



NEW YORK STATE SENATOR

Patrick M. Gallivan

## Senator Gallivan Backs Measures to Cut Taxes and Support NY Businesses

JIM RANNEY June 26, 2018

| ISSUE: 2018 AFFORDABILITY AGENDA THAT FOCUSES ON BROAD-BASED TAX RELIEF FOR FAMILIES AND SENIORS



Senator Patrick M. Gallivan (R-C-I, Elma) announces the New York State Senate has passed several bills to promote opportunity and cut taxes for businesses and not-for-profits throughout the state. The measures continue the Senate's efforts to prevent unintended tax increases as a result of the Federal Tax Cuts and Jobs Act of 2017; correct a state law to avoid a tax increase that would be debilitating for not-for-profits; expand the state's corporate

franchise zero percent tax rate to all manufacturers located in the state; and reform small business regulations.

“We must do more to improve New York’s business climate and convince employers to invest in our communities and our workforce,” Senator Gallivan said. “By protecting taxpayers and businesses from federal tax changes, we can ease the burden taxpayers face and help ensure New York is more competitive and business friendly.”

The measures build on the Senate Majority’s Jobs and Opportunity Agenda that focuses on making the state less costly and more attractive for hardworking New Yorkers. When combined together, the Blueprint’s Affordability, Opportunity, and Security Agendas comprise a powerful and comprehensive plan to give all New Yorkers the opportunity to succeed.

#### Protecting New York Businesses from Federal Tax Changes:

In response to the Federal Tax Cuts and Jobs Act of 2017, the Senate passed several pieces of legislation to protect New York businesses, corporations, and not-for-profits from unintended tax increases. These measures maintain the tax treatment of these entities that was in effect prior to last year’s major federal tax overhaul. These bills are consistent with actions taken throughout the Legislative session and during the passage of the 2019 Enacted Budget to prevent the state from receiving windfalls because of the Federal tax changes, which were first proposed by the Senate. Legislation includes:

S.9020 - Prevents an unintended state corporate tax increase on financial institutions because of the loss of Federal Deposit Insurance Corporation (FDIC) premium deductions. This bill maintains treatment of FDIC premiums by allowing New York taxpayers to

continue to deduct.

S.8831 – This bill has already passed the Assembly and corrects an unintended new tax on not-for-profits. A recent change made in the Federal Internal Revenue Code provides for an unrelated business tax (UBIT) on any amount a not-for-profit employer has paid for commuter benefits such as mass transit or parking fees. Current state law imposes a state tax of 9 percent on UBIT whenever federal law does. As a result, without this important legislation, New York will automatically impose an additional 9 percent tax on all not-for-profits, which would divert millions of dollars away from the not-for-profit sector each year. This bill excludes payments for transportation costs to ensure that not-for-profits can continue to perform their mission and serve New Yorkers across the state.

S.8991A -Prevents an unintentional tax increase on the financial services industry – one of New York’s largest industries. Under the new federal tax law, a change was made in an effort to repatriate foreign held intangible assets such as patents, copyrights, and trademarks. However, a technical change led to other types of intangible income such as financial transactions to be included, which eliminated the state exemption for foreign financial transactions. This bill preserves the state’s treatment of controlled foreign corporation (CFC) income that has been in place for decades.

S.9052 - Prevents an unintentional tax increase on partnerships. Under the new federal tax law, changes were made to tax earnings of foreign companies that are owned, either directly or indirectly, by U.S. taxpayers. The creation of a transition tax to repatriate those funds has a negative impact on partners, especially in large accounting firms, because it would subject their share of the partnership to state taxation prior to receiving the income. This bill decouples partnerships from the federal transition tax and preserves the state’s treatment of

partnerships by ensuring that income will not be subject to state taxation until the partner receives it.

S.9030A - Prevents an unintended new tax of businesses because of the loss of deductions of business interest expenses. Under the new federal tax law, deductions were capped at 30 percent of business interest expenses in exchange for a five-year period where businesses could expense capital investments. While New York is already decoupled from federal bonus depreciation, this legislation ensures that New York's businesses are not subject to a higher state tax liability because of the interest deduction cap.

#### Other Measures to Improve the Business Environment of New York:

S.7561A – Co-sponsored by Senator Gallivan, the bill extends the corporate franchise zero percent tax rate to all manufacturers located in the state. When zero percent corporate franchise tax rate was first introduced in 2014, it only applied to manufacturers organized as C corporations, about 25 percent of all manufacturers. This left the remaining manufacturers to pay the higher rate and put them at a competitive disadvantage with manufacturers in states with no income tax. New York is currently ranked 49<sup>th</sup> as a manufacturing friendly state, but this new legislation could boost it to one of the top-ranked states in the nation and attract new manufacturers to invest in the state's workforce. According to a recent study by the Beacon Hill Institute, an extension of the zero percent tax rate to all manufacturers, regardless of structure, would result in an increase in private sector jobs and a boost in economic activity and local tax collection to offset the loss of revenue to the state.

S.3557 - Helps create or retain jobs during times of hardship by allowing small businesses to contribute to a tax-deferred savings account. Contributions to the account could be

withdrawn tax-free during times of specified economic hardship, for the purpose of job retention or creation, or times where the Governor deems it a natural disaster to warrant assistance from the federal government.

S.4120B – Co-sponsored by Senator Gallivan, this bill has already passed the Assembly. It gives first-time offenders of state small business regulations a reprieve from paying fines to help foster a productive relationship between the state and business owners. The measure would prevent the state from fining a small business for a first violation of regulations, unless the agency determines that the violation directly affects public health or safety. The agency then would provide literature or an in-person meeting to inform such small business of its regulations to improve compliance.

S.6916 – This bill has already passed the Assembly and amends the State Administrative Procedure Act to increase the revised rule public comment period from 30 days to 45 days. This will give businesses, other interested parties and the public more time to review substantial changes to regulations that are proposed by state agencies and provide input when necessary.

The bills will be sent to the Assembly, with the exception of S4120B, S8831, and S6916, which have passed the Assembly and will be sent to the Governor for review.

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## 2017-S9020

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- Introduced
- - In Committee Assembly
  - In Committee Senate
- - On Floor Calendar Assembly
  - On Floor Calendar Senate
- - Passed Assembly
  - Passed Senate
- Delivered to Governor
- Signed By Governor
- 

Makes provisions regarding payment by utility customers to authorized payment agents

June 14, 2018

In Senate Committee [Rules](#)

Sponsored by [Leroy Comrie](#)

Do you support this bill?

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## 2017-S8831

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- Introduced
  
  - - In Committee Assembly
    - In Committee Senate
  
  - - On Floor Calendar Assembly
    - On Floor Calendar Senate
  
  - - Passed Assembly
    - Passed Senate
  
  - Delivered to Governor
  
  - Signed By Governor
  
  -

Relates to unrelated business taxable income of a taxpayer

May 23, 2018

Senate Floor Calendar

Sponsored by [Michael H. Ranzenhofer](#)

Do you support this bill?

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**2017-S8991A**

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- Introduced
  - ◦ In Committee Assembly
    - In Committee Senate
  - ◦ On Floor Calendar Assembly
    - On Floor Calendar Senate
  - ◦ Passed Assembly
    - Passed Senate
  - Delivered to Governor
  - Signed By Governor
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Relates to the definitions of the terms CFC income and entire net income

June 11, 2018

In Assembly Committee

Sponsored by [John J. Flanagan](#)

Do you support this bill?

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## 2017-S9052

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- Introduced



- ○ In Committee Assembly
  - In Committee Senate
- ○ On Floor Calendar Assembly
  - On Floor Calendar Senate
- ○ Passed Assembly
  - Passed Senate
- Delivered to Governor
- Signed By Governor
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Relates to decoupling from federal transition tax for partnerships

June 15, 2018

In Assembly Committee

Sponsored by [John J. Flanagan](#)

Do you support this bill?

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## 2017-S9030A

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- Introduced

- ○ In Committee Assembly
  - In Committee Senate
- ○ On Floor Calendar Assembly
  - On Floor Calendar Senate
- ○ Passed Assembly
  - Passed Senate
- Delivered to Governor
- Signed By Governor
- 

Relates to additional exclusions for entire net income

June 14, 2018

In Assembly Committee

Sponsored by **Thomas F. O'Mara**

Do you support this bill?

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## 2017-S7561A

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- Introduced

- ○ In Committee Assembly
  - In Committee Senate
- ○ On Floor Calendar Assembly
  - On Floor Calendar Senate
- ○ Passed Assembly
  - Passed Senate
- Delivered to Governor
- Signed By Governor
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Relates to tax credits for qualified pass-through manufacturers

January 25, 2018

In Assembly Committee

Sponsored by **Thomas F. O'Mara**

Do you support this bill?

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## 2017-S3557

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- Introduced

- ○ In Committee Assembly
  - In Committee Senate
- ○ On Floor Calendar Assembly
  - On Floor Calendar Senate
- ○ Passed Assembly
  - Passed Senate
- Delivered to Governor
- Signed By Governor
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Relates to small business savings accounts

January 24, 2017

In Assembly Committee

Sponsored by [Phil Boyle](#)

Do you support this bill?

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## 2017-S4120B

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- Introduced

- ○ In Committee Assembly
  - In Committee Senate
- ○ On Floor Calendar Assembly
  - On Floor Calendar Senate
- ○ Passed Assembly
  - Passed Senate
- Vetoed By Governor
- Signed By Governor
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Relates to regulatory fines for small businesses

February 03, 2017

Senate Floor Calendar

Sponsored by [Fred Akshar](#)

Do you support this bill?

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## 2017-S6916

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- Introduced

- ○ In Committee Assembly
  - In Committee Senate
  
- ○ On Floor Calendar Assembly
  - On Floor Calendar Senate
  
- ○ Passed Assembly
  - Passed Senate
  
- Delivered to Governor
  
- Signed By Governor
  
- 

Relates to increasing the revised rule public comment period from thirty days to forty-five days

October 13, 2017

Senate Floor Calendar

Sponsored by **Chris Jacobs**

Do you support this bill?