FY 2020 NEW YORK STATE EXECUTIVE BUDGET

REVENUE
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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 part U of 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 making permanent provisions relating to mandatory electronic filing of tax documents; and repealing certain provisions of the tax law and the administrative code of the city of New York relating thereto (Part A); to amend the economic development law, in relation to the employee training incentive program (Part B); to amend the tax law and the administrative code of the city of New York, in relation to including in the apportionment fraction receipts constituting net global intangible low-taxed income (Part C); to amend the tax law and the administrative code of the city of New York, in relation to the adjusted basis for property used to determine whether a manufacturer is a qualified New York manufacturer (Part D); to amend part MM of chapter 59 of the laws of 2014 amending the labor law and the tax law relating to the creation of the workers with disabilities tax credit program, in relation to extending the effectiveness thereof (Part E); to amend the tax law in relation to the inclusion in a decedent's New York gross estate any qualified terminable interest property for which a prior deduction was allowed and certain pre-death gifts (Part F); to amend the tax law, in relation to requiring marketplace providers to collect sales tax (Part G); to amend the tax law, in relation to eliminating the reduced tax rates under the sales and use tax with respect to certain gas and electric service; and to repeal certain

provisions of the tax law and the administrative code of the city of New York related thereto (Part H); to amend the real property tax law, in relation to the determination and use of state equalization rates (Part I); to amend the real property tax law and local finance law, in relation to local option disaster assessment relief (Subpart A); to amend the real property tax law, in relation to authorizing agreements for assessment review services (Subpart B); to amend the real property tax law, in relation to the training of assessors and county directors of real property tax services (Subpart C); to amend the real property tax law, in relation to providing certain notifications electronically (Subpart D); to amend the real property tax law, in relation to the valuation and taxable status dates of special franchise property (Subpart E); and to amend the real property tax law, in relation to the reporting requirements of power plants (Subpart F) (Part J); to repeal section 3-d of the general municipal law, relating to certification of compliance with tax levy limit (Part K); to amend the tax law, in relation to creating an employer-provided child care credit (Part L); to amend the tax law, in relation to including gambling winnings in New York source income and requiring withholding thereon (Part M); to amend the tax law, in relation to the farm workforce retention credit (Part N); to amend the tax law, in relation to updating tax preparer penalties; 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 eliminating the expiration thereof; and to repeal certain provisions of the tax law, relating to tax preparer penalties (Part O); to amend the tax law, in relation to extending the top personal income tax rate for five

years (Part P); to amend the tax law and the administrative code of the city of New York, in relation to extending for five years the limitations on itemized deductions for individuals with incomes over one million dollars (Part Q); to amend the tax law, in relation to extending the clean heating fuel credit for three years (Part R); to repeal subdivision (e) of section 23 of part U of chapter 61 of the laws of 2011 amending the real property tax law and other laws relating to establishing standards for electronic tax administration (Part S); to amend the cooperative corporations law and the rural electric cooperative law, in relation to eliminating certain license fees (Part T); to amend the tax law, in relation to a credit for the rehabilitation of historic properties for state owned property leased to private entities (Part U); to amend the tax law, in relation to exempting from sales and use tax certain tangible personal property or services (Part V); to amend the mental hygiene law and the tax law, in relation to the creation and administration of a tax credit for employment of eligible individuals in recovery from a substance use disorder (Part W); to amend the tax law and the administrative code of the city of New York, in relation to excluding from entire net income certain contributions to the capital of a corporation (Part X); to amend the tax law, in relation to establishing a conditional tax on carried interest (Part Y); to amend the tax law, the administrative code of the city of New York, and chapter 369 of the laws of 2018 amending the tax law relating to unrelated business taxable income of a taxpayer, in relation to making technical corrections thereto (Part Z); to amend the real property tax law, in relation to tax exemptions for energy systems (Part AA); to amend the racing, pari-mutuel wagering and

breeding law, in relation to employees of the state gaming commission (Part BB); to amend the racing, pari-mutuel wagering and breeding law, in relation to the thoroughbred and standardbred breeding funds (Part CC); to amend the racing, pari-mutuel wagering and breeding law, in relation to the office of the gaming inspector general; and to repeal title 9 of article 13 of the racing, pari-mutuel wagering and breeding law relating to the gaming inspector general (Subpart A); to amend the racing, pari-mutuel wagering and breeding law, in relation to appointees to the thoroughbred breeding and development fund (Subpart B); to amend the public officers law and the racing, pari-mutuel wagering and breeding law, in relation to the Harry M. Zweig memorial fund (Subpart C); and to amend the tax law, in relation to the prize payment amounts and revenue distributions of lottery game sales, and use of unclaimed prize funds (Subpart D)(Part DD); to amend the tax law, in relation to commissions paid to the operator of a video lottery facility; to repeal certain provisions of such law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part EE); to amend the racing, pari-mutuel wagering and breeding law, in relation to the deductibility of promotional credits (Part FF); to amend the racing, pari-mutuel wagering and breeding law, in relation to the operations of off-track betting corporations (Part GG); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law

and other laws relating to simulcasting and chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part HH); to amend the racing, pari-mutuel wagering and breeding law, in relation to equine drug testing standards (Part II); to amend part EE of chapter 59 of the laws of 2018, amending the racing, pari-mutuel wagering and breeding law, relating to adjusting the franchise payment establishing an advisory committee to review the structure, operations and funding of equine drug testing and research, in relation to the date of delivery for recommendations; and to amend the racing, pari-mutuel wagering and breeding law, in relation to the advisory committee on equine drug testing, and equine lab testing provider restrictions removal (Part JJ); to amend the racing, pari-mutuel wagering and breeding law, in relation to state gaming commission occupational licenses (Part KK); to amend the real property tax law and the tax law, in relation to the determination of STAR tax savings (Part LL); to amend the tax law, in relation to cooperative housing corporation information returns (Part MM); to amend the tax law, in relation to making a technical correction to the enhanced real property tax circuit breaker credit (Part NN); to amend the tax law, in relation to mobile home reporting requirements (Part OO); to amend the real property tax law and the tax law, in relation to eligibility for STAR exemptions and credits (Part PP); to amend the real property tax law and the tax law, in relation to authorizing

the disclosure of certain information to assessors (Part QQ); to amend the real property tax law and the tax law, in relation to the income limits for STAR benefits (Part RR); to amend the real property tax law, in relation to clarifying certain notices on school tax bills (Part SS); to amend the real property tax law and the tax law, in relation to making the STAR program more accessible to taxpayers (Part TT); to amend the public health law, in relation to increasing the purchasing age for tobacco products and electronic cigarettes from eighteen to twenty-one; prohibiting sales of tobacco products and electronic cigarettes in all pharmacies; prohibiting the acceptance of price reduction instruments for both tobacco products and electronic cigarettes; prohibiting the display of tobacco products or electronic cigarettes in stores; clarifying that the department of health has the authority to promulgate regulations that restrict the sale or distribution of electronic cigarettes or electronic liquids that have a characterizing flavor, and the use of names for characterizing flavors; prohibiting smoking inside and on the grounds of all hospitals licensed or operated by the office of mental health; taxing electronic liquid; and requiring that electronic cigarettes be sold only through licensed vapor products retailers; to amend the general business law, in relation to the packaging of vapor products; to amend the tax law, in relation to imposing a supplemental tax on vapor products; to amend the state finance law, in relation to adding revenues from the supplemental tax on vapor products to the health care reform act resource fund; and repealing paragraph (e) of subdivison 1 of section 1399-cc of the public health law relating to the definitions of nicotine, electronic liquid and e-liquid (Part UU); relating to constituting a new chapter 7-A of the consolidated

laws, in relation to the creation of a new office of cannabis management, as an independent entity within the division of alcoholic beverage control, providing for the licensure of persons authorized to cultivate, process, distribute and sell cannabis and the use of cannabis by persons aged twenty-one or older; to amend the public health law, in relation to the description of cannabis; to amend the vehicle and traffic law, in relation to making technical changes regarding the definition of cannabis; to amend the penal law, in relation to the qualification of certain offenses involving cannabis and to exempt certain persons from prosecution for the use, consumption, display, production or distribution of cannabis; to amend the tax law, in relation to providing for the levying taxes on cannabis; to amend the criminal procedure law, the civil practice law and rules, the general business law, the state finance law, the executive law, the penal law and the vehicle and traffic law, in relation to making conforming changes; to repeal sections 221.10 and 221.30 of the penal law relating to the criminal possession and sale of cannabis; to amend chapter 90 of the laws of 2014 amending the public health law, the tax law, the state finance law, the general business law, the penal law and the criminal procedure law relating to medical use of marihuana, in relation to the effectiveness thereof; to repeal paragraph (f) of subdivision 2 of section 850 of the general business law relating to drug related paraphernalia; and making an appropriation therefor (Part VV); and to amend the tax law, in relation to imposing a special tax on passenger car rentals outside of the metropolitan commuter transportation district (Part WW)

PURPOSE:

This bill contains provisions needed to implement the Revenue portion of the FY 2020 Executive Budget.

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

Part A – Make the e-File Mandate Permanent

Purpose:

This bill would consolidate and make permanent current electronic filing and payment mandates.

Summary of Provisions and Statement in Support:

Section 29 of the Tax Law was added in 2008 to consolidate and improve the administration of the Tax Department's various electronic filing and payment mandates. These provisions are currently set to expire on December 31, 2019, after which the Tax Law would revert to several similar legacy e-filing requirements that remain on the books. This bill would make Tax Law § 29 permanent and would repeal the other legacy e-filing statutes.

By making the § 29 electronic filing and payment mandates permanent, this bill would ensure that the State and its taxpayers can continue to benefit from the efficiencies and cost savings that e-file and e-pay allow. Notably, with e-file, return errors can be detected and corrected before the return is submitted, and taxpayers can receive an official acknowledgement when their returns have been received. Moreover, e-filed tax returns and electronic payments can be processed more efficiently and cost-effectively than paper filings, often resulting in faster refunds and payment postings.

Budget Implications:

Enactment of this bill would be necessary to implement the FY 2020 Executive Budget.

Effective Date:

The bill would take effect immediately.

Part B – Expand the Employee Training Incentive Program (ETIP) Credit

Purpose:

This bill would amend the Employee Training Investment Program ("ETIP") in the Economic Development Law to expand the definition of eligible training.

Summary of Provisions and Statement in Support:

The bill would amend Economic Development Law §§ 441, 442, and 443, respectively, to allow business entities to receive the tax credit associated with ETIP if they conduct training and are otherwise eligible. It also would expand the definition of eligible training to include an internship program in software development or the development of renewable or clean energy.

To date, ETIP has been underutilized by the business community because of the limitations associated with the requirement that applicants must procure training services from a third-party provider to be eligible to receive tax credits. The proposed legislation would remove this requirement, allowing business entities to become eligible for the ETIP tax credit if they conduct otherwise eligible training activities.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it would allow the Employee Training Incentive Program to be better utilized.

Effective Date:

This bill would take effect immediately.

Part C - Provide a Sourcing Rule for GILTI Apportionment

Purpose:

This bill would codify a receipts factor rule for the net amount of global intangible low-taxed income ("GILTI") included in business income.

Summary of Provisions and Statement in Support:

Internal Revenue Code ("IRC") § 951A(a) requires GILTI, as defined in IRC § 951A(b)(1), to be included in federal gross income. IRC § 250(a)(1)(B)(i) allows certain taxpayers a deduction for part of this income. (For real estate investment trusts, regulated investment companies and New York S corporations the income is included, but the deduction is not available; therefore, the net amount equals the total amount of GILTI.)

The net amount of GILTI is included in entire net income under Article 9-A. Where such amount is taxable business income, it should be included in the business apportionment factor to properly reflect the taxpayer's business income and capital in the state. Since

the apportionment statute currently has no sourcing rule for this income, the Commissioner has authorized a discretionary adjustment to the apportionment rules so that 100% of the net amount of GILTI be included in the denominator of the apportionment fraction, with zero in the numerator, and has required that this amount be reported on the receipts factor discretionary adjustment line.

This legislation would codify the Commissioner's discretionary adjustment to establish a permanent statutory sourcing rule for GILTI by adding a new subdivision 5-a to Tax Law § 210-A, and to New York City Administrative Code § 11-654.2, to define "net global intangible low-taxed income" and require that the net amount be added to the denominator of the apportionment fraction, with zero added to the numerator.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it would codify current tax treatment of GILTI.

Effective Date:

This bill would take effect immediately and apply to taxable years beginning on or after January 1, 2018.

Part D - Decouple from IRC Federal Basis for NYS Manufacturing Test

Purpose:

This bill would decouple New York State from the federal adjusted basis for property used to determine whether a manufacturer is a qualified New York manufacturer.

Summary of Provisions and Statement in Support:

The test for determining whether a manufacturer is a qualified New York manufacturer—for purposes of the reduced corporate business income base tax rate, the reduced tax rate and cap on the capital tax base, lower fixed dollar minimum tax amounts, and the manufacturer's real property tax credit—includes thresholds set at the amount of the taxpayer's basis in its property in New York State.

Currently, the statutory test uses the federal adjusted basis of the taxpayer's property in the state. Recent federal law has increased the limitation on the amount expended on property that taxpayers may elect to treat as an expense under the Internal Revenue Code, potentially reducing the federal adjusted basis of such property. As a result, the basis amount used for purposes of the manufacturing test may not properly reflect the extent of the taxpayer's ownership of manufacturing property in New York State.

This legislation would amend Tax Law § 210(1)(a)(vi) and (b)(2); and New York City Administrative Code § 11-654(1)(k)(4)(ii) to use the New York State adjusted basis, instead of the federal adjusted basis:

Budget Implications:

Enactment of this bill is necessary to implement the 2020 Executive Budget. It has no impact on the State's Financial Plan.

Effective Date:

This bill would take effect immediately and apply to taxable years beginning on or after January 1, 2018.

Part E - Extend the Workers with Disabilities Tax Credit for Three Years

Purpose:

This bill would extend the sunset dates for the corporate and personal income tax credits for qualified employers that employ individuals with developmental disabilities. until January 1, 2023.

Summary of Provisions and Statement in Support:

The bill would amend section 5 of part MM of Chapter 59 of the Laws of 2014 to extend the repeal date for the corporate and personal income tax credits provided for in Tax Law §§ 210-B and 606, respectively, for qualified employers that employ individuals with developmental disabilities until January 1, 2023.

The current corporate and personal income tax credits for qualified employers that employ individuals with developmental disabilities expire January 1, 2020.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it would decrease All Funds revenue by $4 million annually in FY 2022 through FY 2024.

Effective Date:

This bill would take effect immediately.

Part F – Extend Three-Year Gift Addback Rule & Require Binding NYS QTIP Election

Purpose:

This bill would amend the estate tax to require an executor to make a qualified terminable interest property (QTIP) election on a decedent's New York State estate tax return in order to claim a marital deduction for such property passing to the decedent's spouse, whether or not a federal estate tax return was required to be filed. The bill would expressly require inclusion of the value of QTIP property remaining in the surviving spouse's New York estate if a previous marital deduction was allowed on a New York return with respect to the transfer of such property to the spouse.

The bill would also extend to January 1, 2026, the expiration of the requirement that gifts that are taxable for federal gift tax purposes and that are made within three years of death are to be added back when calculating the decedent's New York gross estate.

Summary of Provisions and Statement in Support:

Generally, as a result of a QTIP election in the estate of the first spouse to die, the QTIP property that passes in trust to a surviving spouse is eligible for the marital deduction and excluded from the estate of the first spouse, and subsequently included in the estate of the surviving spouse.

Part X of Chapter 59 of the Laws of 2014 (Chapter 59) instituted broad estate tax reform, including the addition of new Tax Law § 955(c), which specifies the manner by which a QTIP election is made by the transferring spouse's estate for New York estate tax purposes. The election must be reflected directly on the New York estate tax return and must match the election taken on a required federal estate tax return or, if no federal return is required, it may be independently taken on the New York return.

Historically, New York has determined whether a QTIP election has been made by looking at the actual federal estate tax return filed for the estate of the first spouse to die or, if a federal estate tax return is not required to be filed, by looking to a pro forma federal return that is required to be filed with a New York estate tax return. However, in a recent Surrogate's court decision (*Matter of Evelyn Seiden*, Surrogate's Court, NY County, October 9, 2018), the court ignored the election made on the pro forma federal return filed for the estate of the first spouse because the first spouse died in 2010, when there was no federal estate tax in effect (The federal estate tax for the year 2010 was repealed by Section 501 of the Economic Growth and Tax Relief Reconciliation Act of 2001). Under Tax Law § 954(c)'s cross referencing provisions, a resident decedent's New York gross estate is defined by the decedent's federal gross estate, which under IRC § 2044 includes property for which a marital deduction was previously allowed. However, the Surrogate's court found that, since there was no federal estate tax in 2010, there could be no previously allowed marital deduction to trigger IRC § 2044's inclusion of the property in the surviving spouse's New York gross estate as per Tax Law § 954. As a result, New York estate tax was not paid by either estate on the property that would have been covered by the QTIP election.

In light of the fact that New York's estate tax will continue to diverge from the federal estate tax in effect in future years, it is important to clarify the manner by which a QTIP election must be reflected on a transferring spouse's New York estate tax return, in order to avoid inconsistent elections and potential revenue loss to the State. This bill would address this issue first by amending Tax Law § 954 to require that any QTIP property that benefited from a previous New York marital deduction must be included in the surviving spouse's New York gross estate, whether the QTIP election was made on the transferring spouse's New York estate tax return or via a federal pro forma return if an actual federal return was not otherwise required. In addition, this bill would amend Tax Law § 955 to require that the QTIP election for New York estate tax purposes be made on the New York estate tax return of the transferring spouse.

Chapter 59 also required certain gifts made on or after April 1, 2014, by a decedent who was a New York resident at the time of the gift to be included in the decedent's New York gross estate. This requirement was added to deter New York residents from transferring large amounts of wealth shortly before death solely to take advantage of the higher federal estate tax thresholds, while at the same time reducing their otherwise taxable New York estate. This gift addback provision was made inapplicable to decedents dying on or after January 1, 2019, because on that date the New York and federal estate tax thresholds were expected to coincide, eliminating the incentive for deathbed gifts. However, due to the enactment of the federal Tax Cuts and Jobs Act of 2017, there is a difference of approximately $5 million per individual between federal and state estate tax thresholds. This gap revives the need for the limited gift add back in order to prevent revenue losses from deathbed gifts. This bill would extend the sunset to decedents dying on or after January 1, 2026, the date the estate tax amendments made by the federal act are set to expire.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it would preserve estate tax revenue.

Effective Date:

This bill would take effect immediately; provided however that section 1 would apply to estates of decedents dying on or after January 1, 2019 and sections 2 and 3 would apply to estates of decedents dying on or after April 1, 2019.

Part G – Eliminate Internet Tax Advantage

Purpose:

This bill would amend the Tax Law to require marketplace providers to collect sales tax on taxable sales of tangible personal property that they facilitate.

Summary of Provisions and Statement in Support:

This bill would require marketplace providers to collect sales tax on taxable sales of tangible personal property that they facilitate. It would ease sales tax collection burdens for many small businesses in the State, streamline the tax collection process, improve taxpayer compliance, and result in a level playing field for New York's "Main Street" retailers that compete with out-of-state sellers that do not collect tax on sales to New York customers made through marketplace providers.

The sales tax is a tax on the customer that is collected by the seller. The Department has long had the authority to impose a tax-collection responsibility on a party that facilitates a sale by, among other things, collecting the sales price and tax due from the customer, such as auctioneers, consignment shops and stores with leased departments. This bill builds on that concept by treating large marketplace providers that facilitate sales of tangible personal property as persons required to collect tax on such sales, thereby requiring them to perform all the duties of a vendor, including collecting the tax, filing a tax return, and remitting the tax collected. The bill defines a "marketplace provider" as a person who collects the purchase price, and provides the forum, physical or virtual, where the transaction occurs. To minimize the number of persons who have tax collection responsibilities, the bill relieves sellers using marketplace providers of any such responsibilities, as long as the seller receives in good faith a certification from the marketplace provider on a form authorized by the Department that the marketplace provider is collecting the tax on such transactions. In fact, a seller of tangible personal property that makes all of its sales through marketplace providers who certify that they will collect the tax would have no New York sales tax collection and remittance responsibilities.

Sales tax collection by the marketplace provider would reduce the number of small sellers that need to register for tax, improve tax compliance by reducing the number of persons who handle sales tax payments before they are remitted to the Department, and reduce the compliance burden of small registered vendors.

The bill would be effective immediately and apply to sales made on or after September 1, 2019.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it would increase All Funds receipts by $125 million in FY 2020 and $250 million annually thereafter.

Effective Date:

This bill would take effect immediately and would apply to sales made on September 1, 2019.

Part H – Discontinue the Energy Services Sales Tax Exemption

Purpose:

This bill would repeal the exemption from sales and use taxes for receipts from transportation, transmission, or distribution of gas or electricity when provided by someone other than the vendor of the gas or electricity.

Summary of Provisions and Statement in Support:

Tax Law §§ 1101(b) and 1105(b) impose sales tax on the transportation, transmission, or distribution of gas or electricity. Tax Law § 1105-C reduces the rate of tax on the transportation, transmission or distribution of gas and electricity to zero where it is sold separately from the commodity. This provision was enacted to promote competition after the utility deregulation of the late 1990s by providing an incentive for customers to purchase gas and electricity from third-party energy service companies, often referred to as energy service companies (ESCOs). Consequently, customers who purchase gas or electric service from a utility company pay sales tax on the transportation, transmission or delivery, while customers who purchase from an ESCO do not.

Today, competition among ESCOs is well developed. New York utilities offer multiple alternative ESCO gas and electricity suppliers. This exemption perpetuates unequal treatment among utility customers. For example, a business purchasing its electricity from a local utility company will pay sales tax on its total electric or gas bill, while another business purchasing gas or electricity from an ESCO will pay sales tax only on the gas or electricity, and not on the transportation, transmission or distribution of that gas or electricity.

This bill would remove this disparity by repealing the exemption for transportation, transmission and distribution charges associated with gas and electricity purchased from an ESCO. As a result, sales tax would apply to charges for transporting, transmitting, or distributing taxable gas or electricity, whether the commodity is purchased from an ESCO or a utility company. The bill would also clarify that transportation, transmission and distribution charges are taxable even if sold separately from gas or electricity.

New York City de-coupled from the State's exemption in 2009 and currently imposes its 4.5% sales tax on the transportation, transmission or distribution of taxable gas and electricity, regardless of the type of entity from which the commodity is purchased. This would remain unchanged. Although the bill would repeal New York City's separate authorization and imposition of sales tax on these services, they would remain taxable because the New York City local sales tax follows the state sales tax except where specific exceptions are authorized and adopted.

Budget Implications:

Enactment of this bill is necessary to implement the 2020 Executive Budget because it would increase All Funds receipts by $96 million in FY 2020 and $128 million annually thereafter.

Effective Date:

This bill would take effect June 1, 2019, and would apply to sales made and services rendered on or after that date, whether or not under a prior contract.

Part I – Continue efforts to avoid large, unexpected tax shifts due to equalization rate changes

Purpose:

This bill would provide additional tools for school districts and local governments to avoid large, unexpected tax shifts due to equalization rate changes.

Summary of Provisions and Statement in Support:

A series of measures were recently enacted into law in response to situations where there had been large and unexpected increases in school tax bills due to equalization rate changes (*see* Chapters 115, 116, 132 of the Laws of 2018). This bill would recognize the value of those efforts and supplement them in several respects.

Section 1 of this bill would make a technical correction to the recent law that requires assessors to provide notice to various local officials when the equalization rate differs from the locally stated level of assessment (LOA) by "five percentage points" or more (Real Property Tax Law §1204(3), as amended by L.2018, c.115). This is appropriate and effective where the LOA is at or close to 100%, but less so when the LOA is low. For example, where the LOA is 10%, the "five percentage points" standard means that a notice would only be required where the equalization rate was below 5% or above 15%, representing a net disparity of 50%. The intent was presumably to require notice in such an instance where the rate is less than 9.5% or above 10.5%, a net disparity of 5%. To achieve this, this bill would replace "five percentage points" with "five percent."

Section 2 of the bill would provide that when the Commissioner of Taxation and Finance has confirmed the locally stated level of assessment, he or she shall establish it as the final State equalization rate for the city, town or village as soon thereafter as is practicable. When the State and the local assessor agree up front as to what the local level of assessment is, as they do in the vast majority of cases, there is no need for a tentative rate or administrative review period. However, the law was never updated to recognize the collaborative approach the Department now takes, so these cumbersome and time-consuming mandates are still on the books. Eliminating them will make it

possible for the vast majority of equalization rates to be finalized in May or June or each year, allowing school authorities to see the impacts on their tax bills much earlier and giving them time to look for ways to ameliorate those impacts.

Section 3 would allow a school district to ameliorate equalization rate impacts by directing school taxes to be apportioned based upon average property values over either a three-year or a five-year period. Current law requires the calculation to be based solely on current values, which under certain circumstances can cause dramatic tax shifts within the school district. This averaging option would enable school districts to avoid these sudden shifts, reducing or eliminating the "sticker shock" their taxpayers might otherwise experience.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part J – Make real property tax administration more effective and efficient

Purpose:

This bill would make real property tax administration more effective and efficient in various respects. In particular, it would:

A. Allow local governments to provide real property tax assessment relief when a disaster is declared without the State Legislature having to pass special legislation.
B. Allow a county and an assessing unit to agree that the local legislative body of a count shall appoint the members of the Board of Assessment Review that will hear and resolve assessment complaints within that assessing unit.
C. Allow the Tax Department to approve assessor and county director training courses for credit without obliging the State to pay for the expenses of attendees, when the provider so requests.
D. Allow the Tax Department to send certain statutory notices by email and/or by a website posting, rather than by postal mail.
E. Changes the valuation date and taxable status date for special franchise property to eliminate the need for mid-year reporting.
F. Require electric generating facilities to annually report inventory, revenue, and expense data to the Tax Department to assist the Department in valuing these highly complex properties.

Each of these objectives is embodied in a separate subpart of this bill, resulting in six subparts in total. A detailed description of each follows.

SUBPART A: Authorize Local Option Assessment Relief Upon the Declaration of a State Disaster Emergency

Summary of Provisions and Statement in Support:

In the past several years, an unusual number of powerful storms have caused widespread damage to properties in New York. These storms, and the resulting damage, have prompted the legislature to adopt special legislation allowing local governments to reduce the assessed value of damaged properties. For example, Superstorm Sandy resulted in the Superstorm Sandy Assessment Relief Act (Chapter 424 of the Laws of 2013); severe weather led to the enactment of the Mohawk Valley and Niagara County Assessment Relief Act (Part T of Chapter 55 of the Laws of 2014); and extensive flooding resulted in the enactment of the Lake Ontario and Connected Waterways Assessment Relief Act (Part B of Chapter 85 of the Laws of 2017). This proposal would allow local governments to provide real property assessment relief as soon as a disaster emergency is declared. The State Legislature would no longer need to enact special legislation for this purpose, so impacted property owners could obtain relief sooner, especially when a disaster occurs after the end of the legislative session.

Under existing law, real property is valued by local governments as of a specific "valuation date" – generally the date the prior year's final assessment roll was finalized, *i.e.* July 1. A property's value can be adjusted by the local assessor to account for a disaster emergency after the valuation date until the "taxable status date" – generally March 1. However, after the taxable status date, an assessor can only adjust property values to correct certain specific factual or clerical errors: even if a disaster results in a 100% loss of all improvements to a property, if it occurs after the taxable status date a property owner would still have to pay tax on the parcel as it was valued on the taxable status date.

Under this proposal, counties, cities, towns, assessing villages, and school districts could, at local option, grant assessment relief to properties that are damaged as a result of a disaster emergency even if the damage occurs after the taxable status date. An eligible municipality that opts in has the further option of offering relief to those whose buildings and other property improvements lost less than 50% of their value. If the municipality opts into the legislation without opting to offer relief at levels below 50%, the relief would only be available to those whose buildings and other property improvements lost 50% or more of their value.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This subpart would take effect immediately.

SUBPART B: Authorize the creation of county-level Boards of Assessment Review at local option

Summary of Provisions and Statement in Support:

Each assessing unit has a Board of Assessment Review (BAR) that is responsible for hearing and resolving assessment complaints for that assessing unit. County Directors of Real Property Tax Services provide training and support to BAR members. They report that staffing issues commonly afflict BARs, particularly in small towns, where it can be difficult to find enough qualified people willing to devote the time that the position requires. If a BAR is short-staffed and/or some of its members have personal conflicts, then, in the worst case scenario, Grievance Day could not be held due to the lack of a quorum.

Under Real Property Tax Law (RPTL) § 579, counties are authorized to provide assessment-related services to assessing units by entering into an inter-municipal agreement for that purpose pursuant to Article 5-G of the General Municipal Law. Specifically, where the county and the assessing unit have an inter-municipal agreement so providing, the county may value property (appraisal services), may process exemption applications (exemption services), and may even fully assume the assessing function (assessment services).

County Directors have recommended that counties be permitted to set up BARs for assessing units at local option, in the belief it will make BARs more professional and greatly reduce the problems they commonly encounter. This bill would expand RPTL § 579 to allow a county and an assessing unit to agree to do so.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This subpart would take effect immediately.

SUBPART C: Allow assessor training courses to be approved for credit without obliging the State to pay for the expenses of attendees, at the provider's request

Summary of Provisions and Statement in Support:

Assessors and county directors of real property tax services are required by law to take courses of training as approved by the Tax Department. The State must reimburse them for the travel and other actual and necessary expenses associated with the courses that they successfully complete.

Since the funds available for this purpose are limited, the Department must ensure that these dollars go as far as possible. As a practical matter, this means that the Department does not grant credit for courses offered to assessors during the Annual Meeting of the Association of Towns in New York City each February. The content of these courses is not the obstacle. The obstacle is that State reimbursement would be required if the courses were approved for credit, and the cost of travel, lodging and meals associated with this event make State reimbursement unfeasible.

Some assessors, recognizing the State's fiscal concerns, but believing this training is worthwhile nonetheless, informally asked the Department if it could find a way to provide credit for this particular program without also providing reimbursement. As much as the Department might like to do so, it cannot under the law as it currently reads. This bill would modify the law to allow the Department to approve assessor training courses for credit only, without committing the State to reimburse attendees for their expenses, where the provider asks the Department to do so.

The bill would also clarify that persons who have been appointed to serve as assessors, but whose term of office has not yet begun, may receive reimbursement for successfully completing training. The law explicitly allows reimbursement for training taken by elected assessors prior to the start of their terms (Real Property Tax Law § 318(4)). It similarly provides reimbursement to appointees to the position of county director of real property tax services prior to the start of their terms (RPTL § 1530(3)(f)). In context, then, the failure of the law to provide for reimbursement to appointed assessors prior to the start of their terms is clearly an oversight.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This subpart would take effect immediately.

SUBPART D: Allow certain statutory notices to be sent by email and/or by a website posting, rather than by postal mail

Summary of Provisions and Statement in Support:

Upon the determination of tentative equalization rates, tentative special franchise assessments, tentative telecommunications ceilings and the like, the Tax Department is

required to mail notice of the determination to the affected assessing unit and, if applicable, to the affected property owner. This bill would provide that, as of January 1, 2020, these notices could be provided by email or by a website posting, rather than by postal mail. Assessors who prefer to receive these notices by postal mail would be entitled to continue receiving postal mail, as long as they so notify the Commissioner in writing. The Commissioner would be required to prescribe a form for this purpose.

The Commissioner would also be required to send a notice by postal mail to assessors, municipal CEOs and special franchise and railroad property owners by November 30, 2019, advising them of the provisions of this new law. The copy to be sent to assessors would include a copy of the opt-out form.

The enactment of this bill would largely relieve the Department of a costly and labor-intensive printing and mailing mandate that, in this day and age, serves no purpose. Most assessors, and all special franchise, telecommunications and railroad companies, have ready access to email and consistently use it to conduct business. However, those assessors who do not have the ability or desire to switch to a fully electronic notification system would not be obliged to do so.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This subpart would take effect immediately.

SUBPART E: Change Special Franchise Taxable Status Date

Summary of Provisions and Statement in Support:

Under RPTL § 302(4), utility companies that own special franchise property generally have their special franchise property valued as of July 1 of the prior year. This valuation date results in companies reporting their inventory data (used to assist in the valuation of property) to the Tax Department in the middle of the year. This mid-year reporting is not only burdensome, but can be problematic for both utility companies and the Tax Department because mid-year data is often incomplete and must be supplemented at a later date. Furthermore, RPTL § 606(2) arguably conflicts with RPTL § 302(4) by providing that, in any assessing unit that has completed a revaluation since 1953, special franchise property is valued based on the valuation date of the assessing unit.

This bill would amend both of the above-referenced RPTL provisions to provide that special franchise property is to be inventoried and valued as of January 1 of the prior year. This would eliminate the complications caused by mid-year reporting, and would

resolve any conflict between the valuation dates contained in RPTL §§ 302(4) and 606(2).

Budget Implications:

Enactment of this bill is necessary to implement the FY 2029 Executive Budget.

Effective Date:

This subpart would take effect on January 1, 2020.

SUBPART F: Require Filing of Electric Generating Facility Inventory and Income Report

Summary of Provisions and Statement in Support:

Under existing law, no real property transfer report (RP-5217) is required to be filed when electric generating facilities (power plants) are sold because those transactions almost universally involve equity sales, i.e., a purchase of the business entity that owns the power plant, not the power plant itself. Since no real property is conveyed, no deed is required to be filed, and therefore the only indication of the sales price is on a tax return subject to secrecy provisions.

The Tax Department is required by law to provide advisory appraisals to local governments in certain situations. It is not uncommon for local governments to ask for assistance in valuing electric generating facilities. Due to a lack of publicly available information about power plant sales prices and inventory, it is exceedingly difficult for both local assessors and the Tax Department to value power plants. This legislation would provide the Tax Department with the information needed to accurately value electric generating facilities.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This subpart would take effect on January 1, 2020.

Part K – Technical cleanup related to repeal of tax freeze credit program

Purpose:

This bill would repeal certain tax cap compliance reporting requirements that were left in place when the obsolete tax freeze credit statutes were repealed in 2018.

Summary of Provisions and Statement in Support:

Former Tax Law § 606(bbb), former General Municipal Law § 3-d and former Education Law § 2023-b collectively constituted the enabling legislation for the tax freeze credit program. Since the program was applicable only to taxable years 2014, 2015 and 2016, these statutes were repealed by sections 1, 1-a and 1-b of part E of Chapter 59 of the Laws of 2018, effective April 15, 2020.

At the same time, sections 2 and 3 of part E of Chapter 59 of the Laws of 2018 enacted a new General Municipal Law § 3-d and Education Law § 2023-b, also effective April 15, 2020, in order to preserve the reporting requirements that had been contained within the original statutes. It has been determined that the reporting requirement preserved by the new General Municipal Law § 3-d serves no statutory purpose. Therefore, this bill would repeal that statute, retroactive to the date on which it was initially enacted

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately and be deemed to have been in full force and effect on and after April 12, 2018, the date on which Chapter 59 of the Laws of 2018 took effect.

Part L – Create the NYS Employer-Provided Child Care Credit

Purpose:

This bill would create the NYS Employer-Provided Child Care Credit to assist employers in providing quality child care services to their employees.

Summary of Provisions and Statement in Support:

Under Internal Revenue Code § 45F, employers are allowed a credit for qualifying expenditures paid or incurred in providing child care alternatives for their employees. This bill would provide a similar state tax credit for New York employers to provide child care for their employees located in New York. The credit would be equal to 25% of qualified child care expenditures related to a child care facility located in New York, plus 10% of qualified child care resources and referral expenditures, attributable to employees working in New York, and, like the federal credit, would be capped at $150,000 per taxable year. Qualified child care expenditures include operating costs of

a qualified child care facility of the taxpayer or under contract with another taxpayer, as well as amounts paid or incurred to acquire, construct, rehabilitate, or expand property used as part of a care facility of the taxpayer. Qualified child care resource and referral expenditures are amounts paid or incurred under a contract to provide child care resource and referral services to an employee of the taxpayer.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it would decrease All Funds revenue by $1 million annually beginning in FY 2022.

Effective Date:

This bill would take effect immediately and apply to taxable years beginning on or after January 1, 2020.

Part M – Include Certain NYS Gambling Winnings in Nonresident NYS Income

Purpose:

This bill would include gambling winnings in excess of $5,000 from wagering transactions within New York State in the definition of nonresident New York Source income, and add a requirement that withholding occur on gambling winnings when such withholding is required at the federal level.

Summary of Provisions and Statement in Support:

The bill would amend Tax Law § 631(b) to add gambling winnings from wagering transactions within New York State in excess of $5,000 to the categories of New York source income that are taxable to nonresidents of New York State. The statute also amends Tax Law § 671(b) to require withholding on gambling winnings from wagering transactions occurring in New York State when such proceeds are subject to withholding under I.R.C. § 3402.

Most other states include gambling winnings from within their states as source income for nonresidents. By taxing these winnings, New York would garner revenue that is currently exported to other states.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it would increase All Funds revenue by $1 million annually beginning FY 2021.

Effective Date:

This bill would take effect immediately and apply to taxable years beginning on or after January 1, 2019.

Part N – Make Technical Changes to the Farm Workforce Retention Credit

Purpose:

This bill would amend to the farm workforce retention credit to allow the credit for the same farming activities eligible for the farmers school tax credit.

Summary of Provisions and Statement in Support:

Tax Law § 42 provides a farm workforce retention credit to individuals and corporations that is equal to $250–$600 per employee depending on the taxable year for which the credit is claimed. This bill would expand the credit to additional farming operations that are currently eligible to receive the farmers' school tax credit (Tax Law § 606[n]), such as cider production and Christmas tree farming, by conforming the definition of "federal gross income from farming" in Tax Law § 42 to the definition used in Tax Law § 606(n). Additionally, because licensed "farm cideries" and "farm wineries" may have operations in urban, non-agricultural areas of the state, the bill would also allow the farm workforce retention credit to be available to these entities, but only for those employees who are employed on qualified agricultural property as defined in Tax Law § 606(n). These amendments recognize the increasing diversity of agriculture and the growing significance of certain value-added enterprises in New York State. This bill would encourage economic development and job creation and retention in rural communities.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it will promote equitable treatment of farm businesses.

Effective Date:

This bill would take effect immediately and apply to taxable years beginning on or after January 1, 2019.

Part O – Permanently Extend the Tax Shelter Provisions and Update Tax Preparer Penalties

Purpose:

This bill would make permanent the current tax shelter reporting and penalty provisions and would update the tax preparer penalties for preparers who do not sign returns or who take unreasonable positions on returns.

Summary of Provisions and Statement in Support:

New York's tax shelter penalty and reporting requirements, which are modeled after the federal tax shelter provisions in the Internal Revenue Code, were first added to the Tax Law as temporary provisions in 2005, and have been renewed several times thereafter on a temporary basis. This bill would make these tax shelter penalty and reporting requirements permanent.

This bill would also update the Tax Law provisions governing penalties for tax preparers to 1) clarify the penalties against preparers who take positions on returns or claims that are not properly supported by the Tax Law; and 2) ensure that the penalties for failing to sign a return and for failing to provide a required identification number on a return apply to all tax preparers, regardless of whether they are required to be registered with DTF pursuant to Tax Law § 32.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part P – Extend Higher PIT Rates for Five Years

Purpose:

This bill would extend the top tax bracket under the personal income tax law for five years.

Summary of Provisions and Statement in Support:

This bill would amend the Tax Law to extend for five years the top tax bracket under the personal income tax. Currently the top tax bracket, with a rate of 8.82%, is scheduled to expire for taxable years beginning after 2019. This bill would extend the higher bracket for taxable years 2020, 2021, 2022, 2023 and 2024.

Budget Implications:

Enactment of this bill is necessary to implement the 2020 Executive Budget because it would increase All Funds revenue by $771 million in FY 2020, $3.6 billion in FY 2021, $4.8 billion in FY 2022, and $5.5 billion in FY 2023.

Effective Date:

This bill would take effect immediately.

Part Q – Extend PIT Limitation on Charitable Contributions for Five Years

Purpose:

This bill would extend, for five years, the charitable deduction limitation under the NYS and NYC personal income tax for individuals with adjusted gross income of more than $10 million.

Summary of Provisions and Statement in Support:

This bill would amend Tax Law § 615(g) to extend, for five years, the current limitation on the itemized charitable contribution deduction for individuals with adjusted gross income of more than $10 million. Under current law, the NY itemized charitable deduction is limited to 50% of the federal deduction for individuals with adjusted gross income between $1 million and $10 million, and to 25% of the federal deduction for individuals with adjusted gross income over $10 million. The 25% limitation is set to expire at the end of 2019, after which all individuals with adjusted gross income over $1 million will be subject to the 50% limitation.

This bill will extend the current 50%/25% limitation structure through 2024 and make conforming amendments to NYC Administrative Code §11-1715(g).

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it would increase All Funds revenue by $86 million in FY 2021, $175 million in FY 2022, and $180 million in FY 2023.

Effective Date:

This bill would take effect immediately.

Part R – 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 bioheating fuel for residential purposes until January 1, 2023.

Summary of Provisions and Statement in Support:

The bill would amend Tax Law §§ 210-B and 606 to extend the sunset date for the corporate and personal income tax credits, respectively, for purchasing bioheating fuel for residential purposes until January 1, 2023. The credit is equal to $.01 per percent of biodiesel fuel not to exceed 20 cents per gallon, purchased by the taxpayer.

The current corporate and personal income tax credits for the purchase of bioheating fuel expire January 1, 2020. This extension supports the use of clean energy in homes.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it would decrease All Funds revenue by $6 million annually in FY 2022 through FY 2024.

Effective Date:

This bill would take effect immediately.

Part S – Extend Authorization to Manage Delinquent Sales Tax Vendors Permanently

Purpose:

This bill would make permanent certain provisions concerning the segregated sales tax account program.

Summary of Provisions and Statement in Support:

Vendors are required by law to collect, truthfully account for, and pay over sales tax moneys, and to file returns. Where the Tax Commissioner deems it necessary to protect sales tax revenues, a noncompliant vendor may be required to deposit the sales tax it collects into a segregated account, in trust for the State, until otherwise notified.

Part U of Chapter 61 of the Laws of 2011 expanded the Commissioner's authority with respect to the segregated accounts program by amending Tax Law § 1137 to authorize the Commissioner to debit segregated accounts, to require a vendor to deposit the sales tax moneys at least weekly, and to require the vendor to obtain a bond if the vendor failed to comply. Part U also amended Tax Law § 1134 to authorize the Commissioner to suspend or revoke a vendor's sales tax certificate of authority if the vendor did not comply with the segregated accounts program's requirements.

The segregated account provisions added by Part U expire on December 1, 2019. Since their implementation in 2011, these provisions have improved vendor compliance and reduced the need to pursue costly collection actions when sales tax collected by vendors is not remitted timely to the Department. This bill would repeal the sunset date

to allow the current provisions to remain in place and ensure the Department may continue to safeguard sales tax revenues collected by noncompliant vendors.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it preserves the cost savings from the segregated account program.

Effective Date:

This bill would take effect immediately.

Part T – Repeal License Fees on Certain Co-Ops

Purpose:

This bill would amend the cooperative corporations law and the rural electric cooperative law to eliminate a ten-dollar annual fee paid by cooperative corporations and rural electric cooperatives.

Summary of Provisions and Statement in Support:

The bill would amend Cooperative Corporations Law § 77(3) and Rural Electric Cooperative Law § 66, respectively, to make the ten-dollar annual fee in lieu of franchise or license or corporation taxes, in the case of a cooperative corporation, and the ten-dollar annual fee in lieu of franchise, excise, income, corporation, and sales and compensating use taxes, in the case of a rural electric cooperative, not payable after January 1, 2020.

These fees are not cost-effective as DTF incurs costs to perpetuate and process the forms and filings, but has collected only $250 in fees in the last two years.

Budget Implications:

Enactment of this bill is necessary to implement the 2020 Executive Budget to reduce the administrative burden on DTF.

Effective Date:

This bill would take effect immediately.

Part U – Expand the Current Historic Rehabilitation Credit

Purpose:

This bill would allow the credit for rehabilitation of historic properties to be claimed for qualified rehabilitation projects undertaken within a state park, state historic site, or other land owned by the state, that is under the jurisdiction of and leased to private entities by the Office of Parks, Recreation and Historic Preservation (OPRHP), regardless of the census tract location of the rehabilitation project.

This bill, therefore, would incentivize private sector investment in unused and underutilized historic properties owned by the State in such locations.

Summary of Provisions and Statement in Support:

This bill would amend Tax Law §§ 210-B(26)(e), 606(oo)(5) and 1511(y)(5) to allow a taxpayer subject to tax under Article 9A, the Business Corporation Franchise Tax, Article 22, the Personal Income Tax and Article 33, the Insurance Corporation Franchise Tax, to claim a tax credit for the rehabilitation of historic properties under the jurisdiction of OPRHP that is a qualified rehabilitation project, regardless of the property's census tract location.

Under current law, one of the requirements to qualify for the rehabilitation of historic properties tax credit is that the property must be located within an eligible census tract. Presently, many properties under OPRHP jurisdiction could benefit from rehabilitation through private sector investment using tax credit incentives but the properties are located outside of qualified census tracts. This amendment would allow properties across the State leased to businesses, such as at the Gideon Putnam Hotel in Saratoga Spa State Park, the bathhouses at Jones Beach, and the historic estate buildings at Knox Farm State Park outside of Buffalo, to be eligible for the tax credit which, in turn, would spur interest in investing in their rehabilitation. Promoting investment to rehabilitate and reuse historic properties is the best way to preserve them for future generations.

Budget Implications:

Enactment of this bill is necessary to implement the 2020 Executive Budget.
Effective Date:

This bill would take effect immediately and apply to taxable years beginning on or after January 1, 2020.

Part V – Extend certain sales tax exemption related to the Dodd-Frank Protection Act.

Purpose:

To extend for two years the exemption from sales and use tax certain sales or services transacted between certain financial institutions and their subsidiaries.

Summary of Provisions and Statement in Support:

This bill would extend the sales tax exemption provided to financial institutions that are required under the Dodd-Frank Wall Street Reform and Consumer Protection Act to create subsidiaries and then transfer the property or services to those subsidiaries without the transfer being considered a taxable sale. The bill would extend the date by which transfers must be made, or a binding contract entered into, from June 30, 2019 to June 30, 2021.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2019-20 Executive Budget because it continues the date by which transfers can occur until June 30, 2021.

Effective Date:

This bill would take effect immediately.

Part W – Employer Recovery Hiring Tax Credit

Purpose:

This bill would amend the Mental Hygiene Law and the Tax Law in relation to the creation and administration of a tax credit for the employment of eligible individuals in recovery from a substance use disorder.

Summary of Provisions and Statement in Support:

Individuals with a history of substance use disorder face many obstacles in sustaining their recovery. Understanding that a significant barrier to maintaining their recovery is access to employment opportunities, this tax credit would incentivize businesses to hire individuals with such a history. New York's investment through a tax credit would also assist the State by creating a recovery-oriented culture in businesses and local communities.

The bill would add a new Mental Hygiene Law § 32.38 and amend Tax Law §§ 210-B, 606, and 1511 to establish the Recovery Tax Credit program to provide tax incentives to certified employers for employing eligible individuals in recovery from a substance use disorder in part-time and full-time positions in New York State. The credit would be administered by the Office of Alcoholism and Substance Abuse Services. The bill would authorize the allocation of $2 million in refundable tax credits computed on a 1 dollar per hour worked per eligible employee basis, with a minimum requirement for each

employee of 500 creditable hours worked and a cap for each employee of 2000 creditable hours worked. Qualifying employers must have a formal working relationship with a local recovery community organization and eligible employees must demonstrate they have completed a course of treatment for a substance use disorder and are in a state of wellness. The credit may be claimed only one time for each eligible employee.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it would decrease All Funds revenue by $2 million annually beginning in FY 2022.

Effective Date:

This bill would take effect immediately and apply to taxable years beginning on and after January 1, 2020 and apply with respect to those eligible individuals hired after the act takes effect.

Part X – Exclude from Entire Net Income Certain Contributions to the Capital of a Corporation

Purpose:

This bill would amend the Tax Law and the New York City Administrative Code to exclude from entire net income certain contributions to the capital of a corporation.

Summary of Provisions and Statement in Support:

As part of the federal Tax Cuts and Jobs Act, effective December 22, 2017, Internal Revenue Code § 118(b) was amended to include contributions by a governmental entity or civic group to the capital of a corporation in federal gross income. Because of New York's federal conformity, in New York, this resulted in the inclusion of entire net income. Government grants treated as contributions to capital under the Internal Revenue Code are a useful economic development tool. This bill would restore New York's favorable non-tax treatment of these contributions by amending Tax Law §§ 208(9)(a) and 1503(b) and New York City Administrative Code § 11-602(8)(a) to exclude from entire net income any contributions to the capital of a corporation by any governmental entity or civic group.

Budget Implications:

Enactment of this bill is necessary to implement the 2020 Executive Budget. It has no impact on the State's Financial Plan.

Effective Date:

This bill would take effect immediately and apply to taxable years beginning on or after January 1, 2018.

Part Y – Close the carried interest loophole

Purpose:

This bill would close the carried interest tax loophole at the State level by taxing the carried interest income of hedge fund and private equity investors as ordinary earned income.

Summary of Provisions and Statement in Support:

Currently, the carried interest tax loophole in the Internal Revenue Code ("IRC") allows hedge fund investment managers and private equity investors to classify their distributive share of partnership or S corporation income received in exchange for investment management services as capital gains. As capital gains, these investment management fees, which can be sizeable, typically qualify as long-term capital gains for federal income tax purposes and are therefore taxed at a much lower rate than ordinary income. (This is typically referred to as carried interest.) Further, as a result of the federal characterization of these fees as capital gains from intangible assets, non-resident partners are not taxed on that income at the state level. (H.R. 1, enacted as Public Law 115-97, did not adequately address this problem because it only recharacterizes some of these gains as short term capital gains rather than ordinary income.)

This bill would recharacterize for New York State purposes the investment management income earned by partners and shareholders of hedge funds and private equity firms and would subject the amount of that income in excess of what the partner or shareholder would have received if it had not provided investment management services to tax as income earned from a trade or business.

In addition, the excess amount of income that is treated as income from a trade or business would be subject to a special 17 percent carried interest fairness fee. The fee would remain in effect until the IRC is amended to treat the provision of investment management services for federal tax purposes substantially the same as under this legislation. This bill would take effect only if Connecticut, New Jersey, Massachusetts and Pennsylvania enact legislation having substantially the same effect as this bill.

The recharacterization of the investment management income earned by partners and shareholders of hedge funds from capital gains to income earned from a trade or business would correct this inequity in the tax system at the State level until the problem is addressed at the federal level.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it represents the first step necessary to achieve tax treatment parity between carried interest and other forms of earned income.

Effective Date:

This bill would take effect when the states of Connecticut, New Jersey, Massachusetts and Pennsylvania enact legislation having substantially the same effect as this act, and the enactments by such states have taken effect in each state and shall apply for taxable years beginning on or after such date; provided, however, if such enactments are already in effect in the states of Connecticut, New Jersey, Massachusetts and Pennsylvania, this act shall take effect immediately and shall apply for taxable years beginning on or after January 1, 2019; provided the Commissioner of Taxation and Finance shall notify the Legislative Bill Drafting Commission upon enactment of such legislation by the states of Connecticut, New Jersey, Massachusetts and Pennyslvania in order that such commission may maintain an accurate and timely effective database of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the Legislative Law and section 70-b of the Public Officers Law.

Part Z – Make technical corrections to various provisions of the Tax Law and the New York City Administrative Code

Purpose:

This bill would make technical corrections to various provisions of the Tax Law and the New York City Administrative Code.

Summary of Provisions and Statement in Support:

This bill would make needed technical corrections to various provisions of the Tax Law and the New York City Administrative Code.

- Section 1 would amend Tax Law § 43(a)(3) to clarify that if a taxpayer is a partner in a partnership that is a life sciences company or a shareholder of a New York S corporation that is a life sciences company, then the life sciences research and development tax credit is applied at the level of the entity. This bill would also correct two erroneous references in Tax Law § 43(c)(2) and (5).

- Section 2 would amend Tax Law § 209(5) to remove an outdated reference to the Internal Revenue Code ("IRC"). As part of the Tax Cuts and Jobs Act (TCJA), IRC § 857(b)(3) was amended to remove subparagraph (A), the *alternative tax on capital gains*, for real estate investment trusts ("REITs"). This bill would

remove a reference to this now non-existent amount from the Tax Law § 209(5) definition of entire net income for REITs.

- Section 3 would amend Tax Law § 211(8)(a) to remove a reference to a provision of law, in Tax Law § 210, that was repealed by New York's corporate tax reform, effective 1/1/15, and also a reference to the *issuer's allocation percentage*, which is no longer used.

- Sections 4 and 5 would amend Tax Law § 213-b to remove an unnecessary provision related to estimated payments of the tax imposed under Tax Law § 209-B (the "MTA surcharge") that refers to S corporations, since the MTA surcharge does not apply to S corporations; to correct a reference to *New York S corporations*; and to correct *third month* to *fourth month* for the end date for interest paid to taxpayers on estimated tax overpayments, consistent with the change in return due dates enacted by Chapter 60 of the Laws of 2016.

- Section 6 would amend Tax Law § 1503 to revise the treatment of *policyholders surplus accounts*, reflecting changes to federal law, under TCJA, for taxable years 2018-2025.

- Sections 7 and 8 would amend New York City Administrative Code §§ 11-525 and 11-676 to replace *preceding* with *second preceding*, consistent with the change made by Chapter 60 of the Laws of 2016 to use the second preceding year's tax for purposes of estimated tax payments.

- Section 9 would amend the effective date of Chapter 369 of the Laws of 2018. TCJA amended the federal unrelated business income tax (UBIT) to include amounts paid by a non-profit to its employees for certain commuter transportation benefits in the non-profit's unrelated business taxable income. This change applies to amounts paid on or after December 31, 2017. Because New York's UBIT is federally conformed, Chapter 369 of the Laws of 2018 was enacted to decouple from the federal requirement to include these fringe benefits in taxable income. However, the Chapter 369 applies only to taxable years beginning on or after January 1, 2018. Thus, if a non-profit has a taxable year that begins after January 1, (eg. June 1), without this change in the Chapter 369 effective date, fringe benefits payments made by the non-profit between January 1, 2018 and the beginning of its next taxable year will be required to be included in New York unrelated business taxable income.

Budget Implications:

Enactment of this bill is necessary to implement the 2020 Executive Budget. It has no impact on the State's Financial Plan.

Effective Date:

This bill would take effect immediately.

Corrections would be deemed to have been in full force and effect as of the effective date of the following legislation: for section one, Part K of Chapter 59 of the Laws of 2017; for sections two and six, Part KK of Chapter 59 of the Laws of 2018; for section three, Part A of Chapter 59 of the Laws of 2014; for sections four, five, seven and eight, Part Q of Chapter 60 of the Laws of 2016; and for section 9, Chapter 369 of the Laws of 2018.

Part AA – Allow an Exemption from Real Property Taxation for Qualified Energy Systems

Purpose:

The purpose of this bill is to exempt certain energy systems from local taxation requirement that the owner of property that comprises or includes an energy system enter into a PILOT agreement, if the property meets the eligibility requirements.

Summary of Provisions and Statement in Support:

Section 1 of this bill would amend Real Property Tax Law § 487 to add a new subdivision 10 that would, beginning April 1, 2019, exempt specified energy systems – specifically, a solar or wind energy system, farm waste energy system, microhydroelectric energy system, fuel cell electric generating system, microcombined heat and power generating equipment system, and electric energy storage system as such terms are defined in paragraphs (b), (f), (h), (j), (l) and (n) of RPTL § 487(1), respectively, (collectively, "energy system") – from local taxation, and any requirement that the owner of property that comprises or includes an energy system enter into a PILOT agreement, if:

> (1) the energy system is installed on real property that is owned or controlled by the State or a State Entity; and
> (2) the State or a State Entity has agreed to purchase the energy produced by such energy system, or the environmental credits or attributes created by virtue of such energy system's operation, in accordance with a written agreement with the owner or operator of such energy system.

The project owners would need to file applications with the local assessor.

Section 2 of the bill contains the bill's effective date clause, which provides that the act would take effect immediately.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part BB – Gaming Commission Employment Restrictions

Purpose:

This bill would allow the Gaming Commission to waive the existing pre-employment restriction in certain cases.

Summary of Provisions and Statement in Support:

This bill would amend section 107 of the Racing, Pari-Mutuel Wagering and Breeding Law to add that the Gaming Commission may waive for good cause any pre-employment restriction of a prospective employee, by adopting a resolution at a properly noticed public meeting. Under current law, applicants who have held a gaming occupational license are disqualified from Gaming Commission employment for three years from the date the license is terminated.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it would allow the Gaming Commission to hire the most talented candidates.

Effective Date:

This bill would take effect immediately.

Part CC – Retired Racehorse Aftercare

Purpose:

This bill would authorize the Thoroughbred and Standardbred Breeding Funds to make contributions for the ongoing care of retired horses.

Summary of Provisions and Statement in Support:

This bill amends sections 254 and 332 of the Racing, Pari-Mutuel Wagering and Breeding Law, to allow the Thoroughbred and Standardbred Breeding Funds to voluntarily contribute monies for the support and promotion of ongoing care of retired racehorses.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part DD – Make Technical Changes to Gaming Provisions

Purpose:

This bill would make technical changes to the Racing, Pari-Mutuel, Wagering and Breeding Law, the Public Officer's Law, and the Tax Law, in order to clarify existing laws.

Summary of Provisions and Statement in Support:

This bill would:

- Move the Gaming Inspector General Statute from Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law to Article 1 (Subpart A);
- Allow for an alternative form of designation for Gaming Commission members to the Thoroughbred Breeding Fund (Subpart B);
- Clarify that Cornell University's Harry M. Zweig Memorial Fund for Equine Research can accept gifts from donors, and ensures the fund's board members are indemnified under the Public Officers Law (Subpart C); and
- Expand the allowable use of the lapsed prized fund to allow supplemental prizes on more games, allow continuing promotional campaigns, and align the prize payment amounts and revenue distributions for all lottery games (Subpart D).

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it makes technical changes to gaming provisions, such as preserving the revenue stream for education generated from promotions supported through the lapsed prize fund.

Effective Date:

This bill would take effect immediately.

Part EE – Simplify Video Lottery Gaming (VLG) Rates and Eliminate Additional Commission Provisions

Purpose:

This bill would simplify the current VLG distribution structure and eliminate the current additional commission provisions and instead offer an additional commission rate commensurate to the operator commission loss for those impacted VLG facilities.

Summary of Provisions and Statement in Support:

This bill would repeal and replace subparagraphs (ii) and (iii) of paragraph 1 of subdivision b of §1612 of the Tax Law and add three new paragraphs, 1-a, 1-b, and 1-c. Clauses (A) through (D) of paragraph 1 would simplify the VLG rate structure; Subparagraph (iii) would provide an additional commission rate for those qualifying VLG facilities. Paragraph 1-a would simplify the capital awards distribution; Paragraph 1-b would include the free play allowance language; and Paragraph 1-c would clarify that marketing would now be funded out of the vendor's fee.

Currently, VLG revenues are distributed for gaming administration, operator commission, racing support payments, marketing allowance, capital awards and the remaining amount is directed to education. The distribution formulas change based on certain net machine income (NMI) levels (which vary by facility). Under this bill, the VLT rates would now be based on four categories (VLTs impacted by gaming facilities, those impacted by Native American casinos, those facilities or machines run by OTBs and the larger VLTs). The distribution formulas would no longer change based on NMI levels.

Under current law, there is a separate distribution for capital award monies and for marketing allowance. Marketing allowance is set at either eight or ten percent of NMI and most facilities receive four percent of NMI (capped at $2.5 million) for capital awards. Under this bill, the marketing allowance and capital awards will now be included as part of the operator commission. The amount spent on marketing would shift from Commission directive to operator discretion. For capital awards, the Commission would simply approve projects and the reimbursement process would be eliminated. Up to $2 million could be used for constructing a turf course at the Finger Lakes racetrack.

Three VLG facilities (Finger Lakes, Saratoga and Monticello) are currently eligible to receive an additional commission to be "held harmless" from the impact of a nearby competing casino. However, based on current law, the Finger Lakes and Saratoga facilities will receive an amount in excess of being held harmless. The proposed language would eliminate these provisions and instead offer these facilities an additional commission rate that would reduce their current windfalls, while ensuring they still have an incentive to perform. This part would also extend current financial relief for Vernon Downs via an additional commission rate.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it would increase State VLG revenue by $5 million in FY 2020 and annually thereafter.

Effective Date:

This bill would take effect immediately, provided, however, that the additional commission rates shall expire and be deemed repealed on March 31, 2023.

Part FF – Impose a Statutory Cap on Casino Free Play.

Purpose:

This bill would establish a statutory cap on free play for casinos.

Summary of Provisions and Statement in Support:

The Commission and the four upstate casinos have reached agreements that limit casino free play allowance to 19 percent per year. If the casino free play exceeds 19 percent, the amount in excess is deemed taxable gross gaming revenue (GGR) and the casino must remit the tax due to the State. This bill would codify existing practice into law until FY 2023. Beginning FY 2024, the casino and video lottery facilities free play disparity would be reconciled to 15 percent.

Section 1 would amend Racing, Pari-Mutuel Wagering and Breeding Law (PML) §1301(25) to eliminate a reference to unrestricted promotional gaming credits not being taxable for the purposes of determining gross gaming revenue.

Section 2 would amend PML § 1351 by adding a new subdivision 2 to accomplish the following:

- Establish a 19 percent cap on casino free play for fiscal years 2019 through 2023. For fiscal years 2019 and 2020, the nineteen percent would be an aggregate amount.
- Beginning FY 2024 and annually thereafter the free play cap would be reduced to 15 percent to align with that of the Video Lottery Gaming (VLG) facilities.
- Free play would be excluded from the calculation of GGR and any tax owed on free play above the cap would be due within 30 days of fiscal year end.
- Only free play credits issued pursuant to a written plan approved by the Gaming Commission shall be not taxable and the Gaming Commission may suspend the approval of any plan when it is jointly determined with the Budget Director that the use of free play credits under such plan is not effectively increasing revenue.

Budget Implications:

Enactment of this bill is necessary to implement the 2020 Executive Budget because it would preserve casino tax revenues that are directed to education and certain localities.

Effective Date:

This bill would take effect immediately.

Part GG – Impose Off-Track Betting Reforms

Purpose:

This bill would improve operations of regional off-track betting (OTB) corporations by enhancing board oversight, allowing combined operations, and authorizing an additional tele-theater in certain locations.

Summary of Provisions and Statement in Support:

This bill amends sections 502, 503 and 1009 of the Racing, Pari-Mutuel Wagering and Breeding Law to strengthen the oversight responsibilities of regional off-track betting corporation board members, authorize regional off-track betting corporation to combine pari-mutuel wagering operations, and permits an OTB to operate a tele-theater at a casino.

This bill would require the preparation of detailed financial information for the review of the members of any regional off-track betting corporation board of directors at least seven days prior to a meeting and require the board to meet at least quarterly. The bill would also allow for operational efficiencies by authorizing OTBs to combine pari-mutuel wagering operations. Finally, the bill would allow a tele-theater at a destination resort.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it improves off-track betting corporate management and increases operational efficiencies.

Effective Date:

This bill would take effect immediately.

Part HH – Extend certain tax rates and certain simulcasting provisions for five years.

Purpose:

This bill would extend for five years various provisions of the Racing, Pari-Mutuel Wagering and Breeding Law.

Summary of Provisions and Statement in Support:

Section 1 would amend Racing, Pari-Mutuel Wagering and Breeding Law (PML) § 1003(a) to extend the June 30, 2019 expiration date for in-home simulcasting.

Section 2 would amend PML § 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 currently is scheduled to expire on June 30, 2019.

Section 3 would amend the opening paragraph of PML § 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, 2019.

Section 4 would amend PML § 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, 2019.

Section 5 would amend the opening paragraph of PML §1016(1) to continue the provisions governing the simulcasting of out-of-state thoroughbred races on any day the Saratoga thoroughbred track is closed, which currently are scheduled to expire on June 30, 2019.

Section 6 would amend the opening paragraph of PML §1018 to extend the current distribution of revenue from out-of-state simulcasting during the Saratoga meet, which expired on September 8, 2018.

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 are scheduled to expire on June 30, 2019.

Section 8 would amend § 54 of chapter 346 of the Laws of 1990 to continue binding arbitration for disagreements. These provisions currently are scheduled to expire on June 30, 2019.

Section 9 would amend PML § 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, 2019.

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, most recently in FY 2019.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it maintains the current pari-mutuel betting structure in New York State.

Effective Date:

This bill would take effect immediately.

Part II – Mid-Atlantic Drug Compact

Purpose:

This bill would authorize entry into the Mid-Atlantic Drug Compact, to enhance and standardize equine drug testing, and maintain the integrity of the racing industry.

Summary of Provisions and Statement in Support:

A new Article XI-a is added to the Racing, Pari-Mutuel Wagering and Breeding Law authorizing the Gaming Commission to participate in the compact.

The Compact:

- Enables member states to act jointly to create more uniform, effective, and efficient rules relating to drugs and medications for racehorses;
- Becomes effective as soon as any two states enact substantially similar compact language. It would allow for one delegate for each member state;
- Provides that rules shall take effect by super majority vote (80% of delegates);
- Would require the adoption, amendment, and rescission of by-laws to govern its conduct;
- Would allow the delegates to establish breed specific equine drug and medication rules;
- Directs the publication in each member state of each equine drug rule proposed, conducts a review of public comments received in response to such proposed rule, consults with national industry stakeholders, and votes on the adoption of the proposed compact rule;
- Dissolves when the withdrawal of a member state reduces compact membership to one state.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it provides standardization of equine drug testing rules across all member states.

Effective Date:

This bill would take effect immediately

Part JJ – Extend Advisory Committee on Equine Drug Testing and Remove the Morrisville Equine Drug Lab Restriction

Purpose:

This bill would extend the equine drug testing advisory committee for an additional year, and allow the Gaming Commission to procure a qualified equine testing lab through a competitive process.

Summary of Provisions and Statement in Support:

The current language establishes an advisory committee only through 2018. The current law also 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 section 2 of Part EE of Chapter 59 of the Laws of 2018 to provide a one-year extension for the advisory committee on equine drug testing to review the current state of equine drug testing in New York State, and make recommendations going forward.

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.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it will ensure continuity of equine testing at the most competitive rates.

Effective Date:

This bill would take effect immediately.

Part KK – Streamline Occupational Licensing for Casino Employees

Purpose:

This bill would make amendments to the Racing, Pari-Mutuel Wagering and Breeding Law to allow for the distinguishing of non-key and key casino employees, and the requirements of each for occupational licensing for employment of gaming activities.

This bill would grant the Gaming Commission with authority to provide and investigate sub-registrations and sub-licenses for applicants with a criminal history, with clearly defined restrictions.

Summary of Provisions and Statement in Support:

This bill would add a new section 104-a to the Racing, Pari-Mutuel Wagering and Breeding Law to establish the validation, and purpose of sub-registrations and sub-licenses to any persons engaging in gaming activity regulated and administered by the Gaming Commission.

This bill would also amend the Racing, Pari-Mutuel Wagering and Breeding Law for the following purposes:

- Establish the classification and definition of non-gaming employees;
- Modify the language regarding the disqualification of applicants, specifically related to applicants convicted of felony crimes;
- Allow for an occupational license to be suspended, in addition to being denied or revoked;
- Disallow the denial or revocation of a license to key employees and employees of vendors, based on conviction of certain crimes if sufficient rehabilitation has been demonstrated;
- Provide only disqualified applicants with a copy of their criminal history information;
- Subject non-gaming employees to registration requirements and modify language to give the Gaming Commission authority to deny a registration;
- Allow the applicant for registration to provide the Gaming Commission with evidence of good character, honesty, and integrity as it pertains to their criminal history and prior gaming operation association;
- Extend allowance of further investigation conducted by the Gaming Commission to licenses or registrations, and for non-gaming employees;
- Extend the necessity of an “ancillary casino vendor enterprise” license for certain casino vendors;
- Distinguish which persons associated with a casino vendor enterprise, and an ancillary casino vendor enterprise, is a key gaming employee and which is a non-key gaming employee;
- Provide specific classifications for all other key and non-key gaming employees of vendors not specified in previous subdivisions; and
- Grant the executive director rights to wave requirements of this section if the gaming license applicant proves association with a vendor is limited in scope and

addresses specific responsibilities said licensee applicant has in providing proof of such relations. The waiver may also be revoked at the discretion of the executive director.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part LL – Cap annual growth in STAR exemption benefits

Purpose:

This bill would impose a zero percent cap upon the growth in Basic and Enhanced STAR benefits for purposes of the STAR exemption, beginning with the 2019-20 school year. For purposes of the STAR credit, the existing 2% cap would remain intact.

Summary of Provisions and Statement in Support:

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, five enhancements have been made that have 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 2017. The direct costs of the STAR program in FY 2017 were over $3.3 billion.

Existing law allows all STAR savings to grow at a rate not to exceed 2 percent annually, as implemented with the FY 2012 Enacted Budget. This bill would amend Real Property Tax Law §1306-a to lower the cap on the growth of tax savings under the exemption component of STAR Program, beginning with the 2019-20 school year. As a result, Basic and Enhanced STAR savings would be capped at the 2018-19 savings amounts for these exemption programs. For purposes of the STAR credit program, the existing 2% cap would remain intact.

Capping growth of the exemption program at current levels is critical for a balanced State budget. Notably, school tax levy growth has averaged below 2 percent since the enactment of the Governor's property tax cap; reducing STAR benefit growth reinforces the incentive for school districts to continue to control their costs and minimize the growth in their tax levies.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget. Capping the exemption benefits would reduce General Fund spending by an estimated $106 million in FY 2020.

Effective Date:

This bill would take effect immediately.

Part MM – Allow Disclosure of Certain Information on Cooperative Housing Corporation Information Returns

Purpose:

This bill would allow the Department to share certain information reported by cooperative housing corporations with local assessors for real property tax administration purposes.

Summary of Provisions and Statement in Support:

One of the major challenges DTF has encountered in administering the STAR Credit program is that assessment records do not typically contain the names and addresses of co-op 'owners' (who technically are not property owners, but rather are shareholders with proprietary leases). This lack of information causes delays in the issuance of STAR checks to such individuals.

Under existing law, a real property transfer report (RP-5217) must be filed whenever a deed is recorded. The real property transfer report is a public record that contains basic information about sales of real property, most notably, the names of the buyers. Because cooperative housing apartment units are transferred by the sale of a share or shares in a cooperative housing corporation, those transactions do not require the filing of a deed and, therefore, do not require the filing of an RP-5217.

Most of the information reported on the RP-5217 is also reported on the TP-588 information returns that cooperative housing corporations must file annually. However, unlike RP-5217, TP-588 is not a public record. This bill would allow the disclosure of certain information reported on the TP-588 to local assessors, which would help both local assessors and DTF value co-op units for real property tax purposes. Sensitive information, such as Social security numbers and employer identification numbers, would continue to be covered by the secrecy requirements of the Tax Law and would not be shared with assessors.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect on January 1, 2020.

Part NN – Clarify Calculation of New York City Enhanced Real Property Tax Circuit Breaker Credit

Purpose:

This bill would make a technical amendment to the Tax Law to clarify the calculation of the Enhanced Real Property Tax Circuit Breaker Credit applicable to New York City.

Summary of Provisions and Statement in Support:

Under existing law, the Enhanced Real Property Tax Circuit Breaker Credit specifies the amount of the credit allowable for taxable years after 2013 and prior to 2016, but does not say how the credit should be calculated now that it has been extended through 2020.

This proposal would simply clarify that the credit continues to be calculated the way it has previously been calculated until the credit expires.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately and would apply to taxable years beginning on and after January 1, 2016, and would expire and be deemed repealed on the date that the Enhanced Real Property Tax Circuit Breaker Credit is deemed repealed.

Part OO – Require Mobile Home Park Reporting to Tax Department

Purpose:

This bill would improve the administration of the STAR Credit program by requiring information about manufactured home parks to be reported to the Department of Taxation and Finance (“DTF”).

Summary of Provisions and Statement in Support:

One of the major challenges DTF has encountered in administering the STAR Credit program is that assessment records do not typically contain the names and addresses

of tenants of manufactured home parks. The lack of such information causes delays in the issuance of STAR checks to such individuals, which all parties concerned would greatly prefer to avoid.

Under existing law, owners and operators of mobile home parks must file annual reports with the Department of Housing and Community Renewal ("DHCR") that disclose: (1) the names of all park owners; (2) the names of all park tenants (3) all services provided by the park owners to the tenants; and (4) all current park rules and regulations. Reporting occurs by the submission of paper forms via mail.

This bill would amend the law so that, as of 2020, those annual reports would become quarterly statements that would go to DTF rather than DHCR, and would include information regarding whether tenants own or lease their mobile homes and such other information as DTF may deem necessary. Such information would be filed through an internet-based online system, thereby making reporting easier and less time consuming. Until DTF establishes a system for electronic filing, reports would continue to be filed with DHCR. DTF would be required to provide DHCR with a copy of the information contained in each quarterly statement within 30 days of receipt. These reports would help DTF, as well as local assessors, administer the STAR credit and STAR exemption programs.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part PP – Prevent STAR fraud and abuse

Purpose:

This bill would build upon the State's efforts to keep the STAR program free from fraud and abuse.

Summary of Provisions and Statement in Support:

Bill section one would expand the STAR Income Verification Program by providing that, effective with 2020 assessment rolls, the Commissioner of the Department of Taxation and Finance (DTF) would be required to annually verify that Enhanced STAR exemption recipients meet the residency and age requirements, thus requiring the same eligibility verification for the Enhanced STAR exemption that it has done for the basic STAR exemption.

Bill sections two and three would incorporate a STAR exemption anti-fraud provision into the STAR credit. In particular, the STAR exemption law provides that someone who is found to have put materially false information on a STAR exemption application is precluded from receiving the STAR exemption for six years. This bill would provide that such a person is also precluded from switching to the STAR credit during that six-year period. It would also add a similar six-year ban to the STAR credit, so that a person who provides materially false information when registering for the STAR credit would be precluded from receiving that credit for six years.

Bill section four would clarify that where a STAR check is inadvertently sent to someone whose primary residence was receiving a STAR exemption for the same year, the Commissioner may seek repayment of the check amount upon notice and demand. A notice of deficiency would not be required, since there are no questions of law or fact to be resolved in such cases. This would facilitate the recovery of the amounts due without compromising the rights of these check recipients.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part QQ – Disclosure of STAR-related information to assessors

Purpose:

This bill would authorize the Commissioner of Taxation and Finance to disclose certain STAR-related information to assessors, in order to facilitate the administration of STAR and other property tax exemptions.

Summary of Provisions and Statement in Support:

Bill sections one and two would allow the Commissioner to disclose certain STAR eligibility information to assessors. Namely:

1. The Commissioner is authorized to disclose the names of property owners who he or she has found are not eligible for a STAR exemption or credit. A limited explanation would be provided as well (e.g., that the owner's income exceeds the STAR limit *[the amount of his or her income would not be disclosed]*, or that the owner's primary residence is elsewhere, or in the case of Enhanced STAR, that the owners do not meet the age requirement or haven't submitted the income worksheet if required). This information would help assessors ensure that these property owners don't improperly receive

other exemptions that also have an income, residency and/or age requirement, such as the senior citizens and veterans exemptions.

2. The Commissioner is also authorized to disclose the names of property owners who are eligible for either the Enhanced STAR exemption or Enhanced STAR credit and whose federal adjusted gross income is below the maximum allowable amount set by Real Property Tax Law (RPTL) § 467(1)(b)(3) for the senior citizens exemption (currently $37,400, but $58,400 in New York City). With this data, assessors would be able to reach out to those individuals, inform them about the senior citizens exemption, and encourage them to apply. This bill would enable assessors to help ensure that lower-income senior citizens receive the full amount of property tax relief that they are entitled to receive.

Bill sections three and four would provide that when an income tax return is filed on behalf of a decedent, the Commissioner may disclose to the Director of Real Property Tax Services of the county in which the decedent resided the following information: the decedent's name, address, and date of death. The County Director would share the information with the assessor and tax collector, and if delinquent taxes are due, with the County Treasurer. Current law does not provide a mechanism to ensure ensure that assessors or other local officials are informed of a property owner's death in a timely manner. As a result, tax bills may be misdirected, causing interest and penalties to accrue, and certain exemptions – particularly, STAR and the senior citizens and veterans exemptions – may remain in place too long. This bill would close this gap in the law.

All information disclosed to local officials under this bill would only be used only for purposes of real property tax administration, and such information would be otherwise be deemed confidential, and not subject to FOIL provisions.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part RR – Lower Basic STAR income limit to $250,000 – Exemption Program only

Purpose:

This bill would lower the income limit for the Basic STAR exemption to $250,000, beginning with the 2019-20 school year. For purposes of the STAR credit, the existing $500,000 income limit would remain intact.

Summary of Provisions and Statement in Support:

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, five enhancements have been made that have 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 2017. The direct costs of the STAR program in FY 2017 were over $3.3 billion.

This bill would lower the income limit for the Basic STAR exemption to $250,000, beginning with the 2019-20 school year. Higher-income homeowners with Basic STAR exemptions would be able to avoid adverse impacts by switching to the STAR credit program, where the $500,000 income limit would remain intact. Homeowners who switch from the exemption would see a difference in the amount of the benefit, rather the only difference they would see is that the STAR benefit would be delivered to them in the form of a check rather than a reduced school tax bill.

The bill would also correct a drafting oversight by making clear that the verification of income-eligibility for exemption purposes will be based primarily upon data obtained by the Tax Commissioner through the STAR registration program. The law currently only makes reference to the verification process authorized by Tax Law §171-u, which became of secondary importance once the registration program was enacted.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget. Lowering the Basic STAR income limit would reduce General Fund spending by $125 million in FY 2020.

Effective Date:

This bill would take effect immediately.

Part SS – Clarify STAR check tax bill notices

Purpose:

This bill would clarify the notice that appears on the school tax bills of recipients of STAR credit checks.

Summary of Provisions and Statement in Support:

Under the 2016-2017 Enacted State Budget, the STAR exemption program was closed to new homeowners and the STAR credit program was enacted to take its place. To help promote public awareness of the program, the law requires that a notice be placed

on the school tax bills of credit recipients stating that that a STAR check "will be mailed" to them. This wording is potentially confusing for some taxpayers who receive their checks before their school tax bills, leading such taxpayers to erroneously conclude that that they will receive a second check.

This proposal clarifies the tax bill notice by rewording it to say that a "STAR check has been or will be mailed" to them.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part TT – Improve the STAR administrative process to be more responsive to taxpayer needs

Purpose:

This bill would improve the STAR administrative provisions to be more responsive to taxpayer needs, as to (1) dispensations for "good cause" and (2) the "renunciation" process".

Summary of Provisions and Statement in Support:

Dispensations for "good cause" (bill § 1): As part of the 2016-2017 Enacted Budget, the STAR exemption statute was amended to provide relief to taxpayers with Enhanced STAR exemptions who fail to timely file their renewal applications. Those taxpayers may file extension requests with the Commissioner of Taxation and Finance up to the last day for paying school taxes without incurring interest or penalty, and may have their Enhanced exemptions restored if the Commissioner finds they had "good cause" for missing the filing deadline.

By its terms, this relief is available to renewal applicants, not first-time applicants. As a result, homeowners with Basic STAR exemptions who reach age 65 cannot seek similar relief if they fail to apply for Enhanced STAR by the deadline, even if they have "good cause" for the oversight. This is an unduly harsh outcome, which this bill would rectify. The bill would also expedite the process for implementing the Commissioner's determination by empowering the school district to adjust the tax bill if the tax has not yet been paid or issue a refund if it has. While there is a process to correct a host of errors, aptly named the "Correction of Errors", (Real Property Tax Law §§ 550-559), this process is cumbersome and time-consuming and serves no purpose where there is no question of fact to be resolved.

"Renunciation" reforms (bill §§ 2-4): Section two of the bill would waive the $500 processing fee for taxpayers who renounce their STAR exemptions before their tax bills are issued. The renunciation statute was enacted to accommodate taxpayers who want to give up a STAR (or other) exemption they've been receiving and repay the benefits they've received, going back up to 10 years. Since this may require local officials to retrieve and recalculate tax records for several prior years, the taxpayer is required to pay a $500 processing fee in addition to the taxes due. However, in some cases, taxpayers have sought to renounce their STAR exemptions prospectively, before the current year's school tax bills have been prepared. Because they acted promptly, there is no processing to be done in these cases, so there is no reason for them to be subjected to a processing fee. This bill would waive the $500 processing fee for taxpayers who renounce their STAR exemptions before their tax bills are issued.

Section three of the bill would also clarify that when a STAR exemption is renounced, the amount to be repaid is the "tax savings" shown on the taxpayer's school tax bill(s), which may not always equal the property's taxable assessed value times the school tax rate because the law has provided for the past several years that the STAR tax savings in any school district may not grow by more than two percent from one year to the next. Lastly, section four of the bill would make it easier for a taxpayer to renounce a STAR exemption in order to switch to the STAR credit by allowing the switch to occur even when the payment is made after the end of the taxable year in certain cases. This provision is warranted because there have been instances where a taxpayer has submitted a renunciation application during the desired taxable year, but due to processing delays, the taxpayer did not receive a final determination until the next taxable year. As long as the taxpayer pays the amount due within the time prescribed by law, their attempt to switch to the credit would be honored.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part UU – Enacts a comprehensive tobacco policy

Purpose:

This bill would implement various new regulations, restrictions and protections with regard to the use of tobacco and electronic cigarettes (e-cigarettes) and vapor products, as well as imposes a 20 percent tax on vapor products, for the benefit of the health and wellbeing of New Yorkers.

Summary of Provisions and Statement in Support:

To protect the health of New Yorkers from a multibillion dollar industry that produces a product that when used as directed, kills up to half its users by (1) raising the minimum sales age for tobacco products from 18 to 21; (2) prohibiting sales of tobacco products in all pharmacies; (3) prohibiting the acceptance of price reduction instruments for both tobacco products and e-cigarettes; (4) prohibiting the display of tobacco products or e-cigarettes in stores; (5) clarifying that the Department has the authority to promulgate regulations that prohibit or restrict the sale or distribution of electronic cigarettes (e-cigarettes) or electronic liquids (e-liquids) that have a characterizing flavor, or the use of names for characterizing flavors intended to appeal to minors; (6) prohibiting smoking inside and on the grounds of all hospitals licensed or operated by the Office of Mental Health (OMH); (7) impose a 20 percent excise tax on vapor products; and (8) requiring that electronic cigarettes be sold only through licensed tobacco retailers.

Comprehensive tobacco control policy action would prevent death and disease associated with tobacco use, as well as save the State money due to the high cost of health care expenses for tobacco-related illnesses, estimated at $10.4 billion annually, including $3.3 billion in Medicaid costs. Smoking prematurely kills over 28,000 New Yorkers each year - more people than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined. In a 2012 report on youth tobacco use, the US Surgeon General characterized tobacco use as a pediatric epidemic.

New York has a comprehensive Clean Indoor Air law, the highest state cigarette tax in the nation ($4.35 per pack) and a comprehensive tobacco control program. New York is one of the leading innovators addressing tobacco control in the US, however tobacco use continues to be the #1 cause of preventable death in our state due to its insidious addictive nature and industry marketing tactics.

The tobacco industry continues to invest over $9 billion annually marketing cigarettes and scientific evidence establishes that tobacco industry marketing causes youth tobacco use. The industry devotes countless resources to keep existing customers and recruit new customers, most of whom are youth, while undermining the proven effective public health measures already put in place.

In addition to combustible tobacco products, e-cigarettes (including vapor products) and similar devices are emerging as the latest public health threat to youth and young adults. Uptake of vapor products by youth is dramatically increasing and more high school age youth are now using vapor products than smoking combustible cigarettes. Dual use by youth and adults is common, showing that they are not substituting vapor products for cigarettes but using both to maintain and strengthen addiction.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it would increase All Funds revenue by $2 million in FY 2020 and $19 million thereafter.

Tobacco Minimum Sales Age: Retailers may incur costs for signage updates in accordance with the Adolescent Tobacco Use Prevention Act however the department has provided signage in the past; and as the prevalence of tobacco initiation is reduced in youth and young adults, over time, tobacco sales and tax revenue collected will decline.

There will likely be costs to DTF to register e-cigarette retailers and any cost associated with additional enforcement inspections, but it is difficult to assess the dollar amount given no reliable information on the number of e- cigarette retailers. These costs will also likely be offset by the additional tax revenue generated by taxing electronic cigarettes.

Effective Date: This bill would be effective 180 days after it becomes law except that section 16 shall become law on the first day of a sales tax quarterly period next commencing 180 days after this act shall have become law.

Part VV – Enact the Cannabis Regulation and Taxation Act.

Purpose:

This bill would create and amend existing laws to legalize adult-use cannabis, consolidate governance of all forms of cannabis and create a regulatory structure to oversee the licensure, cultivation, production, distribution, sale and taxation of cannabis within New York State.

Summary of Provisions and Statement in Support:

This bill would create the cannabis control law, which would create a new section for adult-use and hemp cannabis while merging existing law for medical cannabis. Regulation of cannabis benefits public health by enabling government oversight of the production, testing, labeling, distribution, and sale of marijuana. The creation of a regulated cannabis program would enable New York State to control licensure, ensure quality control and consumer protection, set age and quantity restrictions and do so through a comprehensive regulatory framework.

This bill would establish the Office of Cannabis Management (OCM) within the Division of Alcohol Beverage Control, and consolidate governance of adult-use, medical and hemp cannabis. The powers of this new office include but are not limited to: the establishment of cultivation and processing standards; the licensure of all business entities in the production and distribution chain; the inspection and enforcement of program standards and the development and issuance of program regulations.

Article 3 governs New York State's Medical Cannabis Program, designed to comprehensively regulate the manufacture, sale and use of medical cannabis while striking a balance between potentially relieving the pain and suffering of those in

desperate need of treatment and protecting the public against risks to health and safety. The Office of Cannabis Management will supervise the continued expansion of the medical cannabis program and promote reforms that expand patient access and product affordability while encouraging research opportunities.

Article 4 of the bill would regulate and control the cultivation, processing, manufacturing, distribution and sale of cannabis products for adults over 21 years of age. This bill would utilize a three-tier market structure (similar to the alcohol model) for the adult-use cannabis industry. In general, the model prohibits vertical integration and would be coupled with licensing limits and supply management to control market concentration and encourage social equity applicant participation.

This bill would establish a robust social equity program to actively encourage members of communities who have been disproportionally impacted by the policies of prohibition to participate in the new industry through the implementation of a social equity licensing and incubator program – providing technical assistance, training, loans and mentoring to social equity applicants. Additionally, this bill would create a program to review and seal prior cannabis convictions and eliminate the collateral consequences of conviction while also ensuring the enforcement framework of legalization does not replicate the arrest disparities and criminalization of prohibition.

Article 5 of the bill would provide a regulatory framework to comprehensively regulate hemp cannabis including the licensing, cultivation, processing, extracting and distribution. Hemp grown and used for industrial or food purposes (such as fiber or seed) will continue to be regulated by the Department of Agriculture and Markets. The bill would also regulate the packaging and labeling and laboratory testing requirements of hemp cannabis products and their distribution.

This bill would amend Tax Law to add a new Article 20-C, Tax on Adult-Use Cannabis Products, to impose three taxes. The first tax is imposed on the cultivation of cannabis at the rate of $1 per dry weight gram of cannabis flower and $0.25 per dry weight gram of cannabis trim. The second tax is imposed on the sale by a wholesaler to a retail dispensary at the rate of 20 percent of the invoice price. The third tax is imposed on the same sale by a wholesaler to a retail dispensary at the rate of 2 percent of the invoice price but collected in trust for and on account of the county in which the retail dispensary is located. All wholesalers would be required to apply to the Commissioner of Taxation and Finance for a Certificate of Registration prior to commencing business and renew such registration every two years. The initial application and renewal would be subject to a fee of $600.

Revenues from the State cannabis taxes shall be deposited in the New York State Cannabis Revenue Fund and expended for the following purposes: administration of the regulated cannabis program, data gathering, monitoring and reporting, the governor's traffic safety committee, small business development and loans, substance abuse, harm reduction and mental health treatment and prevention, public health education and intervention, research on cannabis uses and applications, program evaluation and

improvements, and any other identified purpose recommended by the director of the Office of Cannabis Management and approved by the Director of the Budget.

County governments would have the opportunity to opt-out of the provisions of Article 4 of the bill with the passage of a local law, ordinance or resolution by a majority vote of their governing body. If a county does not opt out, a city with a population over 100,000 in that county could elect to opt out.

The bill also would create conforming changes to a number of different laws including amending the public health law, in relation to the description of cannabis; the vehicle and traffic law, in relation to making technical changes regarding the definition of cannabis; the penal law, in relation to the qualification of certain offenses involving cannabis and to exempt certain persons from prosecution for the use, consumption, display, production or distribution of cannabis; the tax law, in relation to providing for the levying of taxes on cannabis; the criminal procedure law, the civil practice law and rules, the general business law, and the state finance law.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it would increase All Funds revenue by $83 million in FY 2021, $85 million in FY 2022, $141 million in FY 2023 and $184 million in FY 2024.

Effective Date:

This bill would take effect immediately; provided, however, that the amendments to article of the penal law made by section fifty-five of this act shall not affect the repeal of such article and shall be deemed to be repealed therewith; provided further that the amendments to section 89-h of the state finance law made by section fifty-eight of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided further, that the amendments to section 221.00 of the penal law made by section fifteen of this act shall be subject to the expiration of such section when upon such date the provisions of section fifteen-a of this act shall take effect; provided, however, that the amendments to subdivision 2 of section 3371 of the public health law made by section sixty-one of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith; provided further, that the amendments to subdivision 3 of section 853 of the general business law made by section sixty-two of this act shall not affect the repeal of such subdivision and shall be deemed to be repealed therewith; and provided further, that the amendments to subdivision 5 of section 410.91 of the penal law made by section sixty-three of this act shall be subject to the expiration and reversion of such subdivision when upon such date the provisions of section sixty-three-a of this act shall take effect; provided however that sections 37-38 of this Act shall take effect on April 1, 2020 and shall apply on and after such date: (1) to the cultivation of cannabis flower and cannabis trim transferred by a cultivator who is not a wholesaler; (2) to the cultivation of cannabis flower and cannabis trim sold or

transferred to a retail dispensary by a cultivator who is a wholesaler; and (3) to the sale or transfer of adult use cannabis products to a retail dispensary.

Part WW – Expand Supplemental Auto Rental Surcharge to Fund Upstate Public Transportation Systems

Purpose:

This bill would expand the special supplemental auto rental surcharge from the Metropolitan Commuter Transportation District (MCTD) to the remainder of the State. The additional funds would be directed to Upstate public transportation systems.

Summary of Provisions and Statement in Support:

Current law imposes a 6% auto rental tax, statewide, which is directed to the State's highway and bridge program. An additional, supplemental surcharge of 5% is imposed in the MCTD only, and is directed to Downstate public transportation systems including the Metropolitan Transportation Authority.

This bill would provide necessary assistance to Upstate transit systems by imposing the same 5% supplemental surcharge in areas of the State north of Dutchess and Orange counties and directing those funds to Upstate public transportation systems. These systems serve a population that is often skewed toward the economically disadvantaged, and are therefore heavily reliant on revenues from sources other than fares.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it funds State appropriations for Upstate transit systems.

Effective Date:

This bill would take effect on September 1, 2019.

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.