

# STATE OF NEW YORK

2552

2021-2022 Regular Sessions

## IN ASSEMBLY

January 19, 2021

Introduced by M. of A. WOERNER, LUPARDO, BUTTENSCHON, SIMON, SAYEGH, SCHMITT, BLANKENBUSH, J. M. GIGLIO, SMULLEN, THIELE, GUNTHER, DARLING, JEAN-PIERRE, CRUZ, FERNANDEZ, ASHBY, HAWLEY, MONTESANO, NORRIS, WALCZYK, MORINELLO, B. MILLER, JONES -- Multi-Sponsored by -- M. of A. BARCLAY, COOK, HYNDMAN, NOLAN -- read once and referred to the Committee on Ways and Means

AN ACT 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

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

1 Section 1. The tax law is amended by adding a new section 45 to read  
2 as follows:

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

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

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

16 (3) "Credit-eligible capital contribution" means an investment of cash  
17 by a person in a rural business growth fund that equals the amount spec-  
18 ified on a tax credit certificate issued by the department under subpar-  
19 agraph (B) of paragraph six of subdivision (b) of this section. The

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

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1 investment shall purchase an equity interest in the rural business  
2 growth fund or purchase, at par value or premium, a debt instrument  
3 issued by the rural growth fund that meets all of the following crite-  
4 ria:

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

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

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

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

17 (5) "Jobs created" means the number of persons employed by a rural  
18 business concern having received a growth investment from a rural busi-  
19 ness growth fund during the taxable year which shall be determined by  
20 ascertaining the number of such individuals employed full-time by such  
21 rural business concern on the thirty-first day of March, the thirtieth  
22 day of June, the thirtieth day of September and the thirty-first day of  
23 December during each taxable year following its initial growth invest-  
24 ment, by adding together the number of such individuals ascertained on  
25 each of such dates and dividing the sum so obtained by the number of  
26 dates occurring within such taxable year in the amount that such number  
27 exceeds the jobs retained number. An individual employed full-time means  
28 an employee in a job consisting of at least thirty-five hours per week,  
29 or two or more employees who are in jobs that together constitute the  
30 equivalent of a job of at least thirty-five hours per week.

31 (6) "Jobs retained" means the number of persons employed by a rural  
32 business concern having received a growth investment from a rural busi-  
33 ness growth fund during the taxable year which shall be determined by  
34 ascertaining the number of such individuals employed full-time by such  
35 rural business concern on the thirty-first day of March, the thirtieth  
36 day of June, the thirtieth day of September and the thirty-first day of  
37 December during the year in which the rural business concern received  
38 its initial growth investment from a rural business growth fund, by  
39 adding together the number of such individuals ascertained on each of  
40 such dates and dividing the sum so obtained by the number of dates  
41 occurring within such taxable year. An individual employed full-time  
42 means an employee in a job consisting of at least thirty-five hours per  
43 week, or two or more employees who are in jobs that together constitute  
44 the equivalent of a job of at least thirty-five hours per week.

45 (7) A business's "principal business operations" are in New York state  
46 if New York state is its principal place of business and at least eighty  
47 percent of the business's employees work in New York state, or the busi-  
48 ness has agreed to use the proceeds of a rural growth investment to  
49 relocate at least eighty percent of its employees to New York state  
50 within twelve months of receiving the investment by a rural business  
51 growth fund.

52 (8) "Rural area" shall have the same meaning as defined in subdivision  
53 seven of section four hundred eighty-one of the executive law.

54 (9) "Rural business concern" means an operating company that, at the  
55 time of the initial investment in the company by a rural business growth  
56 fund employs no more than one hundred fifty full-time equivalent employ-

ees or has earned not more than ten million dollars in net income for the preceding taxable year, and meets either of the following criteria:

(A) The business's principal business operations are located in a rural area in New York state and is an agricultural enterprise or is related to the use of agricultural products or forest products, or is an enterprise in one of the following industries: manufacturing, computer hardware or software, tourism, agribusiness development to stimulate the development and implementation of new and alternative production, processing, storage, distribution and marketing technology and improvements for New York food, agriculture and forest products or if not engaged in any of these industries, the department determines that the investment will be beneficial to the qualified location and the economic growth of New York state; or

(B) The business produces or provides any goods principally used by farmers, ranchers, or producers and harvesters of aquatic products in their business operations, or is involved in the processing and marketing of agricultural products, farm supply, and input suppliers, provided that such business is located in a municipality, as defined in section four hundred eighty-one of the executive law, in New York state with a population of less than fifty thousand. For the purposes of this section, "net income" means federal adjusted gross income as required to be reported under the Internal Revenue Code less federal and state taxes imposed on or measured by income. Any business which is classified as a rural business concern at the time of the initial investment in said business by a rural business growth fund shall remain classified as a rural business concern and may receive follow-on investments from any rural business growth fund, and such follow-on investments shall qualify as a rural growth investment provided it otherwise meets the definition of rural business concern with the exception of the employee limitation and net income limitation in such definition.

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

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

(12) "Tax credit certificate" means the document issued by the department to a person who has made a credit-eligible capital contribution to a rural business growth fund.

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

(14) "Department", as used in this section, means the department of economic development.

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

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

(B) Documents and other evidence sufficient to prove that the applicant meets all of the following criteria: (i) The applicant or an affiliate of the applicant is licensed as a rural business investment company

1 under 7 U.S.C. 2009cc, or as a small business investment company under  
2 15 U.S.C. 681.

3 (ii) As of the date the application is submitted, the applicant has  
4 invested more than one hundred million dollars in operating companies in  
5 rural areas located inside or outside of New York state and at least  
6 twenty-five million dollars in operating companies located in New York  
7 state. In computing investments under this subdivision, the applicant  
8 may include investments made by affiliates of the applicant.

9 (C) An estimate of the number of (i) jobs that will be created in the  
10 rural areas of New York state as a result of the applicant's rural  
11 growth investments, (ii) jobs that will be retained in the rural areas  
12 of New York state as a result of the applicants rural growth invest-  
13 ments, and (iii) the anticipated average wage per job.

14 (D) A revenue impact assessment for the applicant's proposed rural  
15 growth investments prepared by a nationally recognized third-party inde-  
16 pendent economic forecasting firm using a dynamic economic forecasting  
17 model. The revenue impact assessment shall analyze the applicant's  
18 business plan over the ten years following the date the application is  
19 submitted to the department.

20 (E) A signed affidavit from each investor successfully solicited by  
21 the applicant to make a credit eligible capital contribution in support  
22 of the business plan. Each affidavit shall include information suffi-  
23 cient for the department to identify the investor and shall state the  
24 amount of the investor's credit-eligible capital contribution.

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

26 (G) A strategy, as part of its business plan, to prioritize efforts to  
27 invest in businesses that are environmentally sensitive and utilize  
28 resources that promote a clean environment and energy conservation.

29 (2) The department shall review and make a determination with respect  
30 to each application submitted under paragraph one of this subdivision  
31 within thirty days of receipt. The department shall make determinations  
32 on the applications in the order in which the applications are received  
33 by the department. Applications received by the department on the same  
34 day shall be deemed to have been received simultaneously. Except as  
35 provided in paragraph four of subdivision (c) of this section, the  
36 department shall not approve more than one hundred million dollars in  
37 eligible investment authority or more than sixty-five million dollars in  
38 credit-eligible capital contributions.

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

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

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

45 (D) The revenue impact assessment submitted under subparagraph (D) of  
46 paragraph one of this subdivision does not demonstrate that the appli-  
47 cant's business plan will result in a positive economic impact on this  
48 state over a ten-year period that exceeds the credit eligible capital  
49 contributions sought by the applicant.

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

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

1     (4) If the department denies an application under paragraph three of  
2 this subdivision, the department shall send notice of its determination  
3 of the applicant. The notice shall include the reasons that the applica-  
4 tion was denied. If the application was denied for any reason other than  
5 the reason specified in subparagraph (F) of paragraph three of this  
6 subdivision, the applicant may provide additional information to the  
7 department to complete, clarify, or cure defects in the application.  
8 The additional information must be submitted within thirty days after  
9 the date the notice of denial was sent by the department. If the person  
10 or entity submits additional information within thirty days, the depart-  
11 ment shall reconsider the application within thirty days after receiving  
12 such additional information. If after submission of additional informa-  
13 tion, the application is approved, then the submission date shall be the  
14 date of the original submission of the application. If the person or  
15 entity does not submit additional information within thirty days after  
16 the notice of denial was sent, the applicant may submit a new applica-  
17 tion with a new submission date at any time.

18     (5) If approving multiple simultaneously submitted applications would  
19 result in exceeding the overall eligible investment limit prescribed by  
20 paragraph two of this subdivision, the department shall proportionally  
21 reduce the eligible investment authority and the credit-eligible capital  
22 contributions for each approved application as necessary to avoid  
23 exceeding the limit.

24     (6) If the department approves such application, the department shall:  
25 (A) issue a written notice certifying that the applicant qualifies as a  
26 rural business growth fund and specifying the amount of the applicant's  
27 eligible investment authority and the number of jobs created and jobs  
28 retained required of the rural business growth fund determined by multi-  
29 plying the estimated number of jobs created and jobs retained set forth  
30 in the rural business growth fund's application by a fraction, the  
31 numerator of which is the investment authority awarded to the rural  
32 business growth fund and the denominator of which is the investment  
33 authority for which the rural business growth fund applied; (B) to each  
34 investor whose affidavit was included in the application, issue a tax  
35 credit certificate specifying the amount of the investor's credit-eli-  
36 gible capital contribution; and (C) to the commissioner, a copy of each  
37 tax credit certificate issued under subparagraph (B) of this paragraph.

38     (7) A rural business growth fund shall complete all of the following  
39 within sixty days of receiving the written notice issued under paragraph  
40 six of this subdivision:

41     (A) Collect the credit-eligible capital contributions from each inves-  
42 tor whose credit-eligible capital contributions are described in affida-  
43 vits submitted pursuant to subparagraph (E) of paragraph one of this  
44 subdivision.

45     (B) Collect one or more investments of cash, which shall purchase an  
46 equity interest in the rural growth fund or a debt instrument issued by  
47 the rural growth fund at par value or premium, with a maturity date of  
48 at least five years from the closing date that, when added to the  
49 contributions collected under subparagraph (A) of this paragraph, equal  
50 the fund's eligible investment authority. At least ten percent of the  
51 fund's eligible investment authority shall be comprised of equity  
52 investments contributed by affiliates of the rural business growth fund,  
53 including employees, officers, and directors of such affiliates.

54     (C) Send to the department documentation sufficient to prove that the  
55 amounts described in subparagraphs (A) and (B) of this paragraph have



1 been collected. If the rural business growth fund fails to fully comply  
2 with this paragraph, the fund's certification shall lapse.

3 (8) Eligible investment authority and corresponding credit-eligible  
4 capital contributions that lapse under paragraph seven of this subdivi-  
5 sion do not count toward limits on total eligible investment authority  
6 and credit-eligible capital contributions prescribed in paragraph two of  
7 this subdivision. Once eligible investment authority has lapsed, the  
8 department shall first award lapsed authority pro rata to each rural  
9 business growth fund that was awarded less than the requested eligible  
10 investment authority under paragraph five of this subdivision. Any  
11 remaining eligible investment authority may be awarded by the department  
12 to new applicants.

13 (9) Application fees submitted to the department pursuant to subpara-  
14 graph (F) of paragraph one of this subdivision shall be credited to the  
15 New York agriculture and rural jobs fund, created in section ninety-  
16 nine-ff of the state finance law.

17 (c) Revocation of certification and penalties. (1) The department  
18 shall revoke a tax credit certificate issued under subdivision (b) of  
19 this section if any of the following occur with respect to a rural busi-  
20 ness growth fund before the fund exits the program under paragraph five  
21 of this subdivision.

22 (A) The rural business growth fund in which the credit-eligible capi-  
23 tal contribution was made does not invest sixty percent of its eligible  
24 investment authority in rural growth investments in this state within  
25 two years of the closing date and one hundred percent of its eligible  
26 investment authority in rural growth investments in this state within  
27 three years of the closing date.

28 (B) After investing one hundred percent of its eligible investment  
29 authority in rural growth investments in this state, the rural business  
30 growth fund fails to maintain that investment until the seventh anniver-  
31 sary of the closing date. For the purposes of this section, an invest-  
32 ment is "maintained" even if the investment is sold or repaid so long as  
33 the rural business growth fund reinvests an amount equal to the capital  
34 returned or recovered by the fund from the original investment, exclu-  
35 sive of any profits realized, in other rural growth investments in this  
36 state within twelve months of the receipt of such capital. Amounts  
37 received periodically by a rural business growth fund shall be treated  
38 as continually invested in rural growth investments if the amounts are  
39 reinvested in one or more rural growth investments by the end of the  
40 following calendar year. A rural business growth fund is not required to  
41 reinvest capital returned from rural growth investments in the six  
42 months immediately preceding the seventh anniversary of the closing  
43 date, and such rural growth investments shall be considered held contin-  
44 uously by the rural growth fund through the seventh anniversary of the  
45 closing date.

46 (C) The rural business growth fund invests more than the greater of  
47 five million dollars or twenty percent of its eligible investment  
48 authority in the same rural business concern, including amounts invested  
49 in affiliates of the rural business concern but excluding amounts rein-  
50 vested in the rural business growth fund with repaid or redeemed rural  
51 business growth investments, provided such reinvestments shall not count  
52 towards the requirement of subparagraph (A) of this paragraph.

53 (D) The rural business growth fund makes a rural growth investment in  
54 a rural business concern that directly or indirectly through an affil-  
55 iate owns, has the right to acquire an ownership interest, make a loan  
56 to, or make an investment in the rural business growth fund, an affil-

1 iate of the rural business growth fund, or an investor in the rural  
2 business growth fund. This paragraph does not apply to investments in  
3 publicly traded securities by a rural business concern or an owner or  
4 affiliate of such concern.

5 (2) Before taking action under paragraph one of this subdivision, the  
6 department shall notify the rural business growth fund of the reasons  
7 for the pending action. If the rural business growth fund corrects the  
8 violations, other than violations of subparagraph (D) of paragraph one  
9 of this subdivision, outlined in the notice to the satisfaction of the  
10 department within one hundred eighty days of the date of the notice was  
11 sent, the department shall not revoke the tax credit certificates or  
12 levy a fine.

13 (3) If the department revokes a tax credit certificate under paragraph  
14 one of this subdivision, it shall notify the commissioner, who shall  
15 make an assessment for the amount of the credit claimed by the certif-  
16 icate holder before the certificate was revoked. The commissioner shall  
17 make the assessment within one year after the certificate has been  
18 revoked.

19 (4) If tax credit certificates are revoked under paragraph one of this  
20 subdivision, the associated eligible investment authority and credit-el-  
21 igible capital contributions do not count toward the limit on total  
22 eligible investment authority and credit-eligible capital contributions  
23 described by paragraph two of subdivision (b) of this section. The  
24 department shall first award reverted authority pro rata to each rural  
25 business growth fund that was awarded less than the requested eligible  
26 investment authority under paragraph five of subdivision (b) of this  
27 section. Any remaining eligible investment authority may be awarded by  
28 the department to new applicants.

29 (5) (A) On or after the seventh anniversary of the closing date, a  
30 rural business growth fund that has not committed any of the acts  
31 described in paragraph one of this subdivision may apply to the depart-  
32 ment to exit the program as a rural business growth fund and no longer  
33 be subject to regulation under this section. The department shall  
34 respond to the application within thirty days after receiving such  
35 application. In evaluating such request the fact that no tax credit  
36 certificates have been revoked with respect to the rural business growth  
37 fund shall be sufficient evidence to prove that the fund is eligible to  
38 exit the program. The department shall not unreasonably deny an applica-  
39 tion submitted under this subdivision.

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

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

48 (6) A rural business growth fund is subject to a penalty in the amount  
49 provided by paragraph seven of this subdivision if:

50 (A) the rural business growth fund authorizes a distribution to the  
51 rural business growth fund's equity or debt holders in an amount that,  
52 when added to all previous distributions to the rural business growth  
53 fund's equity and debt holders and any previous penalties under this  
54 section, exceeds the rural business growth fund's investment authority;  
55 and

1 (B) the number of jobs created and jobs retained as reported in each  
2 of the annual reports submitted under paragraph one of subdivision (d)  
3 of this section is less than the number of jobs created and jobs  
4 retained as set forth in the rural business growth fund's notice of  
5 approval pursuant to subparagraph (A) of paragraph six of subdivision  
6 (b) of this section.

7 (7) The amount of the penalty pursuant to paragraph six of this subdi-  
8 vision shall be equal to the amount of the tax credit certificate issued  
9 under subparagraph (B) of paragraph six of subdivision (b) of this  
10 section multiplied by a fraction:

11 (A) the numerator of which is the number of jobs created and jobs  
12 retained set forth in the rural business growth fund's notice of  
13 approval under subparagraph (A) of paragraph six of subdivision (b) of  
14 this section less the sum of jobs created and jobs retained reported to  
15 the department annually pursuant to paragraph one of subdivision (d) of  
16 this section; and

17 (B) the denominator of which is the number of jobs created and jobs  
18 retained set forth in the rural business growth fund's notice of  
19 approval under subparagraph (A) of paragraph six of subdivision (b) of  
20 this section.

21 (8) Before making a distribution to the rural business growth fund's  
22 equity holders, the rural business growth fund shall deduct the amount  
23 of the penalty as calculated pursuant to paragraph seven of this subdi-  
24 vision from the amount otherwise authorized to be distributed to the  
25 equity holders and pay the penalty to the department.

26 (9) A rural business growth fund shall, prior to making a rural growth  
27 investment, request from the department a written determination as to  
28 whether the business entity in which it proposes to invest qualifies as  
29 a rural business concern. Such request shall be in a form prescribed by  
30 the department. Rural business concern determination requests shall be  
31 accepted, reviewed, and approved on a rolling basis. The department,  
32 not later than the twentieth business day after the date of receipt of  
33 such request, provided the request includes all of the required informa-  
34 tion to perform such review, shall notify the rural business growth fund  
35 of its determination. If the department fails to notify such fund of its  
36 determination within such twenty business days, the business in which  
37 the rural business growth fund proposes to invest shall be deemed to  
38 qualify as a rural business concern.

39 (d) Reports. (1) A rural business growth fund shall submit a report to  
40 the department on or before the fifth business day after each anniver-  
41 sary of the closing date until the rural business growth fund has exited  
42 the program in accordance with paragraph five of subdivision (c) of this  
43 section. The report shall document the rural business growth fund's  
44 growth investments and shall include, but shall not be limited to:

45 (A) A bank statement showing each rural growth investment;

46 (B) The name, location, and industry of each rural business concern  
47 receiving a rural growth investment, including either the determination  
48 notice described by paragraph nine of subdivision (c) of this section or  
49 evidence that such determination was requested and no notice was  
50 provided;

51 (C) The number of jobs created and jobs retained in the preceding  
52 twelve month reporting period as a result of the rural business growth  
53 fund's rural growth investments as of the last day of that period;

54 (D) The average annual salary of the jobs described by subparagraph  
55 (C) of this paragraph; and



1 (E) Any other information deemed pertinent by the rural business  
2 growth fund or required by the department.

3 (2) The department shall adopt rules necessary to implement this  
4 subdivision.

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

7 (ee) Credit for certain investments to a rural business growth fund.

8 (1) There is hereby allowed a nonrefundable tax credit for taxpayers  
9 that made a credit-eligible capital contribution to a rural business  
10 growth fund and were issued a tax credit certificate under subparagraph  
11 (B) of paragraph six of subdivision (b) of section forty-five of this  
12 chapter. The credit may be claimed against the tax imposed by this arti-  
13 cle and section one thousand one hundred twelve of the insurance law.  
14 The credit may not be sold, transferred, or allocated to any entity  
15 other than an affiliate of the taxpayer.

16 (2) The taxpayer may claim credits authorized by the tax credit  
17 certificate in the taxable year in which the third, fourth and fifth  
18 anniversaries of the closing date in connection with which the certif-  
19 icate issued occurs, provided that the maximum amount of credit for a  
20 tax year that may be claimed is up to one-third of the amount stated on  
21 the tax credit certificate, exclusive of amounts carried forward pursu-  
22 ant to paragraph three of this subdivision.

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

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

31 § 187-q. Credit for certain investments to a rural business growth  
32 fund. 1. There is hereby allowed a nonrefundable tax credit for taxpay-  
33 ers that made a credit-eligible capital contribution to a rural business  
34 growth fund and were issued a tax credit certificate under subparagraph  
35 (B) of paragraph six of subdivision (b) of section forty-five of this  
36 chapter. The credit may be claimed against the tax imposed by this arti-  
37 cle. The credit may not be sold, transferred, or allocated to any entity  
38 other than an affiliate of the taxpayer.

39 2. The taxpayer may claim credits authorized by the tax credit certif-  
40 icate in the taxable year in which the third, fourth, and fifth anniver-  
41 saries of the closing date in connection with which the certificate  
42 issued occurs, provided that the maximum amount of credit for a tax year  
43 that may be claimed is up to one-third of the amount stated on the tax  
44 credit certificate, exclusive of amounts carried forward pursuant to  
45 subdivision three of this section. In no event shall the credit under  
46 this section be allowed in an amount which will reduce the tax payable  
47 to less than the applicable minimum tax fixed by section one hundred  
48 eighty-three of this article.

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

55 § 4. Section 210-B of the tax law is amended by adding a new subdivi-  
56 sion 55 to read as follows:

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

9 (2) Amount of credit claimed. The taxpayer may claim credits author-  
10 ized by the tax credit certificate in the taxable year in which the  
11 third, fourth, and fifth anniversaries of the closing date in connection  
12 with which the certificate issued occurs, provided that the maximum  
13 amount of credit for a tax year that may be claimed is up to one-third  
14 of the amount stated on the tax credit certificate, exclusive of amounts  
15 carried forward pursuant to paragraph three of this subdivision.

16 (3) Application of credit. The credit allowed under this subdivision  
17 for any taxable year shall not reduce the tax due for such year to less  
18 than the amount prescribed in paragraph (d) of subdivision one of  
19 section two hundred ten of this article. Provided, however, that if the  
20 amount of the credit allowable under this subdivision for any taxable  
21 year reduces the tax to such amount or if the taxpayer otherwise pays  
22 tax based on the fixed dollar minimum amount, the excess shall be treat-  
23 ed as an overpayment of tax to be credited in accordance with the  
24 provisions of section one thousand eighty-six of this chapter. Provided,  
25 further, notwithstanding the provisions of subsection (c) of section one  
26 thousand eighty-eight of this chapter, no interest shall be paid there-  
27 on.

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

30 § 99-ii. New York agriculture and rural jobs fund. 1. There is hereby  
31 established in the joint custody of the state comptroller and the  
32 commissioner of taxation and finance a special fund to be known as the  
33 "New York agriculture and rural jobs fund".

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

38 3. Moneys of the fund, following appropriation by the legislature  
39 shall be expended only for the purposes of providing funding for the New  
40 York agriculture and rural jobs credit set forth in section forty-five  
41 of the tax law. Moneys shall be paid out of the fund on the audit and  
42 warrant of the state comptroller on vouchers approved and certified by  
43 the commissioner of taxation and finance. Any interest received by the  
44 comptroller on moneys on deposit in the New York agriculture and rural  
45 jobs fund shall be retained in and become part of such fund.

46 § 6. This act shall take effect July 1, 2021.