

**2016-17 NEW YORK STATE EXECUTIVE BUDGET**

**REVENUE ARTICLE VII LEGISLATION**

**MEMORANDUM IN SUPPORT**

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### MEMORANDUM IN SUPPORT

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## MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in  
Accordance with Article VII of the Constitution

AN ACT to amend the real property tax law and the tax law, in relation to transitioning the school tax relief (STAR) exemption into a personal income tax credit, and to repeal subdivision 5 of section 520 of the real property tax law relating thereto (Part A); to amend the real property tax law, in relation to the maximum amount of tax savings allowable under the STAR program (Part B); to amend the real property tax law in relation to making the income verification program mandatory (Part C); to amend the real property tax law, in relation to allowing applications for exemptions to be filed after the taxable status date in certain cases (Part D); to amend the tax law and the administrative code of the city of New York, in relation to establishing a new school tax reduction credit for residents of a city with a population over one million (Part E); to amend the real property tax law, in relation to authorizing the commissioner of taxation and finance to make direct payments of STAR tax savings to property owners in certain cases (Part F); to amend the tax law, in relation to making permanent, provisions relating to mandatory electronic filing of tax documents, improving sales tax compliance and updating tax preparer penalties; to amend chapter 61 of the laws of 2011, amending the real property tax law and other laws relating to establishing standards for electronic tax administration, in relation to the effectiveness thereof; and to repeal certain provisions of the tax law and the administrative code of the city of New York relating thereto (Part G); to amend the public housing law, in relation to extending the credit against income tax for persons or entities investing in low-income housing (Part H); to amend the tax law, in relation to extending the hire a veteran credit for an additional two years (Part I); to amend the tax law, in relation to extending the empire state commercial production tax credit (Part J); to amend chapter 604 of the laws of 2011, amending the tax law relating to the credit for

companies who provide transportation to people with disabilities, in relation to extending the expiration of such provision (Part K); to amend part I of chapter 58 of the laws of 2006, amending the tax law relating to providing an enhanced earned income tax credit, in relation to making the enhanced earned income tax credit permanent (Part L); to amend part N of chapter 61 of the laws of 2005 amending the tax law relating to certain transactions and related information and relating to the voluntary compliance initiative, in relation to permanently extending the disclosure and penalty provisions for transactions that present the potential for tax avoidance (Part M); to amend the tax law, in relation to extending the clean heating fuel credit for three years and updating the credit to reflect new minimum biodiesel fuel thresholds (Part N); to amend the economic development law and the tax law, in relation to extending the excelsior jobs program for five years (Part O); to amend the tax law and the administrative code of the City of New York in relation to making corrections to the corporate tax reform provisions (Part P); to amend the tax law and the administrative code of the city of New York, in relation to the time for filing reports (Part Q); to amend the tax law, in relation to the business income base rate and expanding the small business subtraction modification (Part R); to amend the education law and the tax law, in relation to enacting the "parental choice in education act" (Part S); to amend the tax law, in relation to establishing a tax credit for New York state thruway tolls (Part T); to amend chapter 109 of the laws of 2006 amending the tax law and other laws relating to providing exemptions, reimbursements and credits from various taxes for certain alternative fuels, in relation to extending the alternative fuels tax exemptions for five years (Part U); to amend the tax law, in relation to exempting from alcoholic beverage tax certain alcoholic beverages furnished at no charge by certain licensees to customers or prospective customers at a tasting held in accordance with the alcoholic beverage control law, and to expand the beer production credit to include wine, liquor and cider (Part V); to amend the tax law, in relation to authorizing jeopardy assessments on cigarette and tobacco product taxes assessed under article 20

thereof (Part W); to amend the tax law and the administrative code of the city of New York, in relation to allowing room remarketers to purchase occupancies from hotel operators exempt from sales tax under certain circumstances (Part X); to amend the tax law, in relation to charitable contributions and charitable activities being considered in determining domicile for estate tax purposes (Part Y); to amend the state finance law, in relation to creating the aviation purpose account and ensuring that the funds deposited in the aviation purpose account are used for airport improvement projects; to amend the tax law, in relation to provide for the distribution of revenues under section 301-e of such law; to exempt sales of fuel sold for use in commercial aircraft and general aviation aircraft from the prepayment of sales tax imposed pursuant to the authority of section 1102(a) (1) (ii) of such law; and to exclude sales of fuel sold for use in commercial aircraft and general aviation aircraft from the operation of sales and use taxes imposed pursuant to the authority of section 1210(a) of such law (Part Z); to amend the racing, pari-mutuel wagering and breeding law, in relation to equine lab testing provider restrictions removal (Part AA); to amend the racing, pari-mutuel wagering and breeding law and the tax law, in relation to reducing purse amounts paid from the VLT program and to increasing racing regulatory fee (Part BB); to amend the racing, pari-mutuel wagering and breeding law, in relation to the timing of harness track reimbursements and other technical amendments (Part CC); to amend the tax law, in relation to the payment of vendors' fees (Part DD); to amend the tax law, in relation to vendor fees at vendor tracks (Part EE); 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; to amend 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 provision thereof; and to amend the racing, pari-mutuel and breeding law, in relation to extending certain provisions thereof (Part FF); to amend the tax law, in relation to capital awards to vendor tracks (Part GG); and to amend the state finance law, in relation to allocations from the commercial gaming revenue fund; and to amend the tax law, in relation to commissions payable to certain vendor racetracks (Part HH)

**PURPOSE:**

This bill contains provisions needed to implement the Revenue portion of the 2016-17 Executive Budget.

This memorandum describes Parts A through HH the bill which are described wholly within the parts listed below.

**Part A – Convert STAR exemption benefit into a tax credit for new homeowners**

**Purpose:**

This bill would gradually convert the School Tax Relief (STAR) program from a program that offers a real property tax exemption benefit into a program that offers a personal income tax credit.

**Summary of Provisions and Statement in Support:**

This bill would close the existing STAR exemption program to new applicants and establish a new refundable personal income tax (PIT) credit in its place. Current recipients of STAR exemptions would be permitted to keep those exemptions as long as they continue to own their current homes, but once their homes are transferred to new owners, the new owners would transfer to the PIT credit program. Current STAR recipients would also have the option of giving up their STAR exemptions if they wish to receive the PIT credit instead, but they would be under no obligation to do so.

The eligibility requirements for the new STAR PIT credit would be essentially identical to those of the existing STAR exemption. Most notably, (i) the property would still have to be owned by, and the primary residence of, the applicant(s); (ii) the income of the applicants would have to be less than the applicable limit (\$500,000 for Basic STAR, and a much lower figure for Enhanced STAR that is annually adjusted for inflation); and (iii) for Enhanced STAR, all owners would have to be at least 65 years of age, unless the owners are spouses or siblings, in which case at least one owner must be 65. Likewise, the value of the STAR credit within each school district would be virtually the same as the value of the tax savings under the STAR exemption. The special eligibility

features that have been part of the existing STAR program (e.g., allowing co-op tenant-shareholders and trust beneficiaries to receive the benefits even though technically they do not own the property) would be carried over into the new STAR PIT credit program as well.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2017 Executive Budget. Converting the STAR exemption benefit into a tax credit would generate a temporary cost savings of about \$100 million annually until full conversion is complete; these savings would ultimately be offset by lower income tax revenues to the State.

Effective Date:

This bill would take effect immediately, provided that sections 6 and 7 of this act shall apply to taxable years beginning on or after January 1, 2016.

**Part B - Cap annual growth in Basic and Enhanced STAR exemption benefit at zero percent**

Purpose:

This bill would impose a zero percent cap upon the growth in Basic and Enhanced STAR benefits, beginning with the 2016-2017 school year.

Summary of Provisions and Statement in Support:

This bill would amend Real Property Tax Law § 1306-a to lower the cap on the growth of tax savings under the STAR program, beginning with the 2016-2017 school year. Basic and Enhanced STAR savings will be capped at the 2015-2016 savings amounts for these programs. Existing law allows all savings to grow at a rate not to exceed 2 percent annually, a limitation that was part of the FY 2012 Budget.

STAR was enacted in 1997 to offset rising property taxes for homeowners and to provide additional targeted property tax relief to senior citizens. Since then, enhancements have been made that contributed to increases in the current and projected cost of the STAR program. The costs of the STAR program increased approximately 33 percent between FY 2002 and FY 2016. The direct costs of the STAR program in FY 2015, including reimbursements made under RPTL § 1306-a and State Finance Law § 54-f, were almost \$3.3 billion. Capping growth of the direct costs to the State of the program at current levels will limit spending at the State level and is critical for a balanced State budget.



Budget Implications:

Enactment of this bill is necessary to implement the FY 2017 Executive Budget. Capping the exemption benefits would reduce General Fund spending by \$56 million in FY 2017.

Effective Date:

This bill would take effect immediately.

**Part C - Make Income Verification Procedure (IVP) Mandatory**

Purpose:

This bill would make participation in the STAR Income Verification Program (IVP) mandatory for senior citizens wishing to receive Enhanced STAR.

Summary of Provisions and Statement in Support:

In order to be eligible for Enhanced STAR, the income of the applicants must be below a ceiling, which is \$84,550 for 2016 (it is annually adjusted for inflation). Under current law, applicants may demonstrate their income eligibility in one of two ways:

1. They may bring income documentation (generally, an income tax return) to the assessor's office each year, as part of a renewal application. The assessor will then determine their eligibility annually based on the documentation provided.
2. Alternatively, they may enroll in the STAR Income Verification Program (IVP). The Department of Taxation and Finance will then annually determine their income eligibility based upon its income tax records, and will notify the assessor of its findings. Applicants who have enrolled in the IVP need not reapply for the exemption thereafter.

This bill would eliminate the first option and establish the IVP as the only option for applicants for Enhanced STAR, effective with applications for the exemption on 2017 assessment rolls.

Experience with the STAR Registration Program has shown that numerous properties were receiving Basic STAR exemptions to which they were not entitled. This was largely due to the fact that before the STAR Registration Program was implemented in 2014, the Tax Department had no direct role in the verification of income for Basic STAR (which is subject to a fixed income limit of \$500,000). Once registration was in place and the taxpayer identification numbers of all Basic STAR recipients became available to the Tax Department, a more thorough income verification process could be conducted.

The STAR Registration Program does not extend to the Enhanced STAR exemption, so the Department is not currently in a position to verify that all Enhanced STAR recipients do in fact meet the income eligibility requirements. This bill would enable it to do so. That will ensure that Enhanced STAR will only be granted in appropriate cases, possibly reducing the cost of the program to the State. At the same time, by removing the non-IVP option, the bill would actually make it easier for qualified senior citizens to keep their Enhanced STAR exemptions, because they will no longer need to reapply for the exemption annually by the locally applicable deadline.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would relieve local assessors from most of the Enhanced STAR income verification burden.

Effective Date:

This bill would take effect immediately and apply to applications for the Enhanced STAR exemption beginning with the 2017 assessment rolls.

**Part D - Allows late filing of renewal STAR and Senior Citizens exemption applications based on hardship or good cause shown**

Purpose:

This bill would make it possible for taxpayers who qualify for the Enhanced STAR exemption or the Senior Citizens Exemption to receive an extension of the filing deadline if they failed to timely file their exemption renewal applications due to hardship or other good cause.

Summary of Provisions and Statement in Support:

This bill would amend Real Property Tax Law (RPT) § 425(6) by adding a new paragraph (a-2) to provide, in addition to the current hardship provision, that where a taxpayer who has been receiving the Enhanced STAR exemption fails to timely file the renewal application for the exemption, such taxpayer may file a request for an extension and an application for such exemption with the Commissioner of Taxation and Finance up to the last day for paying school taxes without incurring interest or penalty, where the late filing was due to hardship or for good cause shown.

This bill would also amend RPT § 467 by adding a new subdivision (8-a) to provide a local option for municipalities to provide, in addition to the current hardship provision, that where a taxpayer who has been receiving the Senior Citizens exemption fails to timely file a renewal application for the exemption, such taxpayer, may file a request for an extension and an application for such exemption up to the last day for paying school

taxes without incurring interest or penalty, where the late filing was due to hardship or for good cause shown.

These changes would alleviate the harsh consequences that face taxpayers who qualify for Enhanced STAR exemption or the Senior Citizens exemption, but who, due to hardship or for other good cause, failed to timely file their exemption renewal applications. These taxpayers would no longer be forced to contend with a dramatically increased tax liability that they cannot afford and would not be required to pay if they had only filed on time.

Current law provides a very limited opportunity to file for the enhanced STAR exemption and the Senior Citizens exemption beyond the statutory filing date. Current law requires that the corrective measure be taken before the last date on which a petition challenging the assessment may be filed and is limited to circumstances where the failure to timely file was the result of “(i) a death of the applicant's spouse, child, parent, brother or sister; or (ii) an illness of the applicant or of the applicant's spouse, child, parent, brother or sister, which actually prevents the applicant from filing on a timely basis, as certified by a licensed physician.” The deadline under current law for late filing often expires long before the taxpayer is even aware that the renewal application has not been filed. Moreover, and although not captured by current law, there are circumstances that would be deemed “good cause” that are not the result of the death of a close family member or the serious illness of the taxpayer or close family member.

Recipients of the Enhanced STAR exemption and the Senior Citizens exemption, based on the eligibility requirements for these exemptions, are low income. Paying the full tax burden without such exemptions often causes financial hardship for those individuals for whom the exemptions were created.

#### Budget Implications:

Enactment of this bill would have negligible budget implications while alleviating the harsh consequences that face taxpayers who did not file timely renewal applications due to hardship or for other good cause.

#### Effective Date:

This bill would take effect 60 days after becoming law.

### **Part E - Convert NYC PIT STAR Credit into NYS PIT Credit**

#### Purpose:

This bill would convert the School Tax Relief Credit for New York City taxpayers from a New York City PIT Credit into a New York State PIT Credit.

Summary of Provisions and Statement in Support:

Since property taxes are relatively low in New York City, the STAR exemption is worth less to property owners in the City than elsewhere. Moreover, New York City taxpayers – both homeowners and renters – also support City education spending through the personal income tax. To offset this disparity, residents of the City whose incomes are \$250,000 or less receive a School Tax Relief Credit against their New York City personal income taxes in the amount of \$125 for spouses filing jointly, and \$62.50 for all others. This bill would convert the existing New York City Personal Income Tax credit into a New York State Personal Income Tax credit. That change would bring about administrative efficiencies by enabling the State to provide this benefit directly to City residents, rather than using the City's taxation structure as a pass-through.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2017 Executive Budget. Converting the credit from City to State would reduce General Fund spending by \$87 million in FY 2017 and \$284 million annually thereafter.

Effective Date:

This bill would take effect immediately and apply to taxable years beginning on or after January 1, 2016.

**Part F - Authorizes the Commissioner of Taxation and Finance to make direct payments of STAR tax savings to property owners in appropriate cases**

Purpose:

This bill would authorize the Commissioner of Taxation and Finance to make direct payments of STAR tax savings to property owners in appropriate cases.

Summary of Provisions and Statement in Support:

This bill would allow the Commissioner of Taxation and Finance to directly reimburse a STAR-eligible property owner when the property owner did not receive the STAR tax savings to which he or she was entitled due to an administrative error, and where no other remedy is readily available. The Department has already been authorized to approve direct payments in special cases (e.g., for late registrants and unenrolled registrants); this bill would expand that authority to cases where a speedy, efficient remedy is lacking under the law (e.g., when a STAR exemption must be restored due to a bankruptcy filing).

Budget Implications:

Enactment of this bill is necessary to implement the FY 2017 Executive Budget because it would provide for STAR-eligible homeowners to receive the benefits they are duly entitled to.

Effective Date:

This bill would take effect immediately.

**Part G - Make permanent and update certain modernization provisions of the Tax Law**

Purpose:

This bill would make permanent tax modernization provisions relating to electronic filing and payment mandates and sales tax compliance tools, and update preparer penalties.

Summary of Provisions and Statement in Support:

a. Electronic Filing Mandates and Penalties.

Tax Law § 29 was added in 2008 to consolidate and improve the administration of the Tax Department's electronic filing and payment mandates. Currently, these important e-file mandate provisions would expire on December 31, 2016, at which time the Tax Law would revert to having two disparate sections of law setting forth e-file mandate requirements. This bill would make these e-file mandate provisions permanent. Continuation of these provisions requiring preparers and self-filers that use tax preparation software to e-file recognizes that persons using tax software to prepare returns are capable of e-filing. Importantly, Tax Law § 34, which prohibits a separate charge for e-filing of a NYS return, means no additional financial burden may be imposed upon self-filers for the e-filing of a NYS tax document.

This bill would also ensure that if the Tax Law requires a preparer to sign and provide a unique identification number on that return, then penalties will be assessed on all tax preparers who fail to abide by the law, regardless of whether they are required to be registered with DTF. The bill would also update penalties against tax preparers who take positions on returns or claims for refunds that are not properly supported by the Tax Law.

This bill would maintain for future years the cost savings realized by the State by the increase in e-filing. E-file and e-pay of taxes create cost and tax administration efficiencies beneficial to both the State and taxpayers. A taxpayer's use of e-file and e-pay reduces the number of errors that may be associated with the filing of a paper return. With e-file, an error can be immediately detected and the taxpayer prompted to correct and resubmit the return. Also, with e-file, the taxpayer gets an official

acknowledgement when the return has been received. Moreover, e-filed tax returns are processed more quickly than paper, potentially resulting in faster refunds.

b. Sales Tax Compliance.

Part U of Chapter 61 of the Laws of 2011 amended Tax Law § 1137 to authorize the Commissioner to require vendors that failed to collect, truthfully account for, pay over sales tax moneys, or to file returns as required by law, to take actions the Commissioner deems necessary to ensure that sales tax moneys are paid, including giving notice to such vendors requiring more frequent payment of tax. If directed, vendors are required to set up separate bank accounts into which only sales tax moneys are deposited, at least weekly, and the Department is authorized to debit those accounts. Since its implementation in 2011, this program has improved vendor compliance.

The segregated account provisions would expire on December 31, 2016. This bill would make these provisions permanent, which would allow the Department to continue to safeguard millions in sales tax revenue for the State and localities and reduce the need to pursue costly collection action when sales tax collected by vendors is not remitted timely to the Department. This program provides a powerful incentive to sales tax vendors to become and remain compliant with their sales tax obligations to the State, and significantly mitigates the risk that sales tax vendors will misdirect collected trust taxes to their ongoing operating expenses.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because of the cost saving and efficiencies associated with this bill.

Effective Date:

The bill would take effect immediately.

**Part H - Authorize additional credits of \$8 million for Low-Income Housing Credit for each of the next five fiscal years**

Purpose:

This bill would increase the aggregate amount of low-income housing tax credit the Commissioner of Housing and Community Renewal may allocate from \$64 million to \$104 million, in \$8 million increments annually for the next five fiscal years.

Summary of Provisions and Statement in Support:

Sections one through five of the bill would each amend Public Housing Law (PHL) § 22 to:

Section one: increase the aggregate amount of low-income housing tax credit the Commissioner may allocate from \$64 million to \$72 million in SFY 2016-17;  
Section two: increase the aggregate amount of low-income housing tax credit the Commissioner may allocate from \$72 million to \$80 million in FY 2017-18;  
Section three: increase the aggregate amount of low-income housing tax credit the Commissioner may allocate from \$80 million to \$88 million in SFY 2018-19;  
Section four: increase the aggregate amount of low-income housing tax credit the Commissioner may allocate from \$88 million to \$96 million in SFY 2019-20; and  
Section five: increase the aggregate amount of low-income housing tax credit the Commissioner may allocate from \$96 million to \$104 million in SFY 2020-21.  
Current state law provides for total allocation authority of \$64 million.

#### Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would decrease All Funds revenue by \$8 million in SFY 2017-18, \$16 million in SFY 2018-2019, \$24 million in SFY 2019-2020, \$32 million in SFY 2020-2021, and \$40 million annually from SFY 2021-22 through SFY 2026-27. The revenue loss from the proposal declines annually thereafter until reaching zero in SFY 2031-32.

#### Effective Date:

This bill would take effect immediately; provided, however, section two of this act shall take effect on April 1, 2017; section three of this act shall take effect on April 1, 2018; section four of this act shall take effect on April 1, 2019; and section five of this act shall take effect on April 1, 2020.

### **Part I - Extend the Hire-A-Vet Credit for two years**

#### Purpose:

This bill would extend the tax credit received for hiring a veteran for an additional two years.

#### Summary of Provisions and Statement in Support:

This bill would extend by two years the tax credits provided for hiring veterans under Tax Law §§ 210-b(29) (Franchise Tax on Corporations), 606(a-2) (Personal Income Tax), and 1511(g-1) (Franchise Tax on Insurance Corporations).

Currently, the hire a vet credit is available for taxable years beginning on or after January 1, 2015 and before January 1, 2017. The credit is available to qualified taxpayers for the hiring of qualified veterans who commenced employment on or after January 1, 2014 and before January 1, 2016.

This bill would extend this credit for two years beginning on or after January 1, 2017, and before January 1, 2019, for employment commenced before January 1, 2018.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would decrease All Funds revenue by \$37 million in each of SFY 2018-19 and SFY 2019-20.

Effective Date:

This bill would take effect immediately.

**Part J - Extend the Empire State Commercial Production Tax Credit for two years**

Purpose:

This bill would extend the Empire State Commercial Production Tax Credit for two years.

Summary of Provisions and Statement in Support:

This bill would amend Tax Law §§ 28, 210-B, and 606 to extend the Empire State Commercial Production Tax Credit for two years. The credit is currently available through tax years beginning before January 1, 2017. The bill would make the credit available through tax years beginning before January 1, 2019.

The Empire State Commercial Production Tax Credit program provides incentives to qualified production companies that are principally engaged in and control the production of qualified commercials in New York State. Statewide, up to \$7 million in credits is available annually to be allocated through the program to encourage qualified production companies to produce commercials in the state, in order to help create and maintain jobs, as follows: \$3 million for companies producing commercials downstate; \$3 million upstate; and an additional \$1 million for companies that demonstrate incremental “growth” in commercial production. This bill would ensure that these incentives continue to be available.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would decrease All Funds revenue by \$7 million in each of SFY 2018-19 and SFY 2019-20.

Effective Date:

This bill would take effect immediately.



## **Part K - Extend the Credit for Companies who Provide Transportation to Individuals with Disabilities for six years**

### Purpose:

This bill would extend the credit for companies who provide transportation to individuals with disabilities for six years.

### Summary of Provisions and Statement in Support:

This bill would amend Chapter 604 of the Laws of 2011 and Tax Law § 210-B(38) to extend the effective date for the legislation providing for a credit for companies that provide transportation to individuals with disabilities for six years, through tax year 2022.

The credit is available to businesses that incur an incremental cost for upgrading a taxicab or livery service vehicle so that the vehicle is accessible to persons with disabilities or that purchase certain new taxicab or livery service vehicles that are accessible to persons with disabilities. The credit is limited to \$10,000 per vehicle.

### Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would decrease All Funds revenue by \$5 million annually for SFY 2018-19 through (and including) SFY 2023-24.

### Effective Date:

This bill would take effect immediately.

## **Part L - Permanently extend the non-custodial Earned Income Tax Credit (EITC)**

### Purpose:

This bill would permanently extend the non-custodial earned income tax credit (EITC).

### Summary of Provisions and Statement in Support:

Section one of the bill amends the sunset provision for Tax Law § 606(d-1) to make permanent the non-custodial earned income tax credit. The current law provides that this credit will expire and be unavailable for taxable years beginning on or after January 1, 2017.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would decrease All Funds revenue by \$4 million annually, beginning in SFY 2018-19.

Effective Date:

This bill would take effect immediately.

**Part M - Permanently extend tax shelter reporting requirements**

Purpose:

This bill would permanently extend tax shelter reporting requirements.

Summary of Provisions and Statement in Support:

This bill would amend Chapter 61 of the Laws of 2005 to extend permanently the reporting requirements and related administrative provisions concerning the disclosure of certain federal and New York State reportable transactions and related information regarding tax shelters.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would increase All Funds revenue by \$18 million annually, beginning in SFY 2016-17.

Effective Date:

This bill would take effect immediately.

**Part N - Extend the Clean Heating Fuel Credit for three years**

Purpose:

This bill would extend the sunset dates for the corporate and personal income tax credits for purchasing bioheat until January 1, 2020; and amend the minimum biodiesel fuel thresholds for bioheat for the corporate and personal income tax credits to at least 6% biodiesel per gallon of bioheat.

Summary of Provisions and Statement in Support:

The bill would amend §§ 210-B and 606 of the Tax Law to extend the sunset date for the corporate and personal income tax credits, respectively, for purchasing bioheat until January 1, 2020. The bill also provides that such credit shall not apply to bioheat with less than six percent biodiesel per gallon of bioheat.

The current corporate and personal income tax credits for the purchase of bioheat expire January 1, 2017. By implementing a minimum biodiesel percentage, the bill will exclude heating fuels that are already commonly available and will incentivize the production and use of greener heating fuels.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-2017 Executive Budget because it would decrease All Funds revenue by \$1 million in each of SFY 2018-19, SFY 2019-20, and SFY 2020-21.

Effective Date:

This bill would take effect immediately.

**Part O - Extend the Excelsior Jobs Program for five years**

Purpose:

This bill would amend the Economic Development Law and the Tax Law to authorize any unawarded tax credits remaining at the end of 2024 to be allocated in taxable years 2025 – 2029.

Summary of Provisions and Statement in Support:

This bill would extend the Excelsior Jobs Program by five years. Economic Development Law § 359 would be amended to authorize any unawarded tax credits remaining at the end of 2024 to be allocated in taxable years 2025 – 2029, including 100 percent of any unawarded tax credits attributable to years 2011 – 2024. However, under no circumstances may the aggregate statutory cap be exceeded, and no tax credits may be allowed for taxable years beginning on or after January 1, 2030. Economic Development Law § 354.5 and Tax Law § 31(b) would also be amended to provide that no tax credits are allowed for taxable years beginning on or after January 1, 2030.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would allow Empire State Development to provide a benefit period of ten years for new projects. There would be no fiscal impact over the Financial Plan period.

Effective Date:

This bill would take effect immediately.

## **Part P - Amend the State and New York City corporate tax reform statutes for technical amendments**

### Purpose:

This bill would make technical corrections to the corporate tax reform provisions in Article 9-A of the Tax Law and Subchapter 3-A of Chapter 6 of Title 11 of the Administrative Code of the City of New York.

### Summary of Provisions and Statement in Support:

Bill sections 1, 2, 5, 7 and 8 would correct cross-references in the Tax Law that are necessary because of corporate tax reform. Bill sections 3 and 6 would correct typographical errors in Article 9-A of the Tax Law made in the corporate tax reform legislation.

Bill section 5 would amend the definition of qualified financial instrument in Tax Law § 210-A(5) to clarify that, even though the taxpayer marks to market some of its stock, the category of “stock” that is classified as a qualified financial instrument for apportionment purposes would not include stock that generates other exempt income as defined in Tax Law § 208(6-a) with respect to that income. This change would ensure that the taxpayer would still be allowed the exemption for other exempt income for income from its stock in its subsidiaries that are not included in its combined report, even though the taxpayer elects to generally apportion to New York 8% of the income from its qualified financial instruments. Bill section 16 would make a parallel amendment to § 11-654.2(5) of the Administrative Code of the City of New York. The amendments made in 2015 to the definition of “qualified financial instrument” technically would have prevented a taxpayer from being able to exempt that income.

Sections 9 through 13 and section 15 of the bill would make technical corrections to provisions in the Administrative Code of the City of New York (“Administrative Code”) to promote the implementation of subchapter 3-A of chapter 6 of Title 11 of the Administrative Code, the Corporate Tax of 2015.

Section 14 of the bill would extend the sunset of New York City’s biotechnology tax credit until January 1, 2019.

### Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would clarify and preserve the revenue impacts associated with the original corporate tax reform legislation.

### Effective Date:

This bill would take effect immediately, provided however sections 1 through 8 of the act bill would be deemed to be in full force and effect on the same date as part A of chapter

59 of the laws of 2014, and sections 9 through 16 of bill would be deemed to be in full force and effect on the same date as part D of chapter 60 of the laws of 2015.

### **Part Q - Conform to new federal tax filing dates**

#### Purpose:

This bill would bring certain New York State and New York City tax filing deadlines into conformity with those at the federal level.

#### Summary of Provisions and Statement in Support:

This bill would amend §§ 183-a, 186-a, 186-e, 192, 197-b, 209, 211, 213-b, 658, 1087, 1514 and 1515 of the Tax Law and §§ 11-514, 11-527, 11-653, 11-655 and 11-658 of the Administrative Code of the City of New York to change the tax filing deadlines for corporations and partnerships to conform to new deadlines at the federal level and to maintain the estimated tax prepayment schedule in current law for Article 9, 9A, and 33 taxpayers.

Under current law, the due date for corporate tax returns is March 15<sup>th</sup>. This deadline would be changed to April 15. Partnerships are currently required to file by April 15. This deadline would be changed to March 15.

Section 2006 of H.R. 3236, Public Law 114-41, the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, made changes to certain federal tax return due dates. This bill would make change to the Tax Law and the Administrative Code of the City of New York to align with the federal changes.

#### Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would maintain the current cash flow of State corporate tax receipts.

#### Effective Date:

This bill would take effect immediately.

### **Part R - Provide a corporate and personal income tax small business tax cut**

#### Purpose:

This bill would provide tax relief to corporate small businesses by reducing the business income base rate for certain small businesses in New York State and expanding the small business subtraction modification under the Personal Income Tax (PIT).

### Summary of Provisions and Statement in Support:

This bill would amend Tax Law § 210 to change the calculation of the business income base rate for corporate small businesses; and amend Tax Law § 612 to expand the small business subtraction modification.

The bill would reduce the business income base rate for corporate small businesses to 4% for businesses with a business income base of not more than \$290,000, beginning with the 2017 tax year. The rate for such small businesses is currently 6.5%.

This bill would also amend Tax Law § 612 to expand the PIT small business subtraction modification, beginning with the 2017 tax year. The bill would increase the small business subtraction modification for taxpayers from five percent to fifteen percent of the net business income or net farm income included in a taxpayer's federal adjusted gross income from such businesses and would allow the small business subtraction modification to be claimed by a taxpayer who is a member, partner or shareholder of a limited liability company, a partnership or an S corporation that meets the definition of a small business. In order to qualify for the subtraction modification, a taxpayer who is a member, partner or shareholder in a limited liability company, a partnership or an S corporation, respectively, that has business income or farm income must have less than two hundred fifty thousand dollars attributable to its share of flow-through income from all entities (including ones that are not small businesses). Also, the definition of a small business has been expanded to include a limited liability company, a partnership or an S corporation that during the taxable year employs one or more persons and has New York gross business income attributable to a non-farm business greater than zero but less than one million five hundred thousand dollars. Under current law, only limited liability companies, partnerships and S corporations that are farm businesses are included. In the case of a limited liability company or a partnership, New York gross business income would mean New York source gross income as defined in Tax Law § 658(c)(3), and, in the case of an S corporation, New York gross business income would mean New York receipts included in the numerator of the apportionment factor under Tax Law § 210-A.

### Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would decrease All Funds revenue by \$298 million annually, beginning SFY 2017-18.

### Effective Date:

This bill would take effect immediately and would apply to taxable years beginning on or after January 1, 2017.

## **Part S - Establish education tax credits**

### Purpose:

This bill would amend the Education Law and the Tax Law to enact the Parental Choice in Education Act, which would provide a tax credit incentive to encourage individual and business donations to support public schools' educational improvement programs, as well as scholarships for public and non-public elementary and secondary school students. This bill would also enact a new tuition tax credit as well as a credit for purchases of classroom materials and supplies.

### Summary of Provisions and Statement in Support:

Section 1 of the bill would entitle this act the Parental Choice in Education Act.

Sections 2 through 9 of the bill would amend the Education Law and the Tax Law to enact the Education Scholarship and Program Tax Credit (ESPTC). Under the ESPTC program, contributions could be made to approved Educational Scholarship Organizations (ESOs) that award scholarships to eligible students to attend non-public schools or public schools outside of their districts of residence. Scholarship eligibility would be based on family income. Students residing in a household of up to two dependent children would qualify if their household federal Adjusted Gross Income (FAGI) is \$250,000 or less, with the threshold increasing by \$10,000 for each additional dependent child, up to a maximum allowable FAGI of \$300,000. Further, the bill would require ESOs to award at least half of the scholarships to students whose family income does not exceed 150 percent of the income qualifications required for reduced price school lunches under the National School Lunch Act. There would be no maximum scholarship award for a student.

The ESPTC program would also authorize credits for contributions to public education entities, school improvement organizations, and local education funds. These donations would be available to support public school academic programs such as extended day programs, pre-kindergarten programs, and other programs to meet the needs of at-risk students. The ESPTC program would make available \$70 million in credits annually. Of that amount, \$50 million would be allocated for donations to ESOs and \$20 million would be available for donations to other eligible entities. Both businesses and individuals would be eligible to participate in the tax credit program. Taxpayers would receive a tax credit of 75 percent of their authorized donations. The maximum annual credit for an individual taxpayer or business would be \$1 million.

The bill would direct the State Education Department (SED) and the Department of Taxation and Finance (DTF) to oversee and monitor various aspects of the program. SED would certify and monitor organizations eligible to receive donations through this program. DTF would administer and manage credits provided within the program cap, and also allocate credits under the program in two phases, ensuring a preference for small donors in the first phase of credit allocation. ESOs and other eligible organizations

receiving contributions would be required to disburse at least 90 percent of contributions received each year. These eligible organizations under the ESPTC program would be authorized to utilize up to ten percent of the funds received to pay for administrative expenses related to the tax credit.

Section 10 of the bill would enact a new Instructional Materials and Supplies Credit, which would provide teachers in public, nonpublic, and charter schools with a refundable income tax credit, not to exceed \$200 annually, for the amount paid during the taxable year for materials and supplies used in the classroom. This credit would have an annual cap of \$10 million.

Section 11 of the bill would amend Tax Law § 612 to require taxpayers who claim the Instructional Materials and Supplies Credit to increase their federal adjusted gross income by any amount claimed as the federal classroom materials deduction when calculating their New York adjusted gross income.

Section 12 of the bill would enact a new Family Choice Education Credit. This refundable personal income tax credit would be available to taxpayers with New York Adjusted Gross Income of \$60,000 or less. The credit would be equal to the lesser of the tuition paid by the taxpayers for enrollment or attendance of their dependents at a not-for-profit or public pre-kindergarten program or elementary or secondary sectarian or nonsectarian school in this state, or \$500, per child.

Section 13 of the bill contains a severability clause.

Section 14 of the bill would provide that the bill take effect immediately and apply to taxable years beginning on or after January 1, 2017.

The Education Tax Credit would establish three new tax credit programs that, through a multi-pronged approach, would help to advance the critical issues of choice in education and increased options for families.

First, the Education Scholarship and Program Tax Credit (ESPTC) would leverage private donations from individual taxpayers and businesses to fund \$67 million in scholarships for low-income students attending private and out-of-district public schools. At least fifty percent of the scholarships must be for students with family incomes below 150 percent of the income qualification for the federal reduced price lunch program (approximately \$67,000 for a family of four).

Private and parochial schools are an important alternative to public schools in the state of New York, and many of these schools have closed in recent years in the face of dropping enrollment and ensuing financial difficulties. This program would help to expand access to nonpublic schools to additional families who may not be able to afford tuition and would alleviate the financial burden for families of enrolled scholarship recipients.



The ESPTC would also provide credits to leverage up to \$27 million in donations made to public schools and not-for-profits that support public school educational programs, including prekindergarten and extended-day programs. This bill would encourage individual and business contributions directly to public schools, or to local education funds and school improvement organizations. These donations would be available to fund pre-kindergarten programs, instructional materials, programs to meet the needs of at-risk students or students with disabilities, including mentoring and tutoring, and other academic programs.

The Family Choice Education Credit would provide families with incomes below \$60,000 per year with a State income tax credit for tuition expenses to both public and non-public schools. Families would be eligible to claim a credit of up to \$500 per student, helping to ease the tuition burden on families and allow students to attend the schools of their choice.

Finally, the bill would establish an Instructional Materials and Supplies Credit, which would provide a tax credit of up to \$200 per educator for the purchase of instructional materials and supplies for use in classrooms. Teachers throughout the State would be eligible for this tax benefit, which would have an aggregate cap of \$10 million annually.

#### Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would decrease All Funds revenue by \$150 million annually, beginning in SFY 2018-19.

#### Effective Date:

This bill would take effect immediately and would apply to taxable years beginning on or after January 1, 2017.

### **Part T - Establish Thruway toll tax credits**

#### Purpose:

This bill would allow a non-refundable tax credit for a portion of the NYS Thruway tolls paid by qualifying taxpayers through individual, commercial or business E-ZPass accounts.

#### Summary of Provisions and Statement in Support:

The bill would amend Tax Law Articles 9, 9-A, 22 and 33 to provide a non-refundable Thruway toll tax credit for the 2016, 2017 and 2018 tax years. For businesses operating farm vehicles, the credit would be equal to 100 percent of the Thruway tolls paid through E-ZPass accounts for the operation of farm vehicles. For other businesses, the credit would be equal to 50 percent of the Thruway tolls paid through E-ZPass accounts

provided the taxpayer paid between \$100 and \$9,999 in annual tolls (inclusive). The credit could reduce the taxpayer's tax to the fixed dollar minimum and any excess credit may be carried forward to future taxable years.

Individuals would be eligible for a personal income tax credit equal to 50 percent of the Thruway tolls paid through an individual E-ZPass account provided the individual paid at least \$50 in annual tolls.

A taxpayer could claim either the credit for the operation of farm vehicles or the general credit, but not both. Also, taxpayers would have to add back to their income for New York State tax purposes any deduction they take for toll expenses that they also use to compute the credit.

This proposal would provide relief for individuals and businesses that use the Thruway on a regular basis.

#### Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would decrease All Funds revenue by \$113 million in each of SFYs 2017-18 and 2018-19, and \$114 million in SFY 2019-20.

#### Effective Date:

This bill would take effect immediately.

### **Part U - Extend the alternative fuels tax exemptions for five years**

#### Purpose:

This bill would extend the sunset from September 1, 2016 to September 1, 2021 for the tax exemptions for alternative fuels, including E85, CNG, hydrogen, and B20.

#### Summary of Provisions and Statement in Support:

Extending the exemptions for alternative fuels would continue to provide an incentive for the use of renewable fuels and is part of a comprehensive strategy to reduce dependence on foreign oil and to increase the use of clean energy fuels.

Section 1 would extend the sunset for the exemptions in the Tax Law for alternative fuels from September 1, 2016 to September 1, 2021. Unless this sunset is extended, the Tax Law will no longer allow full exemptions for E85, CNG, and hydrogen, and partial exemption for B20 from the motor fuel taxes (Article 12-A), the petroleum business taxes (Article 13-A), fuel use taxes (Article 21-A) and State and local sales and compensating use taxes (Articles 28 and 29).

Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would decrease All Funds sales and use, petroleum business, and motor fuel taxes by a total of \$2 million in SFY 2016-17; \$4 million in each of SFY 2017-18, SFY 2018-19, SFY 2019-20; and \$2 million in SFY 2020-21.

Effective Date:

This bill would take effect immediately.

**Part V - Establish additional alcohol beverage tasting exemptions and production credits**

Purpose:

This bill would amend the Tax Law to exempt from the alcoholic beverage tax certain alcoholic beverages, and from the use tax, certain alcoholic beverages and other inventory items furnished at no charge by certain producers to customers or prospective customers at a tasting held in accordance with the Alcoholic Beverage Control Law. It would also amend the Tax Law to expand the beer production credit to include wine, liquor and cider.

Summary of Provisions and Statement in Support:

Breweries, distilleries, cideries and wineries are a vital and growing part of New York's economy. For off-premise tastings, not-for-profit organizations often host events at which customers are able to have a "tasting" from various New York wine or beer producers. For on-premise tastings, New York producers can offer samples of their own or another producer's products. These tastings provide the producers with an opportunity to attract new customers and are a key marketing tool.

Under current law, the product (beer, cider, liquor or wine) being sampled at a tasting is subject to the alcoholic beverage tax in Article 18 of the Tax Law. This bill would exempt the product used by the producers at those tastings from the alcoholic beverage tax, and exempt such product as well as certain inventory items from the use tax in order to encourage more tastings throughout the State.

The bill would also extend the beer production credit under the corporate franchise tax and the personal income tax to include cider, wine and liquor, with some adjustments made based on each alcoholic beverage's alcohol by volume content.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would reduce All Funds tax receipts by \$1 million in SFY 2016-17 and \$3 million annually thereafter.

Effective Date:

This act would take effect immediately, provided, however, that; sections one, two, five and six of this act shall apply to taxable years beginning on or after January 1, 2016; sections three and four of this act shall apply to taxable periods beginning on or after April 1, 2016; and section seven of this act shall apply to uses occurring on and after June 1, 2016.

**Part W - Expand jeopardy assessments to the cigarette and tobacco tax**

Purpose:

This bill would authorize the Department of Taxation and Finance to issue jeopardy assessments for the collection of the cigarette and tobacco excise tax.

Summary of Provisions and Statement in Support:

Where collection would be jeopardized by delay, the bill would provide that the cigarette and tobacco excise tax may be assessed prior to either the filing of a return or prior to the deadline to file a return. The assessment would become due and payable immediately upon notice to the taxpayer. The taxpayer would stay collection efforts by filing a bond with the Tax Department to ensure the payment of tax, penalties, and interest. Seized property would be sold once the assessment is finalized, or earlier if the taxpayer fails to attend a hearing, the taxpayer consents to the sale, or where the property is perishable or the expenses of conservation and maintenance would greatly reduce its value.

Currently, there is no provision for jeopardy assessments to assist in collection of the excise tax on cigarettes and tobacco products. The bill was modeled after Tax Law § 288-a (excise tax on gasoline and similar motor fuel) and Tax Law § 1138 (sales tax), which authorize jeopardy assessments for similar collection efforts for other taxes. The authorization of jeopardy assessments would provide a helpful tool for use in the prevention of cigarette and tobacco product excise tax avoidance.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it supports revenue collection included in the Financial Plan resulting from the Governor's Cigarette Strike Force's efforts to reduce tax evasion.

Effective Date:

This bill would take effect immediately.

**Part X - Simplify the taxation of remarketed rooms**

Purpose:

The purchase of hotel room occupancies by room remarketers would be exempt from the sales tax when those purchases are made from hotels for later resale.

Legislation enacted in 2010 required room remarketers to collect State and local sales tax and New York City's hotel room occupancy tax on the hotel room occupancies they sell. That legislation, however, did not exempt the room remarketers' purchases of the hotel room occupancies they supplied to their customers. Instead, the legislation entitled the room remarketers to seek a credit or refund for the tax they paid to the hotel operators if the room remarketers satisfied certain conditions. This structure has created a significant amount of work for both the industry and Tax Department, as each room remarketer has numerous credits that must be documented, claimed and verified each quarter.

This bill eliminates that cumbersome process, thereby facilitating compliance by the room remarketer industry. Specifically, sections 2 and 4 of this bill would amend, respectively, the Tax Law and the New York City's Administrative Code to grant room remarketers an exemption on their purchases of hotel room occupancies from the hotel operators. The remaining sections of the bill make technical changes to other provisions of the Tax Law and Administrative Code to conform those provisions to the new exemption. The exemption created by this bill would apply to rent paid for hotel room occupancies on or after June 1, 2016.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would implement a needed tax reform and has no impact on the Financial Plan.

Effective Date:

This bill would take effect immediately and apply to rent paid for occupancies on or after June 1, 2016.

**Part Y - Eliminate charitable giving as a factor in determining domicile for the estate tax**

Purpose:

This bill would make state tax law more consistent by enacting an estate tax provision that conforms to the personal income tax provisions prohibiting charitable contributions and charitable activities from being considered in determining domicile.

Summary of Provisions and Statement in Support:

Section 1 of this bill amends the heading of Section 951-a of the Tax Law to include “General provisions” in addition to Definitions.

Section 2 of the bill amends § 951-a of the Tax Law by adding a new subdivision (f) prohibiting charitable contributions and charitable activities from being considered in determining domicile for estate tax purposes. This new provision mirrors language in Tax Law § 605 (c) that prohibits charitable contributions and charitable activities from being considered in determining domicile.

Section 3 provides for an immediate effective date.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget since it reduces taxpayer uncertainty with respect to making charitable gifts.

Effective Date:

This bill would take effect immediately.

**Part Z - Amend State and local tax law for consistency with Federal tax regulations on aviation fuel**

Purpose:

This bill would amend the Tax Law and State Finance Law to segregate and dedicate the Petroleum Business Tax (PBT) revenues from the sale of aviation fuel into a new aviation purpose account to fund airport improvement projects. The bill would also exclude sales of fuel for use in commercial and general aviation aircraft from local sales taxes and from the prepayment of sales tax on motor fuels.

Summary of Provisions and Statement in Support:

Section 1 would amend State Finance Law § 89-b (2) to create the aviation purpose account within the Dedicated Highway and Bridge Trust Fund.

Section 2 would amend the State Finance Law to add new § 89-b (4-a) to ensure that the funds deposited in the aviation purpose account are utilized for airport-related projects in compliance with Federal law.

Section 3 would amend Tax Law § 312 to ensure that the money collected from the PBT on aviation fuel is deposited into the aviation purpose account.

Section 4 would amend Tax Law § 1102(a)(1)(ii) to exclude sales of fuel sold for use in commercial aircraft and general aviation aircraft from the prepayment of sales tax required for motor fuels.

Sections 5-6 would amend Tax Law § 1210(a) to exclude from local sales and compensating use taxes all sales of fuel sold for use in commercial aircraft and general aviation aircraft.

Section 7 would direct the Comptroller (upon request of the Director of the Budget) to transfer from the General Fund for deposit into the Mass Transportation Operating Assistance Fund and the Dedicated Mass Transportation Trust Fund, the amount of revenue received during the state fiscal year from PBT imposed pursuant to the authority of § 301-e of the Tax Law that would have otherwise been directed to such funds pursuant to § 312 of the Tax Law.

Effective December 8, 2014, the Federal Aviation Administration amended its Revenue Use Policy regarding aviation fuel by formally adopting restrictions on the use of revenues derived from taxes on aviation fuel. Under this policy, “an airport operator or State government submitting an application under the Airport Improvement Program must provide assurance that revenues from State and local government taxes on aviation fuel will be used for certain aviation-related purposes.” 79 Fed. Reg. 66282 (2014). States and localities are required to bring their taxes on aviation fuel into compliance by December 8, 2017, but are also required to demonstrate their clear intent to be in compliance (via proposed legislation) prior to April 1, 2016. Diversion or repeal of State sales tax receipts from aviation fuel is not required because the State rate existed at four percent prior to December 1, 1987, and is therefore grandfathered.

This bill would ensure compliance with Federal law governing the use of monies collected from taxes on aviation fuel by excluding aviation fuel from local sales taxes and providing that revenues from the PBT are expended for authorized purposes. The bill also exempts taxes on certain aviation fuel from the prepaid sales tax, in order to prevent overpayment of tax by certain sellers (e.g., fixed base operators) on an ongoing basis. Such compliance is necessary to preserve Federal grants for airport improvements and avoid the potential assessment of penalties for noncompliance.

#### Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would conform New York State to Federal regulations. There is no impact to the overall Financial Plan.

Effective Date:

Sections 1, 2, and 7 of this act would take effect on April 1, 2017; sections 3 through 6 of this act would take effect on December 1, 2017.

**Part AA - Remove restriction for Morrisville College to be a single lab testing provider and modify requirements for horsemen to contribute to equine steroid testing**

Purpose:

This bill would allow the Gaming Commission to procure a qualified equine testing lab through a competitive process and would strengthen support of equine steroid testing from thoroughbred horsemen.

Summary of Provisions and Statement in Support:

The current language requires the Gaming Commission to use a “state college within the state with an approved equine science program”; currently, Morrisville College is the only qualified capable provider. Removing the restrictive language will ensure that equine testing in New York is conducted at the highest level of quality at the most competitive rates.

Section 1 would amend Racing, Pari-Mutuel Wagering and Breeding Law section 228(2) to strengthen support of equine drug testing from thoroughbred horsemen and remove reference to a particular drug testing laboratory. Technical changes would be made to update references to the Gaming Commission, and to modernize and harmonize style.

Section 2 would broaden the potential number of equine drug testing laboratories that the Gaming Commission could use in support of equine drug testing programs. Technical changes would also be made to update references to the Gaming Commission, and to modernize and harmonize style.

Section 3 would provide for effective dates.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2017 Executive Budget because it will ensure continuity of equine testing at the most competitive rates.

Effective Date:

Section one of the bill would take effect immediately. Section 2 of the bill would take effect upon expiration of an existing contract with a state college within the state with an approved equine science program, pursuant to section 902 of the Racing, Pari-Mutuel Wagering and Breeding Law.



**Part BB - Increase VLT purse enhancements from 1.0% to 1.6% and increase regulatory fee from 0.5% to 0.6% to finance escalating lab testing costs and other expenses associated with equine health and racing integrity**

Purpose:

This bill would increase Video Lottery Terminal (VLT) purse enhancements from 1.0% to 1.6% and the racing regulatory fee on thoroughbred, harness, off-track pari-mutuel betting and simulcast racing from 0.5 percent to 0.6 percent. The bill would also make technical amendments.

Summary of Provisions and Statement in Support:

Regulation of the horse racing industry is intended to be self-financing—paid for entirely by the industry. However, the cost of regulating the industry has consistently exceeded the revenues collected by the industry. This bill would ensure that assessments on the industry are sufficient to meet the cost of regulation.

Section 1 would amend Racing, Pari-Mutuel Wagering and Breeding Law section 236(1) to increase the regulatory fee for the Thoroughbred racing corporation to six tenths of one percent of the total daily on-track pari-mutuel pools of such corporation. Technical changes would be made to update references to the Gaming Commission, modernize and harmonize style, and eliminate expired provisions.

Section 2 would amend Racing, Pari-Mutuel Wagering and Breeding Law section 238(1)(d) to increase the regulatory fee for the Thoroughbred racing franchised corporation to six tenths of one percent of the total daily on-track pari-mutuel pools of such franchised corporation. Technical changes would be made to update references to the Gaming Commission and modernize and harmonize style.

Section 3 would amend Racing, Pari-Mutuel Wagering and Breeding Law section 318(1)(d) to increase the regulatory fee for the off-track betting corporations, and Standardbred racing associations or corporations, to six tenths of one percent of the total daily on-track pari-mutuel pools of such association or corporation. A technical change would be made to update a reference to the Gaming Commission.

Section 4 would amend Racing, Pari-Mutuel Wagering and Breeding Law section 527(1) to increase the regulatory fee for off-track betting corporations to six tenths of one percent of the total daily pools of such corporations. Technical changes would be made to update references to the Gaming Commission and modernize and harmonize style.

Section 5 would amend Racing, Pari-Mutuel Wagering and Breeding Law section 904(1)(a) to increase the regulatory fee for wagers in the Kentucky Derby, the Preakness and the Breeders' Cup to six tenths of one percent of the total daily pari-mutuel pools. A technical change would be made to update a reference to the Gaming Commission.

Section 6 would amend Racing, Pari-Mutuel Wagering and Breeding Law section 1007(3)(g) to increase the regulatory fee for track-to-track simulcast pools to six tenths of one percent of the total daily pools. Technical changes would be made to update references to the Gaming Commission and modernize and harmonize style.

Section 7 would amend Racing, Pari-Mutuel Wagering and Breeding Law section 1008(3)(b) to increase the regulatory fee for simulcasts to off-track branch offices to six tenths of one percent of the total daily pools. A technical change would be made to update a reference to the Gaming Commission.

Section 8 would amend Racing, Pari-Mutuel Wagering and Breeding Law section 1009(4)(d) to increase the regulatory fee for simulcasts to simulcast theaters to six tenths of one percent of the total daily pools. A technical change would be made to update a reference to the Gaming Commission.

Section 9 would amend Racing, Pari-Mutuel Wagering and Breeding Law section 1014(1)(i)(iv) to increase the regulatory fee for simulcasting of out-of-state Thoroughbred races at certain times to six tenths of one percent of the total daily pools. A technical change would be made to update a reference to the Gaming Commission.

Section 10 would amend Racing, Pari-Mutuel Wagering and Breeding Law section 1015(3)(e) to increase the regulatory fee for simulcasting of out-of-state Standardbred races to six tenths of one percent of the total daily pools. A technical change would be made to update a reference to the Gaming Commission.

Section 11 would amend Racing, Pari-Mutuel Wagering and Breeding Law section 1016(1)(b)(2)(B) to increase the regulatory fee for simulcasting of out-of-state Thoroughbred races at certain times to six tenths of one percent of the total daily pools. A technical change would be made to update a reference to the Gaming Commission.

Section 12 would amend Racing, Pari-Mutuel Wagering and Breeding Law section 1018(2)(b) to increase the regulatory fee for simulcasting to off-track betting corporations and simulcasting facilities at certain times to six tenths of one percent of the total daily pools. A technical change would be made to update a reference to the Gaming Commission.

Section 13 would amend Tax Law section 1612(c)(2) to increase the portion of purse enhancement to one and six tenths percent to support equine health and safety in New York. Technical changes would be made to modernize and harmonize style.

Section 14 would amend Tax Law section 1612(f)(1) to increase the portion of purse enhancement to one and six tenths percent to support equine health and safety in New York. Technical changes would be made to eliminate expired provisions and modernize and harmonize style.

Section 15 would provide for an effective date.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2017 Executive Budget and will generate additional \$2.4 million annually.

Effective Date:

This bill would take effect immediately.

**Part CC - Adjust timing of reimbursement to the Gaming Commission of per diem costs for harness racing judges and starters**

Purpose:

This bill would adjust the timing of reimbursement to Gaming Commission of per diem costs for harness racing judges and starters.

Summary of Provisions and Statement in Support:

The current law requires licensed harness tracks to pay the actual per diem costs for one associate judge and one starter at each facility. The law requires that the Commission notify the harness track of the per diem cost prior to the beginning of the month, and that the track pays the amount on the last business day of the month for all costs incurred during such month. However, actual costs and race days are not known until well after the month has concluded. This required payment scheme creates a cumbersome and inefficient billing process.

Changing the law to allow billing for actual costs after such costs are known will lead to operational efficiencies and ensure accurate billing.

Section 1 of the bill would amend the reimbursement timing requirements to establish a more efficient process, whereby the Gaming Commission would notify each licensed racing corporation of the per diem cost of the associate judge and starter within sixty days of the end of the each month, instead of prior to the beginning of each month. Payment to the Gaming Commission would be made within thirty days of such notification. Section 1 would also make technical changes to update references to the Gaming Commission

Section 2 would provide for effective date.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2017 Executive Budget because it will create operational efficiencies.

Effective Date:

This bill would take effect immediately.

**Part DD - Provide for an additional commission for certain Video Lottery Terminal facilities**

Purpose:

This bill would provide for an additional commission for video lottery gaming facilities in certain circumstances.

Summary of Provisions and Statement in Support:

Section 1 would amend Tax Law section 1612(b)(1)(ii) to add a new clause (G-2) to provide for an additional commission for video lottery gaming facilities located in a certain county within a region proximate to certain counties where a gaming facility licensed under Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law might be located.

This clarifies that the Finger Lakes VLT facility in Ontario County would pay the blended tax rate paid by the proposed Lago gaming facility in Seneca County.

Section 2 would provide for an effective date.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-2017 Executive Budget because it preserves revenue from VLT facilities currently assumed in the State's Financial Plan.

Effective Date:

This bill would take effect immediately, and shall be deemed to have been in full force and effect on and after January 1, 2014.

**Part EE - Extend Monticello Video Lottery Terminal rates for one year**

Purpose:

This bill would extend for one year the current distribution of video lottery gaming revenue at Monticello.

Summary of Provisions and Statement in Support:

This bill would extend for one year the current commission rate paid to Monticello as a video lottery agent. In 2008, Monticello was given a higher commission rate for a five-year period in exchange for opting out of participation in the vendor's capital award program. Thus, the five-year rate sunset was applied to coincide with the five-year period other facilities were provided for approval of capital expenditures eligible for reimbursement through the program. The capital award program was extended for an eighth year (to 2016) by chapter 59 of the Laws of 2015 and is proposed to be extended to 2017 by the 2016-2017 Executive Budget. Since the expiration of Monticello's rate would result in loss of the enhanced commission, but would not provide for participation in the capital award program, this bill would extend Monticello's rate for an additional year to maintain the original framework of Monticello's rate structure and keep its duration consistent with the capital award program.

Section 1 of the bill amends Section 1612(b)(1)(ii)(F) of the Tax Law to extend from eight to nine years the forty-one percent vendor fee paid to a vendor track located in Sullivan County and within sixty miles from any gaming facility in a contiguous state.

Section 2 of the bill provides for an immediate effective date that shall be deemed in effect on and after April 1, 2016.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-17 Executive Budget because it would decrease All Funds revenue by \$3 million in SFY 2016-17.

Effective Date:

This bill would take effect on April 1, 2016.

**Part FF - Extend certain tax rates and certain simulcasting provisions for one year**

Purpose:

This bill would extend for one additional year various provisions of the Racing, Pari-Mutuel Wagering and Breeding (Racing) Law which expire during the 2016-17 fiscal year.

Summary of Provisions and Statement in Support:

Section 1 would amend Racing Law § 1003(a) to extend the June 30, 2016 expiration date for in-home simulcasting.

Section 2 would amend Racing Law §1007(3)(d) to extend the current percentage of total pools allocated to purses that a track located in Westchester County receives from a franchised corporation, which is currently scheduled to expire on June 30, 2016.

Section 3 would amend the opening paragraph of Racing Law § 1014, to continue the provisions allowing simulcasting of out-of-state thoroughbred races on any day the Saratoga thoroughbred track is operating, which currently are scheduled to expire on June 30, 2016.

Section 4 would amend Racing Law § 1015(1) to extend the provisions governing the simulcasting of races conducted at out-of-state harness tracks, which currently are scheduled to expire on June 30, 2016.

Section 5 would amend the opening paragraph of Racing Law §1016(1) to continue the provisions governing the simulcasting of out-of-state thoroughbred races on any day the Saratoga thoroughbred racetrack is closed, which currently are scheduled to expire on June 30, 2016.

Section 6 would amend the opening paragraph of section 1018 of the racing, pari-mutuel wagering and breeding law to extend the current distribution of revenue from out-of-state simulcasting during the Saratoga meet, which expired on September 8, 2015.

Section 7 would amend § 32 of chapter 281 of the Laws of 1994 to extend the current amount of off-track betting wagers on New York Racing Association, Inc. (NYRA) pools dedicated to purse enhancement, which currently expire on June 30, 2016.

Section 8 would amend § 54 of chapter 346 of the Laws of 1990 to continue binding arbitration for disagreements. These provisions currently expire on June 30, 2016.

Section 9 would amend Racing Law § 238(1)(a) to continue the current distribution of revenue from on-track wagering on NYRA races, which currently is scheduled to expire on December 31, 2016.

Extending these provisions would maintain the pari-mutuel betting and simulcasting structure that is currently in place in New York State. The provisions extended by sections one through six of this bill were first enacted in 1994 and section seven was enacted in 1990. These provisions were extended numerous times since their original enactment, and most recently in 2015.

#### Budget Implications:

Enactment of this bill is necessary to implement the 2016-2017 Executive Budget because it maintains the current pari-mutuel betting structure in New York State.

Effective Date:

This bill would take effect immediately.

**Part GG - Extend the Video Lottery Gaming (VLG) vendor's capital awards program for one year**

Purpose:

This bill would extend for one year the deadline to receive approval and to complete capital projects that are reimbursed through the Video Lottery Gaming (VLG) vendor's capital award.

Summary of Provisions and Statement in Support:

Section 1 amends Tax Law §1612(b)(1)(ii)(h) to extend by one year, until April 1, 2017, the deadline to receive approval for capital projects to be reimbursed through the VLG vendor's capital award. The bill also extends by one year, until April 1, 2019, the deadline to complete these projects. For certain vendor tracks located west of State Route 14, these deadlines are extended to April 1, 2021 for approvals and to April 1, 2023 for completion.

Section 2 provides for an immediate effective date.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-2017 Executive Budget because it maintains the current VLG revenue stream.

Effective Date:

This bill would take effect immediately.

**Part HH - Amend the Upstate New York Gaming and Economic Development Act for technical changes**

Purpose:

This bill would make technical changes to certain provisions of the Upstate New York Gaming and Economic Development Act.

Summary of Provisions and Statement in Support:

Section 1 would amend State Finance Law section 97-nnnn to clarify that host community payments are to be funded from revenue attributable to a specific licensed gaming facility in that host county and host municipality.

Section 2 would amend Tax Law section 1612(b)(1)(ii)(G) to clarify the amount of the additional commission to be paid to a Video Lottery Terminal (VLT) facility in the same region as a gaming facility licensed under Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law and that such additional commission would be paid only while such gaming facility is open and operational.

Section 3 would provide for an effective date of January 1, 2014 to conform to the effective date of the original Act.

Budget Implications:

Enactment of this bill is necessary to implement the 2016-2017 Executive Budget because it preserves VLT revenues previously assumed in the State's Financial Plan.

Effective Date:

This bill would take effect immediately, and shall be deemed to have been in full force and effect on and after January 1, 2014.

The provisions of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.