish to such ~~[board]~~ commission two sets of fingerprints. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check. Upon receipt of criminal history information by the commission for any applicant, the commission must consider any information received pursuant to article twenty-three-A of the correction law and subdivisions fifteen and sixteen of section two hundred ninety-six of this chapter. The commission shall promptly provide the applicant with a copy of his or her criminal history information as well as a copy of article twenty-three-A of the correction law. The department shall inform such applicant of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to the regulations and procedures established by the division of criminal justice services. In each such application for a license under this section shall be stated the name and address of the applicant; the names and addresses of its officers, directors, shareholders or partners; the amount of gross receipts realized on the sale or distribution of bingo supplies and equipment to duly licensed organizations during the last preceding calendar or fiscal year, and such other information as shall be prescribed by such rules and regulations. The fee for such license shall be a sum equal to twenty-five dollars plus an amount based upon the gross sales, if any, of bingo equipment and supplies to authorized organizations by the applicant during the preceding calendar year, or fiscal year if the applicant maintains his accounts on a fiscal year basis, and determined in accordance with the following schedule:

gross sales of \$1,000 to \$4,999.....	\$10.00
gross sales of \$5,000 to \$19,999.....	\$50.00
gross sales of \$20,000 to \$49,999.....	\$200.00

1 gross sales of \$50,000 to \$100,000.....\$500.00  
 2 gross sales in excess of \$100,000.....\$1,000.00

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

4 (1) a person convicted of a crime [~~who has not received~~] if there is a  
 5 direct relationship between one or more of the previous criminal  
 6 offenses and the integrity of bingo, considering the factors set forth  
 7 in section seven hundred fifty-three of the correction law, provided,  
 8 however, that receipt of a pardon, a certificate of good conduct or a  
 9 certificate of relief from disabilities shall remove any ineligibility  
 10 for a license under this clause;

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

13 (3) a public officer or employee;

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

16 (5) a firm or corporation in which a person defined in [~~subdivision~~  
 17 ~~(1), (2), (3) or (4) above~~] subparagraphs one, two, three or four of  
 18 this paragraph, or a person married or related in the first degree to  
 19 such a person, has greater than a ten per centum proprietary, equitable  
 20 or credit interest or in which such a person is active or employed.

21 § 2. Subdivision 4 of section 186 of the general municipal law, as  
 22 amended by chapter by 574 of the laws of 1978, is amended to read as  
 23 follows:

24 4. "Authorized organization" shall mean and include any bona fide  
 25 religious or charitable organization or bona fide educational, fraternal  
 26 or service organization or bona fide organization of veterans [~~or~~],  
 27 volunteer [~~firemen~~] firefighters, or volunteer ambulance workers, which  
 28 by its charter, certificate of incorporation, constitution, or act of  
 29 the legislature, shall have among its dominant purposes one or more of  
 30 the lawful purposes as defined in this article, provided that each shall  
 31 operate without profit to its members, and provided that each such  
 32 organization has engaged in serving one or more of the lawful purposes  
 33 as defined in this article for a period of three years [~~immediatley~~]  
 34 immediately prior to applying for a license under this article.

35 § 3. Subdivisions 5 and 6 of section 189 of the general municipal law,  
 36 subdivision 5 as amended by chapter 434 of the laws of 2016, subdivision  
 37 6 as amended by chapter 302 of the laws of 2010, are amended to read as  
 38 follows:

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

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

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

51 (d) For coin boards and merchandise boards, the value of a prize shall  
 52 be determined by [~~its costs~~] the cost of such prize to the authorized  
 53 organization or, if donated, [~~its~~] the fair market value of such prize.

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

1 (1) ten thousand dollars during the successive operations of any one  
2 merchandise wheel[7]; and

3 (2) [~~three~~] six thousand dollars during the successive operations of  
4 any bell jar, coin board, or merchandise board.

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

7 (c) For coin boards and merchandise boards, the value of a prize shall  
8 be determined by [~~its~~] the cost of such prize to the authorized organ-  
9 ization or, if donated, [~~its~~] the fair market value of such prize.

10 § 4. The opening paragraph and subdivision (a) of section 189-a of the  
11 general municipal law, the opening paragraph as amended by chapter 164  
12 of the laws of 2003, subdivision (a) as added by 574 of the laws of  
13 1978, are amended to read as follows:

14 No person, firm, partnership, corporation or organization, shall sell  
15 or distribute supplies or equipment specifically designed or adapted for  
16 use in conduct of games of chance without having first obtained a  
17 license therefor upon written application made, verified and filed with  
18 the [~~board~~] commission in the form prescribed by the rules and regu-  
19 lations of the [~~board~~] commission. As a part of its determination  
20 concerning the applicant's suitability for licensing as a games of  
21 chance supplier, the [~~board~~] commission shall require the applicant to  
22 furnish to the [~~board~~] commission two sets of fingerprints. Such fing-  
23 erprints shall be submitted to the division of criminal justice services  
24 for a state criminal history record check, as defined in subdivision one  
25 of section three thousand thirty-five of the education law, and may be  
26 submitted to the federal bureau of investigation for a national criminal  
27 history record check. Upon receipt of criminal history information by  
28 the commission for any applicant, the commission must consider any  
29 information received pursuant to article twenty-three-A of the  
30 correction law and subdivisions fifteen and sixteen of section two  
31 hundred ninety-six of the executive law. The commission shall promptly  
32 provide the applicant with a copy of his or her criminal history infor-  
33 ation as well as a copy of article twenty-three-A of the correction  
34 law. The department shall inform such applicant of his or her right to  
35 seek correction of any incorrect information contained in such criminal  
36 history information pursuant to the regulations and procedures estab-  
37 lished by the division of criminal justice services. Manufacturers of  
38 bell jar tickets shall be considered suppliers of such equipment. In  
39 each such application for a license under this section shall be stated  
40 the name and address of the applicant; the names and addresses of its  
41 officers, directors, shareholders or partners; the amount of gross  
42 receipts realized on the sale and rental of games of chance supplies and  
43 equipment to duly licensed authorized organizations during the last  
44 preceding calendar or fiscal year, and such other information as shall  
45 be prescribed by such rules and regulations. The fee for such license  
46 shall be a sum equal to twenty-five dollars plus an amount equal to two  
47 per centum of the gross sales and rentals, if any, of games of chance  
48 equipment and supplies to authorized organizations or authorized games  
49 of chance lessors by the applicant during the preceding calendar year,  
50 or fiscal year if the applicant maintains his accounts on a fiscal year  
51 basis. No license granted pursuant to the provisions of this section  
52 shall be effective for a period of more than one year.

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

54 (1) a person convicted of a crime [~~who has not received~~] if there is a  
55 direct relationship between one or more of the previous criminal  
56 offenses and the integrity of games of chance, considering the factors

1 set forth in section seven hundred fifty-three of the correction law,  
2 provided, however that receipt of a pardon, a certificate of good  
3 conduct or a certificate of relief from disabilities shall remove any  
4 ineligibility for a license under this paragraph;

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

7 (3) a public officer or employee;

8 (4) an authorized games of chance lessor;

9 (5) a firm or corporation in which a person defined in [~~subdivision~~  
10 ~~(1), (2), (3) or (4) above~~] subparagraphs one, two, three or four of  
11 this paragraph has greater than a ten per centum proprietary, equitable  
12 or credit interest or in which such a person is active or employed.

13 § 5. The opening paragraph of paragraph (a) of subdivision 1 of  
14 section 190 of the general municipal law, as amended by chapter 574 of  
15 the laws of 1978, is amended to read as follows:

16 Each applicant for a license shall, after obtaining an identification  
17 number from the [~~board~~] commission, file with the clerk or department, a  
18 written or electronic application therefor in a form to be prescribed by  
19 the [~~board~~] commission, duly executed and verified, in which shall be  
20 stated:

21 § 6. Subdivision 1 of section 190-a of the general municipal law, as  
22 amended by chapter 400 of the laws of 2005, is amended to read as  
23 follows:

24 1. Notwithstanding the licensing requirements set forth in this arti-  
25 cle and their filing requirements set forth in subdivision four of  
26 section one hundred ninety of this article, an authorized organization  
27 may conduct a raffle without complying with such licensing requirements  
28 or such filing requirements, provided, that such organization shall  
29 derive net proceeds from raffles in an amount less than five thousand  
30 dollars during the conduct of one raffle and shall derive net proceeds  
31 from raffles in an amount less than [~~twenty~~] thirty thousand dollars  
32 during one calendar year.

33 § 7. Paragraph (a) of subdivision 2 of section 190-a of the general  
34 municipal law, as amended by chapter 400 of the laws of 2005, is amended  
35 to read as follows:

36 (a) For the purposes of this section, "authorized organization" shall  
37 mean and include any bona fide religious or charitable organization or  
38 bona fide educational, fraternal or service organization or bona fide  
39 organization of veterans [~~or~~], volunteer [~~firefighter~~] firefighters, or  
40 volunteer ambulance workers, which by its charter, certificate of incor-  
41 poration, constitution, or act of the legislature, shall have among its  
42 dominant purposes one or more of the lawful purposes as defined in this  
43 article, provided that each shall operate without profit to its members,  
44 and provided that each such organization has engaged in serving one or  
45 more of the lawful purposes as defined in this article for a period of  
46 three years immediately prior to being granted the filing requirement  
47 exemption contained in subdivision one of this section.

48 § 8. Paragraph (a) of subdivision 1 of section 191 of the general  
49 municipal law, as amended by section 15 of part LL of chapter 56 of the  
50 laws of 2010, is amended to read as follows:

51 (a) Issuance of licenses to conduct games of chance. If such clerk or  
52 department shall determine that the applicant is duly qualified to be  
53 licensed to conduct games of chance under this article; that the member  
54 or members of the applicant designated in the application to manage  
55 games of chance are bona fide active members of the applicant and are  
56 persons of good moral character [~~and have never been convicted of a~~

1 ~~crime, or, if convicted, have received a pardon, a certificate of good~~  
2 ~~conduct or a certificate of relief from disabilities pursuant to article~~  
3 ~~twenty-three of the correction law~~]; that such games are to be conducted  
4 in accordance with the provisions of this article and in accordance with  
5 the rules and regulations of the [beard] commission and applicable local  
6 laws or ordinances and that the proceeds thereof are to be disposed of  
7 as provided by this article, and if such clerk or department is satis-  
8 fied that no commission, salary, compensation, reward or recompense  
9 whatever will be paid or given to any person managing, operating or  
10 assisting therein except as in this article otherwise provided; it shall  
11 issue a license to the applicant for the conduct of games of chance upon  
12 payment of a license fee of twenty-five dollars for each license period.

13 § 9. Subdivision 1 of section 195-c of the general municipal law, as  
14 amended by chapter 252 of the laws of 1998, is amended to read as  
15 follows:

16 [~~1.~~] Persons operating games; equipment; expenses; compensation. 1. No  
17 person shall operate any game of chance under any license issued under  
18 this article except a bona fide member of the authorized organization to  
19 which the license is issued, or a bona fide member of an organization or  
20 association which is an auxiliary to the licensee or a bona fide member  
21 of an organization or association of which such licensee is an auxiliary  
22 or a bona fide member of an organization or association which is affil-  
23 iated with the licensee by being, with it, auxiliary to another organ-  
24 ization or association. Nothing herein shall be construed to limit the  
25 number of games of chance licensees for whom such persons may operate  
26 games of chance nor to prevent non-members from assisting the licensee  
27 in any activity other than managing or operating games. No game of  
28 chance shall be conducted with any equipment except such as shall be  
29 owned or leased by the authorized organization so licensed or used with-  
30 out payment of any compensation therefor by the licensee. However, in no  
31 event shall bell jar tickets be transferred from one authorized organ-  
32 ization to another, with or without payment of any compensation thereof.  
33 The head or heads of the authorized organization shall upon request  
34 certify, under oath, that the persons operating any game of chance are  
35 bona fide members of such authorized organization, auxiliary or affil-  
36 iated organization. Upon request by an officer or the department any  
37 such person involved in such games of chance shall certify that he or  
38 she has no criminal record or shall disclose previous criminal offenses  
39 that must be considered pursuant to article twenty-three-A of the  
40 correction law and subdivisions fifteen and sixteen of section two  
41 hundred ninety-six of the executive law. No items of expense shall be  
42 incurred or paid in connection with the conducting of any game of chance  
43 pursuant to any license issued under this article except those that are  
44 reasonable and are necessarily expended for games of chance supplies and  
45 equipment, prizes, security personnel, stated rental if any, bookkeeping  
46 or accounting services according to a schedule of compensation  
47 prescribed by the [beard] commission, janitorial services and utility  
48 supplies if any, and license fees, and the cost of bus transportation,  
49 if authorized by such clerk or department. No commission, salary,  
50 compensation, reward or recompense shall be paid or given to any person  
51 for the sale or assisting with the sale of raffle tickets.

52 § 10. Subdivision 4 of section 195-n of the general municipal law, as  
53 amended by chapter 637 of the laws of 1999, is amended to read as  
54 follows:

55 4. Reports of sales. A manufacturer who sells bell jar tickets for  
56 resale in this state shall file with the [beard] commission, on a form

1 prescribed by the [~~beard~~] commission, a report of all bell jar tickets  
2 sold to distributors in the state. The report shall be filed quarterly  
3 on or before the twentieth day of the month succeeding the end of the  
4 quarter in which the sale was made. The [~~beard~~] commission may require  
5 that the report be submitted via [~~magnetic~~] electronic media or elec-  
6 tronic data transfer.

7 § 11. Subdivision 5 of section 195-o of the general municipal law, as  
8 amended by chapter 637 of the laws of 1999, is amended to read as  
9 follows:

10 5. Reports. A distributor shall report quarterly to the [~~beard~~]  
11 commission, on a form prescribed by the [~~beard~~] commission, its sales of  
12 each type of bell jar deal or tickets. This report shall be filed quar-  
13 terly on or before the twentieth day of the month succeeding the end of  
14 the quarter in which the sale was made. The [~~beard~~] commission may  
15 require that a distributor submit the quarterly report and invoices  
16 required by this section via [~~magnetic~~] electronic media or electronic  
17 data transfer.

18 § 12. Subdivisions 6 and 11-b of section 476 of the general municipal  
19 law, subdivision 6 as amended by chapter 438 of the laws of 1962, para-  
20 graph (c) of subdivision 6 as amended by chapter 190 of the laws of  
21 1997, paragraph (d) of subdivision 6 as relettered by chapter 480 of the  
22 laws of 1991, subdivision 11-b as added by chapter 162 of the laws of  
23 2007, are amended to read as follows:

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

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

34 (b) Those which shall initiate, perform or foster worthy public works  
35 or shall enable or further the erection or maintenance of public struc-  
36 tures;

37 (c) Those which shall initiate, perform or foster the provisions of  
38 services to veterans by encouraging the gathering of such veterans and  
39 shall enable or further the erection or maintenance of facilities for  
40 use by such veterans which shall be used primarily for charitable or  
41 patriotic purposes, or those purposes which shall be authorized by a  
42 bona fide organization of veterans, provided however that such proceeds  
43 are disbursed in accordance with the rules and regulations of the  
44 [~~racing and wagering board~~] commission.

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

54 11-b. "Bonus ball" shall mean a bingo game that is played in conjunc-  
55 tion with one or more regular or special bingo games designated as bonus  
56 ball games by the licensed authorized organization during one or more

1 consecutive bingo occasions in which a prize is awarded to the player  
2 obtaining a specified winning bingo pattern when the last number called  
3 by the licensed authorized organization is the designated bonus ball  
4 number. The bonus ball prize shall be based upon a percentage of the  
5 sales from opportunities to participate in bonus ball games not to  
6 exceed seventy-five percent of the sum of money received from the sale  
7 of bonus ball opportunities or [~~six~~] ten thousand dollars, whichever  
8 shall be less, and which is not subject to the prize limits imposed by  
9 subdivisions five and six of section four hundred seventy-nine and para-  
10 graph (a) of subdivision one of section four hundred eighty-one of this  
11 article. The percentage shall be specified both in the application for  
12 the bingo license and the license. Notwithstanding section four hundred  
13 eighty-nine of this article, not more than one dollar shall be charged  
14 per player for an opportunity to participate in all bonus ball games  
15 conducted during a single bingo occasion, and the total amount collected  
16 from the sale of bonus ball opportunities and the amount of the prize to  
17 be awarded shall be announced prior to the start of each bingo occasion.

18 § 13. Subdivisions 5 and 6 of section 479 of the general municipal  
19 law, as amended by chapter 328 of the laws of 1994, are amended to read  
20 as follows:

21 5. No prize shall exceed the sum or value of [~~one~~] five thousand  
22 dollars in any single game of bingo.

23 6. No series of prizes on any one bingo occasion shall aggregate more  
24 than [~~three~~] fifteen thousand dollars.

25 § 14. Paragraph (a) of subdivision 1 of section 480 of the general  
26 municipal law, as amended by chapter 611 of the laws of 1963, is amended  
27 to read as follows:

28 (a) Each applicant for a license shall, after obtaining an identifica-  
29 tion number from the [~~control~~] commission, file with the clerk of the  
30 municipality a written or electronic application therefor in the form  
31 prescribed in the rules and regulations of the [~~control~~] commission,  
32 duly executed and verified, in which shall be stated:

33 § 15. Paragraph (a) of subdivision 2 of section 480 of the general  
34 municipal law, as amended by chapter 438 of the laws of 1962, is amended  
35 to read as follows:

36 (a) Each applicant for a license to lease premises to a licensed  
37 organization for the purposes of conducting bingo therein shall file  
38 with the clerk of the municipality a written or electronic application  
39 therefor in a form prescribed in the rules and regulations of the  
40 [~~control~~] commission duly executed and verified, which shall set forth  
41 the name and address of the applicant; designation and address of the  
42 premises intended to be covered by the license sought; lawful capacity  
43 for public assembly purposes; cost of premises and assessed valuation  
44 for real estate tax purposes, or annual net lease rent, whichever is  
45 applicable; gross rentals received and itemized expenses for the imme-  
46 diately preceding calendar or fiscal year, if any; gross rentals, if  
47 any, derived from bingo during the last preceding calendar or fiscal  
48 year; computation by which proposed rental schedule was determined;  
49 number of occasions on which applicant anticipates receiving rent for  
50 bingo during the ensuing year or shorter period if applicable; proposed  
51 rent for each such occasion; estimated gross rental income from all  
52 other sources during the ensuing year; estimated expenses itemized for  
53 ensuing year and amount of each item allocated to bingo rentals; a  
54 statement that the applicant in all respects conforms with the specifi-  
55 cations contained in the definition of "authorized commercial lessor"

1 set forth in section four hundred seventy-six of this article, and such  
2 other information as shall be prescribed by such rules and regulations.

3 § 16. Paragraph (a) of subdivision 1 of section 481 of the general  
4 municipal law, as amended by section 17 of part LL of chapter 56 of the  
5 laws of 2010, is amended to read as follows:

6 (a) Issuance of licenses to conduct bingo. If the governing body of  
7 the municipality shall determine that the applicant is duly qualified to  
8 be licensed to conduct bingo under this article; that the member or  
9 members of the applicant designated in the application to conduct bingo  
10 are bona fide active members of the applicant and are persons of good  
11 moral character [~~and have never been convicted of a crime or, if~~  
12 ~~convicted, have received a pardon or a certificate of good conduct or a~~  
13 ~~certificate of relief from disabilities pursuant to article twenty-three~~  
14 ~~of the correction law~~]; that such games are to be conducted in accord-  
15 ance with the provisions of this article and in accordance with the  
16 rules and regulations of the commission, and that the proceeds thereof  
17 are to be disposed of as provided by this article, and if the governing  
18 body is satisfied that no commission, salary, compensation, reward or  
19 recompense whatever will be paid or given to any person holding, operat-  
20 ing or conducting or assisting in the holding, operation and conduct of  
21 any such games except as in this article otherwise provided; and that no  
22 prize will be offered and given in excess of the sum or value of [~~one~~  
23 five thousand dollars in any single game and that the aggregate of all  
24 prizes offered and given in all of such games conducted on a single  
25 occasion, under said license shall not exceed the sum or value of  
26 [~~three~~ fifteen thousand dollars, it shall issue a license to the appli-  
27 cant for the conduct of bingo upon payment of a license fee of eighteen  
28 dollars and seventy-five cents for each bingo occasion; provided, howev-  
29 er, that the governing body shall refuse to issue a license to an appli-  
30 cant seeking to conduct bingo in premises of a licensed commercial  
31 lessor where it determines that the premises presently owned or occupied  
32 by said applicant are in every respect adequate and suitable for  
33 conducting bingo games.

34 § 17. Subdivision 1 of section 491 of the general municipal law, as  
35 amended by chapter 667 of the laws of 1980, is amended to read as  
36 follows:

37 1. Within seven days after the conclusion of any occasion of bingo,  
38 the authorized organization which conducted the same, and its members  
39 who were in charge thereof, and when applicable the authorized organiza-  
40 tion which rented its premises therefor, shall each furnish to the clerk  
41 of the municipality a statement subscribed by the member in charge and  
42 affirmed by him as true, under the penalties of perjury, showing the  
43 amount of the gross receipts derived therefrom and each item of expense  
44 incurred, or paid, and each item of expenditure made or to be made, the  
45 name and address of each person to whom each such item has been paid, or  
46 is to be paid, with a detailed description of the merchandise purchased  
47 or the services rendered therefor, the net proceeds derived from such  
48 game or rental, as the case may be, and the use to which such proceeds  
49 have been or are to be applied and a list of prizes offered and given,  
50 with the respective values thereof[~~, and it~~]. The clerk or the depart-  
51 ment shall make provisions for the option for the electronic filing of  
52 such statement. It shall be the duty of each licensee to maintain and  
53 keep such books and records as may be necessary to substantiate the  
54 particulars of each such statement and within fifteen days after the end  
55 of each calendar quarter during which there has been any occasion of  
56 bingo, a summary statement of such information, in form prescribed by

1 the state, shall be furnished in the same manner to the [~~state racing~~  
2 ~~and wagering board~~] commission.

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

## PART NN

5  
6 Section 1. Section 207 of the racing, pari-mutuel wagering and breed-  
7 ing law, as added by chapter 18 of the laws of 2008, paragraphs a, b and  
8 c of subdivision 1 as added by section 4, paragraph c of subdivision 1  
9 as added by section 5 and subdivision 5 as added by section 6 of chapter  
10 457 of the laws of 2012, and paragraph d of subdivision 1 as amended by  
11 section 1 of part C of chapter 73 of the laws of 2016, is amended to  
12 read as follows:

13 § 207. Board of directors of a franchised corporation. 1. a. The  
14 board of directors, to be called the New York racing association [~~reor-~~  
15 ~~ganization~~] board, shall consist of [~~seventeen~~] fifteen members[~~, five~~  
16 ~~of whom shall be elected by the present class A directors of The New~~  
17 ~~York Racing Association, Inc., eight to be~~] who shall have equal voting  
18 rights: two appointed by the governor[~~, two to be~~] each of whom must be  
19 a resident of New York state; one appointed by the temporary president  
20 of the senate [~~and two to be~~]; one appointed by the speaker of the  
21 assembly; eight appointed by the executive committee of the New York  
22 racing association reorganization board of directors constituted pursu-  
23 ant to chapter four hundred fifty-seven of the laws of two thousand  
24 twelve, of which at least one shall be a full-time resident of each of  
25 Nassau, Queens, and Saratoga counties, and which shall continue to exist  
26 until such time as the appointments required hereunder are made; one who  
27 shall be the president and chief executive officer of the franchised  
28 corporation, ex officio and without term limitation; one appointed by  
29 the New York Thoroughbred Breeders, Inc; and one appointed by the New  
30 York thoroughbred horsemen's association representing at least fifty-one  
31 percent of the horsemen using the facilities of the franchised corpo-  
32 ration. The New York racing association board may include additional ex  
33 officio, non-voting members as appointed pursuant to a majority vote of  
34 the board.

35 (i) The governor shall nominate a member to serve as chair for an  
36 initial term of three years, who shall serve at the pleasure of the  
37 governor, subject to confirmation by majority vote of the board [~~of~~  
38 ~~directors. All non-ex officio members shall have equal voting rights~~].  
39 Thereafter, the board shall elect its chair, who shall serve at the  
40 pleasure of the board, from among its members.

41 (ii) The term of voting membership on the New York racing association  
42 board shall be three years. Individual appointees shall be limited to  
43 serving as a voting member the lesser of three terms or nine years.  
44 Notwithstanding the foregoing, the first terms of five of the members  
45 appointed by the executive committee of the New York racing association  
46 reorganization board of directors shall expire December thirty-first,  
47 two thousand eighteen; the first terms of the remaining three members  
48 appointed by the executive committee of the New York racing association  
49 reorganization board of directors, the member appointed by the New York  
50 Thoroughbred Breeders, Inc., and the member appointed by the New York  
51 thoroughbred horsemen's association representing at least fifty-one  
52 percent of the horsemen using the facilities of the franchised corpo-  
53 ration shall expire December thirty-first, two thousand nineteen; and  
54 the first terms of the members appointed by the governor, the temporary

1 president of the senate, and the speaker of the assembly shall expire  
2 December thirty-first, two thousand twenty.

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 remaining such members.

13 b. The franchised corporation shall establish a compensation committee  
14 to fix salary guidelines, such guidelines to be consistent with an oper-  
15 ation of other first class thoroughbred racing operations in the United  
16 States; a finance and audit committee, to review annual operating and  
17 capital budgets for each of the three racetracks; a nominating and  
18 governance committee, to nominate any new directors to be designated by  
19 the franchised corporation to replace its existing directors and be  
20 responsible for all issues affecting the governance of the franchised  
21 corporation; an equine safety committee, to review industry best prac-  
22 tices to improve the safety of horse racing at each of the three race-  
23 tracks; a racing committee to address all issues related to racing oper-  
24 ations; and an executive committee. Each of the compensation, finance,  
25 nominating and executive committees shall include at least one of the  
26 directors appointed by the governor, and the executive committee shall  
27 include [~~at least one of~~] the [~~directors~~] director appointed by the  
28 temporary president of the senate and [~~at least one of~~] the [~~directors~~]  
29 director appointed by the speaker of the assembly.

30 [~~b. In addition to these voting members, the board shall have two ex~~  
31 ~~officio members to advise on critical economic and equine health~~  
32 ~~concerns of the racing industry, one appointed by the New York Thorough-~~  
33 ~~bred Breeders Inc., and one appointed by the New York thoroughbred~~  
34 ~~horsemen's association (or such other entity as is certified and~~  
35 ~~approved pursuant to section two hundred twenty eight of this article).~~

36 e. ~~All directors shall serve at the pleasure of their appointing~~  
37 ~~authority.~~

38 c. Upon the effective date of this paragraph, the structure of the New  
39 York racing association board [~~of the franchised corporation~~] shall be  
40 deemed to be incorporated within and made part of the certificate of  
41 incorporation of the franchised corporation, and no amendment to such  
42 certificate of incorporation shall be necessary to give effect to any  
43 such provision, and any provision contained within such certificate  
44 inconsistent in any manner shall be superseded by the provisions of this  
45 section. Such board shall, however, make appropriate conforming changes  
46 to all governing documents of the franchised corporation including but  
47 not limited to corporate by-laws. Following such conforming changes,  
48 amendments to the by-laws of the franchised corporation shall [~~only~~] be  
49 made only by unanimous vote of the board.

50 [~~d. The board, which shall become effective upon appointment of a~~  
51 ~~majority of public members, shall terminate five years from its date of~~  
52 ~~creation.~~]

53 2. Members of the New York racing association board [~~of directors~~]  
54 shall serve without compensation for their services, but publicly  
55 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 private employment,  
5 or in a profession or business, however no member shall have any direct  
6 or indirect economic interest in any video lottery gaming facility,  
7 excluding incidental benefits based on purses or awards won in the ordi-  
8 nary conduct of racing operations, or any direct or indirect interest in  
9 any development undertaken at the racetracks of the state racing fran-  
10 chise.

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. Subparagraph (i) of paragraph (d) of subdivision 1 of section 238  
38 of the racing, pari-mutuel wagering and breeding law, as amended by  
39 section 2 of part BB of chapter 60 of the laws of 2016, is amended to  
40 read as follows:

41 (i) The pari-mutuel tax rate authorized by paragraph (a) of this  
42 subdivision shall be effective so long as a franchised corporation noti-  
43 fies the gaming commission by August fifteenth of each year that such  
44 pari-mutuel tax rate is effective of its intent to conduct a race meet-  
45 ing at Aqueduct racetrack during the months of December, January, Febru-  
46 ary, March and April. For purposes of this paragraph such race meeting  
47 shall consist of not less than ninety-five days of racing unless other-  
48 wise agreed to in writing by the New York Thoroughbred Breeders, Inc.,  
49 the New York thoroughbred horsemen's association (or such other entity  
50 as is certified and approved pursuant to section two hundred twenty-  
51 eight of this article) and approved by the commission. The franchised  
52 corporation shall enter into a written agreement with the organization  
53 representing at least fifty-one percent of the owners and trainers  
54 utilizing the facilities of the franchised corporation that governs the  
55 terms and conditions of racing during race meetings conducted by the  
56 franchised corporation, including: (a) a ratio of the allocation of

1 purse monies for stakes races and overnight races; and (b) the number of  
2 live racing days to be conducted per race meeting at each of the facili-  
3 ties operated by the franchised corporation. Not later than May first of  
4 each year that such pari-mutuel tax rate is effective, the gaming  
5 commission shall determine whether a race meeting at Aqueduct racetrack  
6 consisted of the number of days as required by this paragraph. In deter-  
7 mining the number of race days, cancellation of a race day because of an  
8 act of God that the gaming commission approves or because of weather  
9 conditions that are unsafe or hazardous which the gaming commission  
10 approves shall not be construed as a failure to conduct a race day.  
11 Additionally, cancellation of a race day because of circumstances beyond  
12 the control of such franchised corporation for which the gaming commis-  
13 sion gives approval shall not be construed as a failure to conduct a  
14 race day. If the gaming commission determines that the number of days of  
15 racing as required by this paragraph have not occurred then the pari-mu-  
16 tuel tax rate in paragraph (a) of this subdivision shall revert to the  
17 pari-mutuel tax rates in effect prior to January first, nineteen hundred  
18 ninety-five.

19 § 3. This act shall take effect April 1, 2017; provided, however, that  
20 section one of this act shall take effect upon the appointment of a  
21 majority of board members; provided, further, that the state franchise  
22 oversight board shall notify the legislative bill drafting commission  
23 upon the occurrence of such appointments in order that the commission  
24 may maintain an accurate and timely effective data base of the official  
25 text of the laws of the state of New York in furtherance of effectuating  
26 the provisions of section 44 of the legislative law and section 70-b of  
27 the public officers law.

28

## PART 00

29 Section 1. Paragraph (a) of subdivision 1 of section 1003 of the  
30 racing, pari-mutuel wagering and breeding law, as amended by section 1  
31 of part FF of chapter 60 of the laws of 2016, is amended to read as  
32 follows:

33 (a) Any racing association or corporation or regional off-track  
34 betting corporation, authorized to conduct pari-mutuel wagering under  
35 this chapter, desiring to display the simulcast of horse races on which  
36 pari-mutuel betting shall be permitted in the manner and subject to the  
37 conditions provided for in this article may apply to the commission for  
38 a license so to do. Applications for licenses shall be in such form as  
39 may be prescribed by the commission and shall contain such information  
40 or other material or evidence as the commission may require. No license  
41 shall be issued by the commission authorizing the simulcast transmission  
42 of thoroughbred races from a track located in Suffolk county. The fee  
43 for such licenses shall be five hundred dollars per simulcast facility  
44 and for account wagering licensees that do not operate either a simul-  
45 cast facility that is open to the public within the state of New York or  
46 a licensed racetrack within the state, twenty thousand dollars per year  
47 payable by the licensee to the commission for deposit into the general  
48 fund. Except as provided in this section, the commission shall not  
49 approve any application to conduct simulcasting into individual or group  
50 residences, homes or other areas for the purposes of or in connection  
51 with pari-mutuel wagering. The commission may approve simulcasting into  
52 residences, homes or other areas to be conducted jointly by one or more  
53 regional off-track betting corporations and one or more of the follow-  
54 ing: a franchised corporation, thoroughbred racing corporation or a

1 harness racing corporation or association; provided (i) the simulcasting  
2 consists only of those races on which pari-mutuel betting is authorized  
3 by this chapter at one or more simulcast facilities for each of the  
4 contracting off-track betting corporations which shall include wagers  
5 made in accordance with section one thousand fifteen, one thousand  
6 sixteen and one thousand seventeen of this article; provided further  
7 that the contract provisions or other simulcast arrangements for such  
8 simulcast facility shall be no less favorable than those in effect on  
9 January first, two thousand five; (ii) that each off-track betting  
10 corporation having within its geographic boundaries such residences,  
11 homes or other areas technically capable of receiving the simulcast  
12 signal shall be a contracting party; (iii) the distribution of revenues  
13 shall be subject to contractual agreement of the parties except that  
14 statutory payments to non-contracting parties, if any, may not be  
15 reduced; provided, however, that nothing herein to the contrary shall  
16 prevent a track from televising its races on an irregular basis primari-  
17 ly for promotional or marketing purposes as found by the commission. For  
18 purposes of this paragraph, the provisions of section one thousand thir-  
19 teen of this article shall not apply. Any agreement authorizing an  
20 in-home simulcasting experiment commencing prior to May fifteenth, nine-  
21 teen hundred ninety-five, may, and all its terms, be extended until June  
22 thirtieth, two thousand [~~seventeen~~ **eighteen**]; provided, however, that  
23 any party to such agreement may elect to terminate such agreement upon  
24 conveying written notice to all other parties of such agreement at least  
25 forty-five days prior to the effective date of the termination, via  
26 registered mail. Any party to an agreement receiving such notice of an  
27 intent to terminate, may request the commission to mediate between the  
28 parties new terms and conditions in a replacement agreement between the  
29 parties as will permit continuation of an in-home experiment until June  
30 thirtieth, two thousand [~~seventeen~~ **eighteen**]; and (iv) no in-home simul-  
31 casting in the thoroughbred special betting district shall occur without  
32 the approval of the regional thoroughbred track.

33 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section  
34 1007 of the racing, pari-mutuel wagering and breeding law, as amended by  
35 section 2 of part FF of chapter 60 of the laws of 2016, is amended to  
36 read as follows:

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

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

53 The provisions of this section shall govern the simulcasting of races  
54 conducted at thoroughbred tracks located in another state or country on  
55 any day during which a franchised corporation is conducting a race meet-  
56 ing in Saratoga county at Saratoga thoroughbred racetrack until June

1 thirtieth, two thousand [~~seventeen~~] **eighteen** and on any day regardless  
2 of whether or not a franchised corporation is conducting a race meeting  
3 in Saratoga county at Saratoga thoroughbred racetrack after June thirti-  
4 eth, two thousand [~~seventeen~~] **eighteen**. On any day on which a fran-  
5 chised corporation has not scheduled a racing program but a thoroughbred  
6 racing corporation located within the state is conducting racing, every  
7 off-track betting corporation branch office and every simulcasting  
8 facility licensed in accordance with section one thousand seven (that  
9 have entered into a written agreement with such facility's represen-  
10 tative horsemen's organization, as approved by the commission), one  
11 thousand eight, or one thousand nine of this article shall be authorized  
12 to accept wagers and display the live simulcast signal from thoroughbred  
13 tracks located in another state or foreign country subject to the  
14 following provisions:

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

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

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

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

44 § 6. The opening paragraph of section 1018 of the racing, pari-mutuel  
45 wagering and breeding law, as amended by section 6 of part FF of chapter  
46 60 of the laws of 2016, is amended to read as follows:

47 Notwithstanding any other provision of this chapter, for the period  
48 July twenty-fifth, two thousand one through September eighth, two thou-  
49 sand [~~sixteen~~] **seventeen**, when a franchised corporation is conducting a  
50 race meeting within the state at Saratoga Race Course, every off-track  
51 betting corporation branch office and every simulcasting facility  
52 licensed in accordance with section one thousand seven (that has entered  
53 into a written agreement with such facility's representative horsemen's  
54 organization as approved by the commission), one thousand eight or one  
55 thousand nine of this article shall be authorized to accept wagers and  
56 display the live simulcast signal from thoroughbred tracks located in

1 another state, provided that such facility shall accept wagers on races  
2 run at all in-state thoroughbred tracks which are conducting racing  
3 programs subject to the following provisions; provided, however, no such  
4 written agreement shall be required of a franchised corporation licensed  
5 in accordance with section one thousand seven of this article.

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

10 § 32. This act shall take effect immediately and the pari-mutuel tax  
11 reductions in section six of this act shall expire and be deemed  
12 repealed on July 1, [~~2017~~] 2018; provided, however, that nothing  
13 contained herein shall be deemed to affect the application, qualifica-  
14 tion, expiration, or repeal of any provision of law amended by any  
15 section of this act, and such provisions shall be applied or qualified  
16 or shall expire or be deemed repealed in the same manner, to the same  
17 extent and on the same date as the case may be as otherwise provided by  
18 law; provided further, however, that sections twenty-three and twenty-  
19 five of this act shall remain in full force and effect only until May 1,  
20 1997 and at such time shall be deemed to be repealed.

21 § 8. Section 54 of chapter 346 of the laws of 1990, amending the  
22 racing, pari-mutuel wagering and breeding law and other laws relating to  
23 simulcasting and the imposition of certain taxes, as amended by section  
24 8 of part FF of chapter 60 of the laws of 2016, is amended to read as  
25 follows:

26 § 54. This act shall take effect immediately; provided, however,  
27 sections three through twelve of this act shall take effect on January  
28 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-  
29 ing law, as added by section thirty-eight of this act, shall expire and  
30 be deemed repealed on July 1, [~~2017~~] 2018; and section eighteen of this  
31 act shall take effect on July 1, 2008 and sections fifty-one and fifty-  
32 two of this act shall take effect as of the same date as chapter 772 of  
33 the laws of 1989 took effect.

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

37 (a) The franchised corporation authorized under this chapter to  
38 conduct pari-mutuel betting at a race meeting or races run thereat shall  
39 distribute all sums deposited in any pari-mutuel pool to the holders of  
40 winning tickets therein, provided such tickets be presented for payment  
41 before April first of the year following the year of their purchase,  
42 less an amount which shall be established and retained by such fran-  
43 chised corporation of between twelve to seventeen per centum of the  
44 total deposits in pools resulting from on-track regular bets, and four-  
45 teen to twenty-one per centum of the total deposits in pools resulting  
46 from on-track multiple bets and fifteen to twenty-five per centum of the  
47 total deposits in pools resulting from on-track exotic bets and fifteen  
48 to thirty-six per centum of the total deposits in pools resulting from  
49 on-track super exotic bets, plus the breaks. The retention rate to be  
50 established is subject to the prior approval of the gaming commission.  
51 Such rate may not be changed more than once per calendar quarter to be  
52 effective on the first day of the calendar quarter. "Exotic bets" and  
53 "multiple bets" shall have the meanings set forth in section five  
54 hundred nineteen of this chapter. "Super exotic bets" shall have the  
55 meaning set forth in section three hundred one of this chapter. For  
56 purposes of this section, a "pick six bet" shall mean a single bet or

1 wager on the outcomes of six races. The breaks are hereby defined as the  
2 odd cents over any multiple of five for payoffs greater than one dollar  
3 five cents but less than five dollars, over any multiple of ten for  
4 payoffs greater than five dollars but less than twenty-five dollars,  
5 over any multiple of twenty-five for payoffs greater than twenty-five  
6 dollars but less than two hundred fifty dollars, or over any multiple of  
7 fifty for payoffs over two hundred fifty dollars. Out of the amount so  
8 retained there shall be paid by such franchised corporation to the  
9 commissioner of taxation and finance, as a reasonable tax by the state  
10 for the privilege of conducting pari-mutuel betting on the races run at  
11 the race meetings held by such franchised corporation, the following  
12 percentages of the total pool for regular and multiple bets five per  
13 centum of regular bets and four per centum of multiple bets plus twenty  
14 per centum of the breaks; for exotic wagers seven and one-half per  
15 centum plus twenty per centum of the breaks, and for super exotic bets  
16 seven and one-half per centum plus fifty per centum of the breaks. For  
17 the period June first, nineteen hundred ninety-five through September  
18 ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be  
19 three per centum and such tax on multiple wagers shall be two and one-  
20 half per centum, plus twenty per centum of the breaks. For the period  
21 September tenth, nineteen hundred ninety-nine through March thirty-  
22 first, two thousand one, such tax on all wagers shall be two and six-  
23 tenths per centum and for the period April first, two thousand one  
24 through December thirty-first, two thousand [~~seventeen~~] eighteen, such  
25 tax on all wagers shall be one and six-tenths per centum, plus, in each  
26 such period, twenty per centum of the breaks. Payment to the New York  
27 state thoroughbred breeding and development fund by such franchised  
28 corporation shall be one-half of one per centum of total daily on-track  
29 pari-mutuel pools resulting from regular, multiple and exotic bets and  
30 three per centum of super exotic bets provided, however, that for the  
31 period September tenth, nineteen hundred ninety-nine through March thir-  
32 ty-first, two thousand one, such payment shall be six-tenths of one per  
33 centum of regular, multiple and exotic pools and for the period April  
34 first, two thousand one through December thirty-first, two thousand  
35 [~~seventeen~~] eighteen, such payment shall be seven-tenths of one per  
36 centum of such pools.

37 § 10. This act shall take effect immediately.

38

## PART PP

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

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

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

52

## PART QQ

1 Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivi-  
2 sion b of section 1612 of the tax law, as separately amended by section  
3 1 of part GG and section 2 of part SS of chapter 60 of the laws of 2016,  
4 is amended to read as follows:

5 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of  
6 this subparagraph, the track operator of a vendor track and in the case  
7 of Aqueduct, the video lottery terminal facility operator, shall be  
8 eligible for a vendor's capital award of up to four percent of the total  
9 revenue wagered at the vendor track after payout for prizes pursuant to  
10 this chapter, which shall be used exclusively for capital project  
11 investments to improve the facilities of the vendor track which promote  
12 or encourage increased attendance at the video lottery gaming facility  
13 including, but not limited to hotels, other lodging facilities, enter-  
14 tainment facilities, retail facilities, dining facilities, events  
15 arenas, parking garages and other improvements that enhance facility  
16 amenities; provided that such capital investments shall be approved by  
17 the division, in consultation with the state racing and wagering board,  
18 and that such vendor track demonstrates that such capital expenditures  
19 will increase patronage at such vendor track's facilities and increase  
20 the amount of revenue generated to support state education programs. The  
21 annual amount of such vendor's capital awards that a vendor track shall  
22 be eligible to receive shall be limited to two million five hundred  
23 thousand dollars, except for Aqueduct racetrack, for which there shall  
24 be no annual limit, provided, however, that any such capital award for  
25 the Aqueduct video lottery terminal facility operator shall be one  
26 percent of the total revenue wagered at the video lottery terminal  
27 facility after payout for prizes pursuant to this chapter until the  
28 earlier of the designation of one thousand video lottery devices as  
29 hosted pursuant to paragraph four of subdivision a of section sixteen  
30 hundred seventeen-a of this chapter or April first, two thousand nine-  
31 teen and shall then be four percent of the total revenue wagered at the  
32 video lottery terminal facility after payout for prizes pursuant to this  
33 chapter, provided, further, that such capital award shall only be  
34 provided pursuant to an agreement with the operator to construct an  
35 expansion of the facility, hotel, and convention and exhibition space  
36 requiring a minimum capital investment of three hundred million dollars.  
37 Except for tracks having less than one thousand one hundred video gaming  
38 machines, and except for a vendor track located west of State Route 14  
39 from Sodus Point to the Pennsylvania border within New York, and except  
40 for Aqueduct racetrack each track operator shall be required to co-in-  
41 vest an amount of capital expenditure equal to its cumulative vendor's  
42 capital award. For all tracks, except for Aqueduct racetrack, the amount  
43 of any vendor's capital award that is not used during any one year peri-  
44 od may be carried over into subsequent years ending before April first,  
45 two thousand [~~seventeen~~] eighteen. Any amount attributable to a capital  
46 expenditure approved prior to April first, two thousand [~~seventeen~~]  
47 eighteen and completed before April first, two thousand [~~nineteen~~] twen-  
48 ty; or approved prior to April first, two thousand [~~twenty-one~~] twenty-  
49 two and completed before April first, two thousand [~~twenty-three~~] twen-  
50 ty-four for a vendor track located west of State Route 14 from Sodus  
51 Point to the Pennsylvania border within New York, shall be eligible to  
52 receive the vendor's capital award. In the event that a vendor track's  
53 capital expenditures, approved by the division prior to April first, two  
54 thousand [~~seventeen~~] eighteen and completed prior to April first, two  
55 thousand [~~nineteen~~] twenty, exceed the vendor track's cumulative capital  
56 award during the five year period ending April first, two thousand

1 [~~seventeen~~] eighteen, the vendor shall continue to receive the capital  
 2 award after April first, two thousand [~~seventeen~~] eighteen until such  
 3 approved capital expenditures are paid to the vendor track subject to  
 4 any required co-investment. In no event shall any vendor track that  
 5 receives a vendor fee pursuant to clause (F) or (G) of this subparagraph  
 6 be eligible for a vendor's capital award under this section. Any opera-  
 7 tor of a vendor track which has received a vendor's capital award,  
 8 choosing to divest the capital improvement toward which the award was  
 9 applied, prior to the full depreciation of the capital improvement in  
 10 accordance with generally accepted accounting principles, shall reim-  
 11 burse the state in amounts equal to the total of any such awards. Any  
 12 capital award not approved for a capital expenditure at a video lottery  
 13 gaming facility by April first, two thousand [~~seventeen~~] eighteen shall  
 14 be deposited into the state lottery fund for education aid; and  
 15 § 2. This act shall take effect immediately.

16 PART RR

17 Intentionally Omitted

18 PART SS

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

22 (iv) (A) for taxable years beginning before January first, two thou-  
 23 sand sixteen, if the business income base is not more than two hundred  
 24 ninety thousand dollars the amount shall be six and one-half percent of  
 25 the business income base; if the business income base is more than two  
 26 hundred ninety thousand dollars but not over three hundred ninety thou-  
 27 sand dollars the amount shall be the sum of (1) eighteen thousand eight  
 28 hundred fifty dollars, (2) seven and one-tenth percent of the excess of  
 29 the business income base over two hundred ninety thousand dollars but  
 30 not over three hundred ninety thousand dollars and (3) four and thirty-  
 31 five hundredths percent of the excess of the business income base over  
 32 three hundred fifty thousand dollars but not over three hundred ninety  
 33 thousand dollars;

34 (B) for taxable years beginning on or after January first, two thou-  
 35 sand eighteen, if the business income base is not more than two hundred  
 36 ninety thousand dollars the amount shall be four percent of the business  
 37 income base; if the business income base is more than two hundred ninety  
 38 thousand dollars but not over three hundred ninety thousand dollars the  
 39 amount shall be the sum of (1) eleven thousand six hundred dollars, (2)  
 40 six and one-half percent of the excess of the business income base over  
 41 two hundred ninety thousand dollars but not over three hundred ninety  
 42 thousand dollars and (3) eighteen and thirteen hundredths percent of the  
 43 excess of the business income base over three hundred fifty thousand  
 44 dollars but not over three hundred ninety thousand dollars;

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

48 (39) (A) In the case of a taxpayer who is a small business or a  
 49 taxpayer who is a member, partner, or shareholder of a limited liability  
 50 company, partnership, or New York S corporation, respectively, that is a  
 51 small business, who or which has business income and/or farm income as  
 52 defined in the laws of the United States, an amount equal to [~~three~~]

1 fifteen percent of the net items of income, gain, loss and deduction  
 2 attributable to such business or farm entering into federal adjusted  
 3 gross income, but not less than zero[~~, for taxable years beginning after~~  
 4 ~~two thousand thirteen, an amount equal to three and three-quarters~~  
 5 ~~percent of the net items of income, gain, loss and deduction attribut-~~  
 6 ~~able to such business or farm entering into federal adjusted gross~~  
 7 ~~income, but not less than zero, for taxable years beginning after two~~  
 8 ~~thousand fourteen, and an amount equal to five percent of the net items~~  
 9 ~~of income, gain, loss and deduction attributable to such business or~~  
 10 ~~farm entering into federal adjusted gross income, but not less than~~  
 11 ~~zero, for taxable years beginning after two thousand fifteen].~~

12 (B) (i) For the purposes of this paragraph, the term small business  
 13 shall mean: (I) a sole proprietor [~~or a farm business~~] who employs one  
 14 or more persons during the taxable year and who has net business income  
 15 or net farm income of less than two hundred fifty thousand dollars, or  
 16 (II) a limited liability company, partnership or New York S corporation  
 17 that during the taxable year employs one or more persons and has New  
 18 York gross business income attributable to a non-farm business that is  
 19 greater than zero but less than one million five hundred thousand  
 20 dollars or net farm income attributable to a farm business that is  
 21 greater than zero but less than two hundred fifty thousand dollars.

22 (ii) For purposes of this paragraph, the term New York gross business  
 23 income shall mean: (I) in the case of a limited liability company or a  
 24 partnership New York source gross income as defined in subparagraph (B)  
 25 of paragraph three of subsection (c) of section six hundred fifty-eight  
 26 of this article, and, (II) in the case of a New York S corporation, New  
 27 York receipts included in the numerator of the apportionment factor  
 28 determined under section two hundred ten-A of this chapter for the tax-  
 29 able year.

30 (C) To qualify for this modification in relation to a non-farm small  
 31 business that is a limited liability company, partnership or New York S  
 32 corporation, the taxpayer's income attributable to the net business  
 33 income from its ownership interests in non-farm limited liability compa-  
 34 nies, partnerships or New York S corporations must be less than two  
 35 hundred fifty thousand dollars.

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

PART TT

39 Section 1. Clause (ii) of subparagraph (B) of paragraph 1 of  
 40 subsection (a) of section 601 of the tax law is amended by adding a new  
 41 subclause (IX) to read as follows:

42 (IX) For tax years after two thousand seventeen, the following tax  
 43 rates shall apply if New York taxable income is over \$1,000,000:

44 <u>Over \$1,000,000 but not over</u>	<u>\$66,578 plus 8.82% of excess over</u>
45 <u>\$5,000,000</u>	<u>\$1,000,000</u>
46 <u>Over \$5,000,000 but not over</u>	<u>\$419,378 plus 9.32% of excess over</u>
47 <u>\$10,000,000</u>	<u>\$5,000,000</u>
48 <u>Over \$10,000,000 but not over</u>	<u>\$885,378 plus 9.82% of excess over</u>
49 <u>\$100,000,000</u>	<u>\$10,000,000</u>
50 <u>Over \$100,000,000</u>	<u>\$9,723,378 plus 10.32% of excess</u>
51	<u>over \$100,000,000</u>

1 § 2. Clause (ii) of subparagraph (B) of paragraph 1 of subsection (b)  
 2 of section 601 of the tax law is amended by adding a new subclause (IX)  
 3 to read as follows:

4 (IX) For tax years after two thousand seventeen, the following tax  
 5 rates shall apply if New York taxable income is over \$1,000,000:

6 <u>Over \$1,000,000 but not over</u>	<u>\$67,017 plus 8.82% of excess over</u>
7 <u>\$5,000,000</u>	<u>\$1,000,000</u>
8 <u>Over \$5,000,000 but not over</u>	<u>\$419,817 plus 9.32% of excess over</u>
9 <u>\$10,000,000</u>	<u>\$5,000,000</u>
10 <u>Over \$10,000,000 but not over</u>	<u>\$885,817 plus 9.82% of excess over</u>
11 <u>\$100,000,000</u>	<u>\$10,000,000</u>
12 <u>Over \$100,000,000</u>	<u>\$9,723,817 plus 10.32% of excess</u>
13	<u>over \$100,000,000</u>

14 § 3. Clause (ii) of subparagraph (B) of paragraph 1 of subsection (c)  
 15 of section 601 of the tax law is amended by adding a new subclause (IX)  
 16 to read as follows:

17 (IX) For tax years after two thousand seventeen, the following tax  
 18 rates shall apply if New York taxable income is over \$1,000,000:

19 <u>Over \$1,000,000 but not over</u>	<u>\$67,391 plus 8.82% of excess over</u>
20 <u>\$5,000,000</u>	<u>\$1,000,000</u>
21 <u>Over \$5,000,000 but not over</u>	<u>\$420,191 plus 9.32% of excess over</u>
22 <u>\$10,000,000</u>	<u>\$5,000,000</u>
23 <u>Over \$10,000,000</u>	<u>\$886,191 plus 9.82% of excess over</u>
24	<u>\$10,000,000</u>
25 <u>Over \$100,000,000</u>	<u>\$9,724,191 plus 10.32% of excess</u>
26	<u>over \$100,000,000</u>

27 § 4. Section 601 of the tax law is amended by adding a new subsection  
 28 (d-2) to read as follows:

29 (d-2) Alternative tax table benefit recapture. For taxable years  
 30 beginning after two thousand seventeen for a taxpayer whose New York  
 31 taxable income is over \$1,000,000, there is hereby imposed a supple-  
 32 mental tax in addition to the tax imposed under subsections (a), (b) and  
 33 (c) of this section for the purpose of recapturing the benefit of the  
 34 tax tables contained in such subsections. During these taxable years,  
 35 any reference in this chapter to subsection (d) of this section shall be  
 36 read as a reference to this subsection.

37 (1) For resident married individuals filing joint returns and resident  
 38 surviving spouses, the supplemental tax shall be an amount equal to the  
 39 sum of the tax table benefits described in subparagraphs (A), (B), (C)  
 40 and (D) of this paragraph multiplied by their respective fractions in  
 41 such subparagraphs.

42 (A) The tax table benefit is the difference between (i) the amount of  
 43 taxable income set forth in the tax table in clause (ii) of subparagraph  
 44 (B) of paragraph one of subsection (a) of this section not subject to  
 45 the 8.82 percent rate of tax for the taxable year multiplied by such  
 46 rate and (ii) the dollar denominated tax for such amount of taxable  
 47 income set forth in the tax table applicable to the taxable year in  
 48 clause (ii) of subparagraph (B) of paragraph one of subsection (a) of  
 49 this section less the sum of tax table benefits in subparagraphs (A),  
 50 (B) and (C) of paragraph 1 of subsection (d-1) of this section. The  
 51 fraction for this subparagraph is computed as follows: the numerator is  
 52 the lesser of fifty thousand dollars or the excess of New York adjusted  
 53 gross income for the taxable year over one million dollars and the  
 54 denominator is fifty thousand dollars.

1 (B) The tax table benefit is the difference between (i) the amount of  
2 taxable income set forth in the tax table in clause (ii) of subparagraph  
3 (B) of paragraph one of subsection (a) of this section not subject to  
4 the 9.32 percent rate of tax for the taxable year multiplied by such  
5 rate and (ii) the dollar denominated tax for such amount of taxable  
6 income set forth in the tax table applicable to the taxable year in  
7 clause (ii) of subparagraph (B) of paragraph one of subsection (a) of  
8 this section less the sum of the tax table benefits in subparagraphs  
9 (A), (B) and (C) of paragraph 1 of subsection (d-1) of this section and  
10 such tax table benefit in subparagraph (A) of this paragraph. The frac-  
11 tion for this subparagraph is computed as follows: the numerator is the  
12 lesser of fifty thousand dollars or the excess of New York adjusted  
13 gross income for the taxable year over five million dollars and the  
14 denominator is fifty thousand dollars. Provided, however, this subpara-  
15 graph shall not apply to taxpayers who are not subject to the 9.32  
16 percent tax rate.

17 (C) The tax table benefit is the difference between (i) the amount of  
18 taxable income set forth in the tax table in clause (ii) of subparagraph  
19 (B) of paragraph one of subsection (a) of this section not subject to  
20 the 9.82 percent rate of tax for the taxable year multiplied by such  
21 rate and (ii) the dollar denominated tax for such amount of taxable  
22 income set forth in the tax table applicable to the taxable year in  
23 clause (ii) of paragraph (B) of paragraph one of subsection (a) of this  
24 section less the sum of the tax table benefits in subparagraphs (A), (B)  
25 and (C) of paragraph 1 of subsection (d-1) of this section and such tax  
26 table benefits in subparagraphs (A) and (B) of this paragraph. The frac-  
27 tion for this subparagraph is computed as follows: the numerator is the  
28 lesser of fifty thousand dollars or the excess of New York adjusted  
29 gross income for the taxable year over ten million dollars and the  
30 denominator is fifty thousand dollars. Provided, however, this subpara-  
31 graph shall not apply to taxpayers who are not subject to the 9.82  
32 percent tax rate.

33 (D) The tax table benefit is the difference between (i) the amount of  
34 taxable income set forth in the tax table in clause (ii) of subparagraph  
35 (B) of paragraph one of subsection (a) of this section not subject to  
36 the 10.32 percent rate of tax for the taxable year multiplied by such  
37 rate and (ii) the dollar denominated tax for such amount of taxable  
38 income set forth in the tax table applicable to the taxable year in  
39 clause (ii) of subparagraph (B) of paragraph one of subsection (a) of  
40 this section less the sum of the tax table benefits in subparagraphs  
41 (A), (B) and (C) of paragraph 1 of subsection (d-1) of this section and  
42 such tax table benefits in subparagraphs (A), (B) and (C) of this para-  
43 graph. The fraction for this subparagraph is computed as follows: the  
44 numerator is the lesser of fifty thousand dollars or the excess of New  
45 York adjusted gross income for the taxable year over one hundred million  
46 dollars and the denominator is fifty thousand dollars.

47 (E) Provided, however, the total tax prior to the application of any  
48 tax credits shall not exceed the highest rate of tax set forth in the  
49 tax tables in subsection (a) of this section multiplied by the taxpay-  
50 er's taxable income.

51 (2) For resident heads of households, the supplemental tax shall be an  
52 amount equal to the sum of the tax table benefits described in subpara-  
53 graphs (A), (B), (C) and (D) of this paragraph multiplied by their  
54 respective fractions in such subparagraphs.

55 (A) The tax table benefit is the difference between (i) the amount of  
56 taxable income set forth in the tax table in clause (ii) of subparagraph

1 (B) of paragraph one of subsection (b) of this section not subject to  
2 the 8.82 percent rate of tax for the taxable year multiplied by such  
3 rate and (ii) the dollar denominated tax for such amount of taxable  
4 income set forth in the tax table applicable to the taxable year in  
5 clause (ii) of subparagraph (B) of paragraph one of subsection (b) of  
6 this section less the sum of the tax table benefits in subparagraphs (A)  
7 and (B) of paragraph 2 of subsection (d-1) of this section. The frac-  
8 tion for this subparagraph is computed as follows: the numerator is the  
9 lesser of fifty thousand dollars or the excess of New York adjusted  
10 gross income for the taxable year over one million dollars and the  
11 denominator is fifty thousand dollars.

12 (B) The tax table benefit is the difference between (i) the amount of  
13 taxable income set forth in the tax table in clause (ii) of subparagraph  
14 (B) of paragraph one of subsection (b) of this section not subject to  
15 the 9.32 percent rate of tax for the taxable year multiplied by such  
16 rate and (ii) the dollar denominated tax for such amount of taxable  
17 income set forth in the tax table applicable to the taxable year in  
18 clause (ii) of subparagraph (B) of paragraph one of subsection (b) of  
19 this section less the sum of the tax table benefits in subparagraphs (A)  
20 and (B) of paragraph 2 of subsection (d-1) of this section and such tax  
21 table benefit in subparagraph (A) of this paragraph. The fraction for  
22 this subparagraph is computed as follows: the numerator is the lesser of  
23 fifty thousand dollars or the excess of New York adjusted gross income  
24 for the taxable year over five million dollars and the denominator is  
25 fifty thousand dollars. Provided, however, this subparagraph shall not  
26 apply to taxpayers who are not subject to the 9.32 percent tax rate.

27 (C) The tax table benefit is the difference between (i) the amount of  
28 taxable income set forth in the tax table in clause (ii) of subparagraph  
29 (B) of paragraph one of subsection (b) of this section not subject to  
30 the 9.82 percent rate of tax for the taxable year multiplied by such  
31 rate and (ii) the dollar denominated tax for such amount of taxable  
32 income set forth in the tax table applicable to the taxable year in  
33 clause (ii) of subparagraph (B) of paragraph one of subsection (b) of  
34 this section less the sum of the tax table benefits in subparagraphs (A)  
35 and (B) of paragraph 2 of subsection (d-1) of this section and such tax  
36 table benefits in subparagraphs (A) and (B) of this paragraph. The frac-  
37 tion for this subparagraph is computed as follows: the numerator is the  
38 lesser of fifty thousand dollars or the excess of New York adjusted  
39 gross income for the taxable year over ten million dollars and the  
40 denominator is fifty thousand dollars.

41 (D) The tax table benefit is the difference between (i) the amount of  
42 taxable income set forth in the tax table in clause (ii) of subparagraph  
43 (B) of paragraph one of subsection (b) of this section not subject to  
44 the 10.32 percent rate of tax for the taxable year multiplied by such  
45 rate and (ii) the dollar denominated tax for such amount of taxable  
46 income set forth in the tax table applicable to the taxable year in  
47 clause (ii) of subparagraph (B) of paragraph one of subsection (b) of  
48 this section less the sum of the tax table benefits in subparagraphs (A)  
49 and (B) of paragraph 2 of subsection (d-1) of this section and such tax  
50 table benefits in subparagraphs (A), (B) and (C) of this paragraph. The  
51 fraction for this subparagraph is computed as follows: the numerator is  
52 the lesser of fifty thousand dollars or the excess of New York adjusted  
53 gross income for the taxable year over one hundred million dollars and  
54 the denominator is fifty thousand dollars.

55 (E) Provided, however, the total tax prior to the application of any  
56 tax credits shall not exceed the highest rate of tax set forth in the

1 tax tables in subsection (b) of this section multiplied by the taxpay-  
2 er's taxable income.

3 (3) For resident unmarried individuals, resident married individuals  
4 filing separate returns and resident estates and trusts, the supple-  
5 mental tax shall be an amount equal to the sum of the tax table benefits  
6 described in subparagraphs (A), (B), (C) and (D) of this paragraph  
7 multiplied by their respective fractions in such subparagraphs.

8 (A) The tax table benefit is the difference between (i) the amount of  
9 taxable income set forth in the tax table in clause (ii) of subparagraph  
10 (B) of paragraph one of subsection (c) of this section not subject to  
11 the 8.82 percent rate of tax for the taxable year multiplied by such  
12 rate and (ii) the dollar denominated tax for such amount of taxable  
13 income set forth in the tax table applicable to the taxable year in  
14 clause (ii) of subparagraph (B) of paragraph one of subsection (c) of  
15 this section less the sum of tax table benefits in subparagraphs (A) and  
16 (B) of paragraph 3 of subsection (d-1) of this section. The fraction is  
17 computed as follows: the numerator is the lesser of fifty thousand  
18 dollars or the excess of New York adjusted gross income for the taxable  
19 year over one million dollars and the denominator is fifty thousand  
20 dollars.

21 (B) The tax table benefit is the difference between (i) the amount of  
22 taxable income set forth in the tax table in clause (ii) of subparagraph  
23 (B) of paragraph one of subsection (c) of this section not subject to  
24 the 9.32 percent rate of tax for the taxable year multiplied by such  
25 rate and (ii) the dollar denominated tax for such amount of taxable  
26 income set forth in the tax table applicable to the taxable year in  
27 clause (ii) of subparagraph (B) of paragraph one of subsection (c) of  
28 this section less the sum of the tax table benefits in subparagraphs (A)  
29 and (B) of paragraph 3 of subsection (d-1) of this section and such tax  
30 table benefit in subparagraph (A) of this paragraph. The fraction for  
31 this subparagraph is computed as follows: the numerator is the lesser of  
32 fifty thousand dollars or the excess of New York adjusted gross income  
33 for the taxable year over five million dollars and the denominator is  
34 fifty thousand dollars. Provided, however, this subparagraph shall not  
35 apply to taxpayers who are not subject to the 9.32 percent tax rate.

36 (C) The tax table benefit is the difference between (i) the amount of  
37 taxable income set forth in the tax table in clause (ii) of subparagraph  
38 (B) of paragraph one of subsection (c) of this section not subject to  
39 the 9.82 percent rate of tax for the taxable year multiplied by such  
40 rate and (ii) the dollar denominated tax for such amount of taxable  
41 income set forth in the tax table applicable to the taxable year in  
42 clause (ii) of subparagraph (B) of paragraph one of subsection (c) of  
43 this section less the sum of the tax table benefits in subparagraphs (A)  
44 and (B) of paragraph 3 of subsection (d-1) of this section and such tax  
45 table benefits in subparagraphs (A) and (B) of this paragraph. The frac-  
46 tion for this subparagraph is computed as follows: the numerator is the  
47 lesser of fifty thousand dollars or the excess of New York adjusted  
48 gross income for the taxable year over ten million dollars and the  
49 denominator is fifty thousand dollars.

50 (D) The tax table benefit is the difference between (i) the amount of  
51 taxable income set forth in the tax table in clause (ii) of subparagraph  
52 (B) of paragraph one of subsection (c) of this section not subject to  
53 the 10.32 percent rate of tax for the taxable year multiplied by such  
54 rate and (ii) the dollar denominated tax for such amount of taxable  
55 income set forth in the tax table applicable to the taxable year in  
56 clause (ii) of subparagraph (B) of paragraph one of subsection (c) of

1 this section less the sum of the tax table benefits in subparagraphs (A)  
2 and (B) of paragraph 3 of subsection (d-1) of this section and such tax  
3 table benefits in subparagraphs (A), (B) and (C) of this paragraph. The  
4 fraction for this subparagraph is computed as follows: the numerator is  
5 the lesser of fifty thousand dollars or the excess of New York adjusted  
6 gross income for the taxable year over one hundred million dollars and  
7 the denominator is fifty thousand dollars.

8 (E) Provided, however, the total tax prior to the application of any  
9 tax credits shall not exceed the highest rate of tax set forth in the  
10 tax tables in subsection (c) of this section multiplied by the taxpay-  
11 er's taxable income.

12 § 5. Subsection (f) of section 614 of the tax law, as amended by  
13 section 11 of part FF of chapter 59 of the laws of 2013, is amended to  
14 read as follows:

15 (f) Adjusted standard deduction. For taxable years beginning after two  
16 thousand seventeen, the standard deductions set forth in this section  
17 shall be the amounts set forth in this section adjusted by the cost of  
18 living adjustment prescribed in section six hundred one-a of this part  
19 for tax years two thousand thirteen [~~through two thousand seventeen~~] and  
20 thereafter.

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

23 PART UU

24 Section 1. Paragraph (a) of subdivision 1 of section 210-B of the tax  
25 law, as added by section 17 of part A of chapter 59 of the laws of 2014,  
26 is amended to read as follows:

27 (a) A taxpayer shall be allowed a credit, to be computed as hereinaft-  
28 er provided, against the tax imposed by this article. The amount of the  
29 credit shall be the percent provided for hereinbelow of the investment  
30 credit base. The investment credit base is the cost or other basis for  
31 federal income tax purposes of tangible personal property and other  
32 tangible property, including buildings and structural components of  
33 buildings, described in paragraph (b) of this subdivision, less the  
34 amount of the nonqualified nonrecourse financing with respect to such  
35 property to the extent such financing would be excludible from the cred-  
36 it base pursuant to section 46(c)(8) of the internal revenue code  
37 (treating such property as section thirty-eight property irrespective of  
38 whether or not it in fact constitutes section thirty-eight property).  
39 If, at the close of a taxable year following the taxable year in which  
40 such property was placed in service, there is a net decrease in the  
41 amount of nonqualified nonrecourse financing with respect to such prop-  
42 erty, such net decrease shall be treated as if it were the cost or other  
43 basis of property described in paragraph (b) of this subdivision  
44 acquired, constructed, reconstructed or erected during the year of the  
45 decrease in the amount of nonqualified nonrecourse financing. In the  
46 case of a combined report the term investment credit base shall mean the  
47 sum of the investment credit base of each corporation included on such  
48 report. The percentage to be used to compute the credit allowed pursuant  
49 to this subdivision shall be five percent with respect to the first  
50 three hundred fifty million dollars of the investment credit base, and  
51 four percent with respect to the investment credit base in excess of  
52 three hundred fifty million dollars, except that in the case of research  
53 and development property at the option of the taxpayer the applicable  
54 percentage shall be [~~nine~~] eighteen.

1 § 2. Paragraph 1 of subsection (a) of section 606 of the tax law, as  
 2 amended by chapter 170 of the laws of 1994, is amended to read as  
 3 follows:

4 (1) A taxpayer shall be allowed a credit, to be computed as hereinaft-  
 5 er provided, against the tax imposed by this article. The amount of the  
 6 credit shall be the per cent provided for hereinbelow of the investment  
 7 credit base. The investment credit base is the cost or other basis, for  
 8 federal income tax purposes, of tangible personal property and other  
 9 tangible property, including buildings and structural components of  
 10 buildings, described in paragraph two of this subsection, less the  
 11 amount of the nonqualified nonrecourse financing with respect to such  
 12 property to the extent such financing would be excludible from the cred-  
 13 it base pursuant to section 46(c)(8) of the internal revenue code  
 14 (treating such property as section thirty-eight property irrespective of  
 15 whether or not it in fact constitutes section thirty-eight property).  
 16 If, at the close of a taxable year following the taxable year in which  
 17 such property was placed in service, there is a net decrease in the  
 18 amount of nonqualified nonrecourse financing with respect to such prop-  
 19 erty, such net decrease shall be treated as if it were the cost or other  
 20 basis of property described in paragraph two of this subsection  
 21 acquired, constructed, reconstructed or erected during the year of the  
 22 decrease in the amount of nonqualified nonrecourse financing. The  
 23 percentage to be used to compute the credit allowed pursuant to this  
 24 subsection shall be that percentage appearing in column two which is  
 25 opposite the appropriate period in column one in which the tangible  
 26 personal property was acquired, constructed, reconstructed or erected,  
 27 as the case may be:

28 Column 1	Column 2
29 After December 31, 1968 and	
30 prior to January 1, 1974	one per cent
31 After December 31, 1973 and	
32 prior to January 1, 1978	two per cent
33 After December 31, 1977 and	
34 prior to January 1, 1979	three per cent
35 After December 31, 1978 and	
36 prior to June 1, 1981	four per cent
37 After May 31, 1981 and	
38 prior to July 1, 1982	five per cent
39 After June 30, 1982 and	
40 before January 1, 1987	six per cent
41 After December 31, 1986	four per cent, except that in the
42	case of research and development
43	property the applicable percentage
44	shall be [ <del>seven</del> ] <u>fourteen</u>

45 Provided, however, that in the case of an acquisition, construction,  
 46 reconstruction or erection which was commenced in any one period and  
 47 continued or completed in any subsequent period the credit shall be the  
 48 sum of the portions of the investment credit base attributable to each  
 49 such period, which portion with respect to each such period shall be  
 50 ascertained by multiplying such investment credit base by a fraction the  
 51 numerator of which shall be the expenditures paid or incurred during  
 52 such period for such purposes and the denominator of which shall be the  
 53 total of all expenditures paid or incurred for such acquisition,

1 construction, reconstruction or erection, multiplied by the allowable  
2 percentage for each such period.

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

5 PART VV

6 Section 1. Subdivision 3 of section 355 of the economic development  
7 law, as amended by section 4 of part G of chapter 61 of the laws of  
8 2011, is amended to read as follows:

9 3. Excelsior research and development tax credit component. A partic-  
10 ipant in the excelsior jobs program shall be eligible to claim a credit  
11 equal to fifty percent of the portion of the participant's federal  
12 research and development tax credit that relates to the participant's  
13 research and development expenditures in New York state during the taxa-  
14 ble year; provided however, the excelsior research and development tax  
15 credit shall not exceed [~~three~~] six percent of the qualified research  
16 and development expenditures attributable to activities conducted in New  
17 York state. If the federal research and development credit has expired,  
18 then the research and development expenditures relating to the federal  
19 research and development credit shall be calculated as if the federal  
20 research and development credit structure and definition in effect in  
21 two thousand nine were still in effect. Notwithstanding any other  
22 provision of this chapter to the contrary, research and development  
23 expenditures in this state, including salary or wage expenses for jobs  
24 related to research and development activities in this state, may be  
25 used as the basis for the excelsior research and development tax credit  
26 component and the qualified emerging technology company facilities,  
27 operations and training credit under the tax law.

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

30 PART WW

31 Section 1. Subdivision 16 of section 352 of the economic development  
32 law, as amended by section 1 of part K of chapter 59 of the laws of  
33 2015, is amended and a new subdivision 20-a is added to read as follows:

34 16. "Regionally significant project" means (a) a manufacturer creating  
35 at least [~~fifty~~] ten net new jobs in the state and making significant  
36 capital investment in the state; (b) a business creating at least [~~twen-~~  
37 ~~ty~~] ten net new jobs in agriculture in the state and making significant  
38 capital investment in the state, (c) a financial services firm, distrib-  
39 ution center, or back office operation creating at least [~~three~~] one  
40 hundred net new jobs in the state and making significant capital invest-  
41 ment in the state, (d) a scientific research and development firm creat-  
42 ing at least [~~twenty~~] ten net new jobs in the state, and making signif-  
43 icant capital investment in the state or (e) an entertainment company  
44 creating or obtaining at least two hundred net new jobs in the state and  
45 making significant capital investment in the state. Other businesses  
46 creating [~~three~~] one hundred fifty or more net new jobs in the state and  
47 making significant capital investment in the state may be considered  
48 eligible as a regionally significant project by the commissioner as  
49 well. The commissioner shall promulgate regulations pursuant to section  
50 three hundred fifty-six of this article to determine [~~what constitutes~~  
51 ~~significant capital investment for each of the project categories indi-~~  
52 ~~cated in this subdivision and~~] what additional criteria a business must

1 meet to be eligible as a regionally significant project, including, but  
 2 not limited to, whether a business exports a substantial portion of its  
 3 products or services outside of the state or outside of a metropolitan  
 4 statistical area or county within the state.

5 20-a. "Significant capital investment" means a project which will be  
 6 either a newly constructed facility or a newly constructed addition to,  
 7 expansion of or improvement of a facility, consisting of tangible  
 8 personal property and other tangible property, including buildings and  
 9 structural components of buildings, that are depreciable pursuant to  
 10 section one hundred sixty-seven of the internal revenue code, have a  
 11 useful life of four years or more, are acquired by purchase as defined  
 12 in section one hundred seventy-nine (d) of the internal revenue code,  
 13 and that is equal to or exceeds (a) one million dollars for a manufac-  
 14 turer; (b) two hundred fifty thousand dollars for an agriculture busi-  
 15 ness; (c) three million dollars for a financial services firm or back  
 16 office operation; (d) fifteen million dollars for a distribution center;  
 17 (e) three million dollars for a scientific research and development  
 18 firm; or (f) three million dollars for other businesses.

19 § 2. Subdivisions 3 and 4 of section 353 of the economic development  
 20 law, subdivision 3 as amended by section 2 of part K of chapter 59 of  
 21 the laws of 2015 and subdivision 4 as amended by section 1 of part C of  
 22 chapter 68 of the laws of 2013, are amended to read as follows:

23 3. For the purposes of this article, in order to participate in the  
 24 excelsior jobs program, a business entity operating predominantly in  
 25 manufacturing must create at least [~~ten~~] five net new jobs; a business  
 26 entity operating predominately in agriculture must create at least five  
 27 net new jobs; a business entity operating predominantly as a financial  
 28 service data center or financial services customer back office operation  
 29 must create at least [~~fifty~~] twenty-five net new jobs; a business entity  
 30 operating predominantly in scientific research and development must  
 31 create at least five net new jobs; a business entity operating predomi-  
 32 nantly in software development must create at least five net new jobs; a  
 33 business entity creating or expanding back office operations must create  
 34 at least [~~fifty~~] twenty-five net new jobs; a business entity operating  
 35 predominately in music production must create at least five net new  
 36 jobs; a business entity operating predominantly as an entertainment  
 37 company must create or obtain at least one hundred net new jobs; or a  
 38 business entity operating predominantly as a distribution center in the  
 39 state must create at least [~~seventy-five~~] fifty net new jobs, notwith-  
 40 standing subdivision five of this section; or a business entity must be  
 41 a regionally significant project as defined in this article; or

42 4. A business entity operating predominantly in one of the industries  
 43 referenced in paragraphs (a) through (h) of subdivision one of this  
 44 section but which does not meet the job requirements of subdivision  
 45 three of this section must have at least twenty-five full-time job  
 46 equivalents unless such business is a business entity operating predomi-  
 47 nantly in manufacturing then it must have at least [~~ten~~] five full-time  
 48 job equivalents and must demonstrate that its benefit-cost ratio is at  
 49 least ten to one.

50 § 3. This act shall take effect immediately.

51 PART XX

52 Section 1. Paragraph 1 of subsection (d) of section 606 of the tax  
 53 law, as amended by section 1 of part Q of chapter 63 of the laws of  
 54 2000, is amended to read as follows:

1 (1) General. A taxpayer shall be allowed a credit as provided herein  
 2 equal to (i) the applicable percentage of the earned income credit  
 3 allowed under section thirty-two of the internal revenue code for the  
 4 same taxable year, (ii) reduced by the credit permitted under subsection  
 5 (b) of this section.

6 The applicable percentage shall be (i) seven and one-half percent for  
 7 taxable years beginning in nineteen hundred ninety-four, (ii) ten  
 8 percent for taxable years beginning in nineteen hundred ninety-five,  
 9 (iii) twenty percent for taxable years beginning after nineteen hundred  
 10 ninety-five and before two thousand, (iv) twenty-two and one-half  
 11 percent for taxable years beginning in two thousand, (v) twenty-five  
 12 percent for taxable years beginning in two thousand one, (vi) twenty-  
 13 seven and one-half percent for taxable years beginning in two thousand  
 14 two, and (vii) thirty percent for taxable years beginning in two thou-  
 15 sand three, and (viii) thirty-two and one-half percent for the taxable  
 16 year beginning in two thousand eighteen, and (ix) thirty-five percent  
 17 for taxable years beginning in two thousand nineteen and thereafter.

18 [~~Provided, however, that if the reversion event, as defined in this~~  
 19 ~~paragraph, occurs, the applicable percentage shall be twenty percent for~~  
 20 ~~taxable years ending on or after the date on which the reversion event~~  
 21 ~~occurred. The reversion event shall be deemed to have occurred on the~~  
 22 ~~date on which federal action, including but not limited to, administra-~~  
 23 ~~tive, statutory or regulatory changes, materially reduces or eliminates~~  
 24 ~~New York state's allocation of the federal temporary assistance for~~  
 25 ~~needy families block grant, or materially reduces the ability of the~~  
 26 ~~state to spend federal temporary assistance for needy families block~~  
 27 ~~grant funds for the earned income credit or to apply state general fund~~  
 28 ~~spending on the earned income credit toward the temporary assistance for~~  
 29 ~~needy families block grant maintenance of effort requirement, and the~~  
 30 ~~commissioner of the office of temporary and disability assistance shall~~  
 31 ~~certify the date of such event to the commissioner of taxation and~~  
 32 ~~finance, the director of the division of the budget, the speaker of the~~  
 33 ~~assembly and the temporary president of the senate.]~~

34 § 2. This act shall take effect immediately and shall apply to taxable  
 35 years beginning on or after 2018.

36 PART YY

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

39 (ccc) Universal visitability tax credit. 1. For taxable years begin-  
 40 ning on or after January first, two thousand eighteen, until December  
 41 thirty-first, two thousand twenty-two, a taxpayer shall be allowed a  
 42 credit against the tax imposed by this article for a portion of the  
 43 total purchase price paid by such taxpayer for a principal residence  
 44 attributable to universal visitability or the total amount expended by a  
 45 taxpayer to retrofit an existing principal residence to achieve  
 46 universal visitability provided that the principal residence or the  
 47 retrofitting of the existing principal residence is located within this  
 48 state and designed to provide universal visitability as defined through  
 49 the eligibility requirements established by guidelines developed by the  
 50 division of code enforcement and administration within the department of  
 51 state. For the purpose of this subsection, principal residence shall  
 52 mean such residence pursuant to section one hundred twenty-one of the  
 53 internal revenue code.

1 2. The credit shall be allowed for the taxable year in which the prin-  
2 cipal residence has been purchased or constructed, or the retrofitting  
3 or renovation of the residence or residential unit has been completed.  
4 The credit allowed under this section shall not exceed (i) twenty-seven  
5 hundred fifty dollars for the purchase of a new residence, or (ii) fifty  
6 percent of the total amount expended, but not to exceed twenty-seven  
7 hundred fifty dollars for the retrofitting or renovation of each exist-  
8 ing residence or unit.

9 3. No credit shall be allowed under this section for the purchase,  
10 retrofitting or renovation of residential rental property.

11 4. No credit shall be allowed under this subsection for the same  
12 universal visitability improvements previously claimed by a taxpayer.

13 5. If the amount of the credit allowable under this subsection shall  
14 exceed the taxpayer's tax for such year, the excess may be carried over  
15 to the following year or years and may be deducted from the taxpayer's  
16 tax for such year or years.

17 6. Eligible taxpayers shall apply for the credit by making application  
18 to the division of code enforcement and administration within the  
19 department of state. The division of code enforcement and administration  
20 within the department of state shall issue a certification for an  
21 approved application to the taxpayer. The taxpayer shall submit the  
22 certification together with their personal income return.

23 7. (A) The aggregate amount of tax credits allowed pursuant to the  
24 authority of this subsection shall be one million dollars each year  
25 during the period two thousand eighteen through two thousand twenty-two.  
26 Such aggregate amounts of credits shall be allocated by the department  
27 of state among taxpayers in order of priority based upon the date of  
28 filing an application for allocation of credit with the division of code  
29 enforcement and administration. If the total amount of allocated credits  
30 applied for in any particular year exceeds the aggregate amount of tax  
31 credits allowed for such year under this section, such excess shall be  
32 treated as having been applied for on the first day of the subsequent  
33 year.

34 (B) The secretary of state, after consulting with the commissioner,  
35 shall promulgate regulations by October thirty-first, two thousand  
36 seventeen to establish procedures for the allocation of tax credits as  
37 required by this subparagraph. Such rules and regulations shall include  
38 provisions describing the application process, the due days for such  
39 applications, the standards which shall be used to evaluate the applica-  
40 tions, the documentation that will be provided to taxpayers to substan-  
41 tiate to the department the amount of tax credits allocated to such  
42 taxpayers, and such other provisions as deemed necessary and appropri-  
43 ate. Notwithstanding any other provisions to the contrary in the state  
44 administrative procedure act, such rules and regulations may be adopted  
45 on an emergency basis if necessary to meet such October thirty-first,  
46 two thousand seventeen deadline.

47 8. The department of state shall submit to the governor, the temporary  
48 president of the senate, and the speaker of the assembly, an annual  
49 report to be submitted by February first of each year evaluating the  
50 effectiveness of the universal visitability tax credit provided by this  
51 section. Such report shall be based on data available from the applica-  
52 tion filed with the division of code enforcement and administration for  
53 universal visitability credits. Notwithstanding any provision of law to  
54 the contrary, the information contained in the report shall be public  
55 information. The report may also include any recommendations of changes  
56 in the calculation or administration of the credit, and any other recom-

1 mendment of the commissioner of the department of state or the division  
2 of code enforcement and administration regarding continuing modifica-  
3 tion, repeal of such act, and such other information regarding the act  
4 as the division may feel useful and appropriate.

5 § 2. This act shall take effect immediately and shall apply to taxable  
6 years commencing on and after January 1, 2018 and shall expire and be  
7 deemed repealed December 31, 2022.

8 PART ZZ

9 Intentionally Omitted

10 PART AAA

11 Section 1. The tax law is amended by adding a new section 43 to read  
12 as follows:

13 § 43. Empire state music production credit. (a) Allowance of credit.

14 (1) A taxpayer which is a music production entity engaged in qualified  
15 music production, or who is a sole proprietor of or a member of a part-  
16 nership, which is a music production entity engaged in qualified music  
17 production, and is subject to tax under article nine-A or twenty-two of  
18 this chapter, shall be allowed a credit against such tax to be computed  
19 as provided herein.

20 (2) The amount of the credit shall be the product (or pro rata share  
21 of the product, in the case of a member of a partnership or limited  
22 liability company) of twenty-five percent and the eligible production  
23 costs of one or more qualified music productions.

24 (3) Eligible production costs for a qualified music production  
25 incurred and paid in this state but outside such metropolitan commuter  
26 transportation district shall be eligible for a credit of ten percent of  
27 such eligible production costs in addition to the credit specified in  
28 paragraph two of this subdivision.

29 (4) Eligible production costs shall not include those costs used by  
30 the taxpayer or another taxpayer as the basis calculation of any other  
31 tax credit allowed under this chapter or allowed in any other state.

32 (b) Allocation of credit. The aggregate amount of tax credits allowed  
33 under this section, subdivision fifty-two of section two hundred ten-B  
34 and subsection (hhh) of section six hundred six of this chapter in any  
35 taxable year shall be twenty-five million dollars. The aggregate amount  
36 of credits for any taxable year shall be distributed on a regional basis  
37 as follows: fifty percent of the aggregate amount of credits shall be  
38 available for qualified music productions that incur at least sixty  
39 percent of eligible production costs for a qualified music production in  
40 region one; twenty percent of the aggregate amount of credits shall be  
41 available for qualified music productions that incur at least sixty  
42 percent of eligible production costs for a qualified music production in  
43 region two; and thirty percent of the aggregate amount of credits shall  
44 be available for qualified music productions that incur at least sixty  
45 percent of eligible production costs for a qualified music production in  
46 region three. If such regional distribution is not fully allocated in  
47 any taxable year, the remainder of such credits shall be available for  
48 allocation to any region in the subsequent tax year. For the purposes  
49 of this section region one shall contain the city of New York; region  
50 two shall contain the counties of Westchester, Rockland, Nassau and  
51 Suffolk; and region three shall contain any county not contained in  
52 regions one and two. Such credit shall be allocated by the empire state

1 development corporation among taxpayers in order of priority based upon  
2 the date of filing an application for allocation of music production  
3 credits with such office. If the total amount of allocated credits  
4 applied for in any particular year exceeds the aggregate amount of tax  
5 credits allowed for such year under this section, such excess shall be  
6 treated as having been applied for on the first day of the subsequent  
7 taxable year.

8 (c) Definitions. As used in this section:

9 (1) "Music production" means the creation of a sound recording and any  
10 related music video, either of which is intended for commercial release.  
11 A "music production" does not include recordings that are primarily  
12 spoken word or wildlife or nature sounds, or produced for instructional  
13 use or advertising or promotional purposes.

14 (2) "Qualified music production" is a music production in which eligi-  
15 ble production costs equal to or are in excess of seven thousand five  
16 hundred dollars if incurred and paid in this state in the twelve months  
17 preceding the date on which the credit is claimed. Provided, however, if  
18 such production costs are incurred and paid outside the metropolitan  
19 commuter transportation district in this state, such production costs  
20 shall be equal to or in excess of three thousand seven hundred fifty  
21 dollars to be a qualified music production for the purposes of this  
22 paragraph.

23 (3) (A) "Eligible production costs for a qualified music production"  
24 are costs incurred and paid in this state for tangible property and  
25 services used in the production of qualified music production, as deter-  
26 mined by the department of economic development, including, but not  
27 limited to: (i) studio rental fees and related costs, (ii) instrument  
28 and equipment rental fees, (iii) production session fees for musicians,  
29 programmers, engineers, and technicians and (iv) mixing and mastering  
30 services.

31 (B) Eligible production costs shall not include: (i) costs for tangi-  
32 ble property or services used or performed outside of this state, (ii)  
33 performance fees for featured artists or featured guest artists receiv-  
34 ing royalties or advances on royalties or special performance fees  
35 (other than those that would normally be collected by a performing  
36 rights organization) pursuant to an agreement directly with the producer  
37 or employer, (iii) salaries or related compensation for producers or  
38 songwriters, (iv) composer, artist or producer residual royalties or  
39 advances, (v) licensing fees for samples, (vi) interpolations or other  
40 music clearance costs, (vii) mastering or post-production expenditures  
41 for projects that were not principally tracked and recorded in this  
42 state, (viii) any costs associated with manufacturing, duplication,  
43 packaging, distribution, promotion, marketing or touring not specif-  
44 ically outlined in this subparagraph, or (ix) local transportation  
45 expenditures directly related to music production and provided at or to  
46 the site of such music production. With respect to the production of a  
47 music video, eligible production costs are those defined in paragraph  
48 two of subdivision (b) of section twenty-four of this article. Such  
49 total production costs incurred and paid in this state shall be equal to  
50 or exceed seventy-five percent of total cost of an eligible production  
51 incurred and paid within and without this state.

52 (d) Cross-references. For applications of the credit provided for in  
53 this section, see the following provisions of this chapter:

54 (1) Article nine-A: section two hundred ten-B, subdivision fifty-two.

55 (2) Article twenty-two: section six hundred six, subsection (i), para-  
56 graph one, subparagraph (B), clause (xliii).

(3) Article twenty-two: section six hundred six, subsection (hhh).

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

52. Empire state music production credit. (a) Allowance of credit. A taxpayer who is eligible pursuant to section forty-three of this chapter shall be allowed a credit to be computed as provided in such section forty-three against the tax imposed by this article.

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

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

<u>(xliii) Empire state music</u>	<u>Amount of credit</u>
<u>production credit under</u>	<u>under subdivision</u>
<u>subsection (hhh)</u>	<u>fifty-two of section two hundred</u>
	<u>ten-B</u>

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

(hhh) Empire state music production credit. (1) Allowance of credit. A taxpayer who is eligible pursuant to section forty-three of this chapter shall be allowed a credit to be computed as provided in such section forty-three against the tax imposed by this article.

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

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

§ 44. Empire state digital gaming media production credit. (a) Allowance of credit. (1) A taxpayer which is a digital gaming media production entity engaged in qualified digital gaming media production, or who is a sole proprietor of or a member of a partnership, which is a digital gaming media production entity engaged in qualified digital gaming media production, and is subject to tax under article nine-A or twenty-two of this chapter, shall be allowed a credit against such tax to be computed as provided herein.

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership or limited liability company) of twenty-five percent and the eligible production costs of one or more qualified digital gaming media productions.

(3) Eligible digital gaming media production costs for a qualified digital gaming media production incurred and paid in this state but outside such metropolitan commuter transportation district shall be eligible for a credit of ten percent of such eligible production costs in addition to the credit specified in paragraph two of this subdivision.

1 (4) Eligible production costs shall not include those costs used by  
2 the taxpayer or another taxpayer as the basis calculation of any other  
3 tax credit allowed under this chapter or allowed in any other state.

4 (b) Allocation of credit. The aggregate amount of tax credits allowed  
5 under this section, subdivision fifty-three of section two hundred ten-B  
6 and subsection (iii) of section six hundred six of this chapter in any  
7 taxable year shall be twenty-five million dollars. The aggregate amount  
8 of credits for any taxable year must be distributed on a regional basis  
9 as follows: fifty percent of the aggregate amount of credits shall be  
10 available for qualified digital gaming media productions that incur at  
11 least sixty percent of eligible production costs for a qualified digital  
12 gaming media production in region one; twenty percent of the aggregate  
13 amount of credits shall be available for qualified digital gaming media  
14 productions that incur at least sixty percent of eligible production  
15 costs for a qualified digital gaming media production in region two; and  
16 thirty percent of the aggregate amount of credits shall be available for  
17 qualified digital gaming media productions that incur at least sixty  
18 percent of eligible production costs for a qualified digital gaming  
19 media production in region three. If such regional distribution is not  
20 fully allocated in any taxable year, the remainder of such credits shall  
21 be available for allocation to any region in the subsequent tax year.  
22 For the purposes of this section region one shall contain the city of  
23 New York; region two shall contain the counties of Westchester, Rock-  
24 land, Nassau and Suffolk; and region three shall contain any county not  
25 contained in regions one and two. Such credit shall be allocated by the  
26 empire state development corporation among taxpayers in order of priori-  
27 ty based upon the date of filing an application for allocation of  
28 digital gaming media production credit with such office. If the total  
29 amount of allocated credits applied for in any particular year exceeds  
30 the aggregate amount of tax credits allowed for such year under this  
31 section, such excess shall be treated as having been applied for on the  
32 first day of the subsequent taxable year.

33 (c) Definitions. As used in this section:

34 (1) "Qualified digital gaming media production" means: (i) a website,  
35 the digital media production costs of which are paid or incurred predo-  
36 minately in connection with (A) video simulation, animation, text,  
37 audio, graphics or similar gaming related property embodied in digital  
38 format, and (B) interactive features of digital gaming (e.g., links,  
39 message boards, communities or content manipulation); (ii) video or  
40 interactive games produced primarily for distribution over the internet,  
41 wireless network or successors thereto; (iii) animation, simulation or  
42 embedded graphics digital gaming related software intended for commer-  
43 cial distribution regardless of medium; and (iv) a digital gaming media  
44 production in which qualified digital gaming media production costs  
45 equal to or are in excess of seven thousand five hundred dollars if  
46 incurred and paid in this state in twelve months preceding the date on  
47 which the credit is claimed. Provided, however, if such a production  
48 costs are incurred and paid outside the metropolitan commuter transpor-  
49 tation district in this state, such production costs shall be equal to  
50 or in excess of three thousand seven hundred fifty dollars to be a qual-  
51 ified digital gaming media production for purposes of this paragraph. A  
52 qualified digital gaming media production does not include a website,  
53 video, interactive game or software that is used predominately for:  
54 electronic commerce (retail or wholesale purposes other than the sale of  
55 video or interactive games), gambling (including activities regulated by  
56 a New York gaming agency), exclusive local consumption for entities not

1 accessible by the general public including industrial or other private  
2 purposes, and political advocacy purposes.

3 (2) "Digital gaming media production costs" means any costs for prop-  
4 erty used and wages or salaries paid to individuals directly employed  
5 for services performed by those individuals directly and predominately  
6 in the creation of a digital gaming media production or productions.  
7 Digital gaming media production costs include but shall not be limited  
8 to to payments for property used and services performed directly and  
9 predominately in the development (including concept creation), design,  
10 production (including concept creation), design, production (including  
11 testing), editing (including encoding) and compositing (including the  
12 integration of digital files for interaction by end users) of digital  
13 gaming media. Digital gaming media production costs shall not include  
14 expenses incurred for the distribution, marketing, promotion, or adver-  
15 tising content generated by end-users or other costs not directly and  
16 predominately related to the creation, production or modification of  
17 digital gaming media. In addition, salaries or other income distribution  
18 related to the creation of digital gaming media for any person who  
19 serves in the role of chief executive officer, chief financial officer,  
20 president, treasurer or similar position shall not be included as  
21 digital gaming media production costs. Furthermore, any income or other  
22 distribution to any individual who holds an ownership interest in a  
23 digital gaming media production entity shall not be included as digital  
24 gaming media production costs.

25 (3) "Qualified digital gaming media production costs" means digital  
26 gaming media production costs only to the extent such costs are attrib-  
27 utable to the use of property or the performance of services by any  
28 persons within the state directly and predominantly in the creation,  
29 production or modification of digital gaming related media. Such total  
30 production costs incurred and paid in this state shall be equal to or  
31 exceed seventy-five percent of total cost of an eligible production  
32 incurred and paid within and without this state.

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

35 (1) Article nine-A: section two hundred ten-B, subdivision fifty-  
36 three.

37 (2) Article twenty-two: section six hundred six, subsection (i), para-  
38 graph one, subparagraph (B), clause (xliv).

39 (3) Article twenty-two: section six hundred six, subsection (iii).

40 § 6. Section 210-B of the tax law is amended by adding a new subdivi-  
41 sion 53 to read as follows:

42 53. Empire state digital gaming media production credit. (a) Allowance  
43 of credit. A taxpayer who is eligible pursuant to section forty-four of  
44 this chapter shall be allowed a credit to be computed as provided in  
45 such section forty-four against the tax imposed by this article.

46 (b) Application of credit. The credit allowed under this subdivision  
47 for any taxable year shall not reduce the tax due for such year to less  
48 than the amount prescribed in paragraph (d) of subdivision one of  
49 section two hundred ten of this article. Provided, however, that if the  
50 amount of the credit allowable under this subdivision for any taxable  
51 year reduces the tax to such amount, the excess shall be treated as an  
52 overpayment of tax to be credited or refunded in accordance with the  
53 provisions of section one thousand eighty-six of this chapter, provided,  
54 however, no interest shall be paid thereon.

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

<p>4 <u>(xliv) Empire state digital</u>  5 <u>gaming media production</u>  6 <u>credit under subsection (iii)</u>  7</p>	<p><u>Amount of credit</u>  <u>under subdivision</u>  <u>fifty-three of section</u>  <u>two hundred ten-B</u></p>
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§ 8. Section 606 of the tax law is amended by adding a new subsection (iii) to read as follows:

(iii) Empire state digital gaming media production credit. (1) Allowance of credit. A taxpayer who is eligible pursuant to section forty-four of this chapter shall be allowed a credit to be computed as provided in such section forty-four against the tax imposed by this article.

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

§ 9. The state commissioner of economic development, after consulting with the state commissioner of taxation and finance, shall promulgate regulations by December 31, 2017 to establish procedures for the allocation of tax credits as required by subdivision (a) of section 43 and subdivision (a) of section 44 of the tax law. Such rules and regulations shall include provisions describing the application process, the due dates for such applications, the standards which shall be used to evaluate the applications, the documentation that will be provided to taxpayers substantiate to the New York state department of taxation and finance the amount of tax credits allocated to such taxpayers, under what conditions all or a portion of this tax credit may be revoked, and such other provisions as deemed necessary and appropriate. Notwithstanding any other provisions to the contrary in the state administrative procedure act, such rules and regulations may be adopted on an emergency basis if necessary to meet such December 31, 2017 deadline.

§ 10. Subdivision 11 of section 352 of the economic development law is REPEALED.

§ 11. Subdivisions 1, 3 and 5 of section 353 of the economic development law, as amended by section 2 of part K of chapter 59 of the laws of 2015, are amended to read as follows:

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

- 42 (a) as a financial services data center or a financial services back office operation;
- 44 (b) in manufacturing;
- 45 (c) in software development and new media;
- 46 (d) in scientific research and development;
- 47 (e) in agriculture;
- 48 (f) in the creation or expansion of back office operations in the state;
- 49 (g) in a distribution center;
- 50 (h) in an industry with significant potential for private-sector economic growth and development in this state as established by the commissioner in regulations promulgated pursuant to this article. In promulgating such regulations the commissioner shall include job and investment criteria; or

(i) as an entertainment company [~~or~~  
~~(j) in music production~~].

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

5. A not-for-profit business entity, a business entity whose primary function is the provision of services including personal services, business services, or the provision of utilities, and a business entity engaged predominantly in the retail or entertainment industry, other than a business operating as an entertainment company as defined in this article [~~and other than a business entity engaged in music production~~], and a company engaged in the generation or distribution of electricity, the distribution of natural gas, or the production of steam associated with the generation of electricity are not eligible to receive the tax credit described in this article.

§ 12. Subdivision 21 of section 352 of the economic development law, as amended by section 1 of part K of chapter 59 of the laws of 2015, is amended to read as follows:

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

§ 13. The economic development law is amended by adding a new section 243 to read as follows:

§ 243. Reports on the music and digital gaming industries in New York.  
1. The empire state development corporation shall file a report on a biannual basis with the director of the division of the budget and the chairpersons of the assembly ways and means committee and senate finance committee. The report shall be filed no later than thirty days before the mid-point and the end of the state fiscal year. The first report shall cover the calendar half year that begins on January first, two thousand nineteen. Each report must contain the following information for the covered calendar half year:

(a) the total dollar amount of credits allocated pursuant to sections forty-three and forty-four of the tax law during the half year, broken down by month;

(b) the number of music and digital gaming projects, which have been allocated tax credits of less than one million dollars per project, and

1 the total dollar amount of credits allocated to those projects distrib-  
2 uted by region pursuant to subdivision (b) of sections forty-three and  
3 forty-four of the tax law;

4 (c) the number of music and digital gaming projects, which have been  
5 allocated tax credits of more than one million dollars, and the total  
6 dollar amount of credits allocated to those projects distributed by  
7 region pursuant to subdivision (b) of sections forty-three and forty-  
8 four of the tax law;

9 (d) a list of each eligible music and digital gaming project, which  
10 has been allocated a tax credit enumerated by region pursuant to subdivi-  
11 vision (b) of sections forty-three and forty-four of the tax law, and  
12 for each of those projects, (i) the estimated number of employees asso-  
13 ciated with the project, (ii) the estimated qualifying costs for the  
14 projects, (iii) the estimated total costs of the project, (iv) the cred-  
15 it eligible employee hours for each project, and (v) total wages for  
16 such credit eligible employee hours for each project; and

17 (e) (i) the name of each taxpayer allocated a tax credit for each  
18 project and the county of residence or incorporation of such taxpayer  
19 or, if the taxpayer does not reside or is not incorporated in New York,  
20 the state of residence or incorporation; however, if the taxpayer claims  
21 a tax credit because the taxpayer is a member of a limited liability  
22 company, a partner in a partnership or a shareholder in a subchapter S  
23 corporation, the name of each limited liability company, partnership or  
24 subchapter S corporation earning any of those tax credits must be  
25 included in the report instead of information about the taxpayer claim-  
26 ing the tax credit, (ii) the amount of tax credit allocated to each  
27 taxpayer; provided however, if the taxpayer claims a tax credit because  
28 the taxpayer is a member of a limited liability company, a partner in a  
29 partnership or a shareholder in a subchapter S corporation, the amount  
30 of tax credit earned by each entity must be included in the report  
31 instead of information about the taxpayer claiming the tax credit, and  
32 (iii) information identifying the project associated with each taxpayer  
33 for which a tax credit was claimed under section forty-three or forty-  
34 four of the tax law.

35 2. The empire state development corporation shall file a report on a  
36 triennial basis with the director of the division of the budget and the  
37 chairpersons of the assembly ways and means committee and senate finance  
38 committee. The first report shall be filed no later than March first,  
39 two thousand twenty-one. The report must be prepared by an independent  
40 third party auditor and include: (a) information regarding the empire  
41 state music production credit and the empire state digital gaming  
42 production credit programs including the efficiency of operations, reli-  
43 ability of financial reporting, compliance with laws and regulations and  
44 distribution of assets and funds; (b) and economic impact study prepared  
45 by an independent third party of the program with special emphasis on  
46 the regional impact by region and the total dollar amount of credits  
47 allocated to those projects distributed by region pursuant to subdivi-  
48 sion (b) of sections forty-three and forty-four of the tax law; and (c)  
49 any other information or statistical information that the commissioner  
50 of economic development deems to be useful in analyzing the effects of  
51 the programs.

52 § 14. This act shall take effect immediately and shall apply to taxa-  
53 ble years beginning on January 1, 2018 and before January 1, 2023;  
54 provided that sections one through eight of this act shall expire and be  
55 deemed repealed December 31, 2022.

1

## PART BBB

2 Section 1. Paragraph (a) of subdivision 6 of section 425 of the real  
3 property tax law, as amended by section 1 of part A of chapter 60 of the  
4 laws of 2016, is amended to read as follows:

5 (a) Generally. All owners of the property who primarily reside thereon  
6 ~~[and who are not subject to the provisions of subdivision sixteen of~~  
7 ~~this section]~~ must jointly file an application for exemption with the  
8 assessor on or before the appropriate taxable status date. Such applica-  
9 tion may be filed by mail if it is enclosed in a postpaid envelope prop-  
10 erly addressed to the appropriate assessor, deposited in a post office  
11 or official depository under the exclusive care of the United States  
12 postal service, and postmarked by the United States postal service on or  
13 before the applicable taxable status date. Each such application shall  
14 be made on a form prescribed by the commissioner, which shall require  
15 the applicant or applicants to agree to notify the assessor if their  
16 primary residence changes while their property is receiving the  
17 exemption. The assessor may request that proof of residency be submitted  
18 with the application. If the applicant requests a receipt from the  
19 assessor as proof of submission of the application, the assessor shall  
20 provide such receipt. If such request is made by other than personal  
21 request, the applicant shall provide the assessor with a self-addressed  
22 postpaid envelope in which to mail the receipt.

23 § 2. Subdivision 16 of section 425 of the real property tax law is  
24 REPEALED.

25 § 3. Subdivision 2 of section 496 of the real property tax law, as  
26 amended by section 3 of part A of chapter 60 of the laws of 2016, is  
27 amended to read as follows:

28 2. An application to renounce an exemption shall be made on a form  
29 prescribed by the commissioner and shall be filed with the county direc-  
30 tor of real property tax services no later than ten years after the levy  
31 of taxes upon the assessment roll on which the renounced exemption  
32 appears. The county director, after consulting with the assessor as  
33 appropriate, shall compute the total amount owed on account of the  
34 renounced exemption as follows:

35 (a) For each assessment roll on which the renounced exemption appears,  
36 the assessed value that was exempted shall be multiplied by the tax rate  
37 or rates that were applied to that assessment roll. Interest shall then  
38 be added to each such product at the rate prescribed by section nine  
39 hundred twenty-four-a of this chapter or such other law as may be appli-  
40 cable for each month or portion thereon since the levy of taxes upon  
41 such assessment roll.

42 (b) The sum of the calculations made pursuant to paragraph (a) of this  
43 subdivision with respect to all of the assessment rolls in question  
44 shall be determined.

45 (c) A processing fee of five hundred dollars shall be added to the sum  
46 determined pursuant to paragraph (b) of this subdivision~~[, unless the~~  
47 ~~provisions of paragraph (d) of this subdivision are applicable.~~

48 ~~(d) If the applicant is renouncing a STAR exemption in order to quali-~~  
49 ~~fy for the personal income tax credit authorized by subsection (ccc) of~~  
50 ~~section six hundred six of the tax law, and no other exemptions are~~  
51 ~~being renounced on the same application, no processing fee shall be~~  
52 ~~applicable].~~

53 § 4. Subdivision 6 of section 1306-a of the real property tax law is  
54 REPEALED.

1 § 5. Subparagraph (A) of paragraph 3 of subsection (eee) of section  
2 606 of the tax law, as amended by section 8 of part A of chapter 73 of  
3 the laws of 2016, is amended to read as follows:

4 (A) [~~Beginning with~~] For the taxable [~~years after~~] year two thousand  
5 [~~fifteen~~] sixteen, a basic STAR credit shall be available to a qualified  
6 taxpayer if the affiliated income of the parcel that serves as the  
7 taxpayer's primary residence is less than or equal to five hundred thou-  
8 sand dollars.

9 § 6. The opening paragraph of subparagraph (A) of paragraph 4 of  
10 subsection (eee) of section 606 of the tax law, as amended by section 8  
11 of part A of chapter 73 of the laws of 2016, is amended to read as  
12 follows:

13 [~~Beginning with~~] For the taxable [~~years after~~] year two thousand  
14 [~~fifteen~~] sixteen, an enhanced STAR credit shall be available to a qual-  
15 ified taxpayer where both of the following conditions are satisfied:

16 § 7. Clause (iii) of subparagraph (A) of paragraph 10 of subsection  
17 (eee) of section 606 of the tax law is REPEALED.

18 § 8. Paragraph (c) of subdivision 11 of section 425 of the real prop-  
19 erty tax law, as amended by section 3 of part A of chapter 73 of the  
20 laws of 2016, is amended to read as follows:

21 (c) Transfers of title. When the assessor has received a report pursu-  
22 ant to section five hundred seventy-four of this chapter of a transfer  
23 of title to real property which is exempt pursuant to this section, the  
24 assessor shall [~~discontinue the exemption as required by subdivision~~  
25 ~~sixteen of this section~~] send the new owner or owners as shown thereon  
26 an application for the exemption authorized by this section. The asses-  
27 sor shall not implement the provisions of section five hundred twenty of  
28 this chapter upon such a transfer, except to the extent that the proper-  
29 ty may also be receiving one or more other exemptions.

30 § 9. Paragraph (c) of subdivision 6 of section 425 of the real proper-  
31 ty tax law, as amended by section 4 of part A of chapter 73 of the laws  
32 of 2016, is amended to read as follows:

33 (c) Senior citizens exemption. When property is eligible for the  
34 senior citizens exemption authorized by section four hundred sixty-seven  
35 of this article, it shall also be deemed to be eligible for the enhanced  
36 exemption authorized by this section for certain senior citizens,  
37 provided, where applicable, that the age requirement established by a  
38 municipal corporation pursuant to subdivision five of section four  
39 hundred sixty-seven of this article is satisfied, and no separate appli-  
40 cation need be filed therefor. [~~Provided, however, that the provisions~~  
41 ~~of this paragraph shall only apply where at least one of the applicants~~  
42 ~~held title to the property on the taxable status date of the assessment~~  
43 ~~roll that was used to levy school district taxes for the two thousand~~  
44 ~~fifteen--two thousand sixteen school year and the property was granted~~  
45 ~~an exemption pursuant to this section on such assessment roll.]~~

46 § 10. Implementation for the 2017--2018 school year. The commissioner  
47 of taxation and finance shall assist localities in notifying the public  
48 of the provisions of this act and any action required by taxpayers to  
49 receive a STAR exemption for the 2017--2018 school year. Notwithstand-  
50 ing subdivision 6 of section 425 of the real property tax law, for  
51 assessment rolls used to levy school district taxes for the 2017--2018  
52 school year, an application for an exemption under section 425 of the  
53 real property tax law shall be filed with the local assessor by the last  
54 date on which a petition with respect to complaints of assessment may be  
55 filed or not later than the sixtieth day after the effective date of  
56 this act, whichever is later. The assessor shall approve or deny such

1 application as if it had been filed on or before the taxable status  
2 date. If the assessor determines that the property is eligible for the  
3 exemption, the assessor shall thereupon be authorized and directed to  
4 correct the assessment roll accordingly, or, if another person has  
5 custody or control of the assessment roll, to direct that person to make  
6 the appropriate corrections. If the correction is not made before school  
7 taxes are levied, the failure to take the exemption into account in the  
8 computation of the tax shall be deemed a "clerical error" for purposes  
9 of title 3 of article 5 of the real property tax law, or any comparable  
10 laws governing the correction of administrative errors on assessment  
11 rolls and tax rolls, and shall be corrected accordingly.

12 Notwithstanding any other provision of law to the contrary, the  
13 commissioner of taxation and finance shall immediately notify local  
14 assessors of the name and address of any taxpayer within their assessing  
15 unit who qualified for the school tax relief (STAR) credit pursuant to  
16 subsection (eee) of section 606 of the tax law for taxable year 2016, or  
17 has applied for a credit for taxable year 2017 and any additional infor-  
18 mation available that would assist the assessor in accurately determin-  
19 ing the property's eligibility for the STAR exemption pursuant to  
20 section 425 of the real property tax law. To the extent possible, the  
21 local assessor shall determine the eligibility of the property for the  
22 2017--2018 school year using information provided by the commissioner of  
23 taxation and finance. Taxpayers who applied with the department of  
24 taxation and finance for the STAR credit for the 2017--2018 school year  
25 or received the STAR credit for the 2016--2017 school year, shall not be  
26 required to file an application for an exemption in order to receive an  
27 exemption on the same property for the 2017--2018 school year; however,  
28 if a property's eligibility cannot be determined by using information  
29 supplied by the department of taxation and finance, the assessor may  
30 seek additional documentation from the taxpayer to prove his or her  
31 eligibility. Such taxpayer shall have until the last date on which a  
32 petition, with respect to complaints of assessment may be filed, to  
33 supply proof of eligibility, or thirty days of such request, whichever  
34 is later. The assessor shall mail notice of his or her determination to  
35 such owner. If the assessor determines that the property is eligible for  
36 the exemption, the assessor shall thereupon be authorized and directed  
37 to correct the assessment roll accordingly, or, if another person has  
38 custody or control of the assessment roll, to direct that person to make  
39 the appropriate corrections. If the correction is not made before school  
40 taxes are levied, the failure to take the exemption into account in the  
41 computation of the tax shall be deemed a "clerical error" for purposes  
42 of title 3 of article 5 of the real property tax law, or any comparable  
43 laws governing the correction of administrative errors on assessment  
44 rolls and tax rolls, and shall be corrected accordingly. Nothing within  
45 this act shall preclude a taxpayer from seeking administrative and judi-  
46 cial review of an assessor's denial of the exemption.

47 § 11. This act shall take effect immediately.

48

#### PART CCC

49 Section 1. Section 654-b of the private housing finance law is  
50 amended by adding a new subdivision 9 to read as follows:

51 9. The subsidiary corporation shall use the taxes described in subdi-  
52 vision g of section 11-2102 of the administrative code of the city of  
53 New York exclusively for the provision of the elderly rental assistance  
54 program as described in article sixteen-B of this chapter.

1 § 2. The private housing finance law is amended by adding a new arti-  
2 cle 16-B to read as follows:

3 ARTICLE 16-B

4 ELDER RENTAL ASSISTANCE PROGRAM

5 Section 930. Statement of legislative findings and purpose.

6 931. Definitions.

7 932. Elder rental assistance program.

8 933. General and administrative provisions.

9 § 930. Statement of legislative findings and purpose. The legislature  
10 hereby finds that the city of New York is experiencing an extreme short-  
11 age of affordable housing that serves low income senior citizens. For  
12 hundreds of thousands of senior citizens living on pensions, retirement  
13 savings and other fixed incomes, the rapid rise in rents has threatened  
14 their ability to stay in their homes and neighborhoods. More than half  
15 of seniors spend more on housing than they can afford and more than one  
16 hundred thousand seniors have waited for seven years or more on an  
17 affordable housing waitlist.

18 The legislature further finds that citywide, almost two-thirds of all  
19 senior renter households are among the lowest income households in the  
20 city, earning less than fifty percent of area median income. Accordng-  
21 ly, the legislature finds that legislation should be enacted to create  
22 the elder rental assistance program, which will provide monthly finan-  
23 cial assistance to rent-burdened seniors so they can live in dignity in  
24 their own homes. This program will be financed through a marginal tax on  
25 real estate transactions over two million dollars.

26 § 931. Definitions. As used in this article:

27 1. "Elderly family" shall mean a family, as defined in 24 C.F.R §  
28 5.403, whose head (including co-head), spouse, or sole member is a  
29 person who is at least sixty-two years of age. It may include two or  
30 more persons who are at least sixty-two years of age living together, or  
31 one or more persons who are at least sixty-two years of age living with  
32 one or more live-in aides, as defined in 24 C.F.R § 5.403, and shall  
33 incorporate any amendments made to this definition in 24 C.F.R § 5.403.

34 2. "Low income families" shall mean those families whose incomes do  
35 not exceed eighty per centum of the median income for the New York  
36 metropolitan statistical area, as determined by the secretary of the  
37 federal department of housing and urban development with adjustments for  
38 smaller and larger families.

39 § 932. Elder rental assistance program. 1. Subject to the availability  
40 of funds generated by the taxes described in subdivision g of section  
41 11-2102 of the administrative code of the city of New York, the housing  
42 assistance corporation, established by section six hundred fifty-four-b  
43 of this chapter, shall provide rental assistance to or on behalf of  
44 low-income families whose members constitute an elderly family, who are  
45 residents of the city of New York, and who pay more than thirty percent  
46 of their monthly adjusted income as rent as calculated pursuant to 42  
47 U.S.C § 1437a(a)(1)(A). The amount of rental assistance provided to or  
48 on behalf of each such family pursuant to this subdivision shall be an  
49 amount up to the difference between (i) a rent established by the  
50 department of housing preservation and development on an annual basis  
51 not to exceed the maximum monthly rent prescribed in 42 U.S.C.  
52 §1437f(c)(1), or such lower rent as may be required by applicable law,  
53 or as ordered pursuant to section four hundred sixty-seven-b or four  
54 hundred sixty-seven-c of the real property tax law, if applicable and  
55 (ii) thirty percent of each such family's monthly adjusted income as  
56 calculated pursuant to 42 U.S.C. §1437a(a)(1)(A).

1 2. To the extent a person or entity receives any such rental assist-  
2 ance on behalf of a particular elderly family, such person or entity  
3 shall credit such assistance against the rent of such family on a month-  
4 ly basis.

5 3. The rental assistance provided pursuant to subdivision one of this  
6 section shall continue upon the death or permanent departure of a member  
7 of an elderly family who was at least sixty-two years of age, including  
8 the head of such family (including co-head) or his or her spouse,  
9 provided that such elderly family is otherwise eligible for such rental  
10 assistance and a member of such elderly family who is at least sixty-two  
11 years of age has resided in the dwelling unit receiving such rental  
12 assistance for at least one hundred eighty days immediately preceding  
13 such death or permanent departure.

14 4. The rental assistance authorized by subdivision one of this section  
15 may be provided either as tenant-based or as building-based assistance.  
16 Such assistance may be used in conjunction with any governmental program  
17 or project to develop or preserve housing.

18 5. A person who has obtained a rent increase exemption order granted  
19 pursuant to section four hundred sixty-seven-b or four hundred sixty-  
20 seven-c of the real property tax law may also be eligible to receive  
21 rental assistance pursuant to subdivision one of this section if such  
22 person is a member of an elderly family that is otherwise eligible for  
23 such assistance.

24 § 933. General and administrative provisions. 1. The housing assist-  
25 ance corporation and the department of housing preservation and develop-  
26 ment shall have the authority to incur reasonable costs for adminis-  
27 tration of the program authorized by section nine hundred thirty-two of  
28 this article provided that no more than five percent of the taxes  
29 collected pursuant to subdivision g of section 11-2102 of the adminis-  
30 trative code of the city of New York shall be used for such costs.

31 2. The housing assistance corporation and the department of housing  
32 preservation and development shall have the authority to promulgate such  
33 rules as are necessary to carry out the provisions of section nine  
34 hundred thirty-two of this article.

35 § 3. Section 11-2102 of the administrative code of the city of New  
36 York is amended by adding three new subdivisions g, h and i to read as  
37 follows:

38 g. In addition to the taxes imposed by subdivisions a and b of this  
39 section, there is hereby imposed a tax on each deed or other instrument  
40 or transaction conveying or transferring residential real property or an  
41 economic interest therein, at the time of delivery by a grantor to a  
42 grantee, when the consideration for such property and any improvement  
43 thereon (whether or not it is included in the same deed) is greater than  
44 two million dollars, or at the time of the transfer of such economic  
45 interest by a grantor to a grantee, where the consideration for such  
46 economic interest is greater than two million dollars. Except as other-  
47 wise provided in this section, all the provisions of this chapter relat-  
48 ing to or applicable to the administration, collection and determination  
49 of the tax imposed by subdivisions a and b of this section shall apply  
50 to the tax imposed by this subdivision with such modifications as may be  
51 necessary to adapt such language to the tax so imposed. For purposes of  
52 this section, "residential real property" shall include any premises  
53 that are or may be used in whole or in part as a personal residence, and  
54 shall include a one, two or three-family house, an individual residen-  
55 tial condominium unit, or an individual residential cooperative apart-

1 ment. Such tax shall be at the rate of two and one-half percent of the  
2 consideration in excess of two million dollars.

3 h. For purposes of this section, the determination of whether a  
4 conveyance or transfer shall be subject to the taxes imposed by subdivi-  
5 sions a, b and g of this section, and of the rate of such taxes, shall  
6 be made prior to the application of subdivision f of this section and  
7 paragraph eight of subdivision b of section 11-2106 of this chapter,  
8 provided, however, that the amount of consideration subject to such  
9 taxes shall be determined after the application of subdivision f of this  
10 section and paragraph eight of subdivision b of section 11-2106 of this  
11 chapter.

12 i. Any tax collected pursuant to subdivision g of this section shall  
13 be used exclusively for the provision of rental assistance to low-income  
14 families whose members constitute an elderly family, as described in  
15 subdivision nine of section six hundred fifty-four-b of the private  
16 housing finance law. For purposes of this subdivision, "low-income fami-  
17 lies" and "elderly family" shall have the same meaning as provided in  
18 section nine hundred thirty-one of the private housing finance law.

19 § 4. Section 11-2104 of the administrative code of the city of New  
20 York, as added by local law number 71 of the city of New York for the  
21 year 1986, subdivision 4 as amended by local law number 59 of the city  
22 of New York for the year 1989, subdivisions 5 and 6 as amended and  
23 subdivision 7 as added by chapter 170 of the laws of 1994, is amended to  
24 read as follows:

25 § 11-2104 Payment. The tax imposed [~~hereunder~~] pursuant to subdivi-  
26 sions a and b of section 11-2102 of this chapter shall be paid by the  
27 grantor to the commissioner of finance at the office of the register in  
28 the county where the deed is or would be recorded within thirty days  
29 after the delivery of the deed by the grantor to the grantee but before  
30 the recording of such deed, or, in the case of a tax on the transfer of  
31 an economic interest in real property, at such place as the commissioner  
32 of finance shall designate, within thirty days after the transfer. The  
33 grantee shall also be liable for the payment of such tax in the event  
34 that the amount of tax due is not paid by the grantor or the grantor is  
35 exempt from tax. The tax imposed pursuant to subdivision g of section  
36 11-2102 of this chapter shall be paid by the grantee to the commissioner  
37 of finance at the office of the register in the county where the deed is  
38 or would be recorded within thirty days after the delivery of the deed  
39 by the grantor to the grantee but before the recording of such deed, or,  
40 in the case of a tax on the transfer of an economic interest in real  
41 property, at such place as the commissioner of finance shall designate,  
42 within thirty days after the transfer. The grantor shall also be liable  
43 for the payment of the tax imposed pursuant to subdivision g of section  
44 11-2102 of this chapter in the event that the amount of tax due is not  
45 paid by the grantee or the grantee is exempt from payment of the tax.

46 All moneys received as such payments by the register during the preced-  
47 ing month shall be transmitted to the commissioner of finance on the  
48 first day of each month or on such other day as is mutually agreeable to  
49 the commissioner of finance and the register.

50 a. From the moneys so received by him or her pursuant to subdivisions  
51 a and b of section 11-2102 of this chapter, the commissioner of finance  
52 shall set said in a special account:

53 (1) the total amount of taxes imposed pursuant to the provisions of  
54 paragraph three of subdivision a of section 11-2102 of this chapter  
55 including any interest or penalties thereon;

1 (2) fifty percent of the total amount of taxes imposed pursuant to the  
2 provisions of paragraph four of subdivision a of section 11-2102 of this  
3 chapter, including fifty percent of any interest or penalties thereon,  
4 provided, however, that where such tax is measured by the consideration  
5 for a conveyance without deduction for the amount of any mortgage or  
6 other lien or encumbrance on the real property or interest therein which  
7 existed before the delivery of the deed and remains thereon after the  
8 delivery of the deed, the entire amount of tax imposed at the rate of  
9 one percent on the portion of the consideration ascribable to such  
10 nondeductible mortgage, lien or other encumbrance, including any inter-  
11 est or penalties thereon, and fifty percent of the tax on the balance of  
12 the consideration, including fifty percent of any interest or penalties  
13 thereon, shall be set aside in such special account;

14 (3) fifty percent of the total amount of taxes imposed pursuant to the  
15 provisions of subparagraph (iii) of paragraph seven of subdivision a of  
16 section 11-2102 of this chapter, including fifty percent of any interest  
17 or penalties thereon;

18 (4) fifty percent of the total amount of taxes imposed pursuant to the  
19 provisions of paragraph eight of subdivision a of section 11-2102 of  
20 this chapter, including fifty percent of any interest or penalties ther-  
21 eon;

22 (5) fifty percent of the total amount of taxes imposed at the rate of  
23 two percent pursuant to the provisions of clause (ii) of subparagraph A  
24 of paragraph one of subdivision b of section 11-2102 of this chapter  
25 including fifty percent of any interest or penalties thereon;

26 (6) with respect to any conveyance of real property, transfer of an  
27 economic interest therein, or any grant, assignment or surrender of a  
28 leasehold interest in real property, made on or after August first,  
29 nineteen hundred eighty-nine and taxable under this chapter, in each  
30 instance where the tax rate is in excess of two percent, a portion of  
31 the tax received equal to one percent of the consideration subject to  
32 the tax plus any interest or penalty attributable to such portion of the  
33 tax; and

34 (7) notwithstanding anything in [~~subdivision~~] paragraph six of this  
35 subdivision to the contrary, in each instance where the tax rate imposed  
36 pursuant to subdivision e of section 11-2102 of this chapter is in  
37 excess of one percent, a portion of the tax received equal to one-half  
38 of one percent of the total consideration for the real property or  
39 economic interest therein conveyed or transferred, plus any interest or  
40 penalty attributable to such portion of the tax.

41 Moneys in such account shall be used for payment by such commissioner  
42 to the state comptroller for deposit in the urban mass transit operating  
43 assistance account of the mass transportation operating assistance fund  
44 of any amount of insufficiency certified by the state comptroller pursu-  
45 ant to the provisions of subdivision six of section [~~eight-eight-a~~]  
46 eighty-eight-a of the state finance law, and, on the fifteenth day of  
47 each month, the commissioner of finance shall transmit all funds in such  
48 account on the last day of the preceding month, except the amount  
49 required for the payment of any amount of insufficiency certified by the  
50 state comptroller and such amount as he or she deems necessary for  
51 refunds and such other amounts necessary to finance the New York City  
52 transportation disabled committee and the New York City paratransit  
53 system as established by section fifteen-b of the transportation law,  
54 provided, however, that such amounts shall not exceed six percent of the  
55 total funds in the account but in no event be less than one hundred  
56 seventy-five thousand dollars beginning April first, nineteen hundred

1 eighty-six, and further that beginning November fifteenth, nineteen  
2 hundred eighty-four and during the entire period prior to operation of  
3 such system, the total of such amounts shall not exceed three hundred  
4 seventy-five thousand dollars for the administrative expenses of such  
5 committee and fifty thousand dollars for the expenses of the agency  
6 designated pursuant to paragraph b of subdivision five of such section,  
7 and other amounts necessary to finance the operating needs of the  
8 private bus companies franchised by the city of New York and eligible to  
9 receive state operating assistance under section eighteen-b of the  
10 transportation law, provided, however, that such amounts shall not  
11 exceed four percent of the total funds in the account, to the New York  
12 city transit authority for mass transit within the city.

13 b. The moneys received by the commissioner of finance pursuant to  
14 subdivision g of section 11-2102 of this chapter shall be held for the  
15 benefit of the housing assistance corporation for the provision of  
16 rental assistance to low-income families whose members constitute an  
17 elderly family in accordance with subdivision i of such section, and  
18 paid to the housing assistance corporation, in the same fiscal year or  
19 as soon as practicable thereafter, for the purposes described in such  
20 subdivision i. Such moneys shall be used to supplement, rather than  
21 supplant, local funds that such city would have expended for the  
22 provision of rental assistance to low-income families whose members  
23 constitute an elderly family. For purposes of this subdivision, "low-in-  
24 come families" and "elderly family" shall have the same meaning as  
25 provided in section nine hundred thirty-one of the private housing  
26 finance law.

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

29 PART DDD

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

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

42 (2) Eligible farmer. For purposes of this subsection, the term "eligi-  
43 ble farmer" means a New York state resident taxpayer whose federal gross  
44 income from farming for the taxable year is at least two-thirds of  
45 excess federal gross income. Excess federal gross income means the  
46 amount of federal gross income from all sources for the taxable year  
47 reduced by the sum (not to exceed thirty thousand dollars) of those  
48 items included in federal gross income which consist of (i) earned  
49 income, (ii) pension payments, including social security payments, (iii)  
50 interest, and (iv) dividends. For purposes of this paragraph, the term  
51 "earned income" shall mean wages, salaries, tips and other employee  
52 compensation, and those items of gross income which are includible in  
53 the computation of net earnings from self-employment. For the purposes  
54 of this paragraph, payments from the state's farmland protection

1 program, administered by the department of agriculture and markets,  
 2 shall be included as federal gross income from farming for otherwise  
 3 eligible farmers.

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

8 (4) Application of credit. The credit allowed under this subsection  
 9 for any taxable year will not reduce the tax due for such year to less  
 10 than the minimum tax fixed by this article. However, if the amount of  
 11 credit allowed under this subsection for any taxable year reduces the  
 12 tax to such amount, any amount of credit thus not deductible in such  
 13 taxable year will be treated as an overpayment of tax to be credited or  
 14 refunded in accordance with the provisions of section one thousand  
 15 eighty-six of this chapter. Provided, however, the provisions of  
 16 subsection (c) of section one thousand eighty-eight of this chapter  
 17 notwithstanding, no interest will be paid thereon.

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

21 <u>(xliii) Farm donations to food</u>	<u>Amount of credit under</u>
22 <u>bank or emergency food program</u>	<u>subdivision fifty-two</u>
23 <u>credit under subsection (n-2)</u>	<u>of section two hundred</u>
24	<u>ten-B</u>

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

27 52. Credit for farm donations to food bank or emergency food program.  
 28 (a) General. In the case of a taxpayer who is an eligible farmer, there  
 29 shall be allowed a credit, to be computed as hereinafter provided  
 30 against the tax imposed by this article for taxable years beginning on  
 31 and after January first, two thousand eighteen. The amount of the credit  
 32 shall be twenty-five percent of the wholesale cost of the taxpayer's  
 33 qualified donations, as defined in paragraph (c) of this subdivision,  
 34 made to any food bank or other public, charitable or not-for-profit  
 35 emergency food program operating within this state, up to five thousand  
 36 dollars during the taxable year.

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

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

1 (d) Application of credit. The credit allowed under this subdivision  
2 for any taxable year will not reduce the tax due for such year to less  
3 than the minimum tax fixed by this article. However, if the amount of  
4 credit allowed under this subdivision for any taxable year reduces the  
5 tax to such amount, any amount of credit thus not deductible in such  
6 taxable year will be treated as an overpayment of tax to be credited or  
7 refunded in accordance with the provisions of section one thousand  
8 eighty-six of this chapter. Provided, however, the provisions of  
9 subsection (c) of section one thousand eighty-eight of this chapter  
10 notwithstanding, no interest will be paid thereon.

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

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

17 PART EEE

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

20 (hhh) Education loan interest deduction credit. (1) A qualified resi-  
21 dent taxpayer shall be allowed a refundable credit, to be computed as  
22 provided in paragraph three of this subsection, against the tax imposed  
23 by this article, for allowable interest deducted on an education loan.

24 (2) A qualified resident taxpayer shall mean a resident taxpayer who  
25 has resided in this state for not less than ten years.

26 (3) The amount of the credit provided under this subsection shall be  
27 equal to five percent of the amount of the deduction allowed with  
28 respect to the interest deduction on an education loan under section two  
29 hundred twenty-one of the internal revenue code.

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

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

37 PART FFF

38 Section 1. The tax law is amended by adding a new section 43 to read  
39 as follows:

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

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

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

1 (3) "Credit-eligible capital contribution" means an investment of cash  
2 by a person in a rural business growth fund that equals the amount spec-  
3 ified on a tax credit certificate issued by the department under subpar-  
4 agraph (B) of paragraph six of subdivision (b) of this section. The  
5 investment shall purchase an equity interest in the rural business  
6 growth fund or purchase, at par value or premium, a debt instrument  
7 issued by the rural growth fund that meets all of the following crite-  
8 ria:

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

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

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

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

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

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

29 (A) An area of the state not in a city or town that has a population  
30 of more than fifty thousand inhabitants according to the latest decenni-  
31 al census of the United States or in the urbanized area contiguous and  
32 adjacent to a city or town that has a population of more than fifty  
33 thousand inhabitants; or

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

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

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

45 (B) The business is involved in the production, processing or market-  
46 ing of agricultural or aquatic products, or agricultural technology, or  
47 supplying farms with goods and services in support of farming. For the  
48 purposes of this section, "net income" means federal adjusted gross  
49 income as required to be reported under the Internal Revenue Code less  
50 federal and state taxes imposed on or measured by income. Any business  
51 which is classified as a rural business concern at the time of the  
52 initial investment in said business by a rural business growth fund  
53 shall remain classified as a rural business concern and may receive  
54 follow-on investments from any rural business growth fund, and such  
55 follow-on investments shall be rural growth investments even though such

1 business may not meet the definition of a rural business concern at the  
2 time of such follow-on investments.

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

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

8 (10) "Department" means the department of taxation and finance;  
9 provided, however, that "department" shall mean the department of  
10 economic development with regard to any application, certification,  
11 report, submission, filing or other action required or governed by this  
12 section.

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

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

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

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

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

33 (D) A revenue impact assessment for the applicant's proposed rural  
34 growth investments prepared by a nationally recognized third-party inde-  
35 pendent economic forecasting firm using a dynamic economic forecasting  
36 model. The revenue impact assessment shall analyze the applicant's  
37 business plan over the ten years following the date the application is  
38 submitted to the department.

39 (E) A signed affidavit from each investor successfully solicited by  
40 the applicant to make a credit eligible capital contribution in support  
41 of the business plan. Each affidavit shall include information suffi-  
42 cient for the commissioner to identify the investor and shall state the  
43 amount of the investor's credit-eligible capital contribution.

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

45 (2) The department shall review and make a determination with respect  
46 to each application submitted under paragraph one of this subdivision  
47 within thirty days of receipt. The department shall review and make  
48 determinations on the applications in the order in which the applica-  
49 tions are received by the department. Applications received by the  
50 department on the same day shall be deemed to have been received simul-  
51 taneously. Except as provided in paragraph four of subdivision (c) of  
52 this section, the department shall not approve more than one hundred  
53 million dollars in eligible investment authority or more than sixty-five  
54 million dollars in credit-eligible capital contributions.

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

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

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

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

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

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

19 (4) If the department denies an application under paragraph three of  
20 this subdivision, the department shall send notice of its determination  
21 of the applicant. The notice shall include the reasons that the applica-  
22 tion was denied. If the application was denied for any reason other than  
23 the reason specified in subparagraph (F) of paragraph three of this  
24 subdivision, the applicant may provide additional information to the  
25 department to complete, clarify, or cure defects in the application.  
26 The additional information must be submitted within thirty days after  
27 the date the notice of denial was sent by the department. If the person  
28 or entity submits additional information within thirty days, the depart-  
29 ment shall reconsider the application within thirty days after receiving  
30 such additional information. If after submission of additional informa-  
31 tion, the department approves the application, then the submission date  
32 shall be the date of the original submission of the application. If the  
33 person or entity does not submit additional information within thirty  
34 days after the notice of denial was sent, the applicant may submit a new  
35 application with a new submission date at any time.

36 (5) Of approving multiple simultaneously submitted applications would  
37 result in exceeding the overall eligible investment limit prescribed by  
38 paragraph two of this subdivision, the department shall proportionally  
39 reduce the eligible investment authority and the credit-eligible capital  
40 contributions for each approved application as necessary to avoid  
41 exceeding the limit.

42 (6) The department shall not deny a rural business growth fund appli-  
43 cation or reduce the requested eligible investment authority for reasons  
44 other than those described in paragraphs three and five of this subdivi-  
45 sion. If the department approves such application, the department shall  
46 issue all of the following notices: (A) To the applicant, a written  
47 notice certifying that the applicant qualifies as a rural business  
48 growth fund and specifying the amount of the applicant's eligible  
49 investment authority; (B) To each investor whose affidavit was included  
50 in the application, a tax credit certificate specifying the amount of  
51 the investor's credit-eligible capital contribution; (C) To the commis-  
52 sioner, a copy of each tax credit certificate issued under subparagraph  
53 (B) of this paragraph.

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

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

4 (B) Collect one or more investments of cash, which shall purchase an  
5 equity interest in the rural growth fund or a debt instrument issued by  
6 the rural growth fund at par value or premium, with a maturity date of  
7 at least five years from the closing date that, when added to the  
8 contributions collected under subparagraph (A) of this paragraph, equal  
9 the fund's eligible investment authority. At least ten percent of the  
10 fund's eligible investment authority shall be comprised of equity  
11 investments contributed by affiliates of the rural business growth fund,  
12 including employees, officers, and directors of such affiliates.

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

17 (8) Eligible investment authority and corresponding credit-eligible  
18 capital contributions that lapse under paragraph seven of this subdivi-  
19 sion do not count toward limits on total eligible investment authority  
20 and credit-eligible capital contributions prescribed in paragraph two of  
21 this subdivision. Once eligible investment authority has lapsed, the  
22 department shall first award lapsed authority pro rata to each rural  
23 business growth fund that was awarded less than the requested eligible  
24 investment authority under paragraph five of this subdivision. Any  
25 remaining eligible investment authority may be awarded by the department  
26 to new applicants.

27 (9) Application fees submitted to the department pursuant to subpara-  
28 graph (F) of paragraph one of this subdivision shall be credited to the  
29 New York agriculture and rural jobs fund, created in section ninety-  
30 nine-aa of the state finance law.

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

36 (A) The rural business growth fund in which the credit-eligible capi-  
37 tal contribution was made does not invest sixty percent of its eligible  
38 investment authority in rural growth investments in this state within  
39 two years of the closing date and one hundred percent of its eligible  
40 investment authority in rural growth investments in this state within  
41 three years of the closing date.

42 (B) After investing one hundred percent of its eligible investment  
43 authority in rural growth investments in this state, the rural business  
44 growth fund fails to maintain that investment until the fifth anniver-  
45 sary of the closing date, including the reinvestment of such investment.  
46 For the purposes of this section, an investment is "maintained" even if  
47 the investment is sold or repaid so long as the rural business growth  
48 fund reinvests an amount equal to the capital returned or recovered by  
49 the fund from the original investment, exclusive of any profits real-  
50 ized, in other rural growth investments in this state within twelve  
51 months of the receipt of such capital. Amounts received periodically by  
52 a rural business growth fund shall be treated as continually invested in  
53 rural growth investments if the amounts are reinvested in one or more  
54 rural growth investments by the end of the following calendar year. A  
55 rural business growth fund is not required to reinvest capital returned  
56 from rural growth investments in the six months immediately preceding

1 the fifth anniversary of the closing date, and such rural growth invest-  
2 ments shall be considered held continuously by the rural growth fund  
3 through the fifth anniversary of the closing date.

4 (C) The rural business growth fund invests more than the greater of  
5 seven million five hundred thousand dollars or twenty percent of its  
6 eligible investment authority in the same rural business concern,  
7 including amounts invested in affiliates of the rural business concern  
8 but excluding amounts reinvested in the rural business growth fund with  
9 repaid or redeemed rural business growth investments, provided such  
10 reinvestments shall not count towards the requirement of subparagraph  
11 (A) of this paragraph.

12 (D) The rural business growth fund makes a rural growth investment in  
13 a rural business concern that directly or indirectly through an affil-  
14 iate owns, has the right to acquire an ownership interest, make a loan  
15 to, or make an investment in the rural business growth fund, an affil-  
16 iate of the rural business growth fund, or an investor in the rural  
17 business growth fund. This paragraph does not apply to investments in  
18 publicly traded securities by a rural business concern or an owner or  
19 affiliate of such concern.

20 (2) Before taking action under paragraph one of this subdivision, the  
21 department shall notify the rural business growth fund of the reasons  
22 for the pending action. If the rural business growth fund corrects the  
23 violations, other than violations of subparagraph (D) of paragraph one  
24 of this subdivision, outlined in the notice to the satisfaction of the  
25 department within one hundred eighty days of the date of the notice was  
26 sent, the department shall not revoke the tax credit certificates or  
27 levy a fine.

28 (3) If the department revokes a tax credit certificate under paragraph  
29 one of this subdivision, the commissioner shall make an assessment for  
30 the amount of the credit claimed by the certificate holder before the  
31 certificate was revoked. The commissioner shall make the assessment  
32 within one year after the certificate has been revoked.

33 (4) If tax credit certificates are revoked under paragraph one of this  
34 subdivision, the associated eligible investment authority and credit-el-  
35 igible capital contributions do not count toward the limit on total  
36 eligible investment authority and credit-eligible capital contributions  
37 described by paragraph two of subdivision (b) of this section. The  
38 department shall first award reverted authority pro rata to each rural  
39 business growth fund that was awarded less than the requested eligible  
40 investment authority under paragraph five of subdivision (b) of this  
41 section. Any remaining eligible investment authority may be awarded by  
42 the department to new applicants.

43 (5) (A) On or after the fifth anniversary of the closing date, a rural  
44 business growth fund that has not committed any of the acts described in  
45 paragraph one of this subdivision may apply to the department to exit  
46 the program as a rural business growth fund and no longer be subject to  
47 regulation under this section. The department shall respond to the  
48 application within thirty days after receiving such application. In  
49 evaluating such request the fact that no tax credit certificates have  
50 been revoked with respect to the rural business growth fund shall be  
51 sufficient evidence to prove that the fund is eligible to exit the  
52 program. The department shall not unreasonably deny an application  
53 submitted under this subdivision.

54 (B) The department shall send notice of its determination with respect  
55 to an application submitted under subparagraph (A) of this paragraph to

1 the rural business growth fund. If the application is denied, the notice  
2 shall include the reasons for the determination.

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

7 (6) If the number of jobs created or retained by the rural business  
8 concern that received rural growth investments from the rural business  
9 growth fund is:

10 (A) Less than sixty percent of the number projected in the approved  
11 rural business growth fund's business plan filed as part of its applica-  
12 tion for certification under subdivision (b) of this section, then the  
13 state shall receive twenty percent of any distribution or payment to an  
14 equity holder in an approved rural business growth fund in excess of the  
15 sum of the amount of equity capital invested in the fund by such equity  
16 holder and an amount equal to any projected increase in the equity hold-  
17 er's federal or state tax liability, including penalties and interest,  
18 related to the equity holder's ownership, management, or operation of  
19 the fund; or

20 (B) Greater than sixty percent but less than eighty percent of the  
21 number projected in the approved rural business growth fund's business  
22 plan filed as part of its application for certification under subdivi-  
23 sion (b) of this section, then the state shall receive ten percent of  
24 any distribution or payment to an equity holder in an approved rural  
25 business growth fund in excess of the sum of the amount of equity capi-  
26 tal invested in the fund by such equity holder and an amount equal to  
27 any projected increase in the equity holder's federal or state tax  
28 liability, including penalties and interest, related to the equity hold-  
29 er's ownership, management, or operation of the fund.

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

34 (d) Reports. (1) Each rural business growth fund shall submit a report  
35 to the department on or before the fifth business day after the first,  
36 second and third anniversaries of the closing date. The report shall  
37 provide documentation as to the rural growth investments made by the  
38 rural business growth fund. Such documentation shall include the  
39 following:

40 (A) A bank statement of the rural business growth fund displaying each  
41 rural growth investment, including the total amount invested and the  
42 amount of credit eligible capital contributions, as well as the value of  
43 the tax credits provided for the credit eligible capital contributions.

44 (B) The name, location and industrial sector classification of each  
45 rural business concern in which the rural business growth fund has made  
46 a rural growth investment, including evidence that the business concern  
47 was qualified at the time the investment was made.

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

52 (A) The number of full time equivalent employment positions created or  
53 retained as a result of the fund's rural growth investments as of the  
54 last day of the preceding calendar year;

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

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

2 (3) The department shall adopt rules necessary to implement this  
3 subdivision. The commissioner of economic development, in consultation  
4 with the commissioner shall produce and post on their website an annual  
5 report no later than ninety days after the last day of the preceding  
6 calendar year. The report shall include all of the information provided  
7 by each rural business growth fund in their reports as per subparagraphs  
8 (A) and (B) of paragraph two of this subdivision as well as the informa-  
9 tion reported by the rural business growth fund in its third anniversary  
10 report to the department as per paragraph one of this subdivision,  
11 except for bank statements. The commissioner of economic development  
12 shall include any other information deemed necessary for inclusion in  
13 the report.

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

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

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

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

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

42 § 3. The tax law is amended by adding a new section 187-t to read as  
43 follows:

44 § 187-t. Credit for certain investments to a rural business growth  
45 fund. 1. There is hereby allowed a nonrefundable tax credit for taxpay-  
46 ers that made a credit-eligible capital contribution to a rural business  
47 growth fund and were issued a tax credit certificate under subparagraph  
48 (B) of paragraph six of subdivision (b) of section forty-three of this  
49 chapter. The credit may be claimed against the tax imposed by this arti-  
50 cle. The credit may not be sold, transferred or allocated to any entity  
51 other than an in-state affiliate of the taxpayer.

52 2. On the closing date, the taxpayer shall be allowed a credit equal  
53 to the amount of the taxpayer's credit-eligible capital contribution to  
54 the rural business growth fund, as specified on the tax credit certif-  
55 icate. The taxpayer may claim up to twenty-five percent of the eligible  
56 investment authority for the taxable year containing the third anniver-

1 sary date of the closing date, exclusive of amounts carried forward  
2 pursuant to subdivision three of this section. The taxpayer may claim up  
3 to twenty percent of the eligible investment authority for the taxable  
4 years that include the fourth and fifth anniversary dates of the closing  
5 date, exclusive of amounts carried forward pursuant to subdivision three  
6 of this section.

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

13 § 4. Section 210-B of the tax law is amended by adding a new subdivi-  
14 sion 52 to read as follows:

15 52. Credit for certain investments to a rural business growth fund.

16 (1) There is hereby allowed a nonrefundable tax credit for taxpayers  
17 that made a credit-eligible capital contribution to a rural business  
18 growth fund and were issued a tax credit certificate under subparagraph  
19 (B) of paragraph six of subdivision (b) of section forty-three of this  
20 chapter. The credit may be claimed against the tax imposed by this arti-  
21 cle. The credit may not be sold, transferred or allocated to any entity  
22 other than an in-state affiliate of the taxpayer.

23 (2) On the closing date, the taxpayer shall be allowed a credit equal  
24 to the amount of the taxpayer's credit-eligible capital contribution to  
25 the rural business growth fund, as specified on the tax credit certif-  
26 icate. The taxpayer may claim up to twenty-five percent of the eligible  
27 investment authority for the taxable year containing the third anniver-  
28 sary date of the closing date, exclusive of amounts carried forward  
29 pursuant to paragraph three of this subdivision. The taxpayer may claim  
30 up to twenty percent of the eligible investment authority for the taxa-  
31 ble years that include the fourth and fifth anniversary dates of the  
32 closing date, exclusive of amounts carried forward pursuant to paragraph  
33 three of this subdivision.

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

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

42 § 99-aa. New York agriculture and rural jobs fund. 1. There is hereby  
43 established in the joint custody of the state comptroller and the  
44 commissioner of taxation and finance a special fund to be known as the  
45 "New York agriculture and rural jobs fund".

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

50 3. Moneys of the fund, following appropriation by the legislature  
51 shall be expended only for the purposes of providing funding for the New  
52 York agriculture and rural jobs credit set forth in section forty-three  
53 of the tax law. Moneys shall be paid out of the fund on the audit and  
54 warrant of the state comptroller on vouchers approved and certified by  
55 the commissioner of taxation and finance. Any interest received by the

1 comptroller on moneys on deposit in the New York agriculture and rural  
2 jobs fund shall be retained in and become part of such fund.

3 § 6. This act shall take effect July 1, 2017.

4 PART GGG

5 Section 1. Subdivision 6 of section 221 of the racing, pari-mutuel  
6 wagering and breeding law, as amended by chapter 325 of the laws of 2004  
7 and such section as renumbered by chapter 18 of the laws of 2008, is  
8 amended to read as follows:

9 6. (a) The fund shall secure workers' compensation insurance coverage  
10 on a blanket basis for the benefit of all jockeys, apprentice jockeys  
11 and exercise persons licensed pursuant to this article or article four  
12 of this chapter who are employees under section two of the workers'  
13 compensation law, and may elect, with the approval of the gaming commis-  
14 sion, to secure workers' compensation insurance for employees of  
15 licensed trainers or owners. In the event the fund elects, with the  
16 approval of the gaming commission, to secure workers' compensation  
17 insurance for employees of licensed trainers or owners, the fund may  
18 discontinue to secure workers' compensation insurance for employees of  
19 licensed trainers or owners only upon prior approval of the gaming  
20 commission.

21 (b) The fund may elect, with the approval of the gaming commission, to  
22 secure workers' compensation insurance coverage through a form of self-  
23 insurance, provided that the fund has met the requirements of the New  
24 York state department of financial services and workers' compensation  
25 board, including, without limitation, subdivision three of section fifty  
26 of the workers' compensation law.

27 § 2. Subdivision 7 of section 221 of the racing, pari-mutuel wagering  
28 and breeding law, as amended by chapter 18 of the laws of 2008 and the  
29 opening paragraph as amended by section 1 of part PP of chapter 60 of  
30 the laws of 2016, is amended to read as follows:

31 7. In order to pay the costs of the insurance required by this section  
32 and by the workers' compensation law and to carry out its other powers  
33 and duties and to pay for any of its liabilities under section four-  
34 teen-a of the workers' compensation law, the New York Jockey Injury  
35 Compensation Fund, Inc. shall ascertain the total funding necessary and  
36 establish the sums that are to be paid by all owners and trainers  
37 licensed or required to be licensed under section two hundred twenty of  
38 this article, to obtain the total funding amount required annually. In  
39 order to provide that any sum required to be paid by an owner or trainer  
40 is equitable, the fund shall establish payment schedules which reflect  
41 such factors as are appropriate, including where applicable, the  
42 geographic location of the racing corporation at which the owner or  
43 trainer participates, the duration of such participation, the amount of  
44 any purse earnings, the number of horses involved, or such other factors  
45 as the fund shall determine to be fair, equitable and in the best inter-  
46 ests of racing. In no event shall the amount deducted from an owner's  
47 share of purses exceed two per centum; provided, however, for two thou-  
48 sand [~~sixteen~~ seventeen the New York Jockey Injury Compensation Fund,  
49 Inc. may use up to two million dollars from the account established  
50 pursuant to subdivision nine of section two hundred eight of this arti-  
51 cle to pay the annual costs required by this section and the funds from  
52 such account shall not count against the two per centum of purses  
53 deducted from an owner's share of purses. The amount deducted from an  
54 owner's share of purses shall not exceed one per centum after April

1 first, two thousand [~~seventeen~~] twenty. In the cases of multiple owner-  
2 ships and limited racing appearances, the fund shall equitably adjust  
3 the sum required.

4 The [~~state racing and wagering board~~] gaming commission shall, as a  
5 condition of racing, require any racing corporation or any quarterhorse  
6 racing association or corporation authorized under this chapter to  
7 conduct pari-mutuel betting at a race meeting or races run thereat, to  
8 require that each trainer utilizing the facilities of such association  
9 or corporation and each owner racing a horse shall place or have placed  
10 on deposit with the horsemen's bookkeeper of such racing association or  
11 corporation, an amount to be established and paid in a manner to be  
12 determined by the fund.

13 Should the fund determine that the amount which has been collected in  
14 the manner prescribed is inadequate to pay the annual costs required by  
15 this section, it shall notify the [~~state racing and wagering board~~]  
16 gaming commission of the deficiency and the amount of the additional sum  
17 or sums necessary to be paid by each owner and/or trainer in order to  
18 cover such deficiency. The [~~state racing and wagering board~~] gaming  
19 commission shall, as an additional condition of racing, direct any  
20 racing corporation or any quarterhorse racing association or corporation  
21 authorized under this chapter to conduct pari-mutuel betting at a race  
22 meeting or races run thereat, to require each trainer and owner to place  
23 such additional sum or sums on deposit with the respective horsemen's  
24 bookkeeper.

25 All amounts collected by a horsemen's bookkeeper pursuant to this  
26 section shall be transferred to the fund created under this section and  
27 shall be used by the fund to purchase workers' compensation insurance  
28 for jockeys, apprentice jockeys and exercise persons licensed pursuant  
29 to this article or article four of this chapter who are employees under  
30 section two of the workers' compensation law, and at the election of the  
31 fund, with the approval of the gaming commission, to secure workers'  
32 compensation insurance for employees of licensed trainers or owners  
33 pay for any of its liabilities under section fourteen-a of the workers'  
34 compensation law and to administer the workers' compensation program for  
35 such jockeys, apprentice jockeys and exercise persons and, if approved  
36 by the gaming commission, employees of licensed trainers or owners  
37 required by this section and the workers' compensation law.

38 In the event the fund elects, with the approval of the gaming commis-  
39 sion, to secure workers' compensation insurance for employees of  
40 licensed trainers or owners, the fund may elect to have the sum required  
41 to be paid by an owner or trainer pursuant to this section be subject to  
42 an examination of workers' compensation claims attributable under the  
43 fund to each such owner or trainer, including the frequency and severity  
44 of accidents and injuries.

45 § 3. Subdivision 12 of section 221 of the racing, pari-mutuel wagering  
46 and breeding law, as amended by chapter 325 of the laws of 2004 and such  
47 section as renumbered by chapter 18 of the laws of 2008, is amended and  
48 two new subdivisions 13 and 14 are added to read as follows:

49 12. [~~The fund and the state racing and wagering board shall have such~~  
50 ~~power as is necessary to implement the provisions of this section.~~] For  
51 purposes of this section, the term "employees of licensed trainers or  
52 owners" shall have the same meaning as subdivision twenty-four of  
53 section two of the workers' compensation law.

54 13. a. There is created a racing safety committee to review the risk  
55 management report submitted to the commission by the fund on or about  
56 September thirtieth, two thousand sixteen and to make non-binding recom-

1 mendations for the implementation of the safety proposals and initi-  
2 atives set forth in such report. Such committee shall consist of seven  
3 members, each to serve a term of three years, with one member each  
4 appointed by:

5 (i) the fund;

6 (ii) the gaming commission;

7 (iii) the franchised corporation;

8 (iv) the racing association or corporation licensed pursuant to this  
9 article or article four of the racing, pari-mutuel wagering and breeding  
10 law to operate the racing and training facilities at Finger Lakes race-  
11 track;

12 (v) the horsemen's organization representing at least fifty-one  
13 percent of the owners and trainers using the facilities of the fran-  
14 chised corporation;

15 (vi) the horsemen's organization representing at least fifty-one  
16 percent of the owners and trainers using the facilities of the Finger  
17 Lakes racetrack; and

18 (vii) the Jockeys' Guild.

19 The member of the racing safety committee appointed by the fund shall  
20 serve as chairperson and the member of the racing safety committee  
21 appointed by the commission shall serve as vice-chairperson. Members of  
22 the racing safety committee shall have equal voting rights.

23 b. The racing safety committee shall meet within ninety days following  
24 the effective date of this subdivision to review and discuss the imple-  
25 mentation of the recommendations contained in the risk management report  
26 submitted to the gaming commission by the fund on or about September  
27 thirtieth, two thousand sixteen. The racing safety committee shall meet  
28 on or after July first, two thousand seventeen, and at least annually  
29 thereafter, to review the workers' compensation loss information and the  
30 status of safety-related findings and recommendations and to develop an  
31 annual strategic plan to address identified safety issues.

32 c. The members appointed pursuant to subparagraph (iii) and (iv) of  
33 paragraph a of this subdivision, in consultation with the other members  
34 of the racing safety committee, shall:

35 (i) Within one hundred eighty days following the effective date of  
36 this subdivision, for each track, develop safety rules for training  
37 activities to be documented and communicated, in both English and Span-  
38 ish, to jockeys, apprentice jockeys, and exercise persons licensed  
39 pursuant to this article or article four of this chapter who are employ-  
40 ees under section two of the workers' compensation law, and at the  
41 election of the fund, with the approval of the gaming commission,  
42 employees of licensed trainers or owners. Such safety rules shall  
43 include, but not be limited to, proper usage of personal protective  
44 equipment, required response to loose horses, prohibition of cell phone  
45 use while mounted on a horse, general requirements for jogging, gallop-  
46 ing, breezing, ponying a horse, and starting gate safety protocols.  
47 Refresher training related to such safety rules shall be required at the  
48 start of each meet.

49 (ii) Prior to the start of each meet, following the effective date of  
50 this subdivision, meet with trainers or their representatives to discuss  
51 and address identified safety issues.

52 (iii) Within one hundred eighty days following the effective date of  
53 this subdivision, for each track, develop a written, documented emergen-  
54 cy response plan to address response protocols to on-track accidents and  
55 incidents, which, at a minimum, shall include detailed information  
56 regarding roles and responsibilities for individuals who are responsible

1 for track-related accidents and incidents, including, but not limited  
 2 to, outriders, emergency medical technicians/paramedics, ambulance driv-  
 3 ers, security, and veterinary staff and clockers.

4 (iv) Within two hundred ten days following the effective date of this  
 5 subdivision, communicate the emergency response plan to all on-track  
 6 personnel as part of new hire orientation and job assignment.

7 (v) Within two hundred ten days following the effective date of this  
 8 subdivision, and at least once annually thereafter, for each track,  
 9 conduct a mock emergency response drill for on-track accidents prior to  
 10 the opening of each race meet. Such emergency response drill shall be  
 11 filmed and used for education and training purposes for personnel,  
 12 including in new hire orientation, and to assess the performance of  
 13 individuals involved in the emergency response.

14 (vi) Within one hundred eighty days following the effective date of  
 15 this subdivision, upgrade the current level of emergency medical respon-  
 16 ders from emergency medical technicians to paramedics.

17 14. The fund and the gaming commission shall have such power as is  
 18 necessary to implement the provisions of this section.

19 § 4. Section 2 of the workers' compensation law is amended by adding a  
 20 new subdivision 24 to read as follows:

21 24. "Employees of licensed trainers or owners" means assistant train-  
 22 ers, foremen, watchmen and stable employees, including grooms and hot-  
 23 walkers, employed by a trainer or owner licensed pursuant to article two  
 24 or four of the racing, pari-mutuel wagering and breeding law.

25 § 5. The second undesignated paragraph of subdivision 3 of section 2  
 26 of the workers' compensation law, as amended by chapter 392 of the laws  
 27 of 2008, is amended to read as follows:

28 Notwithstanding any other provision of this chapter and for purposes  
 29 of this chapter only, "employer" shall mean, with respect to a jockey,  
 30 apprentice jockey or exercise person licensed under article two or four  
 31 of the racing, pari-mutuel wagering and breeding law, and at the  
 32 election of the New York Jockey Injury Compensation Fund, Inc., with the  
 33 approval of the New York state gaming commission, employees of licensed  
 34 trainers or owners, performing services for an owner or trainer in  
 35 connection with the training or racing of a horse at a facility of a  
 36 racing association or corporation subject to article two or four of the  
 37 racing, pari-mutuel wagering and breeding law and subject to the juris-  
 38 diction of the New York state [~~racing and wagering board~~] gaming commis-  
 39 sion, The New York Jockey Injury Compensation Fund, Inc. and all owners  
 40 and trainers who are licensed or required to be licensed under article  
 41 two or four of the racing, pari-mutuel wagering and breeding law at the  
 42 time of any occurrence for which benefits are payable pursuant to this  
 43 chapter in respect to the injury or death of such jockey, apprentice  
 44 jockey [~~or~~], exercise person or, if approved by the New York state  
 45 gaming commission, employee of a licensed trainer or owner.

46 § 6. The fifth undesignated paragraph of subdivision 4 of section 2 of  
 47 the workers' compensation law, as amended by chapter 169 of the laws of  
 48 2007, is amended to read as follows:

49 Notwithstanding any other provision of this chapter, and for purposes  
 50 of this chapter only, a jockey, apprentice jockey or exercise person  
 51 licensed under article two or four of the racing, pari-mutuel wagering  
 52 and breeding law, and at the election of the New York Jockey Injury  
 53 Compensation Fund, Inc., with the approval of the New York state gaming  
 54 commission, employees of licensed trainers or owners, performing  
 55 services for an owner or trainer in connection with the training or  
 56 racing of a horse at a facility of a racing association or corporation

1 subject to article two or four of the racing, pari-mutuel wagering and  
2 breeding law and subject to the jurisdiction of the New York state  
3 [~~racing and wagering board~~] gaming commission shall be regarded as the  
4 "employee" not solely of such owner or trainer, but shall instead be  
5 conclusively presumed to be the "employee" of The New York Jockey Injury  
6 Compensation Fund, Inc. and also of all owners and trainers who are  
7 licensed or required to be licensed under article two or four of the  
8 racing, pari-mutuel wagering and breeding law at the time of any occur-  
9 rence for which benefits are payable pursuant to this chapter in respect  
10 of the injury or death of such jockey, apprentice jockey [~~ex~~], exercise  
11 person or, if approved by the New York state gaming commission, employee  
12 of a licensed trainer or owner.

13 § 7. The third undesignated paragraph of subdivision 5 of section 2 of  
14 the workers' compensation law, as amended by chapter 392 of the laws of  
15 2008, is amended to read as follows:

16 Notwithstanding any other provision of this chapter, and for purposes  
17 of this chapter only, a jockey, apprentice jockey or exercise person  
18 licensed under article two or four of the racing, pari-mutuel wagering  
19 and breeding law, and at the election of the New York Jockey Injury  
20 Compensation Fund, Inc., with the approval of the New York state gaming  
21 commission, employees of licensed trainers or owners, performing  
22 services for an owner or trainer in connection with the training or  
23 racing of a horse at a facility of a racing association or corporation  
24 subject to article two or four of the racing, pari-mutuel wagering and  
25 breeding law and subject to the jurisdiction of the New York state  
26 [~~racing and wagering board~~] gaming commission shall be regarded as in  
27 the "employment" not solely of such owner and trainer, but shall instead  
28 be conclusively presumed to be in the "employment" of The New York Jock-  
29 ey Injury Compensation Fund, Inc. and of all owners and trainers who are  
30 licensed or required to be licensed under article two or four of the  
31 racing, pari-mutuel wagering and breeding law, at the time of any occur-  
32 rence for which benefits are payable pursuant to this chapter in respect  
33 of the injury or death of such jockey, apprentice jockey [~~ex~~], exercise  
34 person or, if approved by the New York state gaming commission, employee  
35 of a licensed trainer or owner. For the purpose of this chapter only,  
36 whether a livery driver's performance of covered services, as those  
37 terms are defined in article six-G of the executive law, constitutes  
38 "employment" shall be determined in accordance with section eighteen-c  
39 of this chapter.

40 § 8. The opening paragraph of section 11 of the workers' compensation  
41 law, as amended by chapter 169 of the laws of 2007, is amended to read  
42 as follows:

43 The liability of an employer prescribed by the last preceding section  
44 shall be exclusive and in place of any other liability whatsoever, to  
45 such employee, his or her personal representatives, spouse, parents,  
46 dependents, distributees, or any person otherwise entitled to recover  
47 damages, contribution or indemnity, at common law or otherwise, on  
48 account of such injury or death or liability arising therefrom, except  
49 that if an employer fails to secure the payment of compensation for his  
50 or her injured employees and their dependents as provided in section  
51 fifty of this chapter, an injured employee, or his or her legal repre-  
52 sentative in case of death results from the injury, may, at his or her  
53 option, elect to claim compensation under this chapter, or to maintain  
54 an action in the courts for damages on account of such injury; and in  
55 such an action it shall not be necessary to plead or prove freedom from  
56 contributory negligence nor may the defendant plead as a defense that

1 the injury was caused by the negligence of a fellow servant nor that the  
2 employee assumed the risk of his or her employment, nor that the injury  
3 was due to the contributory negligence of the employee. The liability  
4 under this chapter of The New York Jockey Injury Compensation Fund, Inc.  
5 created under section two hundred [~~thirteen-a~~] twenty-one of the racing,  
6 pari-mutuel wagering and breeding law shall be limited to the provision  
7 of workers' compensation coverage to jockeys, apprentice jockeys [~~and~~],  
8 exercise persons, and at the election of the New York Jockey Injury  
9 Compensation Fund, Inc., with the approval of the New York state gaming  
10 commission, employees of licensed trainers or owners licensed under  
11 article two or four of the racing, pari-mutuel wagering and breeding law  
12 and any statutory penalties resulting from the failure to provide such  
13 coverage.

14 § 9. Subdivision 4 of section 14-a of the workers' compensation law,  
15 as amended by chapter 169 of the laws of 2007, is amended to read as  
16 follows:

17 4. With respect to a jockey, apprentice jockey or exercise person  
18 licensed under article two or four of the racing, pari-mutuel wagering  
19 and breeding law, and at the election of the New York Jockey Injury  
20 Compensation Fund, Inc., with the approval of the New York state gaming  
21 commission, an employee of a licensed trainer or owner, who, pursuant to  
22 section two of this chapter, is an employee of all owners and trainers  
23 licensed or required to be licensed under article two or four of the  
24 racing, pari-mutuel wagering and breeding law and The New York Jockey  
25 Injury Compensation Fund, Inc., the owner or trainer for whom such jock-  
26 ey, apprentice jockey [~~or~~], exercise person or, if approved by the New  
27 York state gaming commission, employee of a licensed trainer or owner  
28 was performing services at the time of the accident shall be solely  
29 responsible for the double payments described in subdivision one of this  
30 section, to the extent that such payments exceed any amounts otherwise  
31 payable with respect to such jockey, apprentice jockey [~~or~~], exercise  
32 person or, if approved by the New York state gaming commission, employee  
33 of a licensed trainer or owner under any other section of this chapter,  
34 and the New York Jockey Injury Compensation Fund, Inc. shall have no  
35 responsibility for such excess payments, unless there shall be a failure  
36 of the responsible owner or trainer to pay such award within the time  
37 provided under this chapter. In the event of such failure to pay and the  
38 board requires the fund to pay the award on behalf of such owner or  
39 trainer who has been found to have violated this section, the fund shall  
40 be entitled to an award against such owner or trainer for the amount so  
41 paid which shall be collected in the same manner as an award of compen-  
42 sation.

43 § 10. Section 18-a of the workers' compensation law, as amended by  
44 chapter 169 of the laws of 2007, is amended to read as follows:

45 § 18-a. Notice: The New York Jockey Injury Compensation Fund, Inc.  
46 Wherever in this chapter it shall be required that notice be given to an  
47 employer, except for claims involving section fourteen-a of the workers'  
48 compensation law such notice requirement shall be deemed satisfied by  
49 giving notice to the New York Jockey Injury Compensation Fund, Inc., in  
50 connection with an injury to a jockey, apprentice jockey or exercise  
51 person licensed under article two or four of the racing, pari-mutuel  
52 wagering and breeding law, and at the election of the New York Jockey  
53 Injury Compensation Fund, Inc., with the approval of the New York state  
54 gaming commission, an employee of a licensed trainer or owner, who,  
55 pursuant to section two of this chapter, is an employee of all owners  
56 and trainers licensed or required to be licensed under article two or

1 four of the racing, pari-mutuel wagering and breeding law and of the  
2 fund. In a claim involving section fourteen-a of the workers' compen-  
3 sation law such required notice shall be given to the employing owner  
4 and/or trainer of the fund.

5 § 11. Subdivision 8 of section 50 of the workers' compensation law, as  
6 amended by chapter 169 of the laws of 2007, is amended to read as  
7 follows:

8 8. The requirements of section ten of this chapter regarding the  
9 provision of workers' compensation insurance as to owners and trainers  
10 governed by the racing, pari-mutuel wagering and breeding law who are  
11 employers under section two of this chapter are satisfied in full by  
12 compliance with the requirements imposed upon owners and trainers by  
13 section two hundred [~~thirteen-a~~] twenty-one of the racing, pari-mutuel  
14 wagering and breeding law, provided that in the event double compen-  
15 sation, death benefits, or awards are payable with respect to an injured  
16 employee under section fourteen-a of this chapter, the owner or trainer  
17 for whom the injured jockey, apprentice jockey or exercise person  
18 licensed under article two or four of the racing, pari-mutuel wagering  
19 and breeding law, and at the election of the New York Jockey Injury  
20 Compensation Fund, Inc., with the approval of the New York state gaming  
21 commission, employee of a licensed trainer or owner, is performing  
22 services as a jockey, apprentice jockey or exercise person so licensed  
23 at the time of the accident or, if approved by the New York state gaming  
24 commission, an employee of a licensed trainer or owner shall bear the  
25 sole responsibility for the amount payable pursuant to such section  
26 fourteen-a in excess of the amount otherwise payable under this chapter,  
27 unless there shall be a failure of the responsible owner or trainer to  
28 pay such award within the time provided under this chapter. In the event  
29 of such failure to pay and the board requires the fund to pay the award  
30 on behalf of such owner or trainer who has been found to have violated  
31 section fourteen-a of this chapter, the fund shall be entitled to an  
32 award against such owner or trainer for the amount so paid which shall  
33 be collected in the same manner as an award of compensation. Coverage  
34 directly procured by any owner or trainer for the purpose of satisfying  
35 the requirements of this chapter with respect to employees of the owner  
36 or trainer shall not include coverage on any jockey, apprentice jockey  
37 or exercise person licensed under article two or four of the racing,  
38 pari-mutuel wagering and breeding law, and at the election of the New  
39 York Jockey Injury Compensation Fund, Inc., with the approval of the New  
40 York state gaming commission, any employee of a licensed trainer or  
41 owner, to the extent that such jockey, apprentice jockey [~~ex~~], exercise  
42 person or, if approved by the New York state gaming commission, employee  
43 of a licensed trainer or owner is also covered under coverage procured  
44 by The New York Jockey Injury Compensation Fund, Inc. pursuant to the  
45 requirements of section two hundred [~~thirteen-a~~] twenty-one of the  
46 racing, pari-mutuel wagering and breeding law, and to that extent,  
47 coverage procured by the fund pursuant to the requirements of the  
48 racing, pari-mutuel wagering and breeding law shall be considered prima-  
49 ry.

50 § 12. This act shall take effect immediately.

51 PART HHH

52 Section 1. Paragraph 4 of subdivision a and subdivision c of section  
53 1617-a of the tax law, paragraph 4 of subdivision a as added and subdi-

1 vision c as amended by section 1 of part SS of chapter 60 of the laws of  
2 2016, are amended to read as follows:

3 (4) Aqueduct racetrack, within the lottery terminal facility, pursuant  
4 to an agreement between the corporation established pursuant to section  
5 five hundred two of the racing, pari-mutuel wagering and breeding law in  
6 the Nassau region and the operator of video lottery gaming at Aqueduct  
7 racetrack, when such agreement is approved by the gaming commission and  
8 as long as such agreement is in place, and when such agreement is accom-  
9 panied by a detailed spending plan for the corporation established  
10 pursuant to section five hundred two of the racing, pari-mutuel wagering  
11 and breeding law in the Nassau region, which includes a plan for the  
12 timely payment of liabilities due to the franchised corporation,  
13 provided that an addendum to such detailed spending plan shall be  
14 submitted to the commission on or before June first, two thousand seven-  
15 teen that takes into consideration the fair and equitable distribution  
16 of funds by the corporation established pursuant to section five hundred  
17 two of the racing, pari-mutuel wagering and breeding law in the Nassau  
18 region to the participating counties, and when such video lottery  
19 devices are hosted by the operator of video lottery gaming at Aqueduct  
20 racetrack on behalf of the corporation established pursuant to section  
21 five hundred two of the racing, pari-mutuel wagering and breeding law in  
22 the Nassau region in lieu of the development of a facility in Nassau  
23 county as authorized by paragraph three of this subdivision [~~a of this~~  
24 ~~section~~]. Such agreement reached by the parties shall identify the agen-  
25 cy principally responsible for funding, approving or undertaking any  
26 actions of such agreement. Provided, however, nothing in this paragraph  
27 shall infringe upon the rights of the corporation established pursuant  
28 to section five hundred two of the racing, pari-mutuel wagering and  
29 breeding law in the Nassau region to develop a facility pursuant to  
30 paragraph three of this subdivision upon the expiration, termination, or  
31 withdrawal of such agreement.

32 c. The terminals authorized pursuant to paragraph four of subdivision  
33 a of this section shall:

34 (i) be deemed as operated by the corporation established pursuant to  
35 section five hundred two of the racing, pari-mutuel wagering and breed-  
36 ing law in the Nassau region for the purposes of section sixteen hundred  
37 twelve of this chapter and the distributions therefrom made as if the  
38 video lottery devices were located in Nassau county;

39 (ii) consist exclusively of electronic table games, unless otherwise  
40 approved by the gaming commission and the director of the division of  
41 the budget; [~~and~~]

42 (iii) be individually designated as hosted[~~-~~]; and

43 (iv) after April first, two thousand seventeen, be in addition to the  
44 number of terminals in operation at the Aqueduct video lottery terminal  
45 facility on the first of October, two thousand sixteen.

46 § 2. Section 1617-a of the tax law is amended by adding a new subdivi-  
47 sion d-1 to read as follows:

48 d-1. The operator of video lottery gaming at Aqueduct racetrack shall  
49 be required to maintain, at minimum:

50 (i) the amounts for aid to education from video lottery gaming at  
51 Aqueduct racetrack at the dollar level realized in two thousand fifteen,  
52 to be adjusted by the consumer price index for all urban consumers, as  
53 published annually by the United States department of labor bureau of  
54 labor statistics;

55 (ii) an amount to horsemen for purses at Aqueduct racetrack that will  
56 assure the purse support from video lottery gaming at Aqueduct racetrack

1 to be maintained at the same dollar level realized in two thousand  
2 fifteen to be adjusted by the consumer price index for all urban consum-  
3 ers, as published annually by the United States department of labor  
4 bureau of labor statistics; and

5 (iii) an amount to the New York state thoroughbred breeding and devel-  
6 opment fund to maintain payments from video lottery gaming at Aqueduct  
7 racetrack to such fund to be maintained at the same dollar level real-  
8 ized in two thousand fifteen to be adjusted by the consumer price index  
9 for all urban consumers, as published annually by the United States  
10 department of labor bureau of labor statistics.

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

15 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of  
16 this subparagraph, the track operator of a vendor track and in the case  
17 of Aqueduct, the video lottery terminal facility operator, shall be  
18 eligible for a vendor's capital award of up to four percent of the total  
19 revenue wagered at the vendor track after payout for prizes pursuant to  
20 this chapter, which shall be used exclusively for capital project  
21 investments to improve the facilities of the vendor track which promote  
22 or encourage increased attendance at the video lottery gaming facility  
23 including, but not limited to hotels, other lodging facilities, enter-  
24 tainment facilities, retail facilities, dining facilities, events  
25 arenas, parking garages and other improvements that enhance facility  
26 amenities; provided that such capital investments shall be approved by  
27 the division, in consultation with the state racing and wagering board,  
28 and that such vendor track demonstrates that such capital expenditures  
29 will increase patronage at such vendor track's facilities and increase  
30 the amount of revenue generated to support state education programs. The  
31 annual amount of such vendor's capital awards that a vendor track shall  
32 be eligible to receive shall be limited to two million five hundred  
33 thousand dollars, except for Aqueduct racetrack, for which there shall  
34 be no annual limit, provided, however, that any such capital award for  
35 the Aqueduct video lottery terminal facility operator shall be one  
36 percent of the total revenue wagered at the video lottery terminal  
37 facility after payout for prizes pursuant to this chapter until the  
38 earlier of the designation of one thousand video lottery devices as  
39 hosted pursuant to paragraph four of subdivision a of section sixteen  
40 hundred seventeen-a of this chapter or April first, two thousand nine-  
41 teen and shall then be four percent of the total revenue wagered at the  
42 video lottery terminal facility after payout for prizes pursuant to this  
43 chapter, provided, further, that such capital award shall only be  
44 provided pursuant to an agreement with the operator to construct an  
45 expansion of the facility, hotel, and convention and exhibition space  
46 requiring a minimum capital investment of three hundred million dollars.  
47 Except for tracks having less than one thousand one hundred video gaming  
48 machines, and except for a vendor track located west of State Route 14  
49 from Sodus Point to the Pennsylvania border within New York, and except  
50 for Aqueduct racetrack each track operator shall be required to co-in-  
51 vest an amount of capital expenditure equal to its cumulative vendor's  
52 capital award. For all tracks, except for Aqueduct racetrack, the amount  
53 of any vendor's capital award that is not used during any one year peri-  
54 od may be carried over into subsequent years ending before April first,  
55 two thousand seventeen. Any amount attributable to a capital expenditure  
56 approved prior to April first, two thousand seventeen and completed

1 before April first, two thousand nineteen; or approved prior to April  
2 first, two thousand twenty-one and completed before April first, two  
3 thousand twenty-three for a vendor track located west of State Route 14  
4 from Sodus Point to the Pennsylvania border within New York, shall be  
5 eligible to receive the vendor's capital award. In the event that a  
6 vendor track's capital expenditures, approved by the division prior to  
7 April first, two thousand seventeen and completed prior to April first,  
8 two thousand nineteen, exceed the vendor track's cumulative capital  
9 award during the five year period ending April first, two thousand  
10 seventeen, the vendor shall continue to receive the capital award after  
11 April first, two thousand seventeen until such approved capital expendi-  
12 tures are paid to the vendor track subject to any required co-invest-  
13 ment. In no event shall any vendor track that receives a vendor fee  
14 pursuant to clause (F) [~~or (G)~~] of this subparagraph be eligible for a  
15 vendor's capital award under this section. Any operator of a vendor  
16 track which has received a vendor's capital award, choosing to divest  
17 the capital improvement toward which the award was applied, prior to the  
18 full depreciation of the capital improvement in accordance with general-  
19 ly accepted accounting principles, shall reimburse the state in amounts  
20 equal to the total of any such awards. Any capital award not approved  
21 for a capital expenditure at a video lottery gaming facility by April  
22 first, two thousand seventeen shall be deposited into the state lottery  
23 fund for education aid; and

24 § 4. Subparagraph (iii) of paragraph 1 of subdivision b of section  
25 1612 of the tax law, as separately amended by chapters 174 and 175 of  
26 the laws of 2013, is amended to read as follows:

27 (iii) less an additional vendor's marketing allowance at a rate of ten  
28 percent for the first one hundred million dollars annually and eight  
29 percent thereafter of the total revenue wagered at the vendor track  
30 after payout for prizes to be used by the vendor track for the marketing  
31 and promotion and associated costs of its video lottery gaming oper-  
32 ations and pari-mutuel horse racing operations, as long as any such  
33 costs associated with pari-mutuel horse racing operations simultaneously  
34 encourage increased attendance at such vendor's video lottery gaming  
35 facilities, consistent with the customary manner of marketing comparable  
36 operations in the industry and subject to the overall supervision of the  
37 division; provided, however, that:

38 (A) the additional vendor's marketing allowance shall not exceed eight  
39 percent in any year for any operator of a racetrack located in the coun-  
40 ty of Westchester or Queens; [~~provided, however, a vendor track that~~  
41 ~~receives a vendor fee pursuant to clause (G) of subparagraph (ii) of~~  
42 ~~this paragraph shall not receive the additional vendor's marketing~~  
43 ~~allowance; provided, however, except for]~~

44 (B) a vendor track located west of State Route 14 from Sodus Point to  
45 the Pennsylvania border within New York shall continue to receive a  
46 marketing allowance of ten percent on total revenue wagered at the  
47 vendor track after payout for prizes in excess of one hundred million  
48 dollars annually [~~provided, however,~~];

49 (C) a vendor that receives a vendor fee pursuant to clause (G-1) of  
50 subparagraph (ii) of this paragraph shall receive an additional market-  
51 ing allowance at a rate of ten percent of the total revenue wagered at  
52 the video lottery gaming facility after payout for prizes [~~, In estab-~~  
53 ~~lishing the vendor fee,]; provided, however, that any such vendor that  
54 has entered into an agreement with the operator of video lottery gaming  
55 at Aqueduct racetrack in lieu of the development of a facility in Nassau  
56 county shall receive an additional marketing allowance at a rate of~~

1 eight percent of the total revenue wagered at the video lottery gaming  
2 facility after payout for prizes.

3 § 5. Nothing in this act shall be construed to result in any material  
4 increase in the effective gaming tax rate or in the statutory payments  
5 applicable to the Aqueduct video lottery terminal facility under New  
6 York state law which may lead to the expiration, termination, or with-  
7 drawal of the hosting agreement between the corporation established  
8 pursuant to section 502 of the racing, pari-mutuel wagering and breeding  
9 law in the Nassau region and the operator of video lottery gaming at  
10 Aqueduct racetrack entered into on August 26, 2016 and as authorized  
11 pursuant to paragraph (4) of subdivision a of section 1617-a of the tax  
12 law.

13 § 6. This act shall take effect immediately; provided, however, that  
14 sections two and four of this act shall be deemed to have been in full  
15 force and effect on and after October 1, 2016; and provided, further,  
16 that section two of this act shall expire and be deemed repealed upon  
17 the designation of one thousand video lottery devices as hosted pursuant  
18 to paragraph (4) of subdivision a of section 1617-a of the tax law, as  
19 amended by section one of this act; provided that the gaming commission  
20 shall notify the legislative bill drafting commission upon the desig-  
21 nation of one thousand video lottery devices as hosted pursuant to para-  
22 graph (4) of subdivision a of section 1617-a of the tax law, as amended  
23 by section one of this act in order that the commission may maintain an  
24 accurate and timely effective data base of the official text of the laws  
25 of the state of New York in furtherance of effectuating the provisions  
26 of section 44 of the legislative law and section 70-b of the public  
27 officers law.

28 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
29 sion, section or part of this act shall be adjudged by any court of  
30 competent jurisdiction to be invalid, such judgment shall not affect,  
31 impair, or invalidate the remainder thereof, but shall be confined in  
32 its operation to the clause, sentence, paragraph, subdivision, section  
33 or part thereof directly involved in the controversy in which such judg-  
34 ment shall have been rendered. It is hereby declared to be the intent of  
35 the legislature that this act would have been enacted even if such  
36 invalid provisions had not been included herein.

37 § 3. This act shall take effect immediately provided, however, that  
38 the applicable effective date of Parts A through HHH of this act shall  
39 be as specifically set forth in the last section of such Parts.