

Amend Senate 6260, Assembly 9762, a BUDGET BILL, AN ACT to amend chapter 405 of the laws of 1999 amending the real property tax law relating to improving the administration of the school tax relief (STAR) program and other laws, in relation to the authorization to operate the quick draw lottery game (Part A); to amend the tax law, in relation to eliminating various restrictions on the operation of Quick Draw (Part B); to amend the tax law, in relation to authorizing up to three instant games with a seventy-five percent prize payout (Part C); to authorize and direct the comptroller to make deposits to the dedicated highway and bridge trust fund (Part D); to amend the tax law, in relation to making technical corrections regarding the reduced rate of sales tax on the sale of transportation, transmission or distribution of gas or electricity (Part E); to amend the tax law, in relation to the residential fuel oil storage tank credit under the personal income tax; and to repeal certain provisions of the tax law relating thereto (Part F); to amend the state finance law and the tax law, in relation to dedicating revenues from the tax imposed under article 28-A of the tax law to the dedicated highway and bridge trust fund (Part G); to amend the tax law, in relation to calculating the amount of tax required to be prepaid for purposes of the prepayment of sales tax on cigarettes (Part H); to amend the alcoholic beverage control law, in relation to permitting the inspection of certain stores, premises and other locations licensed to sell beer, liquor or wine at retail for off-premises consumption and to amend chapter 508 of the laws of 1993, amending the tax law and the criminal procedure law relating to enhancing the enforcement of the taxes on alcoholic beverages with respect to liquors, in relation to the effectiveness thereof (Part I); to amend the alcoholic beverage control law, in relation to the adjustment of license and permit fees (Part J); to amend the public housing law, in relation to increasing the dollar amount of statewide limitation on the low-income housing tax credit (Part K); to amend the tax law and the administrative code of the city of New York, in relation to the credit and deduction for college tuition under the personal income tax (Part L); to amend the tax law, in relation to providing reports to the comptroller to aid in the administration and enforcement of the abandoned property law (Part M); to amend the tax law, in relation to the attribution of certain receipts of OTC derivatives dealers under article 9-A thereof (Part N); to amend the tax law, in relation to participation in the electronic funds transfer program prescribed by section 9 of such law (Part O); to amend the tax law, in relation to sales and sue tax filing and payment procedures for certain taxpayers (Part P); to amend the tax law, in relation to amending the definition of a new business for purposes of the refundability of certain new business credits under articles 9-A, 22, 32 and 33 of such law, and to make conforming and clarifying amendments; to amend the general municipal law and the tax law, in relation to extending the empire zone program and making technical correction to the empire zones program act; and to amend the tax law, in relation to the empire zone wage tax credit under articles 9-A and 22 of such law (Part Q); to amend the tax law, in relation to the ordering of credits under articles 9, 9-A, 32 and 33 of such law (Part R); and to amend the tax law and the administrative code of the city of New York, in relation to extending the tax rate reduction under the New York state real estate transfer tax and the New York city real property transfer tax for conveyances of real property to existing real estate investment trusts (Part S)

In enacting clause after "(Part R);"
delete "and"

In enacting clause after "(Part S)"
insert "; and to amend the tax law, in relation
to providing a modification for receipts from

certain qualified transportation contracts under article 9-A thereof (Part T)"

Page 2, Line 4

Strike out "S"
insert "T"

Page 9, Line 15

After "officer"
insert "described in subdivision four of section 2.10 of the criminal procedure law"

Page 25 Line 23

After "code."
insert Provided, however, if more than fifty percent of the cost or other basis for federal income tax purposes of such real property described in clause (i) of subparagraph (A) of this paragraph is attributable to the construction, expansion or rehabilitation of such real property, rather than the acquisition of such real property, by the QEZE, then the percentage in subparagraph (B) of this paragraph shall be deemed to be one hundred percent.

Page 27, Line 53

Insert:
'14-a. The second undesignated paragraph of paragraph (c) of subdivision 19 of section 210 of the tax law, as amended by part BB of chapter 407 of the laws of 1999, and as further amended pursuant to section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:
The credit shall be allowed only with respect to the first taxable year during which payments of empire zone wages are made and the conditions set forth in this paragraph are satisfied, and with respect to each of the four taxable years next following (but only, with respect to each of such years, if such conditions are satisfied), in accordance with paragraph (d) of this subdivision. Subsequent certifications of the taxpayer pursuant to article eighteen-B of the general municipal law, at the same or a different location in the same empire zone or zone equivalent area or at a location in a different empire zone or zone equivalent area, shall not extend the five taxable year time limitation on the allowance of the credit set forth in the preceding sentence. Provided, further, however, that no credit shall be allowed with respect to any taxable year beginning more than four years following the taxable year in which designation as an empire zone expired or more than ten years after the designation as a zone equivalent area.

Page 27, Line 56

After first "zone"
insert "or zone equivalent area"

Page 28, Line 7

Insert:

'15-a. The second undesignated paragraph of paragraph 3 of subsection (c) of section 606 of the tax law, as amended by part BB of chapter 407 of the laws of 1999, and as further amended pursuant to section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

The credit shall be allowed only with respect to the first taxable year during which payments of empire zone wages are made and the conditions set forth in this paragraph are satisfied, and with respect to each of the four taxable years next following (but only, with respect to each of such years, if such conditions are satisfied), in accordance with paragraph four of this subsection. Subsequent certifications of the taxpayer pursuant to article eighteen-B of the general municipal law, at the same or a different location in the same empire zone or zone equivalent area or at a location in a different empire zone or zone equivalent area, shall not extend the five taxable year time limitation on the allowance of the credit set forth in the preceding sentence. Provided, further, however, that no credit shall be allowed with respect to any taxable year beginning more than four years following the taxable year in which designation as an empire zone expired or more than ten years after the designation as a zone equivalent area.

Page 28, Line 10

After first "zone"
insert "or zone equivalent area"

Page 28, Line 17

Insert:
'16-a. The second undesignated paragraph of paragraph 3 of subsection (k) of section 1456 of the tax law, as amended by part BB of chapter 407 of the laws of 1999, and as further amended pursuant to section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:
The credit shall be allowed only with respect to the first taxable year during which payments of empire zone wages are made and the conditions set forth in this paragraph are satisfied, and with respect to each of the four taxable years next following (but only, with respect to each of such years, if such conditions are satisfied), in accordance with paragraph four of this subsection. Subsequent certifications of the taxpayer pursuant to article eighteen-B of the general municipal law, at the same or a different location in the same empire zone or zone equivalent area or at a location in a different empire zone or zone equivalent area, shall not extend the five taxable year time limitation on the allowance of the credit set forth in the preceding sentence. Provided, further, however, that no credit shall be allowed with respect to any

taxable year beginning more than four years following the taxable year in which designation as an empire zone expired or more than ten years after the designation as a zone equivalent area.

'16-b. Paragraph 4 of subsection (e) of section 1456 of the tax law, as amended by part BB of chapter 407 of the laws of 1999, and as further amended pursuant to section 15 of part GG of chapter 63 of the laws 2000, is amended by adding a new subparagraph (C) to read as follows:

(C) For purposes of calculating the amount of the credit, individuals employed within an empire zone or zone equivalent area within the immediately preceding sixty months by a related person, as such term is defined in subparagraph (c) of paragraph three of subsection (b) of section four hundred sixty-five of the internal revenue code, shall not be included in the average number of individuals described in subparagraph (A) or subparagraph (B) of this paragraph, unless such related person was never allowed a credit under this subsection with respect to such employees.

'16-c. The second undesignated paragraph of paragraph 3 of subdivision (g) of section 1511 of the tax law, as amended by part BB of chapter 407 of the laws of 1999, and as further amended pursuant to section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

The credit shall be allowed only with respect to the first taxable year during which payments of empire zone wages are made and the conditions set forth in this paragraph are satisfied, and with respect to each of the four taxable years next following (but only, with respect to each of such years, if such conditions are satisfied), in accordance with paragraph four of this subdivision. Subsequent certifications of the taxpayer pursuant to article eighteen-B of the general municipal law, at the same or a different location in the same empire zone or zone equivalent area or at a location in a different empire zone or zone equivalent area, shall not extend the five taxable year time limitation on the allowance of the credit set forth in the preceding sentence. Provided, further, however, that no credit shall be allowed with respect to any taxable year beginning more than four years following the taxable year in which designation as an empire zone expired or more than ten years after the designation as a zone equivalent area.

'16-d. Paragraph 4 of subdivision (g) of section 1511 of the tax law, as amended by part BB of chapter 407 of the laws of 1999, and as further amended pursuant to section 15 of part GG of chapter 63 of the laws of 2000, is amended by adding a new subparagraph (C) to

read as follows:

(C) For purposes of calculating the amount of the credit, individuals employed within an empire zone or zone equivalent area within the immediately preceding sixty months by a related person, as such term is defined in subparagraph (c) of paragraph three of subsection (b) of section four hundred sixty-five of the internal revenue code, shall not be included in the average number of individuals described in subparagraph (A) or subparagraph (B) of this paragraph, unless such related person was never allowed a credit under this subdivision with respect to such employees.

Page 28, Line 54 Strike out "Section"
insert "Sections" After "Sections" insert, "one through"

Page 29, Line 22 After first "fifteen"
insert ", "

Page 29, Line 23 Delete first "and"
After first "sixteen" insert, ", "
After ", " insert, "sixteen-b and sixteen-d"

Page 31, Line 53 After "the"
Strike out "condition", insert "transaction is"

Page 31, Line 54 After "paragraph"
Strike out "is satisfied", insert "in which case the provisions of such subparagraph shall apply"

Page 32, Line 15 After "the"
Strike out "condition", insert "transaction is"

Page 32, Line 16 After "paragraph"
Strike out "is satisfied", insert "in which case the provisions of such subparagraph shall apply"

Page 32, Line 16 At end of line insert "§4. Subparagraph 5 of paragraph (xi) of subdivision (b) of section 1201 of the tax law, as amended by section 2 of Part G of chapter 407 of the laws of 1999, is amended to read as follows:

(5) [The] If a transaction otherwise described in subparagraph two of this paragraph occurs other than in connection with the initial formation of a REIT, the condition set forth in subparagraph four shall be disregarded and such transaction shall constitute a "real estate investment trust transfer" if the condition set forth in subparagraph three of this paragraph [,] would be satisfied if "fifty percent" is substituted for "forty percent" therein.

§5. Subparagraph (E) of paragraph 2 of subdivision e of section 11-2102 of the

administrative code of the city of New York, as amended by section 3 of part G of chapter 407 of the laws of 1999, is amended to read as follows:

(E) [The] If a transaction otherwise described in subparagraphs (A) or (B) of this paragraph occurs other than in connection with the initial formation of a REIT, the condition set forth in subparagraph (D) shall be disregarded and such transaction shall constitute a "real estate investment trust transfer" if the condition set forth in subparagraph (C) would be satisfied [,] if "fifty percent" is substituted for "forty percent" therein.

Page 32, Line 17

After "\$"
Strike out "4", insert "6"

Page 32, Line 17

After "immediately"
Strike out ".", insert "; provided however, that the amendments made by sections two and three that change the year 2002 to the year 2005, shall apply to real estate investment trust transfers occurring on or after the effective date of this bill."

Page 32, Line 18

Insert "Part T"
Section 1. Paragraph (a) of subdivision 9 of section 208 of the tax law is amended by adding a new subparagraph 15 to read as follows:

(15) The amount deductible pursuant to paragraph (n) of this subdivision.

'2. Subdivision 9 of section 208 of the tax law is amended by adding a new paragraph (n) to read as follows:

(n) Qualified gas transportation contracts.

(a) A taxpayer shall be allowed a deduction for taxable years commencing on or after January first, two thousand, computed as hereinafter provided, if all of the following conditions are met:

(1) For periods ending prior to January first, two thousand, the taxpayer paid the franchise tax due under section one hundred eighty-four of this chapter.

(2) For the taxable year, all of the receipts from the pipeline transportation of natural gas attributable to the taxpayer and included in the taxpayer-s entire net income (without regard to this paragraph) are solely from the transportation of natural gas for wholesale customers and commercial retail customers.

(3) The taxpayer's franchise tax liability under this article for the taxable year (computed without regard to this paragraph) is determined under paragraph (a) of subdivision one of section two hundred ten of this article, and such tax liability (without regard to this paragraph) is greater than the liability the taxpayer would have incurred under sections one hundred-eighty-three and one hundred-eighty-four of this chapter (as such sections existed on December thirty-first, nineteen ninety-nine) based on the same taxable period.

(4) The taxpayer is a party to a qualified gas transportation contract,@ as defined herein.

(b) The deduction shall be allowed only for the taxable years during which such qualified gas transportation contract is in full force and effect. The amount of the deduction shall be the receipts of the taxpayer less any expenses of the taxpayer (but not less than zero), during the taxable year, to the extent included in entire net income (computed without regard to this paragraph), which are attributable to any such qualified gas transportation contracts. Provided, further, in any event, the modification hereunder shall expire and be of no further force and effect for taxable years commencing on or after January first, two thousand fifteen.

(c) The term qualified gas transportation contract@ shall mean a service agreement for the transportation of natural gas for an end-user which is a qualified cogeneration facility with a rated capacity of one thousand megawatts or more, which (i) was entered into before January first, two thousand, and was in full force and effect and binding on the parties thereto as of such date, (ii) as originally executed, was for a term of at least twenty years and (iii) the terms of which prohibit the pass-through to such customer of the franchise tax imposed under this article, while allowing the recovery of the gross earnings tax imposed under section one hundred eighty-four of this chapter. A contract shall not qualify as a qualified gas transportation contract if there is: (i) any renewal or extension of an otherwise qualified gas transportation contract occurring on or after January first, two thousand, or (ii) any material amendment to, or supplementation of, an otherwise qualified gas transportation contract on or after such date. Such renewal, extension, or material amendment or supplementation shall have the same force and effect of terminating the modification

hereunder as if the qualifying contract had expired by its own terms.

'3. Clause (D) of subparagraph 2 of paragraph (a) of subdivision 3 of section 210 of the tax law, as amended by chapter 802 of the laws of 1975, is amended to read as follows:

(D) all other business receipts earned within the state, bear to the total amount of the taxpayer=s receipts, similarly computed, arising during such period from all sales of its tangible personal property, services, rentals, royalties, receipts from the sales of rights for closed-circuit and cable television transmissions and all other business transactions, whether within or without the state, provided, however, the numerator and the denominator of the receipts factor shall not include any receipt included in the computation of the deduction under subparagraph fifteen of paragraph (a) of subdivision nine of section two hundred eight of this article;

4. This act shall take effect immediately and apply to taxable years commencing on or after January first, two thousand, and shall be deemed repealed for taxable years commencing on or after January first, two thousand fifteen.®

Page 32, Line 28

Strike out "S"
add "T"