

**FY 2025 NEW YORK STATE EXECUTIVE BUDGET**

**REVENUE  
ARTICLE VII LEGISLATION**

**MEMORANDUM IN SUPPORT**

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## MEMORANDUM IN SUPPORT

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

AN ACT to amend the tax law and the administrative code of the city of New York, in relation to permanently extending the itemized deduction limit on individuals with income over ten million dollars (Part A); 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 (Part B); to amend the tax law, in relation to making technical corrections to the metropolitan commuter transportation mobility tax (Part C); to amend the tax law, in relation to the restriction upon issuing notices for a tax year that is the subject of a pending petition filed with the division of tax appeals (Part D); to amend the executive law and the tax law, in relation to creating the commercial security tax credit program (Part E); to amend 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, in relation to the effectiveness of certain provisions relating to mandatory electronic filing of tax documents; and to repeal certain provisions of the tax law and the administrative code of the city of New York relating to mandatory electronic filing by certain tax return preparers and the failure to electronically file returns (Part F); to repeal subdivision (e) of section 23 of part U of chapter 61 of the laws of 2011 relating to the expiration of the segregated sales tax account provisions (Part G); to amend the tax law, in relation to the filing of amended returns

under article 28 thereof (Part H); to amend the tax law, in relation to exempting from sales and use tax certain tangible personal property and services (Part I); to amend the tax law, in relation to extending the sales tax exemption for certain sales made through vending machines (Part J); to amend the tax law, in relation to requiring sales tax from vacation rental marketplace providers (Part K); to amend the tax law, in relation to the taxation of adult-use cannabis products (Part L); to amend the real property tax law, in relation to clarifying the assessment ceiling for local public utility mass real property (Part M); to amend the real property tax law, in relation to requiring excess proceeds from a tax foreclosure sale to be returned to the former owner (Part N); to amend the racing, pari-mutuel wagering and breeding law, in relation to the utilization of funds in the Capital off-track betting corporations' capital acquisition funds (Part O); and 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 59 of the laws of 2023 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting; to amend chapter 59 of the laws of 2023 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 P)

**PURPOSE:**

This bill contains provisions needed to implement the Revenue portion of the FY 2025 Executive Budget.

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

**Part A – Permanently Extend the Itemized Deduction Limit on High Income Filers**

**Purpose:**

This bill would permanently extend the itemized deduction limitation under the New York State and New York City personal income taxes for individuals with New York adjusted gross income of more than \$10 million.

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

This bill would amend Tax Law §615(g) to permanently extend the current limitation on the New York itemized deduction for individuals with New York adjusted gross income of more than \$10 million. Under current law, the New York itemized deduction is permanently limited to 50 percent of the federal charitable contribution deduction allowed for individuals with New York adjusted gross income between \$1 million and \$10 million.

The New York itemized deduction is further limited to 25 percent of the federal charitable contribution deduction for individuals with New York adjusted gross income over \$10 million. This further limitation is set to expire at the end of 2024. Without this bill, after 2024, the itemized deductions of all taxpayers with adjusted gross income over \$1 million would be subject to the 50 percent limitation, without regard to those taxpayers with higher adjusted gross incomes.

This bill would also make conforming amendments to NYC Administrative Code §11-1715(g) to permanently extend the current 25 percent limitation on charitable deductions by taxpayers with adjusted gross income over \$10 million.

**Budget Implications:**

Enactment of this bill is necessary to implement the FY 2024-25 Executive Budget because it would increase State revenues by \$175 million in FY 2026, \$350 million in FY 2027 and FY 2028, \$300 million in FY 2029, and \$250 million in the outyears.

**Effective Date:**

This bill would take effect immediately.

## **Part B – Permanently Extend the Tax Shelter Provisions**

### Purpose:

This bill would make permanent the current tax shelter reporting and penalty provisions.

### 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.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2024-25 Executive Budget because it would allow the State to continue to combat abusive tax schemes.

### Effective Date:

This bill would take effect immediately.

## **Part C - Make Technical Corrections to the Metropolitan Commuter Transportation Mobility Tax**

### Purpose:

This bill would clarify that, for tax years beginning on or after January 1, 2024, the Metropolitan Commuter Transportation Mobility Tax ("MCTMT") will continue to be imposed on self-employed individuals engaging in business within the Metropolitan Commuter Transportation District ("MCTD") at the current rate of 0.34 percent for net earnings from self-employment attributable to the MCTD suburban counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

### Summary of Provisions and Statement in Support:

Part Q of chapter 58 of the Laws of 2023 ("Part Q") increased the top rate imposed on net earnings from self-employment to 0.47 percent for tax year 2023 and to 0.60 percent for tax years beginning on or after January 1, 2024. However, the increase was applicable only to the MCTD counties within the city of New York. For the suburban counties, the rate remained 0.34 percent.

Part Q inadvertently repealed the language in statute specific to the suburban counties of the MCTD for tax years beginning on or after January 1, 2024, and removed the designation of subparagraph (A) for the provision that includes the 0.34 percent rate.

The proposed clarification would add back the language specific to the suburban MCTD counties as well as the designation of subparagraph (A).

Budget Implications:

Enactment of this bill is necessary to implement the FY 2024-25 Executive Budget to correct a technical error and preserve Metropolitan Transportation Authority revenues as intended.

Effective Date:

This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2024.

**Part D – Close the Amended Return Loophole for Personal Income and Corporation Franchise Taxes**

Purpose:

This bill would amend provisions within Tax Law Articles 22 and 27 that relate to the filing of petitions with the Division of Tax Appeals to allow the Department of Taxation and Finance (“Department”) to take an action on an amended return filed after a taxpayer has filed a petition challenging a deficiency or refund denial resulting from an original filing or a prior return.

Summary of Provisions and Statement in Support:

This bill would modify the current restrictions in Tax Law §§ 689 and 1089 that prohibit the Department from taking action on an amended return when the taxpayer previously filed a petition with the Division of Tax Appeals for the tax year. Under current law, a petition relating to a particular tax year prevents the Department from taking action (such as issuing a deficiency notice or denying a refund claim) on an amended return for that same tax year. The bill would allow the Department to take such action on other returns filed by the taxpayers for the same taxable year that were not the subject of the petition to the Division of Tax Appeals.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2024-25 Executive Budget because it would increase All Funds revenue by \$20 million annually beginning in FY 2025.

Effective Date:

This bill would take effect immediately and apply to taxable years beginning on or after January 1, 2024.

**Part E – Establish the Commercial Security Tax Credit**

Purpose:

This bill would establish the commercial security tax credit program and allow eligible New York retailers to receive a credit for retail theft prevention expenses.

Summary of Provisions and Statement in Support:

This bill would add a new Executive Law § 845-e and Tax Law § 49 to establish the refundable commercial security tax credit program. The credit would be available to businesses with 100 or fewer total employees that operate physical retail locations open to the public in New York State. Businesses that meet the commercial security tax credit eligibility requirements and apply for the credit by October 31 of the taxable year may be eligible to claim a tax credit equal to \$3,000 for each New York retail location that exceeds \$12,000 in retail theft prevention expenses.

The commercial security tax credit program would be available to taxpayers for taxable years beginning on or after January 1, 2024, and before January 1, 2026. The total amount of credit available under this program would be capped at \$5 million annually for two years and certification would be administered by the Division of Criminal Justice Services.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2025 Executive Budget because it would help businesses offset the costs of needed retail theft prevention measures.

Effective Date:

This bill would take effect immediately.

**Part F – Permanently Extend the Mandatory Electronic Filing and Payment Requirements**

Purpose:

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

Summary of Provisions and Statement in Support:

Tax Law § 29 was added in 2008 and later amended in 2011 to consolidate and improve the administration of the Department of Taxation of Finance's (DTF) various electronic filing and payment mandates on a temporary basis. These provisions have been consistently extended since 2011 and are currently set to expire on December 31, 2024, 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 legacy e-filing statutes.

By making the 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, taxpayers can detect and correct return errors before submitting the return, and they can receive an official acknowledgement when their returns have been received. Moreover, DTF can process e-filed tax returns and electronic payments more efficiently and cost-effectively than paper filings, often resulting in faster refunds and payment postings.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2025 Executive Budget.

Effective Date:

The bill would take effect immediately.

**Part G – Permanently Extend Authorization to Manage Delinquent Sales Tax Vendors**

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 non-compliant vendor may be required to deposit the sales tax it collected into a segregated account, in trust for the State, until otherwise notified.

Part U of Chapter 61 of the Laws of 2011 amended Tax Law § 1137 to authorize the Commissioner to debit segregated accounts, to require a vendor to establish a segregated account for sales tax income, to deposit the sales tax moneys at least weekly,

and to require the vendor to obtain a bond if the vendor failed to comply. Further, Tax Law § 1134 also authorizes 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 are set to expire on December 31, 2024. Since its implementation in 2011, this program has improved vendor compliance and reduced the need to pursue costly collection action 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 non-compliant vendors.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2025 Executive Budget because it preserves the cost savings from the segregated account program.

Effective Date:

This bill would take effect immediately.

**Part H – Provide for the Filing of Amended Sales Tax Returns**

Purpose:

This bill would amend the Tax Law to provide clarity and certainty regarding the filing of amended sales tax returns.

Summary of Provisions and Statement in Support:

The Department of Taxation and Finance ("Department") has historically accepted amended sales tax returns as a courtesy to vendors ("persons required to collect tax"), recognizing that they sometimes make errors that need to be corrected. However, amended sales tax returns are not contemplated in Article 28, so there are no clear rules regarding the process or timeline for filing amended returns for sales tax or the other transaction taxes that incorporate Article 28 administrative procedures (e.g., the wireless communications surcharge, waste tire management fee, vapor products tax).

This bill would amend Tax Law § 1136 to clarify that amended sales tax returns are subject to similar limitations as other tax filings. The bill would generally allow the filing of amended returns that would result in a reduction of tax due so long as the amendments do not affect fixed and final tax liabilities. These amended returns would be treated as claims for a credit or refund and subject to the same time limitations, generally, three years after the return due date or two years after the date payment was made.

The bill would, however, allow a limited period for the filing of amended returns that could affect fixed and final tax liabilities when those tax liabilities were self-assessed on an original return or were estimated because an original return was not filed. A vendor would have up to 180 days after the original filing deadline to amend a return that erroneously overstated the amount due, even though that self-assessed liability may have become fixed and final. Similarly, a vendor that received an estimated notice of determination after failing to file an original return would have 180 days from the mailing of the notice to file the missing original return.

The bill would make clear that the Department has three years to audit amended sales tax returns, which is consistent with the time period for auditing original returns. The bill would further require the Department to notify vendors of the changes made by this bill by September 1, 2024.

Finally, the bill would amend Tax Law § 1145 to impose a \$1,000 penalty for taxpayers who willfully file or amend a return with false information to reduce or eliminate their liabilities. This penalty is intended to discourage bad actors from filing false returns that deprive the State and local governments of trust tax revenue.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2025 Executive Budget because it would increase All Funds revenue by \$3 million in FY 2025 and \$10 million annually thereafter.

Effective Date:

This bill would take effect immediately, provided, however, the amendments made by section one of this act shall apply to returns filed or amended for quarterly periods, as described in subdivision (b) of § 1136 of the Tax Law, commencing on and after December 1, 2024.

**Part I – Extend Certain Sales Tax Exemption Related to the Dodd-Frank Protection Act for Three Years**

Purpose:

This bill would extend for three years the exemption from sales and use tax on certain sales or services transacted between certain financial institutions and their subsidiaries.

Summary of Provisions and Statement in Support:

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act certain financial institutions were required to create subsidiaries and then transfer property or services to those subsidiaries. Certain transactions between these now-separate entities are

currently exempt from sales taxes so long as the transfers are made on or before June 30, 2024, or made on or before June 30, 2027, pursuant to binding contracts entered into on or before June 30, 2024.

This bill would extend this exemption for an additional three years to cover sales made on or before June 30, 2027, or made on or before June 30, 2030, pursuant to binding contracts entered into on or before June 30, 2027.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2025 Executive Budget because it continues to address the unintended consequence of the Dodd-Frank Protection Act and its impact on financial institutions related to the required separation and transfer of property and services between legal entities.

Effective Date:

This bill would take effect immediately.

**Part J – Extend the Sales Tax Vending Machine Exemption for One Year**

Purpose:

This bill would extend the existing sales tax exemption for certain food and drink purchased from a vending machine for one year.

Summary of Provisions and Statement in Support:

Currently, purchases of up to \$1.50 of certain food or drink items from vending machines that accept only coin or currency are exempt from sales tax. Such sales from vending machines that are capable of accepting payment in a form other than coin or currency (“cashless” machines) are exempt if the sale price is \$2.00 or less, regardless of whether that vending machine also accepts coin or currency. This bill would extend the current exemption through May 31, 2025.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2025 Executive Budget because it would continue to incentivize the industry to shift to cashless vending machines that can collect sales tax at the point of sale.

Effective Date:

This act would take effect immediately.

## **Part K – Modernize Tax Law to Include the Vacation Rental Industry**

### Purpose:

This bill would amend the Tax Law to require vacation rental marketplace providers to collect sales tax on vacation rentals that they facilitate.

### Summary of Provisions and Statement in Support:

This bill would update the Tax Law to clarify that sales tax is imposed on vacation rentals, in light of the high prevalence of vacation rentals made through marketplaces in recent years. The bill would also reverse the “bungalow rule,” which excluded from sales tax the rentals of furnished living units (e.g., bungalows, cabins, etc.) without typical hotel amenities. Finally, this bill would include vacation rentals in the imposition of the \$1.50 NYC hotel unit fee.

The Department of Taxation and Finance (“Department”) has long had the authority to impose a tax-collection responsibility on a vendor 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 would build upon that concept by treating entities that facilitate vacation rentals (such as Airbnb, VRBO, etc.) as persons required to collect tax on such sales, thereby requiring them to collect tax, file returns, and remit the tax collected. The bill would define a “vacation rental marketplace provider” as a person who collects the rent and provides the physical or virtual forum where the transaction occurs.

This bill would require vacation rental marketplace providers to collect sales tax on the vacation rentals that they facilitate, thereby easing the tax compliance burden on persons who rent their residences as vacation rentals. This would relieve a person renting properties through vacation rental marketplace providers of any tax collection responsibilities, as long as that person receives, in good faith, a certification from the vacation rental marketplace provider, on a form authorized by the Department, that the vacation rental marketplace provider is collecting the tax on such transactions. A seller of vacation rentals that makes all of its sales through vacation rental marketplace providers who certifies that the providers will collect the tax would have no New York sales tax registration, collection, filing or remittance responsibilities.

Additionally, sales tax collection by the vacation rental marketplace provider would improve tax compliance by reducing the number of small vacation rental providers who handle sales tax payments before they are remitted to the Department. This would also help level the playing field for New York’s hotel operators that compete with vacation rental marketplace providers that do not collect tax on vacation rentals in the state.

This bill would exclude from the definition of “persons required to collect tax” and “person required to collect any tax imposed by this article” persons who rent their own property

for three days or fewer in a calendar year and who do not use a vacation rental marketplace provider to facilitate that rental.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2024-25 Executive Budget because it would increase All Funds revenue by \$8 million in FY 2025 and \$16 million annually thereafter.

Effective Date:

This bill would take effect immediately and apply to rent received or collected by an operator or vacation rental marketplace providers on or after September 1, 2024.

**Part L – Repeal and Replace the Cannabis Potency Tax**

Purpose:

This bill would amend the Tax Law to replace the potency tax on adult-use cannabis (“AUC”) products with a percentage tax on the wholesale price.

Summary of Provisions and Statement in Support:

Under current law, a tax is imposed on AUC products sold or transferred by distributors to retail sellers based on the total THC (potency) indicated on the product label. These tax rates vary based on the type of AUC product sold. This bill would amend Tax Law § 493(a) to replace these potency-based tax rates with a single percentage-based tax rate of 9 percent of the amount charged for the sale or transfer of AUC products by a distributor to a cannabis retailer. This bill would also provide that for retail sales by vertically-integrated microbusinesses and registered organizations, the tax rate of 9 percent would apply to 75 percent of the amount they charge for their sale or transfer of AUC products to a retail customer.

This bill would simplify tax computation and reporting for distributors. It would also adjust for the fact that microbusinesses and registered organizations pay tax on their retail sales based on the amount charged to the retail customer, rather than wholesale price on which other distributors’ taxes are based.

This bill would also change the administrative provisions of this tax from Article 27 of the Tax Law to Article 28 to, among other things, provide accountability by responsible persons for unpaid taxes due in the cannabis industry.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2025 Executive Budget because it promotes and supports the expansion of the legal adult-use cannabis market by

simplifying, streamlining and reducing the tax collection obligations and burden for cultivators, processors, and distributors.

Effective Date:

This bill would take effect immediately, provided, however, that section one of this bill would apply to sales of adult use cannabis products on or after June 1, 2024, and section two of this bill would apply to sales of adult use cannabis products on or after December 1, 2024.

**Part M – Clarify the Telecommunications Assessment Ceiling Program**

Purpose:

This bill would clarify that only property “primarily or exclusively” used in the transmission of radio, television, or cable television signals is excluded from the definition of real property.

Summary of Provisions and Statement in Support:

Under Real Property Tax Law § 102(12)(i)(D), telecommunications property is not taxable if it is “used in the transmission of news or entertainment radio, television or cable television signals for immediate, delayed or ultimate exhibition to the public.” Technically, this is an exclusion from the definition of real property, not an exemption from taxation, but that is largely a distinction without a difference. This provision was enacted in 1987 to promote the development of the cable television industry when it was still fledgling.

Widespread internet access in households and businesses has transformed the way people work, access information, and communicate, thanks to the extensive network provided by various internet service providers. Some of these providers have attempted to escape property taxation on the theory that their property is also “used” to transmit news and entertainment television and radio signals. However they have not found it necessary to quantify the extent to which their property is so used. Judicial and administrative opinions have read the law to mean that the property must be “primarily or exclusively” used for the stated purposes to qualify. However, litigation over this question persists. This proposal would remove any doubt about the scope of this provision and provide certainty going forward.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2025 Executive Budget because it clarifies the statute to close any perceived property tax loophole and to ensure appropriate real property taxation of telecommunication property.

Effective Date:

This bill would take effect immediately.

**Part N – Return Tax Foreclosure Surplus to Property Owner**

Purpose:

This bill would reform the State’s property tax enforcement laws to bring them into compliance with a recent decision of the United States Supreme Court, *Tyler v. Hennepin County, Minnesota*, 598 U.S. 631 (2023), by providing that when tax-delinquent property is sold, any excess proceeds be returned to the former owner or owners, and where appropriate, to lienors.

Summary of Provisions and Statement in Support:

*Tyler v. Hennepin County*, was a United States Supreme Court case decided in May 2023 that ruled on local governments' ability to seize property for unpaid taxes when the value of the property is greater than the tax debt. The Court unanimously held that the surplus value (the amount the property sells for above the value of the tax debt) is protected by the Fifth Amendment's Takings Clause. Effectively, this means that local governments must return surplus funds to homeowners.

In New York, tax foreclosures occur when delinquent taxes are not paid by the redemption date. Localities may then foreclose on the property and sell it at auction. Article 11 of the Real Property Tax Law, which most municipalities follow, has traditionally allowed the municipality to retain any surplus funds resulting from such sales. This practice is no longer tenable in light of the *Tyler* decision.

Beyond the constitutional infirmity, retention of surplus proceeds is problematic as a matter of policy. It inequitably gives a significant windfall to local governments at the expense of needy property owners. It also exacerbates the State’s housing crisis by forcing distressed homeowners out of their homes while depriving them of the equity they would need to obtain comparable replacement housing.

This bill would require any surplus resulting from tax foreclosure sales to be distributed to the former owners and lienors to whom the surplus rightfully belongs. Local governments would still be made whole for the taxes they are owed, as well as interest and related expenses. Any third parties who have liens on the property would also be paid in the same order and to the same extent as they would in a mortgage foreclosure action, with any remaining proceeds from the sale then being returned to the former property owner.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2025 Executive Budget to update the process by which local governments return surplus foreclosure funds to property owners and bring it into compliance with the recent Supreme Court decision on the subject.

Effective Date:

The bill would take effect immediately. Tax districts would have six months from the effective date of the act to pay over any surplus attributable to sales of tax-foreclosed property that occurred between May 25, 2023, and the effective date of the act. For sales prior to May 25, 2023, the tax district would only be liable to pay surplus where an Article 78 proceeding to compel the payment of the surplus had been commenced within four months of the sale.

**Part O – Extend Authorized Use of Capital Funds by a Certain Off-track Betting Corporation for One Year**

Purpose:

This bill would extend for one additional year the authorized non-capital use of capital acquisition funds by the Capital District Regional Off-Track Betting (Capital OTB) Corporation.

Summary of Provisions and Statement in Support:

If certain conditions are met, Capital OTB is authorized to use \$1 million in FY 2025, towards:

- expenditures necessary to accept authorized wagers;
- past due statutory obligations to New York licensed or franchised racing corporations or associations;
- past due contractual obligations due to other racing associations or organizations for the costs of acquiring a simulcast signal;
- past due statutory payment obligations due to the New York State thoroughbred breeding and development fund corporation, agriculture and New York State horse breeding development fund, and the Harry M. Zweig memorial fund for equine research; and
- past due obligations.

Prior to use of the funds, the Corporation must attest that the surcharge monies have been and will continue to be paid to the localities as prescribed in law. Once this is satisfied, the Corporation would be required to submit an expenditure plan to the Gaming Commission and the Commission would make a determination as to whether the requirements of this law have been met. As a condition of the expenditure plan approval,

the Corporation shall provide a report of the use of funds by the end of the year the funds are requested. At such time, the Commission may cause an independent audit to be conducted to ensure that all monies were spent as indicated in the approved plan. If it is determined that the monies were used for non-approved purposes, the corporation shall reimburse the fund for this amount.

In the FY 2024 Enacted Budget, both Capital and Catskill were authorized to use their capital acquisition funds towards non-capital use. Capital OTB used \$1 million of its capital acquisition funds towards non-capital use, while Catskill OTB did not apply. For this reason, only Capital OTB is included.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2025 Executive Budget because it would continue to allow Capital OTB to use a portion of its capital acquisition funds to make necessary payments, provided certain conditions are met.

Effective Date:

This bill would take effect immediately.

**Part P – Extend Pari-Mutuel Tax Rates and Simulcast Provisions for One Year**

Purpose:

This bill would extend for one additional year various provisions of the Racing, Pari-Mutuel Wagering and Breeding Law (PML). This bill is necessary to maintain the current pari-mutuel wagering structure in New York State.

Summary of Provisions and Statement in Support:

This bill would extend various expiring provisions throughout the PML for another year. Extending these provisions would maintain the pari-mutuel wagering and simulcasting structure that is currently in place in New York State. These provisions were extended numerous times since their original enactment, most recently in the FY 2024 Enacted Budget.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2024-25 Executive Budget because it would maintain the current pari-mutuel wagering structure in New York State.

Effective Date:

This bill would take effect immediately.

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.