S T A T E O F N E W Y O R K

S. 57--B A. 157--B

S E N A T E - A S S E M B L Y

(PREFILED)

January 7, 2009

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to contracts for excellence, reporting requirements, electronic format materials, reimbursement of school districts, calculation of foundation aid base, foundation amount and local contribution, apportionment of school aid and of current year approved expenditures for debt service, deficit reduction assessment, building aid, Medicaid reimbursement, grants, maximum class size; to amend chapter 756 of the laws of 1992 relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to apportionment and reimbursement; to amend chapter 169 of the laws of 1994 relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets, chapter 82 of the laws of 1995, amending the education law and certain other laws relating to state aid to school districts and the appropriation of funds for the support of government, chapter 472 of the laws of 1998 amending the education law relating to the lease of school buses by school districts, in relation to school aid and extending the expiration of certain provisions of such chapters; to amend chapter 57 of the laws of 2008 amending the education law and other laws relating to special apportionment for salary expenses, in relation to education apportionment; in relation to school bus driver training; in relation to the support of public libraries; to provide special apportionment for salary expenses; to provide special apportionment for public

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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pension expenses; in relation to suballocation of certain education department accruals; to amend chapter 57 of the laws of 2004, amending the labor law and other laws relating to implementation of the state fiscal plan for the 2004-2005 state fiscal year, in relation to extending certain provisions of such chapter; to amend the general municipal law, in relation to withdrawal of funds and examination of reserve funds; to amend the education law, in relation to federal subsidy payments that reduce the actual interest costs incurred by the issuer and providing for the repeal of certain provisions upon expiration thereof (Part A); Intentionally omitted (Part B); Intentionally omitted (Part C); Intentionally omitted (Part D); Intentionally omitted (Part E); to amend the education law, in relation to expanding the definition of income in tuition assistance program awards determinations (Part F); Intentionally omitted (Part G); Intentionally omitted (Part H); Intentionally omitted (Part I); to amend the education law and the state finance law, in relation to the establishment of a program to provide loans to students to finance the costs of post-secondary education; to amend the public authorities law, in relation to the issuance of bonds in connection therewith; to repeal sections 682, 683 and 684 of the education law relating thereto; and to repeal section 2405-a of the public authorities law relating to loans to students (Part J); Intentionally omitted (Part K); Intentionally omitted (Part L); to amend the tax law and the administrative code of the city of New York, in relation to reducing the state school tax credit on city personal income taxes; to repeal section 1306-b of the real property tax law and section 178 of the tax law relating to the Middle Class STAR rebate program; and to repeal section 171-q of the tax law relating to offsets taken from the basic STAR rebate amounts (Part M); Intentionally omitted (Part N); to amend the emergency tenant protection act of nineteen seventy-four, in relation to offices of the division of housing and community renewal (Part O); Intentionally omitted (Part P); to amend section 28 of part C of chapter 83 of the laws of 2002 amending the executive law and other laws relating to funding for children and family services, in relation to the extension of provisions on funding of child welfare services (Part Q); to amend chapter 81 of the laws of 1995 amending the vehicle and traffic law and other laws relating to the enforcement of support through the suspension of driving privileges, in relation to the effectiveness of such provisions (Part R); Intentionally omitted (Part S); Intentionally omitted (Part T); to amend the social services law, in relation to increasing the standards of monthly need for aged, blind and disabled persons (Part U); to amend the social services law and the tax law, in relation to wage reporting for purposes of determining eligibility for foster children (Part V); relating to the closing and downsizing of certain facilities to align their capacity with their facility and service needs, and providing for the repeal of such provisions (Part W); Intentionally omitted (Part X); to amend the social services law, in relation to amounts of public assistance (Part Y); to amend chapter 62 of the laws of 2003 amending the state finance law and other laws relating to authorizing and directing the state comptroller to loan money to certain funds and accounts, in relation to extending the statutory authorization and the rules governing contributions to the unemployment insurance interest assessment surcharge fund (Part Z); to amend the executive law, in relation to providing for assessment of civil fines and penalties in appropriate cases (Part AA); to amend the labor law, in relation to increasing

boiler inspection fees and asbestos licensing, certification and notification fees (Part BB); to amend the labor law, in relation to explosives; to amend the labor law and the general business law, in relation to misdemeanor penalties; and to amend the penal law, in relation to permits for fireworks displays (Part CC); to amend the general business law, in relation to establishing civil penalties for uncertified crane operation (Part DD); to amend the education law, in relation to establishing a memorial award for children and financial dependents of those deceased as a result of Continental Airlines Flight 3407 (Part EE); to amend the private housing finance law, in relation to the removal of funding limitations (Part FF); to amend the education law, in relation to the financing of the city university of New York; and to amend the education law, in relation to the powers and duties of trustees of the state university of New York (Part GG); to amend the education law, in relation to the capital costs of Medgar Evers college; and to repeal paragraph (ii) of subdivision E of section 6221 of such law relating thereto (Part HH); to amend chapter 420 of the laws of 2002 amending the education law relating to the profession of social work; and to amend chapter 676 of the laws of 2002 amending the education law relating to defining the practice of psychology, in relation to the professions of social work and mental health practitioners (Part II); relating to the continuation of the demonstration project established pursuant to part G of chapter 58 of the laws of 2006; and providing for the repeal of such provisions upon expiration thereof (Part JJ); requiring reporting and performance data for expenditures made to local social services districts for the flexible fund for family services (Part KK); to amend the tax law and the administrative code of the city of New York, in relation to the definition of presence in New York in determining a taxpayer's New York residency status (Part A-1); to amend the tax law, in relation to changing the tax classification of health maintenance organizations (Part B-1); to amend the tax law, in relation to limiting various underutilized tax credits (Part C-1); to amend the tax law, in relation to collection and offset agreements with the United States or other states (Part D-1); to amend the tax law, in relation to the treatment of overcapitalized captive insurance companies (Part E-1); to amend the tax law, in relation to requiring nonresidents to include as a source of income the gain or loss from the sale of a partnership, limited liability corporation, S corporation or a non-publicly traded C corporation with one hundred or fewer shareholders to the extent that the gain or loss includes gain or loss from real property located in New York (Part F-1); to amend the tax law, in relation to changing the percentage used to complete the mandatory first installment of franchise tax and the metropolitan commuter transportation district business tax surcharge under articles 9, 9-A, 32 and 33 (Part G-1); to amend the tax law, in relation to adding filing fees for partnerships (Part H-1); to amend the tax law, in relation to the tax on tobacco products (Part I-1); to amend the public housing law and the tax law, in relation to providing a credit against income tax for persons or entities investing in low-income housing (Part J-1); to amend the tax law, in relation to reauthorizing the commissioner of taxation and finance to require the use of decals in certain instances (Part K-1); 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 to amend chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part L-1); to amend the tax law, in relation to changing the rate of the prepaid sales tax on cigarettes (Part M-1); to amend the tax law, in relation to curtailing certain abusive sales and use tax avoidance schemes by narrowing the use tax non-resident exemption for certain items of tangible personal property and the sales tax exemption for commercial aircraft (Part N-1); to amend the tax law, in relation to making technical corrections regarding the operation of video lottery gaming and approving the construction or alteration of any facility housing video lottery gaming (Part O-1); to amend the tax law, in relation to expanding the definition of vendor for purposes of the sales and compensating use taxes (Part P-1); to amend the tax law, in relation to participation in more than one joint, multi-jurisdiction and out-of-state lottery (Part Q-1); to amend the tax law, in relation to the special tax on passenger car rentals under article 28-A of such law (Part R-1); to amend the general municipal law and the tax law, in relation to enacting reforms to the empire zones program; and to repeal certain provisions of such laws relating thereto (Part S-1); to amend the tax law, in relation to the fees for replacement highway use tax credentials (Part T-1); to amend the tax law, in relation to imposing state and local sales taxes on certain transportation services (Part U-1); to amend the tax law, in relation to imposing a penalty for failure to keep mandatory records, to provide records in auditable format or to provide access to mandatory records maintained electronically (Subpart A); to amend the tax law, in relation to the failure of a responsible person to collect and pay over withholding tax (Subpart B); to amend the tax law, in relation to providing expedited hearings relating to cancellations, revocations, or suspensions of certain credentials and to penalties imposed on persons who aid or assist in the filing of fraudulent tax documents (Subpart C); to amend the tax law, the environmental conservation law, the insurance law, the lien law, the mental hygiene law, the public health law, the social services law, the state finance law and the administrative code of the city of New York, in relation to decreasing the overpayment and increasing the underpayment rates of interest, changing the overpayment interest accrual date for sales and compensating use taxes and providing for an interest-free period for refunds or credits of sales and compensating use taxes (Subpart D); to amend the tax law, in relation to changing the last quarterly withholding filing date for employers (Subpart E); to amend the county law, in relation to authorizing district attorneys to appoint attorneys employed by the department of taxation and finance as special assistant district attorneys in tax cases (Subpart F); to amend the tax law, in relation to the annual information return providing the information about transactions with vendors (Subpart G); to amend the tax law, in relation to clarifying some technical aspects of the voluntary disclosure and compliance program (Subpart H); to amend the criminal procedure law, the penal law and the tax law, in relation to creating the offense of "tax fraud act"; to amend the tax law, in relation to simplifying and consolidating the provisions

describing the acts that constitute offenses under such law; and to repeal certain provisions of the tax law relating thereto (Subpart I); to amend the tax law, in relation to changing the last quarterly withholding filing date for employers; and to repeal certain provisions of such law relating thereto and to amend chapter 61 of the laws of 2005 amending the tax law relating to certain transactions and related information, in relation to the effectiveness thereof (Subpart J) (Part V-1); to amend the tax law and the administrative code of the city of New York, in relation to limiting itemized deductions for certain taxpayers and determining the amount of estimated tax installments to be paid (Part W-1); to amend the tax law, in relation to taxes on beer and wine under article 18 of the tax law (Part X-1); to amend the tax law, in relation to the allocation of film production credits and requires annual refundable tax credit reporting; to amend chapter 60 of the laws of 2004, amending the tax law relating to the empire state film production credit, in relation to aggregate amounts of tax credits; and relating to quarterly reporting by the office of motion picture and television development (Part Y-1); and to amend the tax law, in relation to the personal income tax rates and benefit recapture (Part Z-1)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2009-2010 state fiscal year. Each component is wholly contained within a Part identified as Parts A through Z-1. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Intentionally omitted.

S 2. Paragraph c of subdivision 1 of section 211-d of the education law, as added by section 2 of part A of chapter 57 of the laws of 2008, is amended to read as follows:

c. In a city school district located in a city of one million or more inhabitants, a contract for excellence shall be prepared for the city school district and each community district that meets [the above] criteria SPECIFIED IN THIS SUBDIVISION.

S 2-a. Subdivision 1 of section 211-d of the education law is amended by adding a new paragraph e to read as follows:

E. NOTWITHSTANDING PARAGRAPHS A AND B OF THIS SUBDIVISION, A SCHOOL DISTRICT THAT SUBMITTED A CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR SHALL SUBMIT A CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR IN CONFORMITY WITH THE REQUIREMENTS OF SUBPARAGRAPH (VI) OF PARAGRAPH A OF SUBDIVISION TWO OF THIS SECTION UNLESS ALL SCHOOLS IN THE DISTRICT ARE IDENTIFIED AS IN GOOD STANDING.

S 3. Paragraph a of subdivision 2 of section 211-d of the education law is amended by adding a new subparagraph (vii) to read as follows:

(VII) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, A SCHOOL DISTRICT THAT SUBMITTED A CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND SEVEN--TWO THOUSAND EIGHT SCHOOL YEAR AND THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR AND IS REQUIRED TO SUBMIT A CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR BUT DID NOT FULLY EXPEND ALL OF ITS TWO THOUSAND SEVEN--TWO THOUSAND EIGHT FOUNDATION AID SUBJECT TO THE CONTRACT FOR EXCELLENCE RESTRICTIONS DURING THE TWO THOUSAND SEVEN--TWO THOUSAND EIGHT SCHOOL YEAR MAY RE-ALLOCATE AND EXPEND SUCH UNEXPENDED FUNDS DURING THE TWO THOUSAND EIGHT--TWO THOUSAND NINE AND TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEARS FOR ALLOWABLE CONTRACT FOR EXCELLENCE PROGRAMS AND ACTIVITIES AS DEFINED IN SUBDIVISION THREE OF THIS SECTION IN A MANNER PRESCRIBED BY THE COMMISSIONER. FOR PURPOSES OF DETERMINING MAINTENANCE OF EFFORT PURSUANT TO SUBPARAGRAPH (VI) OF THIS PARAGRAPH FOR THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR, FUNDS EXPENDED PURSUANT TO THIS SUBPARAGRAPH SHALL BE INCLUDED IN THE TOTAL BUDGETED AMOUNT APPROVED BY THE COMMISSIONER IN THE DISTRICT'S CONTRACT FOR EXCELLENCE FOR THE TWO THOUSAND SEVEN--TWO THOUSAND EIGHT SCHOOL YEAR; PROVIDED THAT SUCH AMOUNT SHALL NOT BE COUNTED MORE THAN ONCE IN DETERMINING MAINTENANCE OF EFFORT FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR OR THEREAFTER.

S 3-a. Paragraph b of subdivision 2 of section 211-d of the education law is amended by adding a new subparagraph (iii) to read as follows:

(III) A CITY SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE INHABITANTS SHALL PREPARE A REPORT TO THE COMMISSIONER ON THE STATUS OF THE IMPLEMENTATION OF ITS PLAN TO REDUCE AVERAGE CLASS SIZES PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH. SUCH REPORT SHALL IDENTIFY ALL SCHOOLS THAT RECEIVED FUNDS TARGETED AT CLASS SIZE REDUCTION EFFORTS PURSUANT TO THE REQUIREMENTS OF THIS SECTION AND PROVIDE THE FOLLOWING INFORMATION REGARDING SUCH SCHOOLS:

(A) THE AMOUNT OF CONTRACT FOR EXCELLENCE FUNDS RECEIVED BY EACH SCHOOL AND THE SCHOOL YEAR IN WHICH IT RECEIVED SUCH FUNDS;

(B) A DETAILED DESCRIPTION OF HOW CONTRACT FOR EXCELLENCE FUNDS CONTRIBUTED TO ACHIEVING CLASS SIZE REDUCTION IN EACH SCHOOL THAT RECEIVED SUCH FUNDING INCLUDING SPECIFIC INFORMATION ON THE NUMBER OF CLASSROOMS IN EACH SCHOOL THAT EXISTED PRIOR TO RECEIVING CONTRACT FOR EXCELLENCE FUNDS AND THE NUMBER OF NEW CLASSROOMS THAT WERE CREATED IN EACH SCHOOL FOR EACH YEAR SUCH FUNDING WAS RECEIVED, THE NUMBER OF CLASSROOM TEACHERS THAT EXISTED IN EACH SCHOOL PRIOR TO RECEIVING CONTRACT FOR EXCELLENCE FUNDS AND THE NUMBER OF NEW CLASSROOM TEACHERS IN EACH SCHOOL FOR EACH YEAR SUCH FUNDING WAS RECEIVED, THE STUDENT TO TEACHER RATIO IN EACH SCHOOL PRIOR TO RECEIVING CONTRACT FOR EXCELLENCE FUNDS AND THE STUDENT TO TEACHER RATIO IN EACH SCHOOL FOR EACH YEAR SUCH FUNDING WAS RECEIVED;

(C) THE ACTUAL STUDENT ENROLLMENT FOR THE TWO THOUSAND SIX--TWO THOUSAND SEVEN SCHOOL YEAR, THE ACTUAL STUDENT ENROLLMENT FOR THE TWO THOUSAND SEVEN--TWO THOUSAND EIGHT SCHOOL YEAR, THE ACTUAL STUDENT ENROLLMENT FOR THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR, AND THE PROJECTED STUDENT ENROLLMENT FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR FOR EACH SCHOOL BY GRADE LEVEL;

(D) THE ACTUAL AVERAGE CLASS SIZES FOR THE TWO THOUSAND SIX--TWO THOUSAND SEVEN SCHOOL YEAR, THE ACTUAL AVERAGE CLASS SIZES FOR THE TWO THOUSAND SEVEN--TWO THOUSAND EIGHT SCHOOL YEAR, THE ACTUAL AVERAGE CLASS SIZES FOR THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR, AND THE

PROJECTED AVERAGE CLASS SIZES FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR FOR EACH SCHOOL BY GRADE LEVEL; AND

(E) THE SCHOOLS THAT HAVE MADE INSUFFICIENT PROGRESS TOWARD ACHIEVING THE CLASS SIZE REDUCTION GOALS OUTLINED IN THE APPROVED FIVE YEAR CLASS SIZE REDUCTION PLAN PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH AND A DETAILED DESCRIPTION OF THE ACTIONS THAT WILL BE TAKEN TO REDUCE CLASS SIZES IN SUCH SCHOOLS.

SUCH REPORT SHALL BE SUBMITTED TO THE COMMISSIONER ON OR BEFORE NOVEMBER SEVENTEENTH, TWO THOUSAND NINE AND SHALL BE MADE AVAILABLE TO THE PUBLIC BY SUCH DATE.

S 4. Subdivision 1 of section 273-a of the education law, as amended by section 4 of part B of chapter 57 of the laws of 2007, is amended to read as follows:

1. State aid shall be provided for up to fifty percent of the total project approved costs, excluding feasibility studies, plans or similar activities, for projects for the acquisition, construction, renovation or rehabilitation, including leasehold improvements, of buildings of public libraries and library systems chartered by the regents of the state of New York or established by act of the legislature subject to the limitations provided in subdivision four of this section and upon approval by the commissioner. [For purposes of this subdivision, an amount of eight hundred thousand dollars shall be available for each calendar year] PROVIDED HOWEVER THAT THE STATE LIABILITY FOR AID PAID PURSUANT TO THIS SECTION SHALL BE LIMITED TO FUNDS APPROPRIATED FOR SUCH PURPOSE. Aid shall be provided on approved expenses incurred during the period commencing July first and ending June thirtieth for up to three years, or until the project is completed, whichever occurs first. Fifty percent of such aid shall be payable to each system or library upon approval of the application. Forty percent of such aid shall be payable in the next state fiscal year. The remaining ten percent shall be payable upon project completion.

S 4-a. Subdivision 12 of section 273 of the education law, as amended by section 1 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

12. The commissioner is hereby authorized to expend in state fiscal year two thousand six--two thousand seven three million dollars and in state fiscal year two thousand seven--two thousand eight eight million dollars and in state fiscal year two thousand eight--two thousand nine seven million nine hundred forty thousand dollars AND IN STATE FISCAL YEAR TWO THOUSAND NINE--TWO THOUSAND TEN EIGHT MILLION DOLLARS SUBJECT TO AN APPROPRIATION for formula grants to public library systems, reference and research library resources systems, and school library systems operating under an approved plan of service. Such formula grants shall be provided for the period commencing July first and ending on June thirtieth next following. Such formula grants will be distributed in the following manner:

a. Each public library system established pursuant to sections two hundred fifty-five and two hundred seventy-two of this part and operating under a plan approved by the commissioner is entitled to receive [fifteen thousand dollars and an amount equal to four percent of the amount of state aid received by such system in two thousand six--two thousand seven and thirty-nine thousand dollars and an amount equal to ten and ninety-four hundredths percent of the amount of state aid received by such system in two thousand seven--two thousand eight and thirty-eight thousand seven hundred eight dollars and an amount equal to ten and ninety-four hundredths percent of the amount of state aid

received by such system in two thousand eight--two thousand nine under paragraphs a, c, d, e and n of subdivision one of this section] THIRTY-NINE THOUSAND DOLLARS AND AN AMOUNT EQUAL TO TEN AND NINETY-FOUR HUNDREDTHS PERCENT OF THE AMOUNT OF STATE AID RECEIVED FOR THE CURRENT YEAR BY SUCH SYSTEM UNDER PARAGRAPHS A, C, D, E AND N OF SUBDIVISION ONE OF THIS SECTION FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN STATE FISCAL YEAR;

b. Each reference and research library resources system established pursuant to section two hundred seventy-two of this part and operating under a plan approved by the commissioner is entitled to receive [fifteen thousand dollars and an amount equal to four percent of the amount of state aid received by such system in two thousand six--two thousand seven and thirty-nine thousand dollars and an amount equal to ten and ninety-four hundredths percent of the amount of state aid received by such system in two thousand seven--two thousand eight and thirty-eight thousand seven hundred eight dollars and an amount equal to ten and ninety-four hundredths percent of the amount of state aid received by such system in two thousand eight--two thousand nine under paragraph a of subdivision four of this section] THIRTY-NINE THOUSAND DOLLARS AND AN AMOUNT EQUAL TO TEN AND NINETY-FOUR HUNDREDTHS PERCENT OF THE AMOUNT OF STATE AID RECEIVED FOR THE CURRENT YEAR UNDER PARAGRAPH A OF SUBDIVISION FOUR OF THIS SECTION FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN STATE FISCAL YEAR; and

c. Each school library system established pursuant to section two hundred eighty-two of this part and operating under a plan approved by the commissioner is entitled to receive [fifteen thousand dollars and an amount equal to a four percent increase over the amount of state aid received by such system in two thousand six--two thousand seven and thirty-nine thousand dollars and an amount equal to ten and ninety-four hundredths percent of the amount of state aid received by such system in two thousand seven--two thousand eight and thirty-eight thousand seven hundred eight dollars and an amount equal to ten and ninety-four hundredths percent of the amount of state aid received by such system in two thousand eight--two thousand nine under paragraphs a, b, c, d, e and f of subdivision one of section two hundred eighty-four of this part] THIRTY-NINE THOUSAND DOLLARS AND AN AMOUNT EQUAL TO TEN AND NINETY-FOUR HUNDREDTHS PERCENT OF THE AMOUNT OF STATE AID RECEIVED FOR THE CURRENT YEAR BY SUCH SYSTEM UNDER PARAGRAPHS A, B, C, D, E AND F OF SUBDIVISION ONE OF SECTION TWO HUNDRED EIGHTY-FOUR OF THIS PART FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN STATE FISCAL YEAR.

S 5. Intentionally omitted.

S 6. Subdivision 2 of section 751 of the education law, as added by chapter 53 of the laws of 1984, is amended to read as follows:

2. A software program, for the purposes of this article shall mean (A) a computer program which a pupil is required to use as a learning aid in a particular class in the school the pupil legally attends, OR (B) FOR EXPENSES INCURRED AFTER JULY FIRST, TWO THOUSAND NINE, ANY CONTENT-BASED INSTRUCTIONAL MATERIALS IN AN ELECTRONIC FORMAT THAT ARE ALIGNED WITH STATE STANDARDS WHICH ARE ACCESSED OR DELIVERED THROUGH THE INTERNET BASED ON A SUBSCRIPTION MODEL. SUCH ELECTRONIC FORMAT MATERIALS MAY INCLUDE A VARIETY OF MEDIA ASSETS AND LEARNING TOOLS, INCLUDING VIDEO, AUDIO, IMAGES, TEACHER GUIDES, AND STUDENT ACCESS CAPABILITIES AS SUCH TERMS ARE DEFINED IN THE REGULATIONS OF THE COMMISSIONER.

S 7. Intentionally omitted.

S 8. Intentionally omitted.

S 9. Intentionally omitted.

S 10. Subparagraph 4 of paragraph d of subdivision 5 of section 3202 of the education law, as amended by section 3 of part A-1 of chapter 58 of the laws of 2006, is amended to read as follows:

(4) The education department shall reimburse the school district in which such intermediate care facility is located for the full cost of all [nonfederally reimbursable] services, which shall, notwithstanding any inconsistent provision of law, include transportation services provided pursuant to a contract authorized by this paragraph. PROVIDED, HOWEVER, THAT NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, THAT NO REIMBURSEMENT SHALL BE PAYABLE PURSUANT TO THIS SUBPARAGRAPH FOR DUE PROCESS COSTS INCURRED ON OR AFTER JULY FIRST, TWO THOUSAND NINE. Such reimbursement shall be for the period from September first through June thirtieth, and state reimbursement for July and August programs shall be in accordance with subdivision one of section forty-four hundred eight of this chapter. The provisions of subdivision two of such section forty-four hundred eight shall apply to all July and August programs provided pursuant to this section.

S 11. Intentionally omitted.

S 12. Paragraph (a) of subdivision 1 of section 2856 of the education law, as amended by chapter 378 of the laws of 2007, is amended to read as follows:

(a) The enrollment of students attending charter schools shall be included in the enrollment, attendance, membership and, if applicable, count of students with disabilities of the school district in which the pupil resides. The charter school shall report all such data to the school districts of residence in a timely manner. Each school district shall report such enrollment, attendance and count of students with disabilities to the department. The school district of residence shall pay directly to the charter school for each student enrolled in the charter school who resides in the school district the charter school basic tuition, which shall be an amount equal to one hundred percent of the amount calculated pursuant to paragraph f of subdivision one of section thirty-six hundred two of this chapter for the school district for the year prior to the base year increased by the percentage change in the state total approved operating expense calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter from two years prior to the base year to the base year; PROVIDED, HOWEVER, THAT FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR, THE CHARTER SCHOOL BASIC TUITION SHALL BE THE AMOUNT PAYABLE BY SUCH DISTRICT AS CHARTER SCHOOL BASIC TUITION FOR THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR.

S 13. The opening paragraph, subparagraph 1 of paragraph a and paragraphs b and b-1 of subdivision 4 of section 3602 of the education law, as amended by section 14 of part B of chapter 57 of the laws of 2008, are amended to read as follows:

In addition to any other apportionment pursuant to this chapter, a school district, other than a special act school district as defined in subdivision eight of section four thousand one of this chapter, shall be eligible for total foundation aid equal to the product of total aidable foundation pupil units multiplied by the district's selected foundation aid, which shall be the greater of five hundred dollars ($500) or foundation formula aid, provided, however that for the two thousand seven--two thousand eight through [two thousand nine--two thousand ten] TWO THOUSAND EIGHT--TWO THOUSAND NINE AND TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE THROUGH TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN school years, no school district shall receive total foundation aid in excess of the

sum of the total foundation aid base for aid payable in the two thousand seven--two thousand eight school year computed pursuant to subparagraph (i) of paragraph j of subdivision one of this section, plus the phase-in foundation increase computed pursuant to paragraph b of this subdivision, and provided further that total foundation aid shall not be less than the product of the total foundation aid base computed pursuant to paragraph j of subdivision one of this section and one hundred three percent, nor more than the product of such total foundation aid base and one hundred fifteen percent, AND PROVIDED FURTHER THAT FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN AND TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEARS, EACH SCHOOL DISTRICT SHALL RECEIVE TOTAL FOUNDATION AID IN AN AMOUNT EQUAL TO THE AMOUNT APPORTIONED TO SUCH SCHOOL DISTRICT FOR THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR PURSUANT TO THIS SUBDIVISION. Total aidable foundation pupil units shall be calculated pursuant to paragraph g of subdivision two of this section. For the purposes of calculating aid pursuant to this subdivision, aid for the city school district of the city of New York shall be calculated on a citywide basis.

(1) The foundation amount shall reflect the average per pupil cost of general education instruction in successful school districts, as determined by a statistical analysis of the costs of special education and general education in successful school districts, provided that the foundation amount shall be adjusted annually to reflect the percentage increase in the consumer price index as computed pursuant to section two thousand twenty-two of this chapter, provided that for the two thousand eight--two thousand nine school year, for the purpose of such adjustment, the percentage increase in the consumer price index shall be deemed to be two and nine-tenths percent (0.029), and provided further that the foundation amount for the two thousand seven--two thousand eight school year shall be five thousand two hundred fifty-eight dollars, and provided further that for the two thousand seven--two thousand eight through [two thousand nine--two thousand ten] TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN school years, such foundation amount shall be further adjusted by the phase-in foundation percent established pursuant to paragraph b of this subdivision.

b. Phase-in foundation increase. (1) The phase-in foundation increase shall equal the product of the phase-in foundation increase factor multiplied by the greater of (i) the positive difference, if any, of (A) the product of the total aidable foundation pupil units multiplied by the district's selected foundation aid less (B) the total foundation aid base for aid payable in the two thousand seven--two thousand eight school year computed pursuant to subparagraph (i) of paragraph j of subdivision one of this section or (ii) the product of the phase-in due-minimum percent multiplied by the total foundation aid base for aid payable in the two thousand seven--two thousand eight school year computed pursuant to subparagraph (i) of paragraph j of subdivision one of this section.

(2) For the two thousand seven--two thousand eight school year, the phase-in foundation percent shall equal one hundred seven and sixty-eight hundredths percent (1.0768), the phase-in foundation increase factor shall equal twenty percent (0.20), and the phase-in due-minimum percent shall equal twelve and fifty-five hundredths percent (0.1255);

for the two thousand eight--two thousand nine school year, the phase-in foundation percent shall equal one hundred five and twenty-six hundredths percent [(] (1.0526), the phase-in foundation increase factor shall equal thirty-seven and one-half percent (0.375), and the phase-in

due-minimum percent shall equal twelve and fifty-five hundredths percent (0.1255);

for the two thousand nine--two thousand ten school year, the phase-in foundation percent shall equal one hundred two and five tenths percent (1.025), the phase-in foundation increase factor shall equal [sixty-five] THIRTY-SEVEN AND ONE-HALF percent [(0.65)] (0.375), and the phase-in due-minimum percent shall equal twelve and fifty-five hundredths percent (0.1255)

FOR THE TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEAR, THE PHASE-IN FOUNDATION PERCENT SHALL EQUAL ONE HUNDRED SEVEN AND SIXTY-EIGHT HUNDREDTHS PERCENT (1.0768), THE PHASE-IN FOUNDATION INCREASE FACTOR SHALL EQUAL THIRTY-SEVEN AND ONE-HALF PERCENT (0.375), AND THE PHASE-IN DUE-MINIMUM PERCENT SHALL EQUAL TWELVE AND FIFTY-FIVE HUNDREDTHS PERCENT (0.1255);

FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR, THE PHASE-IN FOUNDATION PERCENT SHALL EQUAL ONE HUNDRED FIVE AND SIX HUNDREDTHS PERCENT (1.0506), THE PHASE-IN FOUNDATION INCREASE FACTOR SHALL EQUAL FIFTY-THREE AND ONE-TENTH PERCENT (0.531), AND THE PHASE-IN DUE-MINIMUM PERCENT SHALL EQUAL TWELVE AND FIFTY-FIVE HUNDREDTHS PERCENT (0.1255); AND

FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR, THE PHASE-IN FOUNDATION PERCENT SHALL EQUAL ONE HUNDRED TWO AND FIVE HUNDREDTHS PERCENT (1.0250), THE PHASE-IN FOUNDATION INCREASE FACTOR SHALL EQUAL SEVENTY-FIVE PERCENT (0.75), AND THE PHASE-IN DUE-MINIMUM PERCENT SHALL EQUAL TWELVE AND FIFTY-FIVE HUNDREDTHS PERCENT (0.1255).

b-1. Notwithstanding any other provision of law to the contrary, for the two thousand seven--two thousand eight through [two thousand ten--two thousand eleven] TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN school years, the additional amount payable to each school district pursuant to this subdivision in the current year as total foundation aid, after deducting the total foundation aid base, shall be deemed a state grant in aid identified by the commissioner for general use for purposes of sections seventeen hundred eighteen and two thousand twenty-three of this chapter.

S 14. The closing paragraph of subdivision 5-a of section 3602 of the education law, as added by section 15-a of part B of chapter 57 of the laws of 2008, is amended to read as follows:

For the two thousand eight--two thousand nine school year, each school district shall be entitled to an apportionment equal to the product of fifteen percent and the additional apportionment computed pursuant to this subdivision for the two thousand seven--two thousand eight school year. FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN AND TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEARS, EACH SCHOOL DISTRICT SHALL BE ENTITLED TO AN APPORTIONMENT EQUAL TO THE AMOUNT SET FORTH FOR SUCH SCHOOL DISTRICT AS "SUPPLEMENTAL PUB EXCESS COST" UNDER THE HEADING "2008-09 BASE YEAR AIDS" IN THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE BUDGET FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND ENTITLED "SA0910".

S 15. Subclause (ii) of clause b of subparagraph 2 of paragraph e of subdivision 6 of section 3602 of the education law, as amended by section 16 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

(ii) For any assumed unpaid principal or the equivalent amount in the case of a lease-purchase agreement or its equivalent, remaining as of the first day of July, two thousand two pursuant to subparagraph one of this paragraph, the commissioner shall establish a new assumed amorti-

zation commencing on such date for the unexpired term of the original assumed amortization as of such date. Such assumed amortization shall provide for equal semiannual payments of principal and interest based on the interest rate applied to the original amortization as established by the commissioner pursuant to subparagraph one of this paragraph. Provided, however, that, notwithstanding any provision of law to the contrary, for aid payable in the two thousand nine--two thousand ten school year and thereafter, the total [of] APPORTIONMENT FOR such current year approved expenditures for debt service shall not exceed the ESTIMATED APPORTIONMENT AS COMPUTED BASED ON THE estimated current year approved expenditures for debt service on file with the commissioner as of the date upon which an electronic data file was created for the purposes of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter on November fifteenth of the base year, and the positive remainder, if any, of such [debt service or lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement that would be incurred during the current year based on an assumed amortization to be established by the commissioner pursuant to this subparagraph of the approved project costs to be financed] APPORTIONMENT less such estimated [current year approved expenditures for debt service on file with the commissioner as of the date upon which an electronic data file was created for the purposes of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter on November fifteenth of the base year] APPORTIONMENT shall not be AN APPORTIONMENT PAYABLE IN THE current year [approved expenditures for debt service], but shall be deemed to be AN APPORTIONMENT PAYABLE FOR debt service on new bonds and capital notes aidable in July following the current year as defined in clause (b) of subparagraph one of paragraph f of this subdivision. Such estimate shall be done in consultation with the commissioner.

S 16. Intentionally omitted.

S 17. Intentionally omitted.

S 18. Subdivision 12 of section 3602 of the education law is amended by adding a new closing paragraph to read as follows:

FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN AND TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEARS, EACH SCHOOL DISTRICT SHALL BE ENTITLED TO AN APPORTIONMENT EQUAL TO THE AMOUNT SET FORTH FOR SUCH SCHOOL DISTRICT AS "EDUCATION GRANTS, ACADEMIC EN" UNDER THE HEADING "2008-09 BASE YEAR AIDS" IN THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE BUDGET FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND ENTITLED "SA0910", AND SUCH APPORTIONMENT SHALL BE DEEMED TO SATISFY THE STATE OBLIGATION TO PROVIDE AN APPORTIONMENT PURSUANT TO SUBDIVISION EIGHT OF SECTION THIRTY-SIX HUNDRED FORTY-ONE OF THIS ARTICLE.

S 19. The opening paragraph of subdivision 16 of section 3602 of the education law, as amended by section 18 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

Each school district shall be eligible to receive a high tax aid apportionment in the two thousand eight--two thousand nine school year, which shall equal the greater of (i) the sum of the tier 1 high tax aid apportionment, the tier 2 high tax aid apportionment and the tier 3 high tax aid apportionment or (ii) the product of the apportionment received by the school district pursuant to this subdivision in the two thousand seven--two thousand eight school year, multiplied by the due-minimum factor, which shall equal, for districts with an alternate pupil wealth ratio computed pursuant to paragraph b of subdivision three of this

section that is less than two, seventy percent (0.70), and for all other districts, fifty percent (0.50). EACH SCHOOL DISTRICT SHALL BE ELIGIBLE TO RECEIVE A HIGH TAX AID APPORTIONMENT IN THE TWO THOUSAND NINE--TWO THOUSAND TEN AND TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEARS IN THE AMOUNT SET FORTH FOR SUCH SCHOOL DISTRICT AS "HIGH TAX AID" UNDER THE HEADING "2008-09 BASE YEAR AIDS" IN THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE BUDGET FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND ENTITLED "SA0910".

S 20. Intentionally omitted.

S 21. The opening paragraph of paragraph b of subdivision 10 of section 3602-e of the education law, as amended by section 22 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

Notwithstanding any provision of law to the contrary, for aid payable in the two thousand eight--two thousand nine school year, the grant to each eligible school district for universal prekindergarten aid shall be computed pursuant to this subdivision, AND FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN AND TWO THOUSAND TEN--TWO THOUSAND ELEVEN SCHOOL YEARS, EACH SCHOOL DISTRICT SHALL BE ELIGIBLE FOR A MAXIMUM GRANT EQUAL TO THE AMOUNT COMPUTED FOR SUCH SCHOOL DISTRICT FOR THE BASE YEAR IN THE ELECTRONIC DATA FILE PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE TWO THOUSAND NINE--TWO THOUSAND TEN EDUCATION, LABOR AND FAMILY ASSISTANCE BUDGET, PROVIDED, HOWEVER, THAT IN THE CASE OF A DISTRICT IMPLEMENTING PROGRAMS FOR THE FIRST TIME OR IMPLEMENTING EXPANSION PROGRAMS IN THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR WHERE SUCH PROGRAMS OPERATE FOR A MINIMUM OF NINETY DAYS IN ANY ONE SCHOOL YEAR AS PROVIDED IN SECTION 151-1.4 OF THE REGULATIONS OF THE COMMISSIONER, SUCH SCHOOL DISTRICT SHALL BE ELIGIBLE FOR A MAXIMUM GRANT EQUAL TO THE AMOUNT COMPUTED PURSUANT TO PARAGRAPH A OF SUBDIVISION NINE OF THIS SECTION IN THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR, AND PROVIDED FURTHER THAT THE MAXIMUM GRANT SHALL NOT EXCEED THE TOTAL ACTUAL GRANT EXPENDITURES INCURRED BY THE SCHOOL DISTRICT IN THE CURRENT SCHOOL YEAR AS APPROVED BY THE COMMISSIONER.

S 22. The opening paragraph of section 3609-a of the education law, as amended by section 25 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

For aid payable in the two thousand seven--two thousand eight school year and thereafter, "moneys apportioned" shall mean the lesser of (i) the sum of one hundred percent of the respective amount set forth for each school district as payable pursuant to this section in the school aid computer listing for the current year produced by the commissioner in support of the budget which includes the appropriation for the general support for public schools for the prescribed payments and individualized payments due prior to April first for the current year plus the apportionment payable during the current school year pursuant to subdivision six-a and subdivision fifteen of section thirty-six hundred two of this part minus any reductions to current year aids pursuant to subdivision seven of section thirty-six hundred four of this part or any deduction from apportionment payable pursuant to this chapter for collection of a school district basic contribution as defined in subdivision eight of section forty-four hundred one of this chapter, less any grants provided pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law, less any grants provided pursuant to subdivision twelve of section thirty-six hundred forty-one of this article, or (ii) the apportionment calculated by the commissioner based on data on file at the time the payment is processed; provided however, that for the purposes of any payments made

pursuant to this section prior to the first business day of June of the current year, moneys apportioned shall not include any aids payable pursuant to subdivisions six and fourteen, if applicable, of section thirty-six hundred two of this part as current year aid for debt service on bond anticipation notes and/or bonds first issued in the current year or any aids payable for full-day kindergarten for the current year pursuant to subdivision nine of section thirty-six hundred two of this part. The definitions of "base year" and "current year" as set forth in subdivision one of section thirty-six hundred two of this part shall apply to this section. For aid payable in the [two thousand eight--two thousand nine] TWO THOUSAND NINE--TWO THOUSAND TEN school year, reference to such "school aid computer listing for the current year" shall mean the printouts entitled ["SA0809"] "SA0910".

S 23. Subdivision 1 of section 3609-a of the education law is amended by adding a new paragraph c to read as follows:

C. DEFICIT REDUCTION ASSESSMENT FOR TWO THOUSAND NINE--TWO THOUSAND TEN. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER SHALL REDUCE PAYMENTS DUE TO EACH DISTRICT PURSUANT TO THIS SECTION BY AN AMOUNT EQUAL TO THE AMOUNTS SET FORTH FOR EACH SCHOOL DISTRICT AS "DEFICIT REDUCTION ASSESSMENT" IN THE SCHOOL AID COMPUTER LISTING PRODUCED BY THE COMMISSIONER IN SUPPORT OF THE EXECUTIVE BUDGET REQUEST FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND ENTITLED "BT112-1", AND SUCH AMOUNT SHALL BE DEDUCTED FROM MONEYS APPORTIONED FOR THE PURPOSES OF PAYMENTS MADE PURSUANT TO SECTION THIRTY-SIX HUNDRED NINE-A OF THE EDUCATION LAW AND PROVIDED FURTHER THAT THE AMOUNT OF SUCH REDUCTION SHALL BE DEEMED TO HAVE BEEN PAID TO THE DISTRICT PURSUANT TO THIS SECTION FOR THE SCHOOL YEAR IN WHICH SUCH DEDUCTION IS MADE. THE COMMISSIONER SHALL PROVIDE A SCHEDULE OF SUCH REDUCTIONS IN PAYMENTS TO THE STATE COMPTROLLER, THE DIRECTOR OF THE BUDGET, THE CHAIR OF THE SENATE FINANCE COMMITTEE AND THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE.

S 24. Deficit Reduction Assessment Restoration. Notwithstanding any other provision of law to the contrary, apportionments from this section shall by supported from funds appropriated for such purpose from the state fiscal stabilization fund-education fund as funded by the American recovery and reinvestment act of 2009. For the purposes of this section the term "fiscal year", followed by a reference to a year shall mean the period from July 1 of the preceding year to June 30 of the calendar year referenced.

Funds shall be apportioned to each school district in an amount equal to the difference, if any, of the sum of (1) the absolute value of the amount set forth for each school district as "DEFICIT REDUCTION ASSESSMENT" in the school aid computer listing produced by the commissioner in support of the executive budget request for the two thousand nine--two thousand ten school year and entitled "BT112-1", plus (2) the current year restoration, which shall equal the difference of the amount provided for the 2009-10 school year through funding formulae pursuant to sections thirty-six hundred two, seven hundred one, seven hundred eleven, seven hundred fifty-one, seven hundred fifty-three, nineteen hundred fifty and forty-four hundred five of the education law as set forth in the 2009-10 school aid computer listing for the current year as defined pursuant to section thirty-six hundred nine-a of the education law, less the amount provided for such school year through such formulae as set forth in the school aid computer listing produced by the commissioner in support of the executive budget request for the two thousand nine--two thousand ten school year and entitled "BT112-1", plus (3) an

amount equal to the base year restoration, which shall equal the difference of the amount provided for the 2008-09 school year through funding formulae pursuant to sections thirty-six hundred two, seven hundred one, seven hundred eleven, seven hundred fifty-one, seven hundred fifty-three, nineteen hundred fifty and forty-four hundred five of the education law as set forth in the 2009-10 school aid computer listing for the current year as defined pursuant to section thirty-six hundred nine-a of the education law, less the amount provided for such school year through such formulae as set forth in the school aid computer listing produced by the commissioner in support of the executive budget request for the two thousand nine--two thousand ten school year and entitled "BT112-1".

Notwithstanding any other provision of law to the contrary, an amount equal to the sum of the current year restoration and the base year restoration shall be deducted from moneys apportioned for the purposes of payments made pursuant to section thirty-six hundred nine-a of the education law in order to ensure that districts are not paid an amount in excess of that which would otherwise receive through the state's primary elementary and secondary funding formulae.

Each district shall be eligible, pursuant to applicable Federal rules, regulations and guidelines, for a payment for the 2009-2010 school year of up to seventy percent (0.7) of such funds on or after the date on which the lottery apportionment is made pursuant to subparagraph two of paragraph a of subdivision one of section thirty-six hundred nine-a of the education law and up to an additional thirty percent (0.3) of such funds on or after April first.

S 25. Subparagraph 4 of paragraph b of subdivision 1 of section 3609-a of the education law, as amended by chapter 474 of the laws of 1996, is amended to read as follows:

(4) State share of medicaid reimbursements. For the purposes of this subparagraph, [for payments made in the nineteen hundred ninety-five--ninety-six school year, there shall be two reporting periods: the first reporting period shall run from February first, nineteen hundred ninety-five through January thirty-first, nineteen hundred ninety-six, and the second reporting period shall run from February first, nineteen hundred ninety-six through April thirtieth, nineteen hundred ninety-six; thereafter,] the first reporting period shall run from May first of the base year through January thirty-first of the current year, and the second reporting period shall run from February first of the current year through April thirtieth of the current year. Notwithstanding any inconsistent provisions of law to the contrary, the sustaining advance payment due any school district pursuant to clause (ii) of subparagraph three of this paragraph in March shall be reduced by fifty percent of any federal participation during the first reporting period pursuant to title XIX of the social security act, in special education programs provided pursuant to article eighty-nine of this chapter FOR SERVICES PROVIDED ON OR BEFORE JUNE THIRTIETH, TWO THOUSAND NINE; the June payment due any school district pursuant to clause (v) of subparagraph three of this paragraph shall be reduced by fifty percent of any federal participation during the second reporting period FOR SERVICES PROVIDED ON OR BEFORE JUNE THIRTIETH, TWO THOUSAND NINE. Not later than ten days after the end of a reporting period, the commissioner of [social services] HEALTH, as the authorized fiscal agent of the state education department, shall certify to the commissioner and the director of the budget the total amount of such federal moneys paid to a school district for such services during such reporting period. Following each cycle payment, the commissioner of [social services] HEALTH shall report to

the commissioner the aggregate amount of such federal medicaid payments to each school district. The commissioner shall recoup such amounts first, to the extent possible, from the specified payment, then by withholding any other moneys due the school district and finally by direct billing to any school district still owing moneys to the state. All moneys withheld or paid to the state on account of this paragraph shall be credited by the comptroller to the local assistance account for general support for public schools.

S 26. Paragraph a of subdivision 1 of section 3609-b of the education law, as amended by section 41 of part C of chapter 57 of the laws of 2004, is amended to read as follows:

a. Any moneys to be apportioned by the commissioner to school districts during the school year pursuant to this section FOR SERVICES PROVIDED ON OR BEFORE JUNE THIRTIETH, TWO THOUSAND NINE shall, in the first instance, be designated as the state share of moneys due a school district pursuant to title XIX of the social security act, on account of school supportive health services provided to students with disabilities in special education programs pursuant to article eighty-nine of this chapter and to those pupils who are qualified handicapped persons as defined in the federal rehabilitation act of nineteen hundred seventy-three, as amended. Some or all of such state share may be assigned on behalf of school districts to the department of [social services] HEALTH, as provided herein; any remaining state share moneys shall be paid to school districts on the same schedule as the federal share of such title XIX payments and shall be based on the monthly report of the commissioner of [social services] HEALTH to the commissioner; and any remaining moneys to be apportioned to a school district pursuant to this section shall be paid in accordance with the provisions of subdivision two of this section. The amount to be assigned to the department of [social services] HEALTH, as determined by the commissioner of [social services] HEALTH, for any school district shall not exceed the federal share of any moneys due such school district pursuant to title XIX. Moneys designated as state share moneys shall be paid to such school districts based on the submission and approval of claims related to such school supportive health services, in the manner provided by law.

S 27. Subdivision 1 of section 3609-b of the education law is amended by adding a new paragraph a-1 to read as follows:

A-1. ANY MONEYS TO BE APPORTIONED BY THE COMMISSIONER TO SCHOOL DISTRICTS DURING THE SCHOOL YEAR PURSUANT TO THIS SECTION FOR SERVICES PROVIDED DURING THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR AND THEREAFTER SHALL, IN THE FIRST INSTANCE, BE DESIGNATED AS THE STATE SHARE OF MONEYS DUE A SCHOOL DISTRICT PURSUANT TO TITLE XIX OF THE SOCIAL SECURITY ACT, ON ACCOUNT OF SCHOOL SUPPORTIVE HEALTH SERVICES PROVIDED TO STUDENTS WITH DISABILITIES IN SPECIAL EDUCATION PROGRAMS PURSUANT TO ARTICLE EIGHTY-NINE OF THIS CHAPTER AND TO THOSE PUPILS WHO ARE QUALIFIED HANDICAPPED PERSONS AS DEFINED IN THE FEDERAL REHABILITATION ACT OF NINETEEN HUNDRED SEVENTY-THREE, AS AMENDED. SUCH STATE SHARE SHALL BE ASSIGNED ON BEHALF OF SCHOOL DISTRICTS TO THE DEPARTMENT OF HEALTH, AS PROVIDED HEREIN; THE AMOUNT DESIGNATED AS SUCH NONFEDERAL SHARE SHALL BE TRANSFERRED BY THE COMMISSIONER TO THE DEPARTMENT OF HEALTH BASED ON THE MONTHLY REPORT OF THE COMMISSIONER OF HEALTH TO THE COMMISSIONER; AND ANY REMAINING MONEYS TO BE APPORTIONED TO A SCHOOL DISTRICT PURSUANT TO THIS SECTION SHALL BE PAID IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION. THE AMOUNT TO BE ASSIGNED TO THE DEPARTMENT OF HEALTH, AS DETERMINED BY THE COMMISSIONER OF HEALTH, FOR ANY SCHOOL DISTRICT SHALL NOT EXCEED THE FEDERAL SHARE OF

ANY MONEYS DUE SUCH SCHOOL DISTRICT PURSUANT TO TITLE XIX. MONEYS DESIGNATED AS STATE SHARE MONEYS SHALL BE PAID TO SUCH SCHOOL DISTRICTS BY THE DEPARTMENT OF HEALTH BASED ON THE SUBMISSION AND APPROVAL OF CLAIMS RELATED TO SUCH SCHOOL SUPPORTIVE HEALTH SERVICES, IN THE MANNER PROVIDED BY LAW.

S 28. Paragraph b of subdivision 2 of section 3612 of the education law, as amended by section 27 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

b. Such grants shall be awarded to school districts, within the limits of funds appropriated therefor, through a competitive process that takes into consideration the magnitude of any shortage of teachers in the school district, the number of teachers employed in the school district who hold temporary licenses to teach in the public schools of the state, the number of provisionally certified teachers, the fiscal capacity and geographic sparsity of the district, the number of new teachers the school district intends to hire in the coming school year and the number of summer in the city student internships proposed by an eligible school district, if applicable. Grants provided pursuant to this section shall be used only for the purposes enumerated in this section. Notwithstanding any other provision of law to the contrary, a city school district in a city having a population of one million or more inhabitants receiving a grant pursuant to this section may use no more than eighty percent of such grant funds for any recruitment, retention and certification costs associated with transitional certification of teacher candidates for the school years two thousand one--two thousand two through [two thousand eight--two thousand nine] TWO THOUSAND NINE--TWO THOUSAND TEN.

S 29. Paragraphs c and d of subdivision 5-b of section 2576 of the education law, as added by section 9 of part B of chapter 57 of the laws of 2007, are amended to read as follows:

c. Upon the enactment of a city budget, FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN SCHOOL YEAR BUDGET AND ANNUALLY THEREAFTER, the chief executive officer of the city, as defined pursuant to subdivision five-a of section 2.00 of the local finance law, shall annually certify to the commissioner, in a form prescribed by the commissioner upon approval of the director of the budget, as to the city amount in such budget, the city amount in the base year, and that the city amount appropriated in such budget is in compliance with paragraph b of this subdivision.

d. The school district audit report certified to by an independent certified public accountant or an independent accountant pursuant to section twenty-one hundred sixteen-a of this title FOR THE TWO THOUSAND EIGHT--TWO THOUSAND NINE SCHOOL YEAR BUDGET AND ANNUALLY THEREAFTER shall include a certification by the accountant, in a form prescribed by the commissioner upon approval of the director of the budget, as to the city amount expended in the school year covered by such audit report, the city amount in the prior school year, and that the city amount expended in the school year covered by such audit report is in compliance with paragraph b of this subdivision.

S 30. Intentionally omitted.

S 31. Paragraph a of subdivision 3 of section 3641 of the education law, as added by section 29-a of part B of chapter 57 of the laws of 2008, is amended to read as follows:

a. In addition to apportionments otherwise provided by section thirty-six hundred two of this article, for aid payable in the two thousand eight--two thousand nine AND TWO THOUSAND NINE--TWO THOUSAND TEN school [year] YEARS, the amounts specified in paragraphs c and d of this subdivision shall be paid for the purpose of providing additional funding for

school districts which have experienced a significant financial hardship caused by an extraordinary change in the taxable property valuation or extraordinary judgments resulting from tax certiorari proceedings.

S 32. Intentionally omitted.

S 33. Intentionally omitted.

S 34. Subdivision 6 of section 4402 of the education law, as amended by section 31 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

6. Notwithstanding any other law, rule or regulation to the contrary, the board of education of a city school district with a population of one hundred twenty-five thousand or more inhabitants shall be permitted to establish maximum class sizes for special classes for certain students with disabilities in accordance with the provisions of this subdivision. For the purpose of obtaining relief from any adverse fiscal impact from under-utilization of special education resources due to low student attendance in special education classes at the middle and secondary level as determined by the commissioner, such boards of education shall, during the school years nineteen hundred ninety-five--ninety-six through June thirtieth, two thousand [nine] TEN of the [two thousand eight--two thousand nine] TWO THOUSAND NINE--TWO THOUSAND TEN school year, be authorized to increase class sizes in special classes containing students with disabilities whose age ranges are equivalent to those of students in middle and secondary schools as defined by the commissioner for purposes of this section by up to but not to exceed one and two tenths times the applicable maximum class size specified in regulations of the commissioner rounded up to the nearest whole number, provided that in a city school district having a population of one million or more, classes that have a maximum class size of fifteen may be increased by no more than one student and provided that the projected average class size shall not exceed the maximum specified in the applicable regulation, provided that such authorization shall terminate on June thirtieth, two thousand. Such authorization shall be granted upon filing of a notice by such a board of education with the commissioner stating the board's intention to increase such class sizes and a certification that the board will conduct a study of attendance problems at the secondary level and will implement a corrective action plan to increase the rate of attendance of students in such classes to at least the rate for students attending regular education classes in secondary schools of the district. Such corrective action plan shall be submitted for approval by the commissioner by a date during the school year in which such board increases class sizes as provided pursuant to this subdivision to be prescribed by the commissioner. Upon at least thirty days notice to the board of education, after conclusion of the school year in which such board increases class sizes as provided pursuant to this subdivision, the commissioner shall be authorized to terminate such authorization upon a finding that the board has failed to develop or implement an approved corrective action plan.

S 35. Intentionally omitted.

S 36. Intentionally omitted.

S 37. Intentionally omitted.

S 38. Where a school district that was required to submit a contract for excellence for the two thousand eight--two thousand nine school year but is not required to submit a contract for excellence for the two thousand nine--two thousand ten school year did not fully expend its two thousand seven--two thousand eight foundation aid subject to the contract for excellence restrictions, an amount equal to such unexpended

funds shall be deducted from moneys apportioned for the purposes of payments made pursuant to section thirty-six hundred nine-a of the education law.

S 39. Paragraph a-1 of subdivision 11 of section 3602 of the education law, as amended by section 33 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

a-1. Notwithstanding the provisions of paragraph a of this subdivision, for aid payable in the school years two thousand--two thousand one through [two thousand eight--two thousand nine] TWO THOUSAND NINE--TWO THOUSAND TEN, the commissioner may set aside an amount not to exceed two million five hundred thousand dollars from the funds appropriated for purposes of this subdivision for the purpose of serving persons twenty-one years of age or older who have not been enrolled in any school for the preceding school year, including persons who have received a high school diploma or high school equivalency diploma but fail to demonstrate basic educational competencies as defined in regulation by the commissioner, when measured by accepted standardized tests, and who shall be eligible to attend employment preparation education programs operated pursuant to this subdivision.

S 40. Section 33 of the general municipal law is amended by adding a new subdivision 3 to read as follows:

3. EXAMINATIONS AND REPORT. IN ADDITION TO THE INSPECTION AND EXAMINATION OF CERTAIN ACCOUNTS PURSUANT TO THIS SECTION, THE COMPTROLLER BY THE END OF THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR, SHALL ALSO EXAMINE FOR THE MOST RECENT SCHOOL YEAR AS PRACTICABLE, THE EMPLOYEE BENEFIT ACCRUED LIABILITY RESERVE FUNDS OF SCHOOL DISTRICTS ESTABLISHED PURSUANT TO SECTION SIX-P OF THIS CHAPTER. SUCH EXAMINATION SHALL BE FOR THE PURPOSE OF DETERMINING THE AMOUNT OF FUNDING IN THE RESERVE FUND, THE AMOUNT OF LIABILITIES AGAINST SUCH FUND AND IF THERE EXIST FUNDS IN THE RESERVE FUND WHICH ARE IN EXCESS OF THE TOTAL LIABILITIES OF SUCH FUND. THE COMPTROLLER SHALL NOTIFY THE SCHOOL DISTRICT IF SUCH EXCESS FUNDS EXIST AND THE DOLLAR VALUE OF THE EXCESS FUNDING. THE COMPTROLLER SHALL ALSO PREPARE A REPORT ON THE SCHOOL DISTRICTS WITH EXCESS FUNDS IN THEIR EMPLOYEE BENEFIT ACCRUED LIABILITY RESERVE FUND AND THE AMOUNT OF THE EXCESS FUNDING FOR EACH DISTRICT. SUCH REPORT SHALL BE SUBMITTED BY JULY FIRST, TWO THOUSAND TWELVE TO THE DIRECTOR OF THE BUDGET, THE CHAIR OF THE SENATE FINANCE COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE AND THE COMMISSIONER OF EDUCATION.

S 41. Subdivision b of section 2 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, as amended by section 36 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

b. Reimbursement for programs approved in accordance with subdivision a of this section for the 2006-07 school year shall not exceed 64.7 percent of the lesser of such approvable costs per contact hour or nine dollars and twenty-five cents per contact hour where a contact hour represents sixty minutes of instruction services provided to an eligible adult, reimbursement for the 2007-08 school year shall not exceed 63.3 percent of the lesser of such approvable costs per contact hour or nine dollars and ninety cents per contact hour where a contact hour represents sixty minutes of instruction services provided to an eligible adult, [and] reimbursement for the 2008-09 school year shall not exceed 62.8 percent of the lesser of such approvable costs per contact hour or ten dollars and sixty-five cents per contact hour where a contact hour represents sixty minutes of instruction services provided to an eligible

adult AND REIMBURSEMENT FOR THE 2009-10 SCHOOL YEAR SHALL NOT EXCEED 64.1 PERCENT OF THE LESSER OF SUCH APPROVABLE COSTS PER CONTACT HOUR OR ELEVEN DOLLARS AND FIFTY CENTS PER CONTACT HOUR WHERE A CONTACT HOUR REPRESENTS SIXTY MINUTES OF INSTRUCTION SERVICES PROVIDED TO AN ELIGIBLE ADULT. Notwithstanding any other provision of law to the contrary, for the 2006-07 school year such contact hours shall not exceed one million nine hundred twenty-three thousand seventy-six (1,923,076) hours; whereas for the 2007-08 school year such contact hours shall not exceed one million eight hundred thirty-seven thousand sixty (1,837,060) hours; whereas for the 2008-09 school year such contact hours shall not exceed one million nine hundred forty-six thousand one hundred seven (1,946,107) hours; WHEREAS FOR THE 2009-10 SCHOOL YEAR SUCH CONTACT HOURS SHALL NOT EXCEED ONE MILLION SEVEN HUNDRED SIXTY-THREE THOUSAND NINE HUNDRED SEVEN (1,763,907) HOURS.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE APPORTIONMENT CALCULATED FOR THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK PURSUANT TO SUBDIVISION 11 OF SECTION 3602 OF THE EDUCATION LAW SHALL BE COMPUTED AS IF SUCH CONTACT HOURS PROVIDED BY THE CONSORTIUM FOR WORKER EDUCATION, NOT TO EXCEED THE CONTACT HOURS SET FORTH HEREIN, WERE ELIGIBLE FOR AID IN ACCORDANCE WITH THE PROVISIONS OF SUCH SUBDIVISION 11 OF SECTION 3602 OF THE EDUCATION LAW.

S 42. Section 4 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, is amended by adding a new subdivision o to read as follows:

O. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY AFTER THE COMPLETION OF PAYMENTS FOR THE 2009--2010 SCHOOL YEAR. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF LAW, THE COMMISSIONER OF EDUCATION SHALL WITHHOLD A PORTION OF EMPLOYMENT PREPARATION EDUCATION AID DUE TO THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK TO SUPPORT A PORTION OF THE COSTS OF THE WORK FORCE EDUCATION PROGRAM. SUCH MONEYS SHALL BE CREDITED TO THE ELEMENTARY AND SECONDARY EDUCATION FUND-LOCAL ASSISTANCE ACCOUNT AND SHALL NOT EXCEED THIRTEEN MILLION DOLLARS ($13,000,000).

S 43. Section 6 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, as amended by section 38 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

S 6. This act shall take effect July 1, 1992, and shall be deemed repealed on June 30, [2009] 2010.

S 44. Subdivision 1 of section 167 of chapter 169 of the laws of 1994 relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets as amended by section 39 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

1. Sections one through seventy of this act shall be deemed to have been in full force and effect as of April 1, 1994 provided, however, that sections one, two, twenty-four, twenty-five and twenty-seven through seventy of this act shall expire and be deemed repealed on March 31, 2000; provided, however, that section twenty of this act shall apply only to hearings commenced prior to September 1, 1994, and provided further that section twenty-six of this act shall expire and be deemed repealed on March 31, 1997; and provided further that sections four through fourteen, sixteen, and eighteen, nineteen and twenty-one through twenty-one-a of this act shall expire and be deemed repealed on March 31, 1997; and provided further that sections three, fifteen, seventeen,

twenty, twenty-two and twenty-three of this act shall expire and be deemed repealed on March 31, [2010] 2011.

S 45. Subdivisions 22 and 24 of section 140 of chapter 82 of the laws of 1995, amending the education law and certain other laws relating to state aid to school districts and the appropriation of funds for the support of government, as amended by section 40 of part B of chapter 57 of the laws of 2008, are amended to read as follows:

(22) sections one hundred twelve, one hundred thirteen, one hundred fourteen, one hundred fifteen and one hundred sixteen of this act shall take effect on July 1, 1995; provided, however, that section one hundred thirteen of this act shall remain in full force and effect until July 1, [2009] 2010 at which time it shall be deemed repealed;

(24) sections one hundred eighteen through one hundred thirty of this act shall be deemed to have been in full force and effect on and after July 1, 1995; provided further, however, that the amendments made pursuant to section one hundred nineteen of this act shall be deemed to be repealed on and after July 1, [2009] 2010;

S 46. Section 7 of chapter 472 of the laws of 1998 amending the education law relating to the lease of school buses by school districts, as amended by section 53 of part B of chapter 57 of the laws of 2007, is amended to read as follows:

S 7. This act shall take effect September 1, 1998, and shall expire and be deemed repealed September 1, [2009] 2011.

S 47. Subdivision c of section 45 of part B of chapter 57 of the laws of 2008 amending the education law and other laws relating to special apportionment for salary expenses, is amended to read as follows:

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to subdivisions a and b of this section shall first be deducted from the following payments due the school district during the [2008-2009] school year FOLLOWING THE SCHOOL YEAR IN WHICH APPLICATION WAS MADE, pursuant to subparagraphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph (2) of such paragraph followed by the fixed fall payments payable pursuant to subparagraph (4) of such paragraph and then followed by the district's payments to the teachers' retirement system pursuant to subparagraph (1) of such paragraph, and any remainder to be deducted from the individualized payments due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

S 48. School bus driver training. In addition to apportionments otherwise provided by section 3602 of the education law, for aid payable in the 2009-2010 school year, the commissioner of education shall allocate school bus driver training grants to school districts and boards of cooperative education services pursuant to sections 3650-a, 3650-b and 3650-c of the education law, or for contracts directly with not-for-profit educational organizations for the purposes of this section. Such payments shall not exceed four hundred thousand dollars ($400,000).

S 49. Support of public libraries. The moneys appropriated for the support of public libraries by the chapter of the laws of 2009 enacting the education, labor and family assistance budget shall be apportioned for 2009--2010 in accordance with the provisions of sections 271, 272, 273, 282, 284, and 285 of the education law as amended by the provisions of this chapter and the provisions of this section, provided that library construction aid pursuant to section 273-a of the education law

shall not be payable from the appropriations for the support of public libraries and provided further that no library, library system or program, as defined by the commissioner of education, shall receive less total system or program aid than it received for the year 2001--2002 except as a result of a reduction adjustment necessary to conform to the appropriations for support of public libraries.

Notwithstanding any other provision of law to the contrary the moneys appropriated for the support of public libraries for the year 2009--2010 by a chapter of the laws of 2009 enacting the education, labor and family assistance budget shall fulfill the state's obligation to provide such aid and, pursuant to a plan developed by the commissioner of education and approved by the director of the budget, the aid payable to libraries and library systems pursuant to such appropriations shall be reduced proportionately to assure that the total amount of aid payable does not exceed the total appropriations for such purpose.

S 50. Special apportionment for salary expenses. a. Notwithstanding any other provision of law, upon application to the commissioner of education, not sooner than the first day of the second full business week of June, 2010 and not later than the last day of the third full business week of June, 2010, a school district eligible for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2010, for salary expenses incurred between April 1 and June 30, 2010, and such apportionment shall not exceed the deficit reduction assessment of 1990-91 as determined by the commissioner of education, pursuant to paragraph f of subdivision 1 of section 3602 of the education law, as in effect through June 30, 1993, plus 186 percent of such amount for a city school district in a city with a population in excess of 1,000,000 inhabitants and plus 209 percent of such amount for a city school district in a city with a population of more than 195,000 inhabitants and less than 219,000 inhabitants according to the latest federal census, and shall not exceed such salary expenses. Such application shall be made by a school district, after the board of education or trustees have adopted a resolution to do so and in the case of a city school district in a city with a population in excess of 125,000 inhabitants, with the approval of the mayor of such city.

b. The claim for an apportionment to be paid to a school district pursuant to subdivision a of this section shall be submitted to the commissioner of education on a form prescribed for such purpose, and shall be payable upon determination by such commissioner that the form has been submitted as prescribed. Such approved amounts shall be payable on the same day in September of the school year following the year in which application was made as funds provided pursuant to subparagraph (4) of paragraph b of subdivision 4 of section 92-c of the state finance law, on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of education in the manner prescribed by law from moneys in the state lottery fund and from the general fund to the extent that the amount paid to a school district pursuant to this section exceeds the amount, if any, due such school district pursuant to subparagraph (2) of paragraph a of subdivision 1 of section 3609-a of the education law in the school year following the year in which application was made.

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to subdivisions a and b of this section shall first be deducted from the following payments due the school district during the school year

following the year in which application was made pursuant to subparagraphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph (2) of such paragraph followed by the fixed fall payments payable pursuant to subparagraph (4) of such paragraph and then followed by the district's payments to the teachers' retirement system pursuant to subparagraph (1) of such paragraph, and any remainder to be deducted from the individualized payments due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

S 51. Special apportionment for public pension accruals. a. Notwithstanding any other provision of law, upon application to the commissioner of education, not later than June 30, 2010, a school district eligible for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2010, and such apportionment shall not exceed the additional accruals required to be made by school districts in the 2004-05 and 2005-06 school years associated with changes for such public pension liabilities. The amount of such additional accrual shall be certified to the commissioner of education by the president of the board of education or the trustees or, in the case of a city school district in a city with a population in excess of 125,000 inhabitants, the mayor of such city. Such application shall be made by a school district, after the board of education or trustees have adopted a resolution to do so and in the case of a city school district in a city with a population in excess of 125,000 inhabitants, with the approval of the mayor of such city.

b. The claim for an apportionment to be paid to a school district pursuant to subdivision a of this section shall be submitted to the commissioner of education on a form prescribed for such purpose, and shall be payable upon determination by such commissioner that the form has been submitted as prescribed. Such approved amounts shall be payable on the same day in September of the school year following the year in which application was made as funds provided pursuant to subparagraph (4) of paragraph b of subdivision 4 of section 92-c of the state finance law, on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of education in the manner prescribed by law from moneys in the state lottery fund and from the general fund to the extent that the amount paid to a school district pursuant to this section exceeds the amount, if any, due such school district pursuant to subparagraph (2) of paragraph a of subdivision 1 of section 3609-a of the education law in the school year following the year in which application was made.

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to subdivisions a and b of this section shall first be deducted from the following payments due the school district during the school year following the year in which application was made pursuant to subparagraphs (1), (2), (3), (4) and (5) of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph (2) of such paragraph followed by the fixed fall payments payable pursuant to subparagraph (4) of such paragraph and then followed by the district's payments to the teachers' retirement system pursuant to subparagraph (1) of such paragraph, and any remainder to be deducted from the individualized payments

due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

S 52. a. Notwithstanding any other law, rule or regulation to the contrary, any moneys appropriated to the state education department may be suballocated to other state departments or agencies, as needed, to accomplish the intent of the specific appropriations contained therein.

b. Notwithstanding any other law, rule or regulation to the contrary, moneys appropriated to the state education department from the general fund/aid to localities, local assistance account-001, shall be for payment of financial assistance, as scheduled, net of disallowances, refunds, reimbursement and credits.

c. Notwithstanding any other law, rule or regulation to the contrary, all moneys appropriated to the state education department for aid to localities shall be available for payment of aid heretofore or hereafter to accrue and may be suballocated to other departments and agencies to accomplish the intent of the specific appropriations contained therein.

d. Notwithstanding any other law, rule or regulation to the contrary, moneys appropriated to the state education department for general support for public schools may be interchanged with any other item of appropriation for general support for public schools within the general fund local assistance account elementary, middle, secondary and continuing education program.

S 53. Notwithstanding the provision of any law, rule, or regulation to the contrary, the city school district of the city of Rochester, upon the consent of the board of cooperative educational services of the supervisory district serving its geographic region may purchase from such board for the 2009-10 school year, as a non-component school district, services required by article 19 of the education law.

S 54. The amounts specified in this section shall be a setaside from the state funds which each such district is receiving from the total foundation aid:

a. for the purpose of the development, maintenance or expansion of magnet schools or magnet school programs for the two thousand nine--two thousand ten school year. To the city school district of the city of New York there shall be paid forty-eight million one hundred seventy-five thousand dollars ($48,175,000) including five hundred thousand dollars ($500,000) for the Andrew Jackson High School; to the Buffalo city school district, twenty-one million twenty-five thousand dollars ($21,025,000); to the Rochester city school district, fifteen million dollars ($15,000,000); to the Syracuse city school district, thirteen million dollars ($13,000,000); to the Yonkers city school district, forty-nine million five hundred thousand dollars, ($49,500,000); to the Newburgh city school district, four million six hundred forty-five thousand dollars ($4,645,000); to the Poughkeepsie city school district, two million four hundred seventy-five thousand dollars ($2,475,000); to the Mount Vernon city school district, two million dollars ($2,000,000); to the New Rochelle city school district, one million four hundred ten thousand dollars ($1,410,000); to the Schenectady city school district, one million eight hundred thousand dollars ($1,800,000); to the Port Chester city school district, one million one hundred fifty thousand dollars ($1,150,000); to the White Plains city school district, nine hundred thousand dollars ($900,000); to the Niagara Falls city school district, six hundred thousand dollars ($600,000); to the Albany city school district, three million five hundred fifty thousand dollars ($3,550,000); to the Utica city school district, two million dollars

($2,000,000); to the Beacon city school district, five hundred sixty-six thousand dollars ($566,000); to the Middletown city school district, four hundred thousand dollars ($400,000); to the Freeport union free school district, four hundred thousand dollars ($400,000); to the Greenburgh central school district, three hundred thousand dollars ($300,000); to the Amsterdam city school district, eight hundred thousand dollars ($800,000); to the Peekskill city school district, two hundred thousand dollars ($200,000); and to the Hudson city school district, four hundred thousand dollars ($400,000).

b. notwithstanding the provisions of paragraph a of this subdivision, a school district receiving a grant pursuant to this subdivision may use such grant funds for: (i) any instructional or instructional support costs associated with the operation of a magnet school; or (ii) any instructional or instructional support costs associated with implementation of an alternative approach to reduction of racial isolation and/or enhancement of the instructional program and raising of standards in elementary and secondary schools of school districts having substantial concentrations of minority students. The commissioner of education shall not be authorized to withhold magnet grant funds from a school district that used such funds in accordance with this paragraph, notwithstanding any inconsistency with a request for proposals issued by such commissioner.

c. for the purpose of attendance improvement and dropout prevention for the two thousand nine--two thousand ten school year, for any city school district in a city having a population of more than one million, the setaside for attendance improvement and dropout prevention shall equal the amount set aside in the base year. For the two thousand nine--two thousand ten school year, it is further provided that any city school district in a city having a population of more than one million shall allocate at least one-third of any increase from base year levels in funds set aside pursuant to the requirements of this subdivision to community-based organizations. Any increase required pursuant to this subdivision to community-based organizations must be in addition to allocations provided to community-based organizations in the base year.

d. for the purpose of teacher support for the two thousand nine--two thousand ten school year: to the city school district of the city of New York, sixty-two million seven hundred seven thousand dollars ($62,707,000); to the Buffalo city school district, one million seven hundred forty-one thousand dollars ($1,741,000); to the Rochester city school district, one million seventy-six thousand dollars ($1,076,000); to the Yonkers city school district, one million one hundred forty-seven thousand dollars ($1,147,000); and to the Syracuse city school district, eight hundred nine thousand dollars ($809,000). All funds made available to a school district pursuant to this subdivision shall be distributed among teachers including prekindergarten teachers and teachers of adult vocational and academic subjects in accordance with this subdivision and shall be in addition to salaries heretofore or hereafter negotiated or made available; provided, however, that all funds distributed pursuant to this section for the current year shall be deemed to incorporate all funds distributed pursuant to former subdivision 27 of section 3602 of the education law for prior years. In school districts where the teachers are represented by certified or recognized employee organizations, all salary increases funded pursuant to this section shall be determined by separate collective negotiations conducted pursuant to the provisions and procedures of article 14 of the civil service law, notwithstanding

the existence of a negotiated agreement between a school district and a certified or recognized employee organization.

S 55. Subdivision 11 of section 94 of part C of chapter 57 of the laws of 2004, amending the labor law and other laws relating to implementation of the state fiscal plan for the 2004-2005 state fiscal year, as amended by section 49-b of part B of chapter 57 of the laws of 2008, is amended to read as follows:

11. section seventy-one of this act shall expire and be deemed repealed June 30, [2009] 2010;

S 55-a. Subparagraph 5 of paragraph e of subdivision 6 of section 3602 of the education law is amended by adding a new clause (d) to read as follows:

(D) NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, ANY INTEREST RATE CALCULATED UNDER THIS SUBDIVISION SHALL TAKE INTO ACCOUNT ANY FEDERAL SUBSIDY PAYMENTS MADE OR TO BE MADE TO THE APPLICABLE ISSUER UNDER THE TERMS OF A FEDERALLY AUTHORIZED DEBT INSTRUMENT WHICH HAVE THE EFFECT OF REDUCING THE ACTUAL INTEREST COSTS INCURRED BY SUCH ISSUER OVER THE LIFE OF SUCH CAPITAL DEBT, IRRESPECTIVE OF ANY FEDERAL GOVERNMENT RIGHT OF SET-OFF.

S 56. Severability. The provisions of this act shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this act to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section or part of this act or remainder thereof, as the case may be, to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 57. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2009; provided, however, that:

1. Sections six, ten, thirteen, fourteen, eighteen, nineteen, twenty-one through twenty-seven, twenty-eight, thirty-one, thirty-four, thirty-nine, forty-six, forty-eight, fifty, fifty-one and fifty-four of this act shall take effect July 1, 2009; provided however, that the amendments to subdivision 6 of section 4402 of the education law made by section thirty-four of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith; provided, further that the amendments to chapter 756 of the laws of 1992 relating to funding a program for work force education conducted by the consortium for worker education in New York city made by sections forty-one and forty-two of this act shall not affect the repeal of such chapter and shall be deemed repealed therewith;

2. Section fifteen of this act shall take effect immediately, and shall be deemed to have been in full force and effect on and after July 1, 2008;

3. The amendments to chapter 756 of the laws of 1992 relating to funding a program for work force education conducted by the consortium for worker education in New York city made by section forty-three of this act shall take effect immediately, and shall be deemed to have been in full force and effect on and after the effective date of section 85 of part H of chapter 83 of the laws of 2002;

4. Section forty-four of this act shall be deemed to have been in full force and effect on and after the effective date of section 101 of part A of chapter 436 of the laws of 1997;

5. Section forty-seven of this act shall take effect immediately, and shall be deemed to have been in full force and effect on and after the effective date of section forty-five of part B of chapter 57 of the laws of 2008;

6. Section fifty-two of this act shall take effect immediately, and shall be deemed to have been in full force and effect on and after April 1, 2009 and shall expire and be deemed repealed March 31, 2010; and

7. Section fifty-five-a of this act shall take effect immediately, and shall apply to the computation of state building aid on federally authorized debt instruments issued on or after such effective date; and

8. The amendments to section 2856 of the education law made by section twelve of this act shall survive the expiration and reversion of such section as provided in section 27 of chapter 378 of the laws of 2007, as amended.

PART B

Intentionally omitted.

PART C

Intentionally omitted.

PART D

Intentionally omitted.

PART E

Intentionally omitted.

PART F

Section 1. Subdivision 1 of section 663 of the education law, as amended by chapter 305 of the laws of 2008, is amended to read as follows:

1. Income defined. Except as otherwise provided in this section, "income" shall be the total of the combined net taxable income AND INCOME FROM PENSIONS OF NEW YORK STATE, LOCAL GOVERNMENTS AND THE FEDERAL GOVERNMENT of the applicant, the applicant's spouse, and the applicant's parents as reported in New York state income tax returns for the calendar year next preceding the beginning of the school year for which application for assistance is made, except that any amount received by an applicant as a scholarship at an educational institution or as a fellowship grant, including the value of contributed services and accommodations, shall not be included within the definition of "income" for the purposes of this article. The term "parent" shall include birth parents, stepparents, adoptive parents and the spouse of an adoptive parent. Income, if not a whole dollar amount, shall be assumed to be equal to the next lowest whole dollar amount. Any change in the status of an applicant with regard to the persons responsible for the applicant's support occurring after the beginning of any semester shall not be considered to change the applicant's award for that semester.

S 2. This act shall take effect July 1, 2009.

PART G

Intentionally omitted.

PART H

Intentionally omitted.

PART I

Intentionally omitted.

PART J

Section 1. Article 14 of the education law is amended by adding a new Part V to read as follows:

PART V

THE NEW YORK HIGHER EDUCATION LOAN PROGRAM

SECTION 690. DEFINITIONS.
691. POWERS AND DUTIES.
692. EDUCATION LOANS; SPECIAL REQUIREMENTS.
693. REPAYMENT OF LOANS.
694. SALE OF EDUCATION LOANS.
694-A. MISCELLANEOUS.
694-B. REPORTING.

S 690. DEFINITIONS. AS USED IN THIS PART, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS OTHERWISE SPECIFIED:

1. "EDUCATION LOAN" SHALL MEAN ANY LOAN THAT IS MADE UNDER THIS PROGRAM TO FINANCE OR REFINANCE HIGHER EDUCATION EXPENSES AT AN ELIGIBLE COLLEGE.

2. "ELIGIBLE BORROWER" OR "BORROWER" SHALL MEAN (I) A STUDENT WHO IS A RESIDENT OF NEW YORK STATE ATTENDING, OR ACCEPTED FOR ENROLLMENT AT, AN ELIGIBLE COLLEGE, OR (II) THE PARENT, LEGAL GUARDIAN, OR SPONSOR, AS DEFINED BY THE CORPORATION IN REGULATION, OF A STUDENT ATTENDING, OR ACCEPTED FOR ENROLLMENT AT, AN ELIGIBLE COLLEGE WHO IS A RESIDENT OF NEW YORK STATE, AND WHO OBTAINS AN EDUCATION LOAN FROM A LENDING INSTITUTION TO PAY FOR OR FINANCE HIGHER EDUCATION EXPENSES UNDER THIS PROGRAM.

3. "ELIGIBLE COLLEGE" SHALL MEAN A POST-SECONDARY INSTITUTION, LOCATED WITHIN NEW YORK STATE, ELIGIBLE FOR FUNDS UNDER TITLE IV OF THE HIGHER EDUCATION ACT OF NINETEEN HUNDRED SIXTY-FIVE, AS AMENDED, OR SUCCESSOR STATUTE OFFERING A TWO-YEAR, FOUR-YEAR, GRADUATE OR PROFESSIONAL DEGREE GRANTING OR CERTIFICATE PROGRAM.

4. "ELIGIBLE CO-SIGNER" SHALL MEAN A PARENT, LEGAL GUARDIAN OR OTHERWISE CREDIT WORTHY INDIVIDUAL OVER TWENTY-ONE YEARS OF AGE WHO SATISFIES APPLICABLE CREDIT CRITERIA APPROVED BY THE CORPORATION AND IS A RESIDENT OF NEW YORK STATE.

5. "HIGHER EDUCATION EXPENSES" SHALL MEAN THE COST OF ATTENDANCE AT AN ELIGIBLE COLLEGE AND SHALL INCLUDE TUITION AND FEES, BOOKS, ROOM AND BOARD, AND OTHER EDUCATIONALLY RELATED EXPENSES, AS DETERMINED BY THE CORPORATION.

6. "HOLDER" SHALL MEAN, WITH RESPECT TO AN EDUCATION LOAN: (I) A LENDER; (II) A PUBLIC BENEFIT CORPORATION AUTHORIZED TO FINANCE THE PURCHASE OR MAKING OF EDUCATION LOANS PURSUANT TO THE PUBLIC AUTHORITIES LAW; OR (III) ANY ASSIGNEE OF SUCH LENDER OR PUBLIC BENEFIT CORPORATION.

7. "LENDING INSTITUTION" OR "LENDER" SHALL MEAN ANY ENTITY THAT ITSELF OR THROUGH AN AFFILIATE ORIGINATES EDUCATION LOANS, OTHER THAN AN ENTITY AUTHORIZED TO FINANCE THE PURCHASE OR MAKING OF EDUCATION LOANS THROUGH THE ISSUANCE OF BONDS PURSUANT TO THE PUBLIC AUTHORITIES LAW.

8. "PROGRAM" SHALL MEAN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM ESTABLISHED BY THIS ARTICLE.

9. "STUDENT" SHALL MEAN ANY INDIVIDUAL WHO IS ENROLLED AT LEAST HALF-TIME, AS DEFINED BY THE COMMISSIONER, IN A TWO YEAR, FOUR YEAR, GRADUATE OR PROFESSIONAL DEGREE GRANTING OR CERTIFICATE PROGRAM AT AN ELIGIBLE COLLEGE.

S 691. POWERS AND DUTIES. IN FURTHERANCE OF THE PURPOSES SET FORTH IN THIS PART, THE CORPORATION SHALL HAVE THE FOLLOWING ADDITIONAL POWERS AND DUTIES:

1. TO MARKET, ORIGINATE, DISBURSE, SERVICE, COLLECT, ADMINISTER, GUARANTEE, SECURE, FINANCE, AND PURCHASE EDUCATION LOANS NOT IN DEFAULT STATUS MADE UNDER THIS PROGRAM OR CONTRACT FOR THESE SERVICES.

2. TO PURCHASE DEFAULTED EDUCATION LOANS MADE UNDER THIS PROGRAM.

3. TO ESTABLISH AND MAINTAIN ONE OR MORE DEFAULT RESERVE FUNDS AND ACCOUNTS WITHIN SUCH FUNDS, IN ACCORDANCE WITH THE TERMS OF THIS PROGRAM.

4. TO DEVELOP AND ADMINISTER OR CONTRACT TO ADMINISTER ONE OR MORE FINANCIAL LITERACY PROGRAMS.

5. TO PROVIDE OR CONTRACT TO PROVIDE DEFAULT AVERSION SERVICES.

6. TO ESTABLISH CRITERIA FOR ELIGIBLE COLLEGES, LENDERS, AND OTHER ENTITIES SUCH AS, BUT NOT LIMITED TO, SERVICERS, AND TO ENTER INTO PARTICIPATION AGREEMENTS WITH ANY SUCH ELIGIBLE COLLEGES, LENDERS, AND OTHER ENTITIES AND ANY ENTITY AUTHORIZED TO FINANCE THE PURCHASE OR MAKING OF EDUCATION LOANS THROUGH THE ISSUANCE OF BONDS PURSUANT TO THE PUBLIC AUTHORITIES LAW, AND ANY SUBSEQUENT PURCHASER OF EDUCATION LOANS MADE UNDER THIS PROGRAM.

7. TO ESTABLISH CRITERIA FOR ALL LENDER UNDERWRITING, EDUCATION LOAN PURCHASES, SERVICING AND DEFAULT INSURANCE PAYMENTS.

8. TO ESTABLISH CRITERIA FOR THE DISTRIBUTION OF EDUCATION LOANS MADE UNDER THIS PROGRAM.

9. TO AUDIT LENDERS, SERVICERS, HOLDERS, AND ELIGIBLE COLLEGES FOR PROGRAM COMPLIANCE.

10. TO ADOPT RULES AND REGULATIONS TO IMPLEMENT THIS PROGRAM.

S 692. EDUCATION LOANS; SPECIAL REQUIREMENTS. IN ANY YEAR IN WHICH FIXED RATE EDUCATION LOANS ARE TO BE ACQUIRED USING THE PROCEEDS OF BONDS ISSUED BY THE STATE OF NEW YORK MORTGAGE AGENCY OR OTHER PUBLIC BENEFIT CORPORATION AUTHORIZED TO ISSUE BONDS FOR THE PURPOSES OF THIS PROGRAM, PREFERENCE SHALL BE GIVEN TO EDUCATION LOANS MADE TO ELIGIBLE BORROWERS FOR THE BENEFIT OF STUDENTS WHO DEMONSTRATE FINANCIAL NEED BASED ON SUCH STUDENT'S FAMILY GROSS INCOME, PURSUANT TO RULES AND REGULATIONS PROMULGATED BY THE CORPORATION AFTER CONSULTATION WITH THE STATE OF NEW YORK MORTGAGE AGENCY OR OTHER PUBLIC BENEFIT CORPORATION AUTHORIZED TO ISSUE BONDS FOR THE PURPOSES OF THIS PROGRAM. 1. TERMS AND CONDITIONS. (A) ELIGIBLE BORROWERS SHALL APPLY FOR EDUCATION LOANS UNDER THIS PROGRAM ON FORMS PRESCRIBED BY THE CORPORATION;

(B) EXCEPT AS MAY BE PROVIDED BY REGULATION, A STUDENT FOR WHOM AN EDUCATION LOAN IS MADE SHALL BE REQUIRED TO FIRST APPLY FOR AND EXHAUST: (I) THEIR MAXIMUM ELIGIBILITY OF LOANS UNDER THE FEDERAL FAMILY EDUCATION LOAN PROGRAM (FFELP) AND THE FEDERAL DIRECT STUDENT LOAN PROGRAM (FDSLP), EXCLUDING PLUS LOANS; (II) ANY OTHER FEDERAL STUDENT AID, OTHER THAN HEAL LOANS AND OTHER AID PERMITTED BY THE CORPORATION TO BE EXCLUDED; (III) ANY STATE STUDENT AID; AND (IV) ANY OTHER STUDENT AID AS

PRESCRIBED BY THE CORPORATION BEFORE BEING ELIGIBLE FOR ANY EDUCATION LOAN UNDER THIS PROGRAM;

(C) BORROWERS SHALL SUCCESSFULLY COMPLETE A FINANCIAL LITERACY COURSE AS PRESCRIBED BY THE CORPORATION;

(D) STUDENT BORROWERS MUST APPLY FOR EDUCATION LOANS UNDER THIS PROGRAM WITH AN ELIGIBLE CO-SIGNER;

(E) A BORROWER, OR CO-SIGNER, WHO IS IN DEFAULT ON AN EDUCATION LOAN MADE UNDER THIS PROGRAM, THE FEDERAL FAMILY EDUCATION LOAN PROGRAM, THE WILLIAMS D. FORD PROGRAM, OR HAS FAILED TO COMPLY WITH THE TERMS AND CONDITIONS OF ANY AWARD UNDER THIS ARTICLE AND HAS FAILED TO SATISFACTORILY CURE SUCH DEFAULT OR NON-COMPLIANCE AS PRESCRIBED BY APPLICABLE LAW OR REGULATION SHALL BE INELIGIBLE TO RECEIVE A LOAN UNDER THIS PROGRAM, AND SHALL FURTHER BE INELIGIBLE FOR ANY OTHER STATE STUDENT AID WHILE IN DEFAULT ON AN EDUCATION LOAN MADE UNDER THIS PROGRAM; AND

(F) PARTICIPATING ELIGIBLE COLLEGES, LENDING INSTITUTIONS, AND OTHER PARTICIPANTS IN THIS PROGRAM SHALL BE REQUIRED TO ENTER INTO A PARTICIPATION AGREEMENT WITH THE CORPORATION AND COMPLY WITH ALL REPORTING AND PROCESSING REQUIREMENTS AND PROCEDURES AS ESTABLISHED BY THE CORPORATION. THESE PARTICIPATION AGREEMENTS SHALL CONTAIN SUCH OTHER SPECIFIC TERMS AND CONDITIONS OF THE PROGRAM AS SHALL BE DETERMINED BY THE CORPORATION.

2. CITIZENSHIP. A BORROWER MUST BE (A) A CITIZEN OF THE UNITED STATES, OR

(B) AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE UNITED STATES, OR

(C) AN INDIVIDUAL OF A CLASS OF REFUGEES PAROLED BY THE ATTORNEY GENERAL OF THE UNITED STATES UNDER HIS OR HER PAROLE AUTHORITY PERTAINING TO THE ADMISSION OF ALIENS TO THE UNITED STATES.

3. LOAN LIMITS. EDUCATION LOANS MADE UNDER THIS PROGRAM SHALL HAVE ANNUAL AND CUMULATIVE LOAN LIMITS AS APPROVED FROM TIME TO TIME BY THE CORPORATION, SUBJECT TO THE APPROVAL OF THE STATE OF NEW YORK MORTGAGE AGENCY, OR OTHER PUBLIC BENEFIT CORPORATION AUTHORIZED TO ISSUE BONDS UNDER THE PUBLIC AUTHORITIES LAW FOR PURPOSES OF THIS PROGRAM, WITH RESPECT TO LOANS THAT ARE EXPECTED TO BE FINANCED BY SUCH ENTITY.

4. INTEREST RATES. THE INTEREST RATE OF LOANS MADE UNDER THIS PROGRAM SHALL BE ESTABLISHED IN A MANNER THAT SHALL BE APPROVED AT LEAST ANNUALLY BY THE CORPORATION, SUBJECT TO THE APPROVAL OF THE STATE OF NEW YORK MORTGAGE AGENCY, OR OTHER SUBJECT TO PUBLIC BENEFIT CORPORATION AUTHORIZED TO ISSUE BONDS UNDER THE PUBLIC AUTHORITIES LAW FOR PURPOSES OF THIS PROGRAM, WITH RESPECT TO LOANS THAT ARE EXPECTED TO BE FINANCED BY SUCH ENTITY.

5. DEFAULT FEE. A PERCENTAGE OF THE EDUCATION LOAN SHALL BE PAID AS A DEFAULT FEE, BY OR ON BEHALF OF THE BORROWER OR THE LENDER, IN AN AMOUNT TO BE ESTABLISHED AT LEAST ANNUALLY BY THE CORPORATION SUBJECT TO THE APPROVAL OF THE STATE OF NEW YORK MORTGAGE AGENCY, OR OTHER PUBLIC BENEFIT CORPORATION AUTHORIZED TO ISSUE BONDS UNDER THE PUBLIC AUTHORITIES LAW FOR PURPOSES OF THIS PROGRAM, WITH RESPECT TO LOANS THAT ARE EXPECTED TO BE FINANCED BY SUCH ENTITY. THE DEFAULT FEE ESTABLISHED BY THE CORPORATION, SUBJECT TO THE APPROVAL OF THE STATE OF NEW YORK MORTGAGE AGENCY, OR OTHER PUBLIC BENEFIT CORPORATION AUTHORIZED TO ISSUE BONDS UNDER THE PUBLIC AUTHORITIES LAW FOR PURPOSES OF THIS PROGRAM, WITH RESPECT TO EDUCATION LOANS THAT ARE EXPECTED TO BE FINANCED BY SUCH ENTITY, SHALL BE A PERCENTAGE OF THE PRINCIPAL AMOUNT OF SUCH LOANS, AS DETERMINED BY THE CORPORATION, THAT, TOGETHER WITH OTHER AMOUNTS ON DEPOSIT IN THE APPLICABLE DEFAULT RESERVE FUND, SHALL NOT EXCEED AN AMOUNT SUFFICIENT TO ENSURE THAT THE BALANCE OF SUCH FUNDS SATISFIES THE

OBLIGATIONS OF SUCH DEFAULT RESERVE FUND AND PERMITS SUCH LOANS TO BE FINANCED. THIS FEE MAY BE CONSIDERED PART OF THE COST OF ATTENDANCE FOR THE PURPOSES OF CALCULATING THE LOAN AMOUNT FOR THIS PROGRAM AND SHALL BE TRANSMITTED TO THE CORPORATION IN ACCORDANCE WITH RULES OR REGULATIONS PROMULGATED BY THE CORPORATION. THE CORPORATION SHALL DEPOSIT THESE FUNDS INTO A DESIGNATED ACCOUNT WITHIN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE.

6. CONSOLIDATION. EDUCATION LOANS MADE PURSUANT TO THIS PROGRAM MAY BE ELIGIBLE FOR CONSOLIDATION UPON THE TERMS AND CONDITIONS ESTABLISHED BY THE CORPORATION. ANY PERSON CONSOLIDATING EDUCATION LOANS UNDER THIS PROGRAM SHALL BE CONSIDERED A BORROWER FOR PURPOSES OF THIS PART.

7. DEFAULT RESERVE FUNDS. (A) GENERAL PROVISIONS. ONE OR MORE DEFAULT RESERVE FUNDS SHALL BE ESTABLISHED IN THE CUSTODY OF THE COMPTROLLER PURSUANT TO SECTIONS SEVENTY-EIGHT-A AND SEVENTY-EIGHT-B OF THE STATE FINANCE LAW. ONE OR MORE DEFAULT RESERVE FUNDS SHALL BE ESTABLISHED IN THE CUSTODY OF THE STATE OF NEW YORK MORTGAGE AGENCY PURSUANT TO SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW. THESE FUNDS SHALL BE USED BY THE CORPORATION TO PAY DEFAULT CLAIMS TO PARTICIPATING LENDERS AND HOLDERS OF EDUCATION LOANS MADE PURSUANT TO THIS PROGRAM.

(B) DEPOSITS. THE CORPORATION SHALL PROMPTLY DEPOSIT OR TRANSFER INTO THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND CREATED BY SECTION SEVENTY-EIGHT-A OF THE STATE FINANCE LAW, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND CREATED BY SECTION SEVENTY-EIGHT-B OF THE STATE FINANCE LAW OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND CREATED BY SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW, WITH RESPECT TO EDUCATION LOANS, DESCRIBED IN SUCH PROVISIONS, ANY MONEYS RECEIVED IN CONNECTION WITH THIS PROGRAM OTHER THAN PAYMENTS OF PRINCIPAL AND INTEREST OF EDUCATION LOANS THAT ARE NOT IN DEFAULT STATUS, INCLUDING, BUT NOT LIMITED TO: (I) DEFAULT FEES; (II) FEES RECEIVED FROM ELIGIBLE COLLEGES; (III) FUNDS RECEIVED FOR THE REPAYMENT OF DEFAULTED EDUCATION LOANS, THE UNPAID PRINCIPAL, CAPITALIZED AND UNPAID ACCRUED INTEREST OF WHICH HAVE BEEN PAID FROM THE FUNDS, INCLUDING WITHOUT LIMITATION ALL SUCH AMOUNTS RECEIVED THROUGH THE OPERATION OF VOLUNTARY COLLECTION ACTIVITIES, ADMINISTRATIVE WAGE GARNISHMENT OR CREDIT OF TAX OVERPAYMENTS LESS ANY AMOUNTS RECEIVED FOR COLLECTION FEES ASSESSED BY THE CORPORATION; (IV) CONTRACTUAL PENALTIES AND SUBSIDY FEES; (V) ANY AMOUNT THAT MAY BE APPROPRIATED TO THE CORPORATION; (VI) ANY AMOUNT RECEIVED BY THE CORPORATION OR ANY AGENT FROM ANY OTHER SOURCE FOR DEPOSIT THEREIN; AND (VII) INTEREST AND INVESTMENT INCOME EARNED BY THE FUNDS.

8. LENDER DUE DILIGENCE. PARTICIPATING LENDERS SHALL BE REQUIRED TO PERFORM ALL DUE DILIGENCE REQUIREMENTS AS PRESCRIBED BY THE CORPORATION AND INCORPORATED INTO THE PARTICIPATION AGREEMENT AND INTO REGULATIONS PROMULGATED BY THE CORPORATION.

9. ELIGIBLE COLLEGE REQUIREMENTS. (A) PARTICIPATING ELIGIBLE COLLEGES SHALL BE REQUIRED TO CERTIFY LOAN ELIGIBILITY UPON FORMS PRESCRIBED BY THE CORPORATION AND INCORPORATED INTO THE PARTICIPATION AGREEMENT AND PURSUANT TO REGULATIONS PROMULGATED BY THE CORPORATION.

(B) PARTICIPATING ELIGIBLE COLLEGES SHALL BE REQUIRED TO CONTRIBUTE A ONE PERCENT FEE PRESCRIBED BY THE CORPORATION, SUBJECT TO THE APPROVAL OF THE STATE OF NEW YORK MORTGAGE AGENCY, OR OTHER PUBLIC BENEFIT CORPO-

RATION AUTHORIZED TO ISSUE BONDS UNDER THE PUBLIC AUTHORITIES LAW FOR PURPOSES OF THIS PROGRAM, WITH RESPECT TO LOANS THAT ARE EXPECTED TO BE FINANCED BY SUCH ENTITY, BASED UPON THE LOAN DOLLAR VOLUME OR HAVE THE CONTRIBUTION MADE ON ITS BEHALF, PURSUANT TO THE TERMS OF THE PARTICIPATION AGREEMENT. THIS FEE SHALL BE DEPOSITED INTO A DESIGNATED ACCOUNT WITHIN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS DESCRIBED IN SUBDIVISION SEVEN OF THIS SECTION AS APPLICABLE. THIS FEE, OR ANY OTHER COLLEGE FEE, SHALL NOT BE ASSESSED TO THE STUDENT OR ELIGIBLE BORROWER IN CONNECTION WITH THIS PROGRAM.

S 693. REPAYMENT OF LOANS. 1. TERMS OF REPAYMENT. THE TERMS OF REPAYMENT OF EDUCATION LOANS MADE UNDER THIS PROGRAM SHALL BE ESTABLISHED IN RULES AND REGULATIONS PROMULGATED BY THE CORPORATION SUBJECT TO THE APPROVAL OF THE STATE OF NEW YORK MORTGAGE AGENCY OR OTHER PUBLIC BENEFIT CORPORATION AUTHORIZED TO ISSUE BONDS UNDER THE PUBLIC AUTHORITIES LAW FOR PURPOSES OF THIS PROGRAM WITH RESPECT TO LOANS THAT ARE EXPECTED TO BE FINANCED BY SUCH ENTITY.

2. GRACE PERIOD. THE TERMS OF ANY GRACE PERIOD FOR EDUCATION LOANS MADE UNDER THIS PROGRAM SHALL BE ESTABLISHED IN RULES AND REGULATIONS PROMULGATED BY THE CORPORATION SUBJECT TO THE APPROVAL OF THE STATE OF NEW YORK MORTGAGE AGENCY OR OTHER PUBLIC BENEFIT CORPORATION AUTHORIZED TO ISSUE BONDS UNDER THE PUBLIC AUTHORITIES LAW FOR PURPOSES OF THIS PROGRAM WITH RESPECT TO LOANS THAT ARE EXPECTED TO BE FINANCED BY SUCH ENTITY. NOTWITHSTANDING, THE GRACE PERIOD ESTABLISHED SHALL BE NO LESS THAN SIX MONTHS.

3. FORBEARANCE AND DEFERMENTS. EDUCATION LOANS MADE UNDER THIS PROGRAM SHALL BE ELIGIBLE FOR IN-SCHOOL AND MILITARY DEFERMENTS PURSUANT TO RULES AND REGULATIONS PROMULGATED BY THE CORPORATION, OR PURSUANT TO SUCH ADDITIONAL DEFERMENTS AND/OR FORBEARANCE AS OFFERED BY AN ELIGIBLE LENDER, IN EACH CASE, SUBJECT TO THE APPROVAL OF THE STATE OF NEW YORK MORTGAGE AGENCY, OR OTHER AUTHORIZED PUBLIC BENEFIT CORPORATION AUTHORIZED TO ISSUE BONDS UNDER THE PUBLIC AUTHORITIES LAW FOR PURPOSES OF THIS PROGRAM, WITH RESPECT TO LOANS THAT ARE EXPECTED TO BE FINANCED BY SUCH ENTITY. UPON THE ASSIGNMENT OF A DEFAULTED EDUCATION LOAN MADE UNDER THIS PROGRAM FOR COLLECTION AS DESCRIBED IN SUBDIVISION FIVE OF THIS SECTION, THE BORROWER SHALL NO LONGER BE ELIGIBLE FOR ANY FORBEARANCE OR DEFERMENTS WHILE SUCH LOAN REMAINS IN DEFAULT.

4. DELINQUENCY. A BORROWER SHALL BE CONSIDERED DELINQUENT ON AN EDUCATION LOAN UNDER THIS PROGRAM AFTER THIRTY DAYS OF NON-PAYMENT. THE HOLDER SHALL NOTIFY THE CORPORATION PROMPTLY AFTER THE FIRST DAY OF DELINQUENCY AND THE CORPORATION SHALL UNDERTAKE ACTIONS TO RETURN THE BORROWER TO REPAYMENT PURSUANT TO RULES AND REGULATIONS ESTABLISHED BY THE CORPORATION. SUCH ACTIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, ATTEMPTS AT: (I) LOCATING AND CONTACTING THE BORROWER AND/OR CO-SIGNER, AS APPLICABLE, REGARDING THE DELINQUENT STATUS OF THEIR LOAN; (II) EXPLAINING THE ACCOUNT HISTORY AND CLARIFYING ANY DISCREPANCIES; (III) COUNSELING THE BORROWER AND/OR CO-SIGNER, AS APPLICABLE, REGARDING ALL AVAILABLE REPAYMENT OPTIONS, INDUCING DEFERMENTS, AND ANY PUBLIC ASSISTANCE AVAILABLE TO THEM; (IV) PROVIDING THE BORROWER AND/OR CO-SIGNER, AS APPLICABLE, WITH DOCUMENTATION IN CONNECTION WITH THEIR LOAN OR LOANS; (V) INFORMING THE BORROWER AND/OR CO-SIGNER, AS APPLICABLE, OF THE CONSEQUENCES OF DEFAULT; AND (VI) ANY OTHER ASSISTANCE THAT WOULD PREVENT A DEFAULT BY A BORROWER.

5. DEFAULT. ANY EDUCATION LOAN UNDER THIS PROGRAM THAT IS DELINQUENT FOR ONE HUNDRED EIGHTY DAYS SHALL BE DEEMED IN DEFAULT. UPON DEFAULT, THE HOLDER SHALL FILE A CLAIM WITH THE CORPORATION AND, IF APPLICABLE, THE STATE OF NEW YORK MORTGAGE AGENCY, FOR PAYMENT FROM THE NEW YORK EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS DESCRIBED IN SUBDIVISION SEVEN OF SECTION SIX HUNDRED NINETY TWO OF THE EDUCATION LAW, AS APPLICABLE, PURSUANT TO REGULATIONS PROMULGATED BY THE CORPORATION. UPON RECEIPT OF A CLAIM, THE CORPORATION SHALL NOTIFY THE BORROWER THAT THEIR LOAN IS BEING ASSIGNED TO THE CORPORATION FOR COLLECTION. THE LENDER, OR HOLDER SHALL BE PAID ONE HUNDRED PERCENT OF THE OUTSTANDING PRINCIPAL, AND OF THE CAPITALIZED AND UNPAID ACCRUED INTEREST. UPON SUCH PAYMENT, THIS AMOUNT SHALL BE THE PRINCIPAL OWED BY THE BORROWER.

ALL COLLECTION PAYMENTS RECEIVED BY THE CORPORATION FROM A BORROWER, OR ON BEHALF OF BORROWERS, IN DEFAULT ON LOANS MADE UNDER THIS PROGRAM, EXCEPT COLLECTION FEES SHALL BE DEPOSITED INTO A DESIGNATED ACCOUNT WITHIN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE.

6. COLLECTION FEE. THE CORPORATION SHALL ASSESS A COLLECTION FEE, IN AN AMOUNT TO BE DETERMINED BY THE CORPORATION AT LEAST ANNUALLY, ON ALL DEFAULTED EDUCATION LOANS UNDER THIS PROGRAM. THIS FEE SHALL BE RETAINED BY THE CORPORATION FOR THE ADMINISTRATION OF THE PROGRAM. THE AGGREGATE ANNUAL REVENUE GENERATED BY SUCH FEE SHALL NOT EXCEED THE ACTUAL COSTS INCURRED BY THE CORPORATION, IN THE PRECEDING YEAR, IN COLLECTING A DEFAULTED LOAN UNDER THIS PROGRAM ON WHICH THE CORPORATION HAS PAID A CLAIM, EXCEPT IN THE INITIAL YEAR FOR WHICH SUCH FEE SHALL NOT EXCEED THE FEE CHARGED BY THE CORPORATION FOR THE COLLECTION OF DEFAULTED LOANS UNDER THE FEDERAL FAMILY EDUCATION LOAN PROGRAM. ANY AMOUNTS IN EXCESS OF ACTUAL COST SHALL BE USED TO REDUCE THE FEE CHARGED IN THE SUBSEQUENT YEAR.

7. ADMINISTRATIVE WAGE GARNISHMENT. (A) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE CORPORATION SHALL BE ENTITLED TO GARNISH THE DISPOSABLE PAY OF AN INDIVIDUAL TO COLLECT THE AMOUNT OWED BY THE INDIVIDUAL, IF SUCH INDIVIDUAL FAILS TO MAKE REQUIRED VOLUNTARY PAYMENTS UNDER A REPAYMENT AGREEMENT WITH THE CORPORATION, PROVIDED THAT:

(I) THE AMOUNT DEDUCTED FOR ANY PAY PERIOD DOES NOT EXCEED FIFTEEN PERCENT OF DISPOSABLE PAY. HOWEVER, THE AMOUNT DEDUCTED FOR ANY PERIOD MAY EXCEED FIFTEEN PERCENT WITH THE WRITTEN CONSENT OF THE INDIVIDUAL;

(II) PRIOR TO GARNISHMENT THE INDIVIDUAL SHALL HAVE BEEN GIVEN THIRTY DAYS WRITTEN NOTICE TO THE INDIVIDUAL'S LAST KNOWN ADDRESS ADVISING SUCH INDIVIDUAL OF THE NATURE OF THE OBLIGATION, AMOUNT OF THE LOAN OBLIGATION, THE CORPORATION'S INTENT TO GARNISH AND AN EXPLANATION OF THE INDIVIDUAL'S RIGHTS UNDER THIS SECTION INCLUDING THE RIGHT TO INSPECT AND COPY RECORDS RELATING TO THE DEBT;

(III) THE INDIVIDUAL SHALL HAVE BEEN GIVEN AN OPPORTUNITY WITHIN THE AFOREMENTIONED THIRTY DAYS TO ENTER INTO A WRITTEN REPAYMENT AGREEMENT WITH THE CORPORATION TO AVOID GARNISHMENT OF WAGES;

(IV) THE INDIVIDUAL SHALL HAVE BEEN PROVIDED AN OPPORTUNITY FOR A HEARING PURSUANT TO THE REQUIREMENTS OF PARAGRAPH (F) OF THIS SUBDIVISION.

(B) THE INDIVIDUAL'S EMPLOYER SHALL PAY TO THE CORPORATION AMOUNTS AS DIRECTED IN THE WITHHOLDING ORDER AND SHALL BE LIABLE FOR FAILURE TO

COMPLY WITH SAID ORDER. THE CORPORATION MAY SUE AN EMPLOYER IN A COURT OF COMPETENT JURISDICTION TO RECOVER FROM SUCH EMPLOYER THE AMOUNT THE EMPLOYER FAILS TO WITHHOLD FROM THE INDIVIDUAL'S WAGES FOLLOWING RECEIPT OF THE ORDER OF WITHHOLDING WITH INTEREST THEREON PLUS ATTORNEYS' FEES AND COSTS;

(C) THE NOTICE OF WITHHOLDING SERVED UPON THE EMPLOYER SHALL CONTAIN ONLY SUCH INFORMATION AS IS NECESSARY FOR THE EMPLOYER TO COMPLY WITH THE WITHHOLDING ORDER.

(D) NO AMOUNT MAY BE DEDUCTED FROM THE WAGES OF AN INDIVIDUAL WHO HAS BEEN INVOLUNTARILY SEPARATED FROM EMPLOYMENT AND HAS NOT BEEN CONTINUOUSLY EMPLOYED FOR TWELVE MONTHS. AN INDIVIDUAL MUST PROVE THAT SEPARATION FROM EMPLOYMENT WAS INVOLUNTARY. SEPARATION DUE TO INCARCERATION SHALL NOT QUALIFY AS INVOLUNTARY SEPARATION.

(E) AN EMPLOYER MAY NOT DISCHARGE FROM EMPLOYMENT, TAKE DISCIPLINARY ACTION AGAINST OR REFUSE TO EMPLOY AN INDIVIDUAL BY REASON OF THE FACT THAT SUCH INDIVIDUAL'S WAGES ARE SUBJECT TO AN ORDER OF WITHHOLDING. SUCH INDIVIDUAL MAY TAKE ACTION AGAINST SAID EMPLOYER IN A COURT OF COMPETENT JURISDICTION FOR REINSTATEMENT, BACK PAY OR SUCH FURTHER RELIEF AS MAY BE JUST AND NECESSARY.

(F) A HEARING AS DESCRIBED IN SUBPARAGRAPH (IV) OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE PROVIDED PRIOR TO AN ORDER OF WITHHOLDING IF THE INDIVIDUAL SUBMITS A WRITTEN REQUEST FOR A HEARING ON OR BEFORE THE FIFTEENTH DAY FOLLOWING THE NOTICE DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (A) OF THIS SUBDIVISION IN ACCORDANCE WITH PROCEDURES SET FORTH BY THE CORPORATION. IF AN INDIVIDUAL FAILS TO SUBMIT A WRITTEN REQUEST IN THE TIME FRAME PROVIDED, THE CORPORATION SHALL STILL PROVIDE A HEARING UPON RECEIPT OF A WRITTEN REQUEST, BUT SUCH HEARING NEED NOT BE PROVIDED PRIOR TO AN ORDER OF WITHHOLDING BEING ISSUED TO THE EMPLOYER. THE HEARING SHALL NOT BE CONDUCTED BY A PARTY UNDER THE SUPERVISION OR CONTROL OF THE CORPORATION EXCEPT THAT NOTHING SHALL PROHIBIT THE CORPORATION FROM APPOINTING AN ADMINISTRATIVE LAW JUDGE. A HEARING DECISION SHALL BE ISSUED NO LATER THAN SIXTY DAYS AFTER THE FILING OF THE PETITION REQUESTING THE HEARING.

(G) FOR PURPOSES OF THIS SECTION "DISPOSABLE PAY" SHALL MEAN THAT PART OF THE COMPENSATION OF ANY INDIVIDUAL FROM AN EMPLOYER REMAINING AFTER DEDUCTION OF AMOUNTS REQUIRED TO BE WITHHELD BY LAW.

(H) ALL FUNDS RECEIVED THROUGH ADMINISTRATIVE WAGE GARNISHMENT SHALL BE DEPOSITED INTO A DESIGNATED ACCOUNT WITHIN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE.

8. NEW YORK STATE TAX OFFSET. THE CORPORATION SHALL BE ENTITLED TO RECEIVE CREDITS OF NEW YORK STATE TAX OVERPAYMENTS PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-D AND PARAGRAPH THREE OF SUBDIVISION (E) OF SECTION SIX HUNDRED NINETY-SEVEN OF THE TAX LAW WITH RESPECT TO DEFAULTED EDUCATION LOANS UNDER THIS PROGRAM. ALL FUNDS, OR CREDITS, RECEIVED THROUGH SUCH TAX OFFSETS SHALL BE DEPOSITED INTO A DESIGNATED ACCOUNT WITHIN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE.

9. DATA SHARE. THE CORPORATION SHALL BE ENTITLED TO RECEIVE DATA FROM THE NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-A AND PARAGRAPH THREE OF SUBDIVISION (E)

OF SECTION SIX HUNDRED NINETY-SEVEN OF THE TAX LAW WITH RESPECT TO DEFAULTED EDUCATION LOANS UNDER THIS PROGRAM.

10. STATUTE OF LIMITATION. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THERE SHALL BE NO STATUTE OF LIMITATIONS TO BRING SUIT OR OTHERWISE COLLECT AN EDUCATION LOAN UNDER THIS PROGRAM. JUDGMENTS IN FAVOR OF THE CORPORATION UNDER THIS PROGRAM SHALL NOT EXPIRE AND THERE SHALL BE NO STATUTE OF LIMITATIONS UPON WHICH TO ENFORCE OR COLLECT SAID JUDGMENT.

11. CAPACITY OF MINORS. ANY PERSON OTHERWISE QUALIFYING FOR AN EDUCATION LOAN UNDER THIS PROGRAM SHALL NOT BE DISQUALIFIED BY REASON OF HIS OR HER BEING UNDER THE AGE OF EIGHTEEN YEARS AND FOR THE PURPOSES OF APPLYING FOR, RECEIVING AND REPAYING SUCH A LOAN, ANY SUCH PERSON SHALL BE DEEMED TO HAVE FULL LEGAL CAPACITY TO ACT. THE CORPORATION, IN COLLECTING EDUCATION LOANS UNDER THIS PROGRAM, SHALL NOT BE SUBJECT TO A DEFENSE RAISED BY ANY BORROWER BASED ON A CLAIM OF INFANCY.

12. USURY. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY THE RATE OR AMOUNT OF INTEREST OR FEES PAYABLE ON EDUCATION LOANS MADE UNDER THIS PROGRAM SHALL NOT EXCEED TWENTY-FIVE PER CENTUM PER ANNUM OR ITS EQUIVALENT RATE FOR A LONGER OR SHORTER PERIOD.

13. DEATH AND DISABILITY DISCHARGE. UPON THE DEATH OF A STUDENT, FOR THE FUNDING OF WHOSE HIGHER EDUCATION EXPENSES AN EDUCATION LOAN WAS MADE, THE EDUCATION LOAN MADE UNDER THIS PROGRAM SHALL BE DEEMED DISCHARGED. IF SUCH A STUDENT BECOMES TOTALLY AND PERMANENTLY DISABLED, THE EDUCATION LOAN UNDER THIS PROGRAM SHALL BE DEEMED DISCHARGED. A TOTAL OR PERMANENT DISABILITY SHALL MEAN A CONDITION OF AN INDIVIDUAL WHO IS UNABLE TO WORK AND EARN MONEY BECAUSE OF AN INJURY OR ILLNESS THAT IS EXPECTED TO CONTINUE INDEFINITELY OR RESULT IN DEATH. THE HOLDER OF SUCH DISCHARGED EDUCATION LOANS SHALL BE PAID THE OUTSTANDING PRINCIPAL, CAPITALIZED AND UNPAID ACCRUED INTEREST DUE FROM THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE.

14. BANKRUPTCY. EDUCATION LOANS UNDER THIS PROGRAM SHALL BE CONSIDERED NON-DISCHARGEABLE PURSUANT TO SECTION 523(A)(8) OF THE U.S. BANKRUPTCY CODE.

15. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, OTHER THAN SECTION ONE THOUSAND SIX HUNDRED EIGHTY TWO AND SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW, A SECURITY INTEREST IN EDUCATION LOANS SHALL BE PERFECTED ONLY BY THE FILING OF A FINANCING STATEMENT IN THE MANNER PROVIDED UNDER SECTION 9-310 OF THE UNIFORM COMMERCIAL CODE, AND SHALL ATTACH AND BE ASSIGNED PRIORITY IN THE MANNER PROVIDED UNDER THE UNIFORM COMMERCIAL CODE WITH RESPECT TO SECURITY INTERESTS PERFECTED BY SUCH A FILING, AND A DESCRIPTION OF COLLATERAL CONSISTING OF EDUCATION LOANS IN ANY FINANCING STATEMENT SHALL BE CONCLUSIVELY DEEMED TO BE LEGALLY SUFFICIENT IF IT REFERS TO RECORDS IDENTIFYING SUCH LOANS RETAINED BY THE CORPORATION, PROVIDED THAT ANY SUCH SECURITY INTEREST SHALL BE SUBJECT TO ANY APPLICABLE LIEN UNDER SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW. THE OWNER OF ANY EDUCATION LOAN SHALL ADVISE THE CORPORATION OF ANY SALE OR ASSIGNMENT OF SUCH LOAN AT THE TIME AND IN THE MANNER REQUIRED BY THE CORPORATION.

16. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY ELIGIBLE PUBLIC COLLEGE OR PUBLIC CAREER EDUCATION INSTITUTION IS HEREBY AUTHORIZED TO ENTER INTO ONE OR MORE AGREEMENTS WITH THE CORPORATION AND ANY ENTITY AUTHORIZED TO FINANCE EDUCATION LOANS PURSUANT TO THE PUBLIC AUTHORITIES LAW PROVIDING FOR THE PARTICIPATION OF SUCH COLLEGE OR CAREER EDUCATION

INSTITUTION IN THE PROGRAM AND TO PERFORM OR CONTRACT THE PERFORMANCE OF ITS OBLIGATIONS UNDER ANY SUCH AGREEMENT. SUCH OBLIGATIONS MAY INCLUDE WITHOUT LIMITATION THE PAYMENT OBLIGATIONS DESCRIBED IN THIS TITLE.

S 694. SALE OF EDUCATION LOANS. 1. THE CORPORATION AND HOLDERS SHALL BE AUTHORIZED TO ENTER INTO ONE OR MORE AGREEMENTS FOR THE SALE OF EDUCATION LOANS MADE PURSUANT TO THIS PROGRAM.

2. EDUCATION LOAN PURCHASES MAY BE FINANCED (I) BY BONDS ISSUED BY THE STATE OF NEW YORK MORTGAGE AGENCY, OR OTHER ENTITY AUTHORIZED TO ISSUE BONDS FOR SUCH PURPOSE PURSUANT TO THE PUBLIC AUTHORITIES LAW, IN AN AMOUNT APPROVED BY THE DIRECTOR OF THE DIVISION OF THE BUDGET; OR (II) BY OTHER NON-STATE SOURCES IN AMOUNTS ESTABLISHED PURSUANT TO AN AGREEMENT WITH THE CORPORATION.

3. THE CORPORATION SHALL ESTABLISH THE CRITERIA AND TERMS UPON WHICH LENDERS MAY SELL EDUCATION LOANS SUBJECT TO THE APPROVAL OF THE STATE OF NEW YORK MORTGAGE AGENCY OR ANY OTHER ENTITY AUTHORIZED TO ISSUE BONDS UNDER THIS PROGRAM WITH RESPECT TO LOANS THAT ARE EXPECTED TO BE FINANCED BY SUCH ENTITY.

S 694-A. MISCELLANEOUS. 1. NO EDUCATION LOAN SHALL BE DEEMED SUBJECT TO SECTION ONE HUNDRED EIGHT OF THE BANKING LAW, TO ARTICLE NINE OF THE BANKING LAW OR TO ANY OTHER PROVISIONS OF LAW GOVERNING THE QUALIFICATIONS TO MAKE LOANS OR THE TERMS OR CONDITIONS OF LOANS DESCRIBED IN THIS PART, INCLUDING, WITHOUT LIMITATION, THE INTEREST RATES, FEES AND CHARGES APPLICABLE THERETO. NEITHER THE CORPORATION NOR ANY ENTITY AUTHORIZED TO FINANCE EDUCATION LOANS PURSUANT TO THE PUBLIC AUTHORITIES LAW SHALL BE SUBJECT TO ANY LICENSING REQUIREMENTS IN CONNECTION WITH ITS EDUCATION LENDING ACTIVITIES. NO ENTITY SHALL BE CONSIDERED A LENDER FOR PURPOSES OF ANY OTHER PROVISION OF LAW SOLELY AS A RESULT OF ITS INTEREST IN AN EDUCATION LOAN MADE UNDER THIS PART.

2. FUNDS MAY BE APPROPRIATED TO THE CORPORATION AND/OR THE STATE OF NEW YORK MORTGAGE AGENCY, OR OTHER ENTITY AUTHORIZED TO ISSUE BONDS UNDER THIS PROGRAM, FOR THE ADMINISTRATION OF THIS PROGRAM.

3. INTEREST PAID ON EDUCATION LOANS MADE UNDER THIS PROGRAM SHALL BE ALLOWED AS A DEDUCTION IN COMPUTING THE NET TAXABLE INCOME OF ANY SUCH PERSON FOR PURPOSES OF ANY INCOME OR FRANCHISE TAX IMPOSED BY THE STATE OR ANY POLITICAL SUBDIVISION THEREOF.

4. ANY AGREEMENT OF AN ENTITY AUTHORIZED TO ISSUE BONDS UNDER THE PUBLIC AUTHORITIES LAW FOR PURPOSES OF THIS PROGRAM TO ACQUIRE EDUCATION LOANS FROM A LENDER SHALL BE SUBJECT TO THE AVAILABILITY TO SUCH ENTITY OF FUNDING FOR SUCH PURPOSE UPON TERMS AND CONDITIONS APPROVED BY SUCH ENTITY AND SHALL NOT REQUIRE THE EXPENDITURE BY SUCH ENTITY OF FUNDS FROM ANY SOURCE OTHER THAN AMOUNTS OBTAINED THROUGH THE ISSUANCE OF BONDS OR NOTES, INCLUDING EARNINGS THEREON, AND ANY APPROPRIATIONS THEREOF.

5. THE CORPORATION, THE STATE OF NEW YORK MORTGAGE AGENCY, ANY LENDER, AND ANY PUBLIC BENEFIT CORPORATION AUTHORIZED TO ISSUE BONDS UNDER THE PUBLIC AUTHORITIES LAW FOR THE PURPOSES OF THIS PROGRAM SHALL NOT BE SUBJECT TO TITLE 5 OF THE GENERAL OBLIGATIONS LAW WITH RESPECT TO EDUCATION LOANS AND SUCH EDUCATION LOANS SHALL NOT BE SUBJECT TO SUCH TITLE.

6. TO THE EXTENT THAT THE PROVISIONS OF THIS PART ARE INCONSISTENT WITH THE PROVISIONS OF ANY OTHER PART OF THIS ARTICLE, THE PROVISIONS OF THIS PART SHALL BE CONTROLLING.

S 694-B. REPORTING. THE CORPORATION, AFTER CONSULTATION WITH THE STATE OF NEW YORK MORTGAGE AGENCY, AND ANY OTHER PUBLIC BENEFIT CORPORATION THAT SHALL HAVE ISSUED BONDS UNDER THE PUBLIC AUTHORITIES LAW FOR PURPOSES OF THIS PROGRAM, WITH RESPECT TO LOANS THAT HAVE BEEN FINANCED BY OR THAT ARE EXPECTED TO BE FINANCED BY SUCH ENTITY, SHALL REPORT

ANNUALLY WITH RESPECT TO EDUCATION LOANS MADE UNDER THIS PROGRAM FOR THE PRIOR ACADEMIC YEAR TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE DIRECTOR OF THE DIVISION OF THE BUDGET, THE SENATE FINANCE COMMITTEE, THE ASSEMBLY WAYS AND MEANS COMMITTEE AND THE STANDING COMMITTEES OF THE LEGISLATURE HAVING JURISDICTION OF HIGHER EDUCATION ON THE NUMBER AND CHARACTERISTICS OF STUDENTS WHO RECEIVED FIXED RATE AND/OR VARIABLE RATE LOANS UNDER THIS PROGRAM, INCLUDING, BUT NOT LIMITED TO, THE INTEREST RATE CHARGED, THE DEFAULT AND COLLECTION FEES ESTABLISHED, THE GRACE PERIOD ESTABLISHED IF OTHER THAN SIX MONTHS, THE NUMBER OF STUDENTS WHO RECEIVED LOANS THAT DEMONSTRATED FINANCIAL NEED PURSUANT TO SECTION SIX HUNDRED NINETY-TWO OF THIS PART, THE INCOME ESTABLISHED BY THE CORPORATION PURSUANT TO SECTION SIX HUNDRED NINETY-TWO OF THIS PART, THE NUMBER OF STUDENTS WHO RECEIVED FIXED RATE LOANS, THE NUMBER OF STUDENTS WHO RECEIVED VARIABLE RATE LOANS, THE NUMBER OF DEFAULT CLAIMS RECEIVED BY THE CORPORATION, THE NUMBER OF BORROWERS SUBJECT TO ADMINISTRATIVE WAGE GARNISHMENT, AND A LIST OF THE LENDERS AND HOLDERS, IF KNOWN, WHO HAVE PROVIDED VARIABLE RATE LOANS. SUCH ANNUAL REPORT SHALL BE SUBMITTED BY THE FIRST DAY OF DECEMBER FOLLOWING THE CLOSE OF THE ACADEMIC YEAR FOR WHICH SUCH EDUCATION LOANS WERE MADE.

S 2. Subdivision 2 of section 653 of the education law, as added by chapter 942 of the laws of 1974, is amended to read as follows:

2. a. To submit to the governor, the temporary president of the senate, the speaker of the assembly, the senate finance committee, the assembly ways and means committee and the standing committees of the legislature having jurisdiction of higher education, at such times as the director of the budget may prescribe a student aid and loan budget request for the following state fiscal year. The budget request shall include, but not be limited to estimates of the number and characteristics of students eligible for aid and loans, OTHER THAN EDUCATION LOANS MADE UNDER THE NEW YORK HIGHER EDUCATION LOAN PROGRAM PURSUANT TO PART V OF THIS ARTICLE which budget request shall be developed by the president after consultation with the board of regents in order to implement the student financial aid and loan programs, OTHER THAN EDUCATION LOANS MADE UNDER THE NEW YORK HIGHER EDUCATION LOAN PROGRAM PURSUANT TO PART V OF THIS ARTICLE provided for in this article. NOTWITHSTANDING, THE BUDGET REQUEST SHALL ALSO INCLUDE AN ESTIMATE OF THE AMOUNTS NEEDED FOR STATE OPERATIONS WITHIN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM ACCOUNT FOR PURPOSES OF THE NEW YORK HIGHER EDUCATION LOAN PROGRAM ESTABLISHED PURSUANT TO PART V OF THIS ARTICLE. A copy of the budget request shall be transmitted to the commissioner for his information. The budget request submitted by the board shall be subject to approval annually as part of the executive budget.

b. At the time and in the format prescribed by the Director of the Budget, the Board shall submit to the Division of the Budget an administrative and operating budget request. This budget request shall be subject to approval annually as part of the executive budget.

c. In order further to assure the payment by the corporation to lending institutions for defaulted loans, OTHER THAN EDUCATION LOANS MADE UNDER THE NEW YORK HIGHER EDUCATION LOAN PROGRAM PURSUANT TO PART V OF THIS ARTICLE in the respective amounts as guaranteed by the corporation pursuant to contract, there shall be annually apportioned and paid to the corporation such estimated amount, if any, as shall be certified by the board to the governor and director of the budget as necessary to provide for the payment of all SUCH defaults for the next ensuing state fiscal year. The board shall, as part of its annual budget request, make

and deliver to the governor and director of the budget, its certificate stating the estimated amount, if any, required to pay SUCH defaults for the ensuing state fiscal year, if any, and said sums shall be apportioned and paid to the corporation during such fiscal year.

S 3. Section 656 of the education law, as added by chapter 942 of the laws of 1974, is amended to read as follows:

S 656. Contributions to corporation; tax deduction thereof. Notwithstanding the provisions of any general or special law all domestic corporations or associations organized for the purpose of carrying on business in this state, and any person, are hereby authorized to make contributions to the New York state higher education services corporation OR TO THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE and such contributions shall be allowed as deductions in computing the net taxable income of any such person, corporation or association for purposes of any income or franchise tax imposed by the state or any political subdivision thereof.

S 4. Subdivision 2 of section 657 of the education law, as added by chapter 942 of the laws of 1974, is amended to read as follows:

2. The state of New York [covenants] DOES HEREBY PLEDGE TO AND AGREE with the holders of the [obligations and] BONDS, notes [issued by], OR OTHER OBLIGATIONS OF the corporation pursuant to this article, OR OF THE STATE OF NEW YORK MORTGAGE AGENCY AUTHORIZED IN SECTION TWO THOUSAND FOUR HUNDRED SIX OF THE PUBLIC AUTHORITIES LAW FOR THE CORPORATE PURPOSES AUTHORIZED IN SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW, OR OF ANY OTHER STATE ENTITY AUTHORIZED TO ISSUE BONDS OR NOTES UNDER THE NEW YORK EDUCATION LOAN PROGRAM CODIFIED IN PART V OF THIS ARTICLE THAT ARE ISSUED FOR SUCH PURPOSE, AND WITH THE HOLDERS OF SUCH EDUCATION LOANS, THAT THE PROVISIONS OF LAW APPLICABLE TO THE NEW YORK EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE, AND TO THE POWERS OF THE CORPORATION TO RECEIVE AND DEPOSIT IN EACH SUCH FUND THE APPLICABLE AMOUNTS DESCRIBED THEREIN SHALL NOT BE AMENDED IN A MANNER ADVERSELY AFFECTING THE INTERESTS OF SUCH HOLDERS WITHOUT ADEQUATE PROVISION BEING MADE TO PROTECT SUCH INTERESTS AND that the corporation shall not be required to pay any taxes or assessments upon any of its property or upon its activities pursuant to the provisions of this article, or upon any moneys, funds, revenues or other income held or received by the corporation, and that the obligations and notes of the corporation and the income therefrom shall at all times be exempt from taxation, except for estate and gift taxes and taxes on transfers. EACH OF THE CORPORATION, THE STATE OF NEW YORK MORTGAGE AGENCY AND ANY SUCH OTHER PUBLIC BENEFIT CORPORATION, IS AUTHORIZED TO INCLUDE THIS PLEDGE AND AGREEMENT OF THE STATE IN ANY AGREEMENTS WITH THE HOLDERS OF SUCH BONDS AND WITH THE HOLDERS OF SUCH EDUCATION LOANS.

S 5. Subdivision 1 of section 661 of the education law, as amended by chapter 844 of the laws of 1975, is amended to read as follows:

1. Applicability. The eligibility requirements and conditions established in this section shall apply to all general awards, academic performance awards and student loans OTHER THAN EDUCATION LOANS MADE PURSUANT TO PART V OF THIS ARTICLE.

S 6. Paragraph c of subdivision 6 of section 661 of the education law, as added by chapter 637 of the laws of 1985, subparagraph 1 as amended by chapter 212 of the laws of 1988, is amended to read as follows:

c. A student who has defaulted on a guaranteed student loan or has failed to make a refund of an award may notwithstanding be considered eligible for a further guaranteed student loan UNDER THE FEDERAL STUDENT AID PROGRAMS or an award or both, [if] PROVIDED:

(1) (i) the student, except for the default, shall be eligible for the guaranteed student loan or the award; and (ii) the student has entered into a plan of repayment of the amount outstanding on the defaulted loan or refund satisfactory to the corporation, and has made satisfactory payments thereunder for a period of six months prior to the application to the corporation for the guaranteed student loan or the award; and (iii) in the case of a default in the payment of a guaranteed student loan, the student has demonstrated to the satisfaction of the president, that at the time the default occurred the student was entitled to a deferment or could have been granted forbearance of payment on the loan by the lender if a request for forbearance had been made;

(2) application for the further loan or award as authorized by this paragraph shall be on such forms and supported by such documentation as shall be prescribed by the president. The determination on the application by the president may be made without a hearing and shall be deemed final administrative action;

(3) anything to the contrary herein notwithstanding the corporation may offset any award to which the student shall be entitled against a refund due for a previous award, as provided under the provisions of subdivision four of section six hundred sixty-five of this article.

S 7. Section 682 of the education law is REPEALED.

S 8. Section 683 of the education law is REPEALED.

S 8-a. Section 684 of the education law is REPEALED.

S 8-b. Section 651 of the education law is amended by adding a new subdivision 7 to read as follows:

7. "LEND" SHALL INCLUDE ONE OR MORE OF THE FOLLOWING SERVICES: THE ORIGINATION, DISBURSEMENT, SERVICING, AND/OR COLLECTION OF ANY STUDENT OR PARENT EDUCATION LOAN MADE BY OR ON BEHALF OF A LENDING INSTITUTION A GOVERNMENT ENTITY, OR AN INSTITUTION OF HIGHER EDUCATION FOR THE PURPOSE OF PAYING FOR HIGHER EDUCATION EXPENSES AS WELL AS SERVING AS A SECONDARY MARKET FOR THESE LOANS.

S 9. Section 2405-a of the public authorities law is REPEALED and a new section 2405-a is added to read as follows:

S 2405-A. EDUCATION LOANS. (1) FOR PURPOSES OF THIS SECTION, THE FOLLOWING WORDS AND TERMS SHALL HAVE THE FOLLOWING MEANING UNLESS THE CONTEXT SHALL INDICATE ANOTHER OR DIFFERENT MEANING OR INTENT:

(A) "CORPORATION" SHALL MEAN THE NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION.

(B) "EDUCATION LOAN" SHALL MEAN: (I) A NEW YORK HIGHER EDUCATION LOAN PROGRAM LOAN MADE PURSUANT TO PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW; OR (II) A LOAN UNDER PART B OF TITLE IV OF THE HIGHER EDUCATION ACT OF NINETEEN HUNDRED SIXTY-FIVE, AS AMENDED, INCLUDING BUT NOT LIMITED TO A LOAN DESCRIBED IN SUBDIVISION TEN OF SECTION TWENTY-FOUR HUNDRED TWO OF THIS PART; PROVIDED, THAT THE BORROWER SHALL BE REQUIRED TO APPLY THE NET PROCEEDS OF SUCH LOANS TO PAY THE STUDENT'S COSTS OF POST-SECONDARY EDUCATION OR TO REPAY ONE OR MORE SUCH LOANS INCURRED FOR SUCH PURPOSE.

(2) IN ADDITION TO THE POWERS OF THE AGENCY PURSUANT TO THE OTHER SECTIONS OF THIS TITLE, THE AGENCY SHALL HAVE POWER:

(A) TO ENTER INTO ONE OR MORE AGREEMENTS WITH THE CORPORATION AND TO PERFORM OR CONTRACT FOR THE PERFORMANCE OF ITS OBLIGATIONS UNDER ANY SUCH AGREEMENT;

(B) TO MAKE AND CONTRACT TO MAKE AND TO ACQUIRE AND CONTRACT TO ACQUIRE EDUCATION LOANS AND TO ENTER INTO ADVANCE COMMITMENTS FOR THE PURCHASE OF SAID EDUCATION LOANS;

(C) SUBJECT TO ANY AGREEMENT WITH BONDHOLDERS OR NOTEHOLDERS, TO INVEST MONEYS OF THE AGENCY NOT REQUIRED FOR IMMEDIATE USE, INCLUDING PROCEEDS FROM THE SALE OF ANY BONDS OR NOTES, IN EDUCATION LOANS;

(D) TO MAKE AND EXECUTE CONTRACTS FOR THE MARKETING, ORIGINATION, SERVICING, COLLECTION, ADMINISTRATION, GUARANTEE, SECURING, AND FINANCING OF EDUCATION LOANS ORIGINATED OR ACQUIRED BY THE AGENCY PURSUANT TO THIS TITLE, AND TO PAY THE REASONABLE VALUE OF SERVICES RENDERED TO THE AGENCY PURSUANT TO THOSE CONTRACTS;

(E) SUBJECT TO ANY AGREEMENT WITH BONDHOLDERS OR NOTEHOLDERS, TO RENEGOTIATE OR REFINANCE ANY EDUCATION LOAN THAT HAS BEEN ACQUIRED BY THE AGENCY OR WHICH THE AGENCY HAS COMMITTED TO PURCHASE THAT IS IN DEFAULT; TO WAIVE ANY DEFAULT OR CONSENT TO THE MODIFICATION OF THE TERMS OR ANY SUCH EDUCATION LOAN; TO FORGIVE ALL OR PART OF ANY INDEBTEDNESS; AND TO COMMENCE ANY ACTION OR PROCEEDING TO PROTECT OR ENFORCE ANY RIGHT CONFERRED UPON IT WITH RESPECT TO ANY SUCH EDUCATION LOAN BY LAW, LOAN AGREEMENT, CONTRACT OR OTHER AGREEMENT;

(F) TO PRESCRIBE STANDARDS AND CRITERIA FOR THE ORIGINATION OF EDUCATION LOANS TO BE ELIGIBLE FOR ACQUISITION BY THE AGENCY AND FOR EDUCATION LOANS PURCHASED BY THE AGENCY;

(G) SUBJECT TO ANY AGREEMENT WITH BONDHOLDERS OR NOTEHOLDERS, TO SELL ANY EDUCATION LOANS MADE OR ACQUIRED BY THE AGENCY AT PUBLIC OR PRIVATE SALE AND AT SUCH PRICE OR PRICES AND ON SUCH TERMS AS THE AGENCY SHALL DETERMINE;

(H) TO ESTABLISH, REVISE FROM TIME TO TIME, CHARGE AND COLLECT SUCH PREMIUMS OR FEES IN CONNECTION WITH EDUCATION LOANS AND ITS PARTICIPATION IN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM AS THE AGENCY SHALL DETERMINE; AND

(I) SUBJECT TO ANY AGREEMENT WITH BONDHOLDERS OR NOTEHOLDERS, TO INVEST MONEYS PLEDGED TO SECURE BONDS ISSUED FOR THE CORPORATE PURPOSES AUTHORIZED BY THIS SECTION NOT REQUIRED FOR IMMEDIATE USE IN INVESTMENTS AUTHORIZED FOR INVESTMENT OF STATE FUNDS UNDER SECTION NINETY-EIGHT OR NINETY-EIGHT-A OF THE STATE FINANCE LAW.

(3) THE AGENCY SHALL HAVE THE POWER AND IS HEREBY AUTHORIZED FROM TIME TO TIME TO ISSUE ITS BONDS AND NOTES PURSUANT TO SECTION TWO THOUSAND FOUR HUNDRED SIX OF THIS TITLE FOR THE CORPORATE PURPOSES AUTHORIZED BY THIS SECTION, INCLUDING WITHOUT LIMITATION FOR THE PURPOSES OF FINANCING AND REFINANCING EDUCATION LOANS AND OF REFUNDING ANY BONDS OR NOTES ISSUED FOR SUCH PURPOSE.

(4) EACH LENDER OR SERVICE PROVIDER WHO MAKES A REPRESENTATION OR WARRANTY TO THE AGENCY WITH RESPECT TO AN EDUCATION LOAN SHALL BE LIABLE TO THE AGENCY FOR ANY DAMAGES SUFFERED BY THE AGENCY BY REASON OF THE UNTRUTH OF SUCH REPRESENTATION OR THE BREACH OF SUCH WARRANTY AND, IN THE EVENT THAT ANY REPRESENTATION SHALL PROVE TO BE UNTRUE WHEN MADE OR IN THE EVENT OF ANY BREACH OF WARRANTY, SUCH PERSON SHALL, AT THE OPTION OF THE AGENCY, REPURCHASE THE EDUCATION LOAN FOR THE PRICE PROVIDED IN THE APPLICABLE FINANCING AGREEMENT, AS THE AGENCY MAY DETERMINE.

(5) IT IS THE INTENT OF THE LEGISLATURE THAT ANY PLEDGE BY THE AGENCY OF EDUCATION LOANS OR OF EARNINGS, REVENUES OR OTHER MONEYS RECEIVABLE

FROM ANY SOURCE, INCLUDING WITHOUT LIMITATION DEFAULT PAYMENTS BY THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND, THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND, OR THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND, AS APPLICABLE, WITH RESPECT TO EDUCATION LOANS FINANCED BY THE AGENCY, SHALL BE VALID AND BINDING FROM THE TIME WHEN THE PLEDGE IS MADE. THE EDUCATION LOANS, EARNINGS, REVENUES OR OTHER MONEYS SO PLEDGED AND THEREAFTER RECEIVED BY THE AGENCY OR ITS AGENT, INCLUDING WITHOUT LIMITATION THE HIGHER EDUCATION SERVICES CORPORATION OR ANY EDUCATION LOAN SERVICER, SHALL IMMEDIATELY BE SUBJECT TO THE LIEN OF SUCH PLEDGE WITHOUT ANY PHYSICAL DELIVERY THEREOF OR FURTHER ACT, AND THE LIEN OF ANY SUCH PLEDGE SHALL BE VALID AND BINDING AS AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT OR OTHERWISE AGAINST THE AGENCY OR ITS AGENT, INCLUDING WITHOUT LIMITATION THE HIGHER EDUCATION SERVICES CORPORATION OR ANY EDUCATION LOAN SERVICER, IRRESPECTIVE OF WHETHER SUCH PARTIES HAVE NOTICE THEREOF. NEITHER THE RESOLUTION NOR ANY OTHER INSTRUMENT BY WHICH A PLEDGE IS CREATED NEED BE RECORDED.

(6) THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND. (A) THERE IS HEREBY CREATED AND ESTABLISHED IN THE SOLE CUSTODY OF THE STATE OF NEW YORK MORTGAGE AGENCY A SPECIAL FUND TO BE KNOWN AS THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND WHICH SHALL BE FOR THE EXCLUSIVE BENEFIT OF THE HOLDERS OF EDUCATION LOANS THAT THE AGENCY HAS ACQUIRED, OR AGREED TO ACQUIRE, UNDER THE NEW YORK HIGHER EDUCATION LOAN PROGRAM, CODIFIED IN PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW.

(B) AMOUNTS HELD IN THIS FUND SHALL NOT BE, OR BE DEEMED, FUNDS OF THE STATE OR FUNDS UNDER THE MANAGEMENT OF THE STATE, THE AGENCY, OR THE CORPORATION. THE OBLIGATIONS OF SUCH FUND SHALL NOT BE, OR BE DEEMED, THE DEBTS OR OBLIGATIONS OF THE STATE AND THE STATE SHALL NOT BE, OR BE DEEMED, IN ANY WAY OBLIGATED TO: ANY HOLDER OF ANY SUCH EDUCATION LOAN; ANY HOLDER OF BONDS ISSUED PURSUANT TO SECTION TWO THOUSAND FOUR HUNDRED SIX OF THIS PART FOR THE CORPORATE PURPOSES AUTHORIZED IN SECTION TWO THOUSAND FIVE-A OF THIS ARTICLE; ANY FIDUCIARY OR PROVIDER OF ANY CREDIT FACILITY, LIQUIDITY FACILITY OR INTEREST RATE EXCHANGE AGREEMENT WITH RESPECT TO SUCH BONDS; OR ANY OTHER CREDITOR OF THIS FUND.

(C) SUCH FUND SHALL CONSIST OF: (I) ALL MONEYS RECEIVED BY THE HIGHER EDUCATION SERVICES CORPORATION PURSUANT TO PARAGRAPH (B) OF SUBDIVISION SEVEN OF SECTION SIX HUNDRED NINETY-TWO OF THE EDUCATION LAW, IN CONNECTION WITH EDUCATION LOANS THAT THE AGENCY HAS ACQUIRED OR AGREED TO ACQUIRE UNDER THE NEW YORK HIGHER EDUCATION LOAN PROGRAM EDUCATION LOANS; (II) ANY TRANSFERS FROM THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND CREATED BY SECTION SEVENTY-EIGHT-A OF THE STATE FINANCE LAW OR FROM THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND CREATED BY SECTION SEVENTY-EIGHT-B OF THE STATE FINANCE LAW; AND (III) ANY APPROPRIATION PAYMENT OR TRANSFER TO THE AGENCY FOR SUCH PURPOSE.

(D) THE AGENCY SHALL ESTABLISH ACCOUNTS WITHIN THE FUND AND PRIORITIES OF PAYMENT FROM SUCH ACCOUNTS AND SHALL INVEST THE FUND IN INVESTMENTS AUTHORIZED FOR INVESTMENT OF STATE FUNDS UNDER SECTION NINETY-EIGHT OR NINETY-EIGHT-A OF THE STATE FINANCE LAW.

(E) THIS FUND, INCLUDING ALL SUB-ACCOUNTS THEREOF, SHALL BE SEGREGATED FROM ALL OTHER FUNDS KEPT BY THE AGENCY AND SHALL NOT BE USED FOR ANY OTHER PURPOSE BEYOND THOSE SET FORTH IN PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW OR IN THIS SECTION. THE AGENCY SHALL UTILIZE MONIES IN

THE FUND SOLELY TO PAY THE OUTSTANDING PRINCIPAL, CAPITALIZED AND UNPAID ACCRUED INTEREST ON DEFAULTED EDUCATION LOANS DESCRIBED IN PARAGRAPH A OF THIS SUBDIVISION.

(F) NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE AGENCY, OR THE CORPORATION, FROM RECEIVING GRANTS, GIFTS OR BEQUESTS FOR THE PURPOSES OF THIS FUND AND DEPOSITING THEM INTO THE FUND ACCORDING TO LAW, RULES, OR REGULATIONS.

(G) THE AGENCY SHALL MAKE PAYMENTS FROM THE MONIES IN THIS FUND IN AMOUNTS AND AT TIMES REQUIRED PURSUANT TO PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW.

S 10. Section 201 of the state finance law is amended by adding a new subdivision 16 to read as follows:

16. THE COMPTROLLER IS HEREBY AUTHORIZED TO DEDUCT FROM THE SALARY OF ANY STATE EMPLOYEE SUCH AMOUNT AS SUCH EMPLOYEE MAY SPECIFY IN WRITING TO BE FILED WITH THE PAYROLL OFFICER OF THE EMPLOYEE'S AGENCY FOR THE PURPOSE OF MAKING PAYMENTS ON OUTSTANDING EDUCATION LOANS MADE PURSUANT TO PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW AND TO TRANSMIT DEDUCTIONS SO WITHHELD TO THE APPROPRIATE COLLECTING AGENT DESIGNATED BY THE HIGHER EDUCATION SERVICES CORPORATION FOR RECEIPT THEREOF. ANY SUCH WRITTEN AUTHORIZATION MAY BE WITHDRAWN BY SUCH EMPLOYEE AT ANY TIME UPON FILING WRITTEN NOTICE OF SUCH WITHDRAWAL WITH THE COMPTROLLER. THE COMPTROLLER IS HEREBY AUTHORIZED TO MAKE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO PROVIDE FOR DEDUCTIONS FOR THIS PURPOSE.

S 11. The state finance law is amended by adding a new section 78-a to read as follows:

S 78-A. NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND. 1. THERE IS HEREBY CREATED AND ESTABLISHED IN THE SOLE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE KNOWN AS THE NEW YORK HIGHER EDUCATION LOAN PROGRAM VARIABLE RATE DEFAULT RESERVE FUND WHICH SHALL BE FOR THE EXCLUSIVE BENEFIT OF THE HOLDERS OF VARIABLE RATE EDUCATION LOANS ORIGINATED PURSUANT TO THE NEW YORK HIGHER EDUCATION LOAN PROGRAM CODIFIED IN PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW, OTHER THAN VARIABLE RATE EDUCATION LOANS DESCRIBED IN SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW.

2. AMOUNTS HELD IN THIS FUND SHALL NOT BE, OR BE DEEMED, FUNDS OF THE STATE OR FUNDS UNDER THE MANAGEMENT OF THE STATE OR THE HIGHER EDUCATION SERVICES CORPORATION. THE OBLIGATIONS OF THE FUND SHALL NOT BE, OR BE DEEMED, THE DEBTS OR OBLIGATIONS OF THE STATE AND THE STATE SHALL NOT BE, OR BE DEEMED, IN ANY WAY OBLIGATED TO: ANY HOLDER OF ANY SUCH EDUCATION LOAN; ANY HOLDER OF BONDS ISSUED PURSUANT TO THE PUBLIC AUTHORITIES LAW FOR THE PURPOSES OF THE NEW YORK HIGHER EDUCATION LOAN PROGRAM; ANY FIDUCIARY OR PROVIDER OF ANY CREDIT FACILITY, LIQUIDITY FACILITY OR INTEREST RATE EXCHANGE AGREEMENT WITH RESPECT TO SUCH BONDS; OR ANY OTHER CREDITOR OF THIS FUND.

3. SUCH FUND SHALL CONSIST OF ALL MONEYS RECEIVED BY THE HIGHER EDUCATION SERVICES CORPORATION PURSUANT TO PARAGRAPH (B) OF SUBDIVISION SEVEN OF SECTION SIX HUNDRED NINETY-TWO OF THE EDUCATION LAW, IN CONNECTION WITH VARIABLE RATE EDUCATION LOANS MADE UNDER PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW, OTHER THAN VARIABLE RATE EDUCATION LOANS DESCRIBED IN SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW. THE STATE COMPTROLLER, AT THE REQUEST OF THE HIGHER EDUCATION SERVICES CORPORATION, SHALL ESTABLISH ACCOUNTS WITHIN THE FUND AND PRIORITIES OF PAYMENT FROM SUCH ACCOUNTS AND SHALL INVEST THE FUND IN COMPLIANCE WITH APPLICABLE STATE LAWS CONCERNING THE INVESTMENT OF PUBLIC FUNDS. MONEYS IN THE FUND SHALL BE

SEGREGATED FROM ALL OTHER FUNDS KEPT BY THE STATE COMPTROLLER AND SHALL NOT BE USED FOR ANY OTHER PURPOSE BEYOND THOSE SET FORTH IN PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW OR IN THIS SECTION.

4. THE STATE COMPTROLLER SHALL MAKE PAYMENTS FROM THE FUND IN AMOUNTS AND AT TIMES REQUIRED BY THE HIGHER EDUCATION SERVICES CORPORATION PURSUANT TO PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, UPON CERTIFICATION BY THE STATE OF NEW YORK MORTGAGE AGENCY THAT A VARIABLE RATE EDUCATION LOAN DESCRIBED IN SUBDIVISION THREE OF THIS SECTION HAS BEEN ACQUIRED BY THE AGENCY OR HAS BECOME SUBJECT TO THE AGREEMENT OF THE AGENCY TO ACQUIRE SUCH EDUCATION LOAN, THE STATE COMPTROLLER SHALL MAKE TRANSFERS FROM THE MONIES IN THE VARIABLE RATE NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND TO THE CORPORATION FOR DEPOSIT INTO THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND CREATED BY SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW IN AMOUNTS CERTIFIED BY THE AGENCY AND THE CORPORATION AS PROPERLY ALLOCABLE TO SUCH EDUCATION LOAN.

S 12. The state finance law is amended by adding a new section 78-b to read as follows:

S 78-B. NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND. 1. THERE IS HEREBY CREATED AND ESTABLISHED IN THE SOLE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE KNOWN AS THE NEW YORK HIGHER EDUCATION LOAN PROGRAM FIXED RATE DEFAULT RESERVE FUND WHICH SHALL BE FOR THE EXCLUSIVE BENEFIT OF THE HOLDERS OF FIXED RATE EDUCATION LOANS ORIGINATED PURSUANT TO THE NEW YORK HIGHER EDUCATION LOAN PROGRAM CODIFIED IN PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW, OTHER THAN FIXED RATE EDUCATION LOANS DESCRIBED IN SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW.

2. AMOUNTS HELD IN THIS FUND SHALL NOT BE, OR BE DEEMED, FUNDS OF THE STATE OR FUNDS UNDER THE MANAGEMENT OF THE STATE OR THE HIGHER EDUCATION SERVICES CORPORATION. THE OBLIGATIONS OF THE FUND SHALL NOT BE, OR BE DEEMED, THE DEBTS OR OBLIGATIONS OF THE STATE AND THE STATE SHALL NOT BE, OR BE DEEMED, IN ANY WAY OBLIGATED TO: ANY HOLDER OF ANY SUCH EDUCATION LOAN; ANY HOLDER OF BONDS ISSUED PURSUANT TO THE PUBLIC AUTHORITIES LAW FOR THE PURPOSES OF THE NEW YORK HIGHER EDUCATION LOAN PROGRAM; ANY FIDUCIARY OR PROVIDER OF ANY CREDIT FACILITY, LIQUIDITY FACILITY OR INTEREST RATE EXCHANGE AGREEMENT WITH RESPECT TO SUCH BONDS; OR ANY OTHER CREDITOR OF THIS FUND.

3. SUCH FUND SHALL CONSIST OF ALL MONEYS RECEIVED BY THE HIGHER EDUCATION SERVICES CORPORATION PURSUANT TO PARAGRAPH (B) OF SUBDIVISION SEVEN OF SECTION SIX HUNDRED NINETY-TWO OF THE EDUCATION LAW, IN CONNECTION WITH FIXED RATE EDUCATION LOANS, OTHER THAN FIXED RATE EDUCATION LOANS DESCRIBED IN SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW. THE STATE COMPTROLLER, AT THE REQUEST OF THE HIGHER EDUCATION SERVICES CORPORATION, SHALL ESTABLISH ACCOUNTS WITHIN THE FUND AND PRIORITIES OF PAYMENT FROM SUCH ACCOUNTS AND SHALL INVEST THE FUND IN COMPLIANCE WITH APPLICABLE STATE LAWS CONCERNING THE INVESTMENT OF PUBLIC FUNDS. MONEYS IN THE FUND SHALL BE SEGREGATED FROM ALL OTHER FUNDS KEPT BY THE STATE COMPTROLLER AND SHALL NOT BE USED FOR ANY OTHER PURPOSE BEYOND THOSE SET FORTH IN PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW OR IN THIS SECTION.

4. THE STATE COMPTROLLER SHALL MAKE PAYMENTS FROM THE FUND IN AMOUNTS AND AT TIMES REQUIRED BY THE HIGHER EDUCATION SERVICES CORPORATION PURSUANT TO PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, UPON CERTIFICATION BY THE STATE OF NEW YORK MORTGAGE AGENCY THAT A FIXED RATE EDUCATION LOAN

DESCRIBED IN SUBDIVISION THREE OF THIS SECTION HAS BEEN ACQUIRED BY THE AGENCY OR HAS BECOME SUBJECT TO THE AGREEMENT OF THE AGENCY TO ACQUIRE SUCH EDUCATION LOAN, THE STATE COMPTROLLER SHALL MAKE TRANSFERS FROM THE MONIES IN THE FIXED RATE NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND TO THE CORPORATION FOR DEPOSIT INTO THE STATE OF NEW YORK MORTGAGE AGENCY NEW YORK HIGHER EDUCATION LOAN PROGRAM DEFAULT RESERVE FUND CREATED BY SUBDIVISION SIX OF SECTION TWO THOUSAND FOUR HUNDRED FIVE-A OF THE PUBLIC AUTHORITIES LAW IN AMOUNTS CERTIFIED BY THE AGENCY AND THE CORPORATION AS PROPERLY ALLOCABLE TO SUCH EDUCATION LOAN.

S 13. The public authorities law is amended by adding a new section 1679-c to read as follows:

S 1679-C. THE NEW YORK HIGHER EDUCATION LOAN PROGRAM. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING WORDS AND TERMS SHALL HAVE THE FOLLOWING MEANING UNLESS THE CONTEXT SHALL INDICATE ANOTHER OR DIFFERENT MEANING OR INTENT:

(A) "CORPORATION" SHALL MEAN THE NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION.

(B) "EDUCATION LOAN" SHALL MEAN A LOAN MADE UNDER THE NEW YORK HIGHER EDUCATION LOAN PROGRAM ESTABLISHED PURSUANT TO PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW.

2. IN ADDITION TO THE POWERS OF THE AUTHORITY PURSUANT TO THE OTHER SECTIONS OF THIS TITLE, THE AUTHORITY SHALL HAVE POWER:

(A) TO ENTER INTO ONE OR MORE AGREEMENTS WITH THE CORPORATION, WHICH AGREEMENT MAY PROVIDE FOR THE SECURING OF EDUCATION LOANS IN ACCORDANCE WITH PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW, AND TO PERFORM OR CONTRACT FOR THE PERFORMANCE OF ITS OBLIGATIONS UNDER ANY SUCH AGREEMENT;

(B) TO MAKE AND CONTRACT TO MAKE AND TO ACQUIRE AND CONTRACT TO ACQUIRE EDUCATION LOANS AND TO ENTER INTO ADVANCE COMMITMENTS FOR THE PURCHASE OF SAID EDUCATION LOANS;

(C) SUBJECT TO ANY AGREEMENT WITH BONDHOLDERS OR NOTEHOLDERS, TO INVEST MONEYS OF THE AUTHORITY NOT REQUIRED FOR IMMEDIATE USE, INCLUDING PROCEEDS FROM THE SALE OF ANY BONDS OR NOTES, IN EDUCATION LOANS;

(D) TO SERVICE AND EXECUTE CONTRACTS FOR THE SERVICING OF EDUCATION LOANS ACQUIRED BY THE AUTHORITY PURSUANT TO THIS TITLE, AND TO PAY THE REASONABLE VALUE OF SERVICES RENDERED TO THE AUTHORITY PURSUANT TO THOSE CONTRACTS;

(E) TO PRESCRIBE STANDARDS AND CRITERIA FOR EDUCATION LOANS PURCHASES, INSOFAR AS SUCH STANDARDS AND CRITERIA ARE NOT INCONSISTENT WITH THE APPLICABLE AGREEMENT WITH THE CORPORATION;

(F) SUBJECT TO ANY AGREEMENT WITH BONDHOLDERS OR NOTEHOLDERS, TO SELL ANY EDUCATION LOANS MADE OR ACQUIRED BY THE AUTHORITY AT PUBLIC OR PRIVATE SALE AND AT SUCH PRICE OR PRICES AND ON SUCH TERMS AS THE AUTHORITY SHALL DETERMINE; AND

(G) TO ESTABLISH, REVISE FROM TIME TO TIME, CHARGE AND COLLECT SUCH PREMIUMS OR FEES IN CONNECTION WITH EDUCATION LOANS AND ITS PARTICIPATION IN THE NEW YORK HIGHER EDUCATION LOAN PROGRAM AS THE AUTHORITY SHALL DETERMINE.

3. THE AUTHORITY SHALL HAVE THE POWER AND IS HEREBY AUTHORIZED FROM TIME TO TIME TO ISSUE BONDS AND NOTES, INCLUDING WITHOUT LIMITATION FOR THE PURPOSES OF FINANCING AND REFINANCING EDUCATION LOANS AND OF REFUNDING ANY BONDS OR NOTES ISSUED FOR SUCH PURPOSE PURSUANT TO PART V OF ARTICLE FOURTEEN OF THE EDUCATION LAW.

S 14. Subdivision 4-a of section 1682 of the public authorities law, as amended by chapter 817 of the laws of 1976, is amended to read as follows:

4-a. Any pledge of or other security interest in moneys, earnings, income, revenues, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge or other security interest attaches, without any physical delivery of the collateral or further act. The lien of any such pledge or other security interest shall be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or other security interest is created nor any financing statement need be recorded or filed. This subdivision shall apply notwithstanding the provisions of the uniform commercial code. ANY MONEYS, EARNINGS, INCOME, REVENUES, ACCOUNTS, CONTRACT RIGHTS, GENERAL INTANGIBLES OR OTHER PERSONAL PROPERTY HELD OR RECEIVED BY THE AUTHORITY OR ON BEHALF OF THE AUTHORITY BY ANY LENDER, SERVICER, TRUSTEE, CUSTODIAN, COLLECTION AGENT OR INSTITUTION OF HIGHER EDUCATION, PURSUANT TO ANY RESOLUTION, TRUST AGREEMENT OR OTHER AGREEMENT AUTHORIZED BY, OR ENTERED INTO IN CONNECTION WITH, THE PROGRAM ESTABLISHED PURSUANT TO SECTION SIXTEEN HUNDRED SEVENTY NINE-C OF THIS TITLE AND PLEDGED BY THE AUTHORITY PURSUANT TO A RESOLUTION, TRUST AGREEMENT OR SUCH OTHER AGREEMENT FOR THE BENEFIT OF BONDHOLDERS SHALL CONSTITUTE MONEYS, EARNINGS, INCOME, REVENUES, ACCOUNTS, CONTRACT RIGHTS, GENERAL INTANGIBLES OR OTHER PERSONAL PROPERTY PLEDGED BY THE AUTHORITY FOR ALL PURPOSES OF THIS SUBDIVISION.

S 15. This act shall take effect July 1, 2009.

PART K

Intentionally omitted.

PART L

Intentionally omitted.

PART M

Section 1. Section 1306-b of the real property tax law is REPEALED.

S 2. Section 171-q of the tax law is REPEALED.

S 3. Section 178 of the tax law is REPEALED.

S 4. Subparagraphs (A) and (B) of paragraph 2 of subsection (e) of section 1310 of the tax law, as amended by section 1 of part R of chapter 57 of the laws of 2008, are amended to read as follows:

(A) Married individuals filing joint returns and surviving spouses. In the case of a husband and wife who make a single return jointly and of a surviving spouse:

For taxable years beginning:	The credit shall be:
in 2001-2005	$125
in 2006	$230
in 2007-2008	$290
in 2009 AND AFTER	[$310] $125
[after 2009]	[$335]

(B) All others. In the case of an unmarried individual, a head of a household or a married individual filing a separate return:

For taxable years beginning:	The credit shall be:
in 2001-2005	$62.50
in 2006	$115

in 2007-2008	$145
in 2009 AND AFTER	[$155] $62.50
[after 2009]	[$167.50]

S 5. Subparagraphs (A) and (B) of paragraph 2 of subdivision (c) of section 11-1706 of the administrative code of the city of New York, as amended by section 2 of part R of chapter 57 of the laws of 2008, are amended to read as follows:

(A) Married individuals filing joint returns and surviving spouses. In the case of a husband and wife who make a single return jointly and of a surviving spouse:

For taxable years beginning:	The credit shall be:
in 2001-2005	$125
in 2006	$230
in 2007-2008	$290
in 2009 AND AFTER	[$310] $125
[after 2009]	[$335]

(B) All others. In the case of an unmarried individual, a head of a household or a married individual filing a separate return:

For taxable years beginning:	The credit shall be:
in 2001-2005	$62.50
in 2006	$115
in 2007-2008	$145
in 2009 AND AFTER	[$155] $62.50
[after 2009]	[$167.50]

S 6. This act shall take effect immediately, provided that sections one, two and three of this act shall apply to the administration and issuance of Middle Class STAR rebates for the 2009-2010 and subsequent school years, and sections four and five of this act shall apply to taxable years beginning on and after January 1, 2009.

PART N

Intentionally omitted.

PART O

Section 1. Subdivision e of section 8 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by chapter 403 of the laws of 1983, is amended to read as follows:

e. The division shall maintain at least one office in each county which is governed by the rent stabilization law of nineteen hundred sixty-nine or this act; PROVIDED, HOWEVER, THAT THE DIVISION SHALL NOT BE REQUIRED TO MAINTAIN AN OFFICE IN THE COUNTIES OF NASSAU, ROCKLAND, OR RICHMOND.

S 2. This act shall take effect immediately; and provided that the amendments to subdivision e of section 8 of the emergency tenant protection act of nineteen seventy-four made by section one of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974.

PART P

Intentionally omitted.

PART Q

Section 1. Section 28 of part C of chapter 83 of the laws of 2002 amending the executive law and other laws relating to funding for children and family services, as amended by section 1 of part I of chapter 57 of the laws of 2007, is amended to read as follows:

S 28. This act shall take effect immediately; provided that sections nine through eighteen and twenty through twenty-seven of this act shall be deemed to have been in full force and effect on and after April 1, 2002; provided, however, that section fifteen of this act shall apply to claims that are otherwise reimbursable by the state on or after April 1, 2002 except as provided in subdivision 9 of section 153-k of the social services law as added by section fifteen of this act; provided further however, that nothing in this act shall authorize the office of children and family services to deny state reimbursement to a social services district for violations of the provisions of section 153-d of the social services law for services provided from January 1, 1994 through March 31, 2002; provided that section nineteen of this act shall take effect September 13, 2002; and, provided further, however, that notwithstanding any law to the contrary, the office of children and family services shall have the authority to promulgate, on an emergency basis, any rules and regulations necessary to implement the requirements established pursuant to this act; provided further, however, that the regulations to be developed pursuant to section one of this act shall not be adopted by emergency rule; and provided further that the provisions of sections nine through twenty-seven of this act shall expire and be deemed repealed on June 30, [2009] 2012.

S 2. This act shall take effect immediately.

PART R

Section 1. Subdivision 19 of section 246 of chapter 81 of the laws of 1995, amending the vehicle and traffic law and other laws relating to the enforcement of support through the suspension of driving privileges, as amended by section 1 of part J of chapter 59 of the laws of 2007, is amended to read as follows:

19. Sections two hundred one, two hundred eight, two hundred eleven, two hundred thirteen, two hundred fifteen and two hundred sixteen of this act shall expire and be deemed repealed on June 30, [2009] 2011.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2009.

PART S

Intentionally omitted.

PART T

Intentionally omitted.

PART U

Section 1. Paragraphs (a), (b) and (d) of subdivision 1 of section 131-o of the social services law, as amended by section 1 of part X of chapter 57 of the laws of 2008, are amended and a new paragraph (c) is added to read as follows:

(a) in the case of each individual receiving family care, an amount equal to at least [$123.00] $130.00 for each month beginning on or after January first, two thousand [eight] NINE.

(b) in the case of each individual receiving residential care, an amount equal to at least [$142.00] $150.00 for each month beginning on or after January first, two thousand [eight] NINE.

(C) IN THE CASE OF EACH INDIVIDUAL RECEIVING ENHANCED RESIDENTIAL CARE, AN AMOUNT EQUAL TO AT LEAST $178.00 FOR EACH MONTH BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE.

(d) for the period commencing January first, two thousand [nine] TEN, the monthly personal needs allowance shall be an amount equal to the sum of the amounts set forth in subparagraphs one and two of this paragraph:

(1) the amounts specified in paragraphs (a) [and], (b) AND (C) of this subdivision; and

(2) the amount in subparagraph one of this paragraph, multiplied by the percentage of any federal supplemental security income cost of living adjustment which becomes effective on or after January first, two thousand [nine] TEN, but prior to June thirtieth, two thousand [nine] TEN, rounded to the nearest whole dollar.

S 2. Paragraph (e) of subdivision 1 of section 131-o of the social services law, as amended by section 45 of part C of chapter 58 of the laws of 2005, is amended to read as follows:

[(e) in the case of each individual receiving enhanced residential care, an amount equal to at least $144.00 for each month beginning on or after January first, two thousand six, and an amount equal to $159.00 for each month beginning on or after January first, two thousand seven.]

S 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 2 of section 209 of the social services law, as amended by section 2 of part X of chapter 57 of the laws of 2008, are amended to read as follows:

(a) On and after January first, two thousand [eight] NINE, for an eligible individual living alone, [$724.00] $761.00; and for an eligible couple living alone, [$1060.00] $1115.00.

(b) On and after January first, two thousand [eight] NINE, for an eligible individual living with others with or without in-kind income, [$660.00] $697.00; and for an eligible couple living with others with or without in-kind income, [$1002.00] $1057.00.

(c) On and after January first, two thousand [eight] NINE, (i) for an eligible individual receiving family care, [$903.48] $940.48 if he or she is receiving such care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible couple receiving family care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland, two times the amount set forth in subparagraph (i) of this paragraph; or (iii) for an eligible individual receiving such care in any other county in the state, [$865.48] $902.48; and (iv) for an eligible couple receiving such care in any other county in the state, two times the amount set forth in subparagraph (iii) of this paragraph.

(d) On and after January first, two thousand [eight] NINE, (i) for an eligible individual receiving residential care, [$1072.00] $1109.00 if he or she is receiving such care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland; and (ii) for an eligible couple receiving residential care in the city of New York or the county of Nassau, Suffolk, Westchester or Rockland, two times the amount set forth in subparagraph (i) of this paragraph; or (iii) for an eligible individual receiving such care in any other county in the state, [$1042.00] $1079.00; and (iv) for an eligible couple receiving such care

in any other county in the state, two times the amount set forth in subparagraph (iii) of this paragraph.

(e) (i) On and after January first, two thousand [eight] NINE, for an eligible individual receiving enhanced residential care, [$1293.00] $1368.00; and (ii) for an eligible couple receiving enhanced residential care, two times the amount set forth in subparagraph (i) of this paragraph.

S 4. Subdivision 2 of section 209 of the social services law is amended by adding a new paragraph (f) to read as follows:

(F) THE AMOUNTS SET FORTH IN PARAGRAPHS (A) THROUGH (E) OF THIS SUBDIVISION SHALL BE INCREASED TO REFLECT ANY INCREASES IN FEDERAL SUPPLEMENTAL SECURITY INCOME BENEFITS FOR INDIVIDUALS OR COUPLES WHICH BECOME EFFECTIVE ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN BUT PRIOR TO JUNE THIRTIETH, TWO THOUSAND TEN.

S 5. Paragraph (g) of subdivision 2 of section 209 of the social services law, as amended by chapter 713 of the laws of 2005, is amended to read as follows:

[(g) The amounts set forth in paragraphs (a) through (d) of this subdivision and the amounts set forth in subparagraph (ii) of paragraph (e) and subparagraph (ii) of paragraph (f) of this subdivision as added by section forty-six of part C of chapter fifty-eight of the laws of two thousand five shall be increased to reflect any increases in federal supplemental security income benefits for individuals or couples which become effective on or after January first, two thousand six but prior to June thirtieth, two thousand six; provided, however, that the amounts set forth in paragraphs (c), (d) and (f) of this subdivision with respect to eligible couples shall be increased by an amount sufficient to establish standards for couples that are equal to twice the increase hereunder for eligible individuals.]

S 6. This act shall take effect immediately; provided however that the amendments to paragraph (e) of subdivision 1 of section 131-o of the social services law made by section two of this act and the amendments to subdivision 2 of section 209 of the social services law made by sections four and five of this act shall take effect on the same date as the reversion of such provisions as provided in section 4 of part C of chapter 57 of the laws of 2006, as amended, takes effect.

PART V

Section 1. Paragraph (a) of subdivision 1 of section 23 of the social services law, as amended by chapter 398 of the laws of 1997, is amended to read as follows:

(a) to social services districts:

(I) with respect to applicants for and recipients of public assistance and care or other benefits pursuant to this chapter for which such districts are responsible[,];

(II) with respect to any person legally responsible for the support of such applicants and recipients [and];

(III) with respect to any person legally responsible for the support of a recipient of services under section one hundred eleven-g of this chapter or to any agent of any entity that is under contract with the child support program pursuant to title [six-a] SIX-A of article three of this chapter[,]; AND

(IV) WITH RESPECT TO THE PARENTS, THE STEPPARENTS, THE CHILD AND THE SIBLINGS OF THE CHILD WHO WERE LIVING IN THE SAME HOUSEHOLD AS A CHILD WHO IS IN THE CUSTODY, CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF A

LOCAL SOCIAL SERVICES DISTRICT OR OF THE OFFICE OF CHILDREN AND FAMILY SERVICES DURING THE MONTH THAT THE COURT PROCEEDINGS LEADING TO THE CHILD'S REMOVAL FROM THE HOUSEHOLD WERE INITIATED, OR THE WRITTEN INSTRUMENT TRANSFERRING CARE AND CUSTODY OF THE CHILD PURSUANT TO THE PROVISIONS OF SECTION THREE HUNDRED FIFTY-EIGHT-A OF THIS CHAPTER OR SECTION THREE HUNDRED EIGHTY-FOUR-A OF THIS CHAPTER WAS SIGNED, PROVIDED HOWEVER, THAT SUCH SOCIAL SERVICES DISTRICT SHALL ONLY USE THE INFORMATION OBTAINED PURSUANT TO THIS SUBDIVISION FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF SUCH CHILD FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT,

S 2. Subdivision 3 of section 23 of the social services law, as separately amended by chapters 304 and 818 of the laws of 1990, is amended to read as follows:

3. Information obtained by the [department] OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE from the wage reporting system operated by the state department of taxation and finance shall be considered confidential and shall not be disclosed to persons or agencies other than those considered entitled to such information when such disclosure is necessary for the proper administration of programs of public assistance and care or for the proper administration of the child support program pursuant to title six-A of article three of this chapter, OR OF ELIGIBILITY ASSESSMENTS OF CHILDREN FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT. For the purpose of this subdivision, any disclosure made pursuant to subdivision one of this section shall be considered necessary for the proper administration of programs of public assistance and care, OR OF ELIGIBILITY ASSESSMENTS OF CHILDREN FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT; and the federal parent locator service shall be considered an agency entitled to such information as is necessary for the proper administration of the child support program pursuant to title six-A of article three of this chapter.

S 3. Paragraph (a) of subdivision 3 of section 171-a of the tax law, as amended by chapter 304 of the laws of 1990 and as designated by chapter 818 of the laws of 1990, is amended to read as follows:

(a) Notwithstanding any law to the contrary, the commissioner of taxation and finance shall maintain [a] cooperative [agreement] AGREEMENTS with the state [department of social services] OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, which [agreement] shall provide:

(I) for the utilization BY THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE of information obtained pursuant to subdivision one [hereof] OF THIS SECTION, for the purpose of verifying eligibility for and entitlement to amounts of benefits under the social services law, locating absent parents or other persons legally responsible for the support of applicants or recipients of public assistance and care under the social services law and persons legally responsible for the support of a recipient of services under section one hundred eleven-g of the social services law and, in appropriate cases, establishing support obligations pursuant to the social services law and the family court act, and for the purpose of evaluating the effect on earnings of participation in employment or training programs authorized pursuant to the social services law by current recipients of public assistance and care and by former recipients of public assistance and care, such agreement shall further provide to the degree required by federal law for the commis-

sioner [of taxation and finance] and the [social services department] OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE to provide information obtained pursuant to subdivision one of this section to the federal social security administration or to public agencies in other states which administer programs under the food stamp act of nineteen hundred seventy-seven or title I, II, IV-A, IV-D, X, XIV, XVI, or XIX of the federal social security act and to take such other steps as may be required by section one thousand one hundred thirty-seven of the social security act or federal regulations promulgated thereunder; AND

(II) FOR THE UTILIZATION BY THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE OF INFORMATION OBTAINED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, WITH RESPECT TO THE PARENTS, THE STEPPARENTS, THE CHILD AND THE SIBLINGS OF THE CHILD WHO WERE LIVING IN THE SAME HOUSEHOLD AS A CHILD WHO IS IN THE CUSTODY, CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF A LOCAL SOCIAL SERVICES DISTRICT OR OF THE OFFICE OF CHILDREN AND FAMILY SERVICES DURING THE MONTH THAT THE COURT PROCEEDINGS LEADING TO THE CHILD'S REMOVAL FROM THE HOUSEHOLD WERE INITIATED, OR THE WRITTEN INSTRUMENT TRANSFERRING CARE AND CUSTODY OF THE CHILD PURSUANT TO THE PROVISIONS OF SECTION THREE HUNDRED FIFTY-EIGHT-A OR THREE HUNDRED EIGHTY-FOUR-A OF THE SOCIAL SERVICES LAW WAS SIGNED, PROVIDED HOWEVER, THAT THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE SHALL ONLY USE THE INFORMATION OBTAINED PURSUANT TO THIS SUBDIVISION, FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF SUCH CHILD FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE IS AUTHORIZED TO SHARE INFORMATION OBTAINED PURSUANT TO THIS SUBDIVISION WITH ANY APPLICABLE SOCIAL SERVICES DISTRICT, PROVIDED HOWEVER, THAT IF SUCH INFORMATION IS SHARED, THAT SUCH SOCIAL SERVICES DISTRICT SHALL ONLY USE THE INFORMATION OBTAINED FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF SUCH CHILD FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT.

S 4. Paragraph 3 of subsection (e) of section 697 of the tax law, as separately amended by section 1 of part M of chapter 57 and section 45-f of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(3) Nothing herein shall be construed to prohibit the department, its officers or employees from furnishing information to the office of temporary and disability assistance relating to the payment of the credit for certain household and dependent care services necessary for gainful employment under subsection (c) of section six hundred six of this article and the earned income credit under subsection (d) of section six hundred six of this article, or pursuant to a local law enacted by a city having a population of one million or more pursuant to subsection (f) of section thirteen hundred ten of this chapter, only to the extent necessary to calculate qualified state expenditures under paragraph seven of subdivision (a) of section four hundred nine of the federal social security act or to document the proper expenditure of federal temporary assistance for needy families funds under section four hundred three of such act. The office of temporary and disability assistance may redisclose such information to the United States department of health and human services only to the extent necessary to calculate such qualified state expenditures or to document the proper expenditure of such federal temporary assistance for needy families funds. Nothing herein shall be construed to prohibit the delivery by the commissioner to a

commissioner of jurors, appointed pursuant to section five hundred four of the judiciary law, or, in counties within cities having a population of one million or more, to the county clerk of such county, of a mailing list of individuals to whom income tax forms are mailed by the commissioner for the sole purpose of compiling a list of prospective jurors as provided in article sixteen of the judiciary law. Provided, however, such delivery shall only be made pursuant to an order of the chief administrator of the courts, appointed pursuant to section two hundred ten of the judiciary law. No such order may be issued unless such chief administrator is satisfied that such mailing list is needed to compile a proper list of prospective jurors for the county for which such order is sought and that, in view of the responsibilities imposed by the various laws of the state on the department, it is reasonable to require the commissioner to furnish such list. Such order shall provide that such list shall be used for the sole purpose of compiling a list of prospective jurors and that such commissioner of jurors, or such county clerk, shall take all necessary steps to insure that the list is kept confidential and that there is no unauthorized use or disclosure of such list. Furthermore, nothing herein shall be construed to prohibit the delivery to a taxpayer or his or her duly authorized representative of a certified copy of any return or report filed in connection with his or her tax or to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the attorney general or other legal representatives of the state of the report or return of any taxpayer or of any employer filed under section one hundred seventy-one-h of this chapter, where such taxpayer or employer shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding under this chapter or under this chapter and article eighteen of the labor law has been recommended by the commissioner, the commissioner of labor with respect to unemployment insurance matters, or the attorney general or has been instituted, or the inspection of the reports or returns required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by a taxpayer under this article, or the furnishing to the state department of labor of unemployment insurance information obtained or derived from quarterly combined withholding, wage reporting and unemployment insurance returns required to be filed by employers pursuant to paragraph four of subsection (a) of section six hundred seventy-four of this article, for purposes of administration of such department's unemployment insurance program, employment services program, federal and state employment and training programs, employment statistics and labor market information programs, worker protection programs, federal programs for which the department has administrative responsibility or for other purposes deemed appropriate by the commissioner of labor consistent with the provisions of the labor law, and redisclosure of such information in accordance with the provisions of sections five hundred thirty-six and five hundred thirty-seven of the labor law or any other applicable law, or the furnishing to the state office of temporary and disability assistance of information obtained or derived from New York state personal income tax returns as described in paragraph (b) of subdivision two of section one hundred seventy-one-g of this chapter for the purpose of reviewing support orders enforced pursuant to title six-A of article three of the social services law to aid in the determination of whether such orders should be adjusted, or the furnishing of information

obtained from the reports required to be submitted by employers regarding newly hired or re-hired employees pursuant to section one hundred seventy-one-h of this chapter to the state office of temporary and disability assistance, the state department of health, the state department of labor and the workers' compensation board for purposes of administration of the child support enforcement program, verification of individuals' eligibility for one or more of the programs specified in subsection (b) of section eleven hundred thirty-seven of the federal social security act and for other public assistance programs authorized by state law, and administration of the state's employment security and workers' compensation programs, and to the national directory of new hires established pursuant to section four hundred fifty-three-A of the federal social security act for the purposes specified in such section, or the furnishing to the state office of temporary and disability assistance of the amount of an overpayment of income tax and interest thereon certified to the comptroller to be credited against past-due support pursuant to section one hundred seventy-one-c of this chapter and of the name and social security number of the taxpayer who made such overpayment, or the disclosing to the commissioner of finance of the city of New York, pursuant to section one hundred seventy-one-l of this chapter, of the amount of an overpayment and interest thereon certified to the comptroller to be credited against a city of New York tax warrant judgment debt and of the name and social security number of the taxpayer who made such overpayment, or the furnishing to the New York state higher education services corporation of the amount of an overpayment of income tax and interest thereon certified to the comptroller to be credited against the amount of a default in repayment of any education loan debt, including judgments, owed to the federal or New York state government that is being collected by the New York state higher education services corporation, and of the name and social security number of the taxpayer who made such overpayment, or the furnishing to the state department of health of the information required by paragraph (f) of subdivision two and subdivision two-a of section two thousand five hundred eleven of the public health law and by subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, or the furnishing to the state university of New York or the city university of New York respectively or the attorney general on behalf of such state or city university the amount of an overpayment of income tax and interest thereon certified to the comptroller to be credited against the amount of a default in repayment of a state university loan pursuant to section one hundred seventy-one-e of this chapter and of the name and social security number of the taxpayer who made such overpayment, or the disclosing to a state agency, pursuant to section one hundred seventy-one-f of this chapter, of the amount of an overpayment and interest thereon certified to the comptroller to be credited against a past-due legally enforceable debt owed to such agency and of the name and social security number of the taxpayer who made such overpayment, or the furnishing of employee and employer information obtained through the wage reporting system, pursuant to section one hundred seventy-one-a of this chapter, as added by chapter five hundred forty-five of the laws of nineteen hundred seventy-eight, to the state office of temporary and disability assistance, the department of health or to the state office of the medicaid inspector general for the purpose of verifying eligibility for and entitlement to amounts of benefits under the social services law or similar law of another jurisdiction, locating absent parents or

other persons legally responsible for the support of applicants for or recipients of public assistance and care under the social services law and persons legally responsible for the support of a recipient of services under section one hundred eleven-g of the social services law and, in appropriate cases, establishing support obligations pursuant to the social services law and the family court act or similar provision of law of another jurisdiction for the purpose of evaluating the effect on earnings of participation in employment, training or other programs designed to promote self-sufficiency authorized pursuant to the social services law by current recipients of public assistance and care and by former applicants and recipients of public assistance and care, (except that with regard to former recipients, information which relates to a particular former recipient shall be provided with client identifying data deleted), TO THE STATE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF ANY CHILD IN THE CUSTODY, CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF A LOCAL SOCIAL SERVICES DISTRICT OR OF THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT BY PROVIDING INFORMATION WITH RESPECT TO THE PARENTS, THE STEPPARENTS, THE CHILD AND THE SIBLINGS OF THE CHILD WHO WERE LIVING IN THE SAME HOUSEHOLD AS SUCH CHILD DURING THE MONTH THAT THE COURT PROCEEDINGS LEADING TO THE CHILD'S REMOVAL FROM THE HOUSEHOLD WERE INITIATED, OR THE WRITTEN INSTRUMENT TRANSFERRING CARE AND CUSTODY OF THE CHILD PURSUANT TO THE PROVISIONS OF SECTION THREE HUNDRED FIFTY-EIGHT-A OR THREE HUNDRED EIGHTY-FOUR-A OF THE SOCIAL SERVICES LAW WAS SIGNED, PROVIDED HOWEVER THAT THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE SHALL ONLY USE THE INFORMATION OBTAINED PURSUANT TO THIS SUBDIVISION FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF SUCH CHILD FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT, and to the state department of labor, or other individuals designated by the commissioner of labor, for the purpose of the administration of such department's unemployment insurance program, employment services program, federal and state employment and training programs, employment statistics and labor market information programs, worker protection programs, federal programs for which the department has administrative responsibility or for other purposes deemed appropriate by the commissioner of labor consistent with the provisions of the labor law, and redisclosure of such information in accordance with the provisions of sections five hundred thirty-six and five hundred thirty-seven of the labor law, or the furnishing of information, which is obtained from the wage reporting system operated pursuant to section one hundred seventy-one-a of this chapter, as added by chapter five hundred forty-five of the laws of nineteen hundred seventy-eight, to the state office of temporary and disability assistance so that it may furnish such information to public agencies of other jurisdictions with which the state office of temporary and disability assistance has an agreement pursuant to paragraph (h) or (i) of subdivision three of section twenty of the social services law, and to the state office of temporary and disability assistance for the purpose of fulfilling obligations and responsibilities otherwise incumbent upon the state department of labor, under section one hundred twenty-four of the federal family support act of nineteen hundred eighty-eight, by giving the federal parent locator service, maintained by the federal department of health and human services, prompt access to such information as required by such act, or to the state department of health to verify

eligibility under the child health insurance plan pursuant to subdivisions two and two-a of section two thousand five hundred eleven of the public health law, to verify eligibility under the medical assistance and family health plus programs pursuant to subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, and to verify eligibility for the program for elderly pharmaceutical insurance coverage under title three of article two of the elder law, or to the office of vocational and educational services for individuals with disabilities of the education department, the commission for the blind and visually handicapped and any other state vocational rehabilitation agency, for purposes of obtaining reimbursement from the federal social security administration for expenditures made by such office, commission or agency on behalf of disabled individuals who have achieved economic self-sufficiency or to the higher education services corporation for the purpose of assisting the corporation in default prevention and default collection of education loan debt, including judgments, owed to the federal or New York state government; provided, however, that such information shall be limited to the names, social security numbers, home and/or business addresses, and employer names of defaulted or delinquent student loan borrowers.

Provided, however, that with respect to employee information the office of temporary and disability assistance shall only be furnished with the names, social security account numbers and gross wages of those employees who are (A) applicants for or recipients of benefits under the social services law, or similar provision of law of another jurisdiction (pursuant to an agreement under subdivision three of section twenty of the social services law) or, (B) absent parents or other persons legally responsible for the support of applicants for or recipients of public assistance and care under the social services law or similar provision of law of another jurisdiction (pursuant to an agreement under subdivision three of section twenty of the social services law), or (C) persons legally responsible for the support of a recipient of services under section one hundred eleven-g of the social services law or similar provision of law of another jurisdiction (pursuant to an agreement under subdivision three of section twenty of the social services law), or (D) employees about whom wage reporting system information is being furnished to public agencies of other jurisdictions, with which the state office of temporary and disability assistance has an agreement pursuant to paragraph (h) or (i) of subdivision three of section twenty of the social services law, or (E) employees about whom wage reporting system information is being furnished to the federal parent locator service, maintained by the federal department of health and human services, for the purpose of enabling the state office of temporary and disability assistance to fulfill obligations and responsibilities otherwise incumbent upon the state department of labor, under section one hundred twenty-four of the federal family support act of nineteen hundred eighty-eight, and, only if, the office of temporary and disability assistance certifies to the commissioner that such persons are such applicants, recipients, absent parents or persons legally responsible for support or persons about whom information has been requested by a public agency of another jurisdiction or by the federal parent locator service and further certifies that in the case of information requested under agreements with other jurisdictions entered into pursuant to subdivision three of section twenty of the social services law, that such request is in compliance with any applicable federal law. Provided,

further, that where the office of temporary and disability assistance requests employee information for the purpose of evaluating the effects on earnings of participation in employment, training or other programs designed to promote self-sufficiency authorized pursuant to the social services law, the office of temporary and disability assistance shall only be furnished with the quarterly gross wages (excluding any reference to the name, social security number or any other information which could be used to identify any employee or the name or identification number of any employer) paid to employees who are former applicants for or recipients of public assistance and care and who are so certified to the commissioner by the commissioner of the office of temporary and disability assistance. Provided, further, that with respect to employee information, the department of health shall only be furnished with the information required pursuant to the provisions of paragraph (f) of subdivision two and subdivision two-a of section two thousand five hundred eleven of the public health law and subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, with respect to those individuals whose eligibility under the child health insurance plan, medical assistance program, and family health plus program is to be determined pursuant to such provisions and with respect to those members of any such individual's household whose income affects such individual's eligibility and who are so certified to the commissioner or by the department of health. Provided, further, that wage reporting information shall be furnished to the office of vocational and educational services for individuals with disabilities of the education department, the commission for the blind and visually handicapped and any other state vocational rehabilitation agency only if such office, commission or agency, as applicable, certifies to the commissioner that such information is necessary to obtain reimbursement from the federal social security administration for expenditures made on behalf of disabled individuals who have achieved self-sufficiency. Reports and returns shall be preserved for three years and thereafter until the commissioner orders them to be destroyed.

S 5. Section 697 of the tax law is amended by adding a new subsection (o) to read as follows:

(O) EXCHANGE OF INFORMATION WITH THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE.--NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT SHALL FURNISH TO THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, OR AS DESIGNATED BY THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, TO EMPLOYEES OF A LOCAL SOCIAL SERVICES DISTRICT WHO ARE ENGAGED IN THE PROCESS OF DETERMINING THE ELIGIBILITY OF CHILDREN IN THE CUSTODY, CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF A LOCAL SOCIAL SERVICES DISTRICT FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT, THE NAME, SOCIAL SECURITY NUMBER AND WAGES OF THE PARENTS, THE STEPPARENTS, THE CHILD AND THE SIBLINGS OF THE CHILD WHO WERE LIVING IN THE SAME HOUSEHOLD AS A CHILD WHO IS IN THE CUSTODY, CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF A LOCAL SOCIAL SERVICES DISTRICT OR OF THE OFFICE OF CHILDREN AND FAMILY SERVICES DURING THE MONTH THAT THE COURT PROCEEDINGS LEADING TO THE CHILD'S REMOVAL FROM THE HOUSEHOLD WERE INITIATED, OR THE WRITTEN INSTRUMENT TRANSFERRING CARE AND CUSTODY OF THE CHILD PURSUANT TO THE PROVISIONS OF SECTION THREE HUNDRED FIFTY-EIGHT-A OR THREE HUNDRED EIGHTY-FOUR-A OF THE SOCIAL SERVICES LAW WAS SIGNED; PROVIDED HOWEVER, THAT THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE OR SUCH SOCIAL SERVICES DISTRICT SHALL ONLY

USE THE INFORMATION OBTAINED PURSUANT TO THIS SUBSECTION FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF SUCH CHILD FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT.

S 6. This act shall take effect immediately.

PART W

Section 1. Notwithstanding the time period required for notice pursuant to subdivision fifteen of section five hundred one of the executive law, for the period April 1, 2009 through March 31, 2010, the office of children and family services may, for the purposes of aligning their capacity with their facility and service needs:

(a) close the following facilities: Great Valley residential center, Cattaraugus residential center, Adirondack residential center, Rochester community residential home, Syracuse community residential home, Albany evening reporting center, Syracuse evening reporting center, Buffalo evening reporting center, and Pyramid reception center;

(b) downsize the following facilities: Tryon residential center and Allen residential center.

S 2. Nothing herein shall be construed to authorize the office of children and family services to close or downsize additional facilities not listed in subdivisions (a) and (b) of section one of this act, pursuant to the provisions of this act.

S 3. This act shall take effect immediately and shall be deemed to be repealed on April 1, 2010.

PART X

Intentionally omitted.

PART Y

Section 1. Paragraph (a) of subdivision 2 of section 131-a of the social services law, as amended by chapter 77 of the laws of 1989, is amended and three new paragraphs (a-1), (a-2) and (a-3) are added to read as follows:

(a) [The] THROUGH JUNE THIRTIETH, TWO THOUSAND NINE, THE following schedule shall be the standard of monthly need for determining eligibility for all categories of assistance in and by all social services districts:

Number of Persons in Household					
One	Two	Three	Four	Five	Six
$112	$179	$238	$307	$379	$438

For each additional person in the household there shall be added an additional amount of sixty dollars monthly.

(A-1) FOR THE PERIOD BEGINNING JULY FIRST, TWO THOUSAND NINE AND ENDING JUNE THIRTIETH, TWO THOUSAND TEN, THE FOLLOWING SCHEDULE SHALL BE THE STANDARD OF MONTHLY NEED FOR DETERMINING ELIGIBILITY FOR ALL CATEGORIES OF ASSISTANCE IN AND BY ALL SOCIAL SERVICES DISTRICTS:

NUMBER OF PERSONS IN HOUSEHOLD					
ONE	TWO	THREE	FOUR	FIVE	SIX
$126	$201	$268	$345	$426	$492

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF SIXTY-SEVEN DOLLARS MONTHLY.

(A-2) FOR THE PERIOD BEGINNING JULY FIRST, TWO THOUSAND TEN AND ENDING JUNE THIRTIETH, TWO THOUSAND ELEVEN, THE FOLLOWING SCHEDULE SHALL BE THE STANDARD OF MONTHLY NEED FOR DETERMINING ELIGIBILITY FOR ALL CATEGORIES OF ASSISTANCE IN AND BY ALL SOCIAL SERVICES DISTRICTS:

NUMBER OF PERSONS IN HOUSEHOLD

ONE	TWO	THREE	FOUR	FIVE	SIX
$141	$225	$300	$386	$477	$551

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF SEVENTY-FIVE DOLLARS MONTHLY.

(A-3) FOR THE PERIOD BEGINNING JULY FIRST, TWO THOUSAND ELEVEN AND THEREAFTER, THE FOLLOWING SCHEDULE SHALL BE THE STANDARD OF MONTHLY NEED FOR DETERMINING ELIGIBILITY FOR ALL CATEGORIES OF ASSISTANCE IN AND BY ALL SOCIAL SERVICES DISTRICTS:

NUMBER OF PERSONS IN HOUSEHOLD

ONE	TWO	THREE	FOUR	FIVE	SIX
$158	$252	$335	$432	$533	$616

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF EIGHTY-FOUR DOLLARS MONTHLY.

S 2. Paragraph (a) of subdivision 3 of section 131-a of the social services law, as amended by section 12 of part B of chapter 436 of the laws of 1997, is amended and three new paragraphs (a-1), (a-2) and (a-3) are added to read as follows:

(a) [Persons] THROUGH JUNE THIRTIETH, TWO THOUSAND NINE, PERSONS and families determined to be eligible by the application of the standard of need prescribed by the provisions of subdivision two OF THIS SECTION, less any available income or resources which are not required to be disregarded by other provisions of this chapter, shall receive maximum monthly grants and allowances in all social services districts, in accordance with the following schedule, for public assistance:

Number of Persons in Household

One	Two	Three	Four	Five	Six
$112	$179	$238	$307	$379	$438

For each additional eligible needy person in the household there shall be an additional allowance of sixty dollars monthly.

(A-1) FOR THE PERIOD BEGINNING JULY FIRST, TWO THOUSAND NINE AND ENDING JUNE THIRTIETH, TWO THOUSAND TEN, PERSONS AND FAMILIES DETERMINED TO BE ELIGIBLE BY THE APPLICATION OF THE STANDARD OF NEED PRESCRIBED BY THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, LESS ANY AVAILABLE INCOME OR RESOURCES WHICH ARE NOT REQUIRED TO BE DISREGARDED BY OTHER PROVISIONS OF THIS CHAPTER, SHALL RECEIVE MAXIMUM MONTHLY GRANTS AND ALLOWANCES IN ALL SOCIAL SERVICES DISTRICTS, IN ACCORDANCE WITH THE FOLLOWING SCHEDULE, FOR PUBLIC ASSISTANCE:

NUMBER OF PERSONS IN HOUSEHOLD

ONE	TWO	THREE	FOUR	FIVE	SIX
$126	$201	$268	$345	$426	$492

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF SIXTY-SEVEN DOLLARS MONTHLY.

(A-2) FOR THE PERIOD BEGINNING JULY FIRST, TWO THOUSAND TEN AND ENDING JUNE THIRTIETH, TWO THOUSAND ELEVEN, PERSONS AND FAMILIES DETERMINED TO BE ELIGIBLE BY THE APPLICATION OF THE STANDARD OF NEED PRESCRIBED BY THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, LESS ANY AVAILABLE INCOME OR RESOURCES WHICH ARE NOT REQUIRED TO BE DISREGARDED BY OTHER PROVISIONS OF THIS CHAPTER, SHALL RECEIVE MAXIMUM MONTHLY GRANTS AND ALLOWANCES IN ALL SOCIAL SERVICES DISTRICTS, IN ACCORDANCE WITH THE FOLLOWING SCHEDULE, FOR PUBLIC ASSISTANCE:

NUMBER OF PERSONS IN HOUSEHOLD

ONE	TWO	THREE	FOUR	FIVE	SIX
$141	$225	$300	$386	$477	$551

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF SEVENTY-FIVE DOLLARS MONTHLY.

(A-3) FOR THE PERIOD BEGINNING JULY FIRST, TWO THOUSAND ELEVEN AND THEREAFTER, PERSONS AND FAMILIES DETERMINED TO BE ELIGIBLE BY THE APPLICATION OF THE STANDARD OF NEED PRESCRIBED BY THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, LESS ANY AVAILABLE INCOME OR RESOURCES WHICH ARE NOT REQUIRED TO BE DISREGARDED BY OTHER PROVISIONS OF THIS CHAPTER, SHALL RECEIVE MAXIMUM MONTHLY GRANTS AND ALLOWANCES IN ALL SOCIAL SERVICES DISTRICTS, IN ACCORDANCE WITH THE FOLLOWING SCHEDULE, FOR PUBLIC ASSISTANCE:

NUMBER OF PERSONS IN HOUSEHOLD

ONE	TWO	THREE	FOUR	FIVE	SIX
$158	$252	$335	$432	$533	$616

FOR EACH ADDITIONAL PERSON IN THE HOUSEHOLD THERE SHALL BE ADDED AN ADDITIONAL AMOUNT OF EIGHTY-FOUR DOLLARS MONTHLY.

S 3. Notwithstanding section one hundred fifty-three of the social services law or any other inconsistent provision of law, for the period beginning July first, two thousand nine and ending March thirty-first, two thousand twelve, the office of temporary and disability assistance shall reimburse social services districts for the additional incremental expenditures for public assistance directly resulting from the changes in standards provided for in section one and section two of this act, after applying any applicable federal reimbursement. The office of temporary and disability assistance shall develop a methodology for determining the reimbursement to social services districts pursuant to this section.

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2009.

PART Z

Section 1. Section 39 of part P2 of chapter 62 of the laws of 2003 amending the state finance law and other laws relating to authorizing and directing the state comptroller to loan money to certain funds and accounts, as amended by section 1 of part K of chapter 57 of the laws of 2008, is amended to read as follows:

S 39. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2003; provided, however, that sections one, three, four, six, seven through fifteen, and seventeen of this act shall expire March 31, 2004, when upon such date the provisions of such sections shall be deemed repealed; and sections thirty and thirty-one of this act shall expire December 31, [2009] 2011 and the amendments made to section 69-c of the state finance law by section thirty-two of this act shall not affect the expiration and repeal of such section and shall be deemed to be expired therewith.

S 2. This act shall take effect immediately.

PART AA

Section 1. Subparagraph (vi) of paragraph c of subdivision 4 of section 297 of the executive law, as amended by chapter 166 of the laws of 2000, is amended to read as follows:

(vi) assessing civil fines and penalties, [in cases of housing discrimination only,] in an amount not to exceed fifty thousand dollars,

to be paid to the state by a respondent found to have committed an unlawful discriminatory act, or not to exceed one hundred thousand dollars to be paid to the state by a respondent found to have committed an unlawful discriminatory act which is found to be willful, wanton or malicious;

S 2. Subdivision 4 of section 297 of the executive law is amended by adding a new paragraph e to read as follows:

E. ANY CIVIL PENALTY IMPOSED PURSUANT TO THIS SUBDIVISION SHALL BE SEPARATELY STATED, AND SHALL BE IN ADDITION TO AND NOT REDUCE OR OFFSET ANY OTHER DAMAGES OR PAYMENT IMPOSED UPON A RESPONDENT PURSUANT TO THIS ARTICLE. IN CASES OF EMPLOYMENT DISCRIMINATION WHERE THE EMPLOYER HAS FEWER THAN FIFTY EMPLOYEES, SUCH CIVIL FINE OR PENALTY MAY BE PAID IN REASONABLE INSTALLMENTS, IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE DIVISION. SUCH REGULATIONS SHALL REQUIRE THE PAYMENT OF REASONABLE INTEREST RESULTING FROM THE DELAY, AND IN NO CASE PERMIT INSTALLMENTS TO BE MADE OVER A PERIOD LONGER THAN THREE YEARS.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.

PART BB

Section 1. Subdivision 2 of section 904 of the labor law, as amended by chapter 190 of the laws of 1990, is amended to read as follows:

2. Any contractor engaged in an asbestos project involving more than two hundred sixty linear feet or more than one hundred sixty square feet of asbestos or asbestos materials shall notify both the United States Environmental Protection Agency, Region II, Air and Hazardous Material Division and the commissioner in writing ten days prior to the commencement of work on the project or, if emergency conditions make it impossible to provide ten days prior notice, as soon as practicable after identification of the project. The notice to the commissioner shall include the following information: the name, address and asbestos handling license number of the contractor working on the project; the address and description of the building or area, including size, age and prior use of the building or area; the amount of friable asbestos material present in square feet and/or linear feet, if applicable; room designation numbers or other local information where such asbestos material is found unless such material is found throughout the entire structure; the scheduled starting and completion dates for removal; the procedures and equipment, including ventilating systems that will be employed; any additional information which the commissioner may require; and shall be accompanied by a project notification fee as follows:

Project Size/Linear Feet	Fee
260-429	[$100] $200
430-824	[200] 400
825-1649	[500] 1,000
1650 or more	[1000] 2,000

Project Size/Square Feet	Fee
160-259	[$100] $200
260-499	[200] 400
500-999	[500] 1,000
1000 or more	[1000] 2,000

S 2. Paragraph a of subdivision 8 of section 204 of the labor law, as amended by section 3 of part A of chapter 57 of the laws of 2004, is amended to read as follows:

a. All boilers which are inspected by a duly authorized insurance company shall be exempt from inspection by the commissioner and by cities which qualify under the provisions of subdivision seven of this section, under the following conditions: (1) that inspections by the insurance company are made with the same frequency as is required by this section except that, for all such boilers located within a city which qualifies under the provisions of subdivision seven of this section, inspections are made with the same frequency as is required by such city; (2) that the insurance company complies with the rules of the commissioner; (3) that the inspectors of the insurance company hold certificates of competency; (4) that the insurance company gives notice to the owner or lessee of each boiler inspected listing all violations of any provision of the rules of the commissioner; (5) that a certified copy of the report of each inspection is filed with the commissioner or the inspecting agency of such city, as the case may be, within twenty-one days of the inspection, on such forms and in such manner as required by the commissioner or the inspecting agency of such city, as the case may be. A copy filed with the commissioner shall be accompanied by a non-refundable fee of [fifty] ONE HUNDRED dollars paid for each boiler inspected. If insurance is refused, cancelled or discontinued for the boiler inspected the report shall so state, together with the reasons therefor; the report shall also list any instances of the failure of an owner or lessee of the boiler to comply with the rules of the commissioner.

S 3. This act shall take effect immediately.

PART CC

Section 1. Subdivisions 1 and 2 of section 450 of the labor law, subdivision 1 as amended by chapter 809 of the laws of 1949 and subdivision 2 as amended by chapter 1022 of the laws of 1970, are amended to read as follows:

1. This article shall apply to persons engaged in the manufacture, ownership, possession, storage, use, transportation, purchase, sale or gift of explosives as defined in subdivision one of section four hundred fifty-one OF THIS ARTICLE.

2. This article shall not apply to explosives while being transported in conformity with federal law or regulations, nor except as may be herein otherwise provided to persons who manufacture, own, possess, store, use, transport, purchase, sell or give explosives within the territorial boundaries of cities having more than one million inhabitants, nor to ANY OF THE FOLLOWING WHILE IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES: the armed forces of the United States, the national guard, the state guard and duly constituted police and firefighting forces of the state and its civil and political subdivisions.

S 2. Section 451 of the labor law, as amended by chapter 809 of the laws of 1949, subdivision 1 as amended by chapter 220 of the laws of 1974 and subdivision 11 as renumbered by chapter 1022 of the laws of 1970, is amended to read as follows:

S 451. Definitions. Whenever used in this article: 1. "Explosives" means gunpowder, powders used for blasting, high explosives, blasting materials, detonating fuses, detonators, PYROTECHNICS and other detonating agents, FIREWORKS AND DANGEROUS FIREWORKS AS DEFINED IN SECTION

270.00 OF THE PENAL LAW, smokeless powder and any chemical compound or any mechanical mixture containing any oxidizing and combustible units, or other ingredients in such proportions, quantities, or packing that ignition by fire, friction, concussion, percussion or detonation of any part thereof may CAUSE and is intended to cause an explosion, but shall not include gasoline, kerosene, naphtha, turpentine, benzine, acetone, ethyl ether, benzol [and all] OR quantities of black powder not exceeding five pounds for use in firing of antique firearms or artifacts or replicas thereof. Fixed ammunition and primers for small arms, [firecrackers,] PYROTECHNIC DEVICES WHICH ARE DESIGNED FOR AND BEING USED FOR LEGITIMATE WILDLIFE MANAGEMENT OR CONTROLS, safety fuses and matches shall not be deemed to be explosives when, [as may be determined by the board in its rules] AS PROVIDED BY REGULATION, the individual units contain any of the above-mentioned articles or substances in such limited quantity, of such nature and so packed that it is impossible to produce an explosion of such units to the injury of life, limb or property.

2. "Highway" means any public street, public highway, public alley or navigable [stream] WATERWAY, which is open for traffic. Navigable [streams] WATERWAYS shall be considered as only those [streams] susceptible of being used, in their ordinary condition, as highways of commerce.

3. "Railroad" or "railway" means any railroad [which] THAT carries passengers OR FREIGHT for hire, but shall not include auxiliary tracks, spurs and sidings installed and primarily used in serving any mine, quarry or plant.

4. "Building" means any building regularly occupied in whole or in part as a habitation for human beings, and any church, school house, railway station or other building or place where people are accustomed to live, work or assemble, but does not mean or include any of the buildings of a manufacturing plant where the business of manufacturing explosives is carried on.

5. "Explosives factory" means any building or other structure in which the manufacture of explosives or any part of the manufacture thereof is carried on.

6. "Magazine" means any building or other structure, other than an explosives factory, used to store explosives.

7. "Efficient barricade" means natural features of the ground, a dense woods, an artificial mound or a properly revetted wall of earth not less than three feet thick at the top, spaced at least three feet at the bottom from any explosives factory or magazine, the height of which is such that any straight line drawn from the top of any side wall of the explosives factory or magazine to the top of a building or to a point twelve feet above the center of a railroad or highway to be protected will pass through such intervening barricade.

8. "Person" includes any natural person, partnership, association or corporation.

9. "Manufacturer" means any person who is engaged in the manufacture or production of explosives.

10. "Dealer" means any person engaged in the business of buying and selling explosives.

11. [A "farmer" is a person who occupies and cultivates land.] "PYROTECHNICS" MEANS ANY COMBUSTIBLE OR EXPLOSIVE COMPOSITIONS OF MANUFACTURED ARTICLES DESIGNED AND PREPARED FOR THE PURPOSE OF PRODUCING AUDIBLE OR VISIBLE EFFECTS THAT ARE COMMONLY REFERRED TO AS FIREWORKS.

S 3. Section 452 of the labor law, as amended by chapter 190 of the laws of 1989, is amended to read as follows:

S 452. Packing and labeling. No person shall own, possess, store, deal in, sell, give or purchase explosives unless the packing, or encasement, and the marking and labeling of such explosives shall comply with the [rules of the board] REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE.

S 4. Section 453 of the labor law, as added by chapter 809 of the laws of 1949, the second undesignated paragraph as amended by chapter 190 of the laws of 1989, is amended to read as follows:

S 453. Storage. No person shall store explosives except in a magazine constructed [and], located AND CERTIFIED in accordance with the provisions of this article and the [rules of the board and unless a certificate, which] REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE. THE MAGAZINE CERTIFICATE shall be attached to the magazine on the inside [thereof, has been issued for] OF EACH such magazine. No person shall store more than three hundred thousand pounds of explosives in any one magazine at any time. EXPLOSIVES NOT STORED IN COMPLIANCE WITH THIS SECTION SHALL BE DEEMED TO PRESENT A DANGER TO THE PUBLIC, INCLUDING BUT NOT LIMITED TO, EMERGENCY RESPONDERS AND OTHER PERSONS LAWFULLY FREQUENTING THE AREA AND AS SUCH, ARE SUBJECT TO SEIZURE AND DESTRUCTION PURSUANT TO SUBDIVISION FIVE OF SECTION FOUR HUNDRED SIXTY OF THIS ARTICLE.

This section shall not apply to explosives while being legally blasted or while legally in the custody of a common carrier awaiting shipment or delivery to a consignee during the time permitted by federal law; nor to the storage of such limited amount of sporting or smokeless powders as may be permitted by the [rules of the board] REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE.

S 5. Section 454 of the labor law, as amended by chapter 477 of the laws of 1943, is amended to read as follows:

S 454. Construction of magazines. Unless otherwise prescribed by the [board in its rules] REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE, magazines in which explosives shall be lawfully kept or stored shall be constructed of brick, concrete, [iron] METAL or wood covered with [iron] METAL, and shall have no openings except for ventilation and entrance. All EXPLOSIVE magazines, except those in mines and tunnels, shall be located above ground. All EXPLOSIVE magazines shall be kept clean and dry at all times.

S 6. Section 455 of the labor law, as amended by chapter 809 of the laws of 1949, is amended to read as follows:

S 455. Magazine precautions. 1. No [person] INDIVIDUAL shall unlock [or], open the doors of, OR ACCESS THE CONTENTS OF, EXPLOSIVE magazines, except for the lawful storage or removal of explosives AND IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER. NO EMPLOYER SHALL ALLOW ANY INDIVIDUAL ACCESS TO THE EXPLOSIVE MAGAZINES OR EXPLOSIVES OF THE EMPLOYER UNLESS A LICENSE HAS BEEN ISSUED TO THE INDIVIDUAL BY THE COMMISSIONER AS PROVIDED IN THIS ARTICLE, OR THE INDIVIDUAL IS UNDER THE DIRECT SUPERVISION OF THE LICENSE HOLDER.

No person shall have matches or fire of any kind in any magazine. No person shall store or keep blasting caps, detonating or fulminating caps, or detonators in a magazine in which any other type of explosive is stored or kept. No person shall open any package of explosives within fifty feet of any magazine, nor shall any explosives be kept in a magazine except in the original containers, OR AS OTHERWISE PROVIDED BY REGULATIONS PROMULGATED UNDER THIS ARTICLE. No person shall discharge firearms within five hundred feet of a magazine or explosives factory, or at or against any such building or magazine. Any theft or loss of

explosives from a storage magazine or otherwise, shall immediately be reported to the [industrial] commissioner and the state or local police or county sheriff.

S 7. Section 456 of the labor law, as amended by chapter 461 of the laws of 1950, is amended to read as follows:

S 456. Location of magazines. The quantity of explosives that may be stored in any explosives factory or magazine shall depend upon its distances from the nearest building, railroad or highway or other magazine. The distances that a quantity of explosives may be stored from the nearest magazine, building, railroad or highway, shall be as determined by the [rules of the board] REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE. All such distances may be reduced one-half when the magazine, building, railroad or highway to be protected is adequately screened from the explosives factory or magazine by an efficient barricade as defined in subdivision seven of section four hundred fifty-one OF THIS ARTICLE.

S 8. The labor law is amended by adding a new section 457 to read as follows:

S 457. RELOCATION OF MAGAZINES. 1. WHEN ANY MAGAZINE IS MOVED FROM THE LOCATION FOR WHICH IT WAS CERTIFIED ACCORDING TO SECTION FOUR HUNDRED FIFTY-SIX OF THIS ARTICLE, AND THE MAGAZINE IS OR IS INTENDED TO BE USED FOR THE STORAGE OF EXPLOSIVES AND WILL BE IN THE NEW LOCATION FOR MORE THAN TWENTY-FOUR HOURS, THE COMMISSIONER SHALL BE NOTIFIED AS TO THE NEW LOCATION OF THE MAGAZINE. SUCH NOTIFICATION SHALL BE MADE NO LATER THAN ONE BUSINESS DAY PRIOR TO THE MOVE. THE NOTIFICATION SHALL CONTAIN ALL OF THE INFORMATION REQUIRED BY THE COMMISSIONER.

2. THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION SHALL NOT APPLY WHERE THE RELOCATION HAS BEEN ORDERED BY POLICE, FIRE OR OTHER AUTHORIZED EMERGENCY PERSONNEL, OR WHERE THE CONTINUED STORAGE IN THE CURRENT LOCATION WOULD CONSTITUTE A THREAT TO LIFE OR PROPERTY. IN SUCH CASES THE COMMISSIONER SHALL BE NOTIFIED AS SOON AS PRACTICABLE AFTER THE RELOCATION BUT IN NO CASE MORE THAN TWO BUSINESS DAYS FOLLOWING SUCH RELOCATION.

3. WHEN A MAGAZINE IS ABANDONED, SOLD OR REMOVED FROM SERVICE, THE CERTIFICATE HOLDER SHALL NOTIFY THE COMMISSIONER NO LATER THAN THREE BUSINESS DAYS FROM THE DATE OF SUCH ACTION AND SHALL SURRENDER THE CERTIFICATE TO THE COMMISSIONER.

S 9. Section 458 of the labor law, as added by chapter 809 of the laws of 1949, subdivisions 1 and 2 as amended by chapter 61 of the laws of 1989, subdivision 3 as amended by section 10 of part A of chapter 57 of the laws of 2004, subdivision 4 as amended by chapter 164 of the laws of 2003, subdivisions 5, 6, 7 and 9 as added and subdivisions 10 and 11 as renumbered by chapter 1022 of the laws of 1970 and subdivision 8 as added by chapter 150 of the laws of 1971, is amended to read as follows:

S 458. Licenses and certificates. 1. No person shall purchase, own, possess, transport or use explosives unless a license therefor shall have been issued as provided in this article.

Application for such a license shall be made to the commissioner on forms provided and shall contain such information as the commissioner may require. Where the commissioner finds that the applicant has complied with the requirements of this article and the rules promulgated hereunder, the commissioner shall issue [a] SUCH license or renewal thereof which shall be valid for NOT LESS THAN one year from the date of issuance. Such application and each renewal thereof shall be accompanied by a NON-REFUNDABLE fee of NOT LESS THAN fifty dollars [non-refundable] to be payable to the commissioner.

2. No person shall manufacture, deal in, sell, give, TEST, or dispose of explosives unless a license therefor shall have been issued to such person for that purpose by the commissioner as provided in this article, nor shall any person sell, give, TEST, or dispose of explosives to, or manufacture explosives for any person who does not hold a license as provided by subdivision one of this section.

Application for such a license[, which shall be renewed annually,] shall be made to the commissioner on forms provided and shall contain such information as the commissioner may require. The commissioner, after investigation of the application, shall issue a license or renewal thereof, which shall be valid for NOT LESS THAN one year from the date of issuance, where the commissioner finds that the applicant has complied with the requirements of this article and the rules promulgated hereunder. Each application for such a license, or for its renewal, shall be accompanied by a fee of NOT LESS THAN one hundred dollars non-refundable to be payable to the commissioner.

3. No person shall keep or store explosives unless a certificate therefor shall have been issued by the commissioner as [herein] provided[, but this requirement shall not apply to the storage at any one time by farmers of two hundred pounds or less of blasting explosives for agricultural purposes] IN THIS SECTION.

Application for such a certificate shall be made to the commissioner on forms provided and shall contain such information as the commissioner may require. The commissioner, where it is found that the applicant has complied with the requirements of this article, [and], the rules promulgated hereunder and all other applicable sections of this chapter and regulations promulgated by the commissioner, shall issue a certificate or a renewal thereof, which shall be valid for NOT LESS THAN one year from the date of issuance. In addition to any other causes for revocation of a certificate hereinafter provided, the commissioner may revoke or modify such certificate because of any change in the conditions under which it was granted, or for failure to pay the [annual] REQUIRED fee [hereinafter provided]. The owner or user of a magazine shall [annually] pay to the commissioner [in advance] a fee[, subject to the discretion of the commissioner and] OF not less than fifty dollars, which shall be proportioned according to the quantity and type of explosives authorized by the certificate to be stored in the magazine.

4. An application for a license or a certificate pursuant to [subdivision one, two or three of] this section [shall be sworn to under oath and] shall contain information sufficient to identify the applicant, and the purpose for which and the place where the explosives are to be used, manufactured, dealt in, given, disposed of or stored, as the case may be, and to demonstrate the eligibility of such applicant for the license or certificate requested. The commissioner may require that the application include, among other things, photographs, fingerprints and personal references. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check. AN APPLICATION FOR A LICENSE OR CERTIFICATE REQUIRED TO BE FILED WITH THE DEPARTMENT PURSUANT TO THIS SECTION SHALL BE SIGNED BY THE APPLICANT AND AFFIRMED BY HIM OR HER AS TRUE UNDER PENALTY OF PERJURY.

5. Before a license or certificate is issued, the commissioner shall investigate the eligibility of the applicant. The commissioner shall have the authority to request and receive from any department, division,

board, bureau, commission or agency of the state or local government thereof such assistance and information as will enable [him] THE COMMISSIONER TO properly and effectively [to] carry out [his] THE powers and duties under this article.

6. (a) The investigation prescribed in subdivision five of this section may include, but is not limited to the following:

(1) a personal interview of the applicant by a designated agent of the commissioner if the commissioner is unable to make a determination on the basis of the factors contained in the application;

(2) an examination as to the applicant's knowledge and ability with respect to basic safety precautions in the possession, handling, storage, MANUFACTURE and transportation of explosives, and for such purpose the commissioner may prescribe tests which the applicant shall be required to pass as a prerequisite to the issuance of the license or certificate. The test may be administered by any person or agency designated by the commissioner.

(b) The investigation prescribed in subdivision five of this section shall include a report from the New York state identification and intelligence system, and such other identification services of the state or federal government as may be necessary or appropriate for this purpose.

7. The commissioner may waive any of the procedures set forth in PARAGRAPH (B) OF subdivision six [(a)] of this section with respect to any applicant [who has a license or certificate which was issued pursuant to this section at any time prior to March first, nineteen hundred seventy, and which was legally valid and effective on such date. The commissioner also may waive fingerprinting of an applicant who has a valid license for a pistol or revolver in accordance with section 400.00 of the penal law] FOR WHOM CRIMINAL HISTORY OR OTHER INFORMATION HAS BEEN OBTAINED FROM ANY FEDERAL BUREAU OR AGENCY.

8. [Exceptions.] Except for the provisions of subdivision eleven OF THIS SECTION, this section shall not apply to smokeless powder.

9. Within thirty days after the issuance of a license or certificate under this section, the commissioner shall notify the chief executive officer of the municipality where the licensee resides or where the certificate holder has his OR HER place of business of the issuance of such license or certificate, and provide such officer with such other information pertaining thereto [as the board may from time to time prescribe] AS THE COMMISSIONER MAY PRESCRIBE.

10. Agencies of the United States, the state and its political and civil subdivisions which are subject to the requirements of this article and which, in the exercise of their functions, are required to purchase, own, store, use or transport explosives shall not be liable for the payment of any fee required by this section.

11. No explosives shall be sold, given or delivered to any [person] INDIVIDUAL under eighteen years of age, whether such [person] INDIVIDUAL is acting for himself, HERSELF or for another person, nor shall any such [person] INDIVIDUAL be eligible to obtain any license or certificate required under this section.

S 10. Section 459 of the labor law, as added by chapter 809 of the laws of 1949, subdivision 1 as amended by chapter 1022 of the laws of 1970, is amended to read as follows:

S 459. Denial or revocation of license or certificate. 1. A license or certificate, [its] OR THE renewal [or continuation] THEREOF may be denied where the commissioner has probable reason to believe, based on knowledge or reliable information, or finds, after [due] investigation, that the applicant or any officer, servant, agent or employee of the

applicant is not sufficiently reliable and experienced to be authorized to own, possess, store, transport, use, manufacture, deal in, sell, purchase or otherwise handle, as the case may be, explosives, lacks suitable facilities therefor, has been convicted of a [crime for which he has been sentenced to serve one or more years in prison] FELONY, is disloyal or hostile to the United States [or], has been confined as a patient or inmate in a public or private institution for the treatment of mental diseases OR HAS BEEN CONVICTED UNDER SECTION FOUR HUNDRED EIGHTY-FOUR OF THE GENERAL BUSINESS LAW. Whenever the commissioner denies an application for a license or certificate or the renewal thereof, [he shall,] within five days of such denial, [give] notice thereof and the reasons therefor SHALL BE PROVIDED in writing to the applicant [personally or by mail to the address given in the application]. Such denial may be appealed to the commissioner who shall follow the procedure provided by subdivision [three] FOUR of this section.

2. The commissioner may revoke any certificate or license on any ground or grounds authorized in subdivision one of this section for the denial of a license or certificate, or for a violation of the terms of such license or certificate, or for a violation of any provision of this article or [of the rules of the board] REGULATIONS PROMULGATED HEREUNDER, or for non-compliance with any order issued by the commissioner within the time specified in such order.

[Where the] THE commissioner MAY, WHERE HE OR SHE has probable reason to believe, based on knowledge or reliable information, that a licensee or certificate holder is disloyal to the United States, [he may] summarily revoke the license or certificate or may[, in his discretion,] give such licensee or certificate holder notice and opportunity to be heard as provided in subdivision [three] FOUR of this section. Revocation of a license or certificate for any other ground may be ordered only after giving written notice and an opportunity to be heard to the holder thereof. Such notice [may be given to the holder personally or by mail and] shall specify the ground or grounds on which it is proposed to revoke the license or certificate. When a license or certificate is revoked, the commissioner may direct the SEIZURE AND/OR disposition of explosives held by such licensee or certificate holder. Upon revocation of a license or certificate by the commissioner, the holder thereof shall surrender [his] THE license or certificate to the commissioner at once.

3. THE COMMISSIONER MAY SUMMARILY SUSPEND THE LICENSE OR CERTIFICATE PENDING PROCEEDINGS FOR REVOCATION OR OTHER ACTION, WHERE HE OR SHE HAS REASON TO BELIEVE, BASED ON KNOWLEDGE OR RELIABLE INFORMATION, THAT THE CONTINUED POSSESSION OF A LICENSE OR CERTIFICATE POSES A DANGER TO PUBLIC HEALTH, SAFETY OR WELFARE, AND INCORPORATES A FINDING TO THAT EFFECT IN HIS OR HER ORDER. THESE PROCEEDINGS SHALL BE PROMPTLY INSTITUTED AND DETERMINED. SUCH SUSPENSION SHALL BE EFFECTIVE ON THE DATE SPECIFIED IN THE ORDER OR UPON SERVICE OF A CERTIFIED COPY OF SUCH ORDER ON THE LICENSE OR CERTIFICATE HOLDER, WHICHEVER SHALL BE LATER.

[3. Hearings] 4. Unless, within fifteen days from the date of notice, the applicant for a license or certificate or the recipient of a notice stating that the commissioner proposes to revoke a license or certificate held by him OR HER, shall file a written answer with the commissioner denying the ground or grounds on which a license or certificate has been denied OR NOT RENEWED or ground or grounds on which revocation of a license or certificate is sought, and shall request a hearing, the commissioner may make a final determination respecting the application for a license or certificate, or may revoke a license or certificate forthwith. If, within such fifteen days, the applicant, licensee or

certificate holder files such answer and request for hearing, the commissioner shall schedule a hearing. The notice of hearing shall state the time, place, and subject of the hearing, and shall be mailed to the applicant, certificate holder or licensee at his OR HER last known address at least five days before the date of hearing. Hearings shall be held by the commissioner or his OR HER representative, and the applicant, certificate holder or licensee may appear in person or may be represented by an agent. After such hearing, the commissioner shall render [his] A decision in writing.

S 11. Section 460 of the labor law, as added by chapter 809 of the laws of 1949, is amended to read as follows:

S 460. Seizure, impounding, destruction or disposition of explosives. 1. The commissioner is hereby authorized and empowered, without application to any court, to seize and impound any explosives found within this state, except in cities having a population of more than one million inhabitants, which are in apparent violation of any of the provisions of this article, [rules of the board] REGULATIONS PROMULGATED HEREUNDER or laws or regulations of the federal government, or which have been abandoned or lost, or where the commissioner has reason to believe that public safety is endangered by such explosives. Such explosives may be removed and transported by the commissioner and stored in magazines provided or obtained for that purpose by the state or by the commissioner.

2. The owner of such explosives may, within five days of such seizure, make written demand upon the commissioner for a hearing. Upon such demand, the commissioner shall give the owner written notice [in person or by mail,] of the time and place of such hearing to be held not less than ten days thereafter.

3. Where no hearing is demanded within the time herein prescribed or where, after hearing, the commissioner finds that there has been a violation of the provisions of this article, [rules of the board] REGULATIONS PROMULGATED HEREUNDER or laws or regulations of the federal government, or that public safety is endangered, [he] THE COMMISSIONER may destroy or order the destruction of such explosives WITHOUT LIABILITY, or direct such other disposition of the explosives [as he deems proper]. If the commissioner finds there has been no such violation and that public safety has not been endangered, [he shall return] such explosives SHALL BE RETURNED to the owner thereof.

4. Where such explosives have been abandoned or lost, and no claimant has appeared within thirty days, demanded the return of the explosives and proved, to the satisfaction of the commissioner, [his] THE CLAIMANT'S title to and right of possession of such explosives, the commissioner may destroy or direct the destruction thereof, or direct such other disposition thereof as [he deems] IS DEEMED proper.

5. Any provision herein to the contrary notwithstanding, where, in the opinion of the commissioner, the manufacture, condition, STORAGE, packing or location of explosives is such that its continued existence or transportation is a danger to public safety, [he] THE COMMISSIONER may, without hearing and without liability therefor to the owner thereof, seize and destroy or direct the seizure and destruction of such explosives.

S 12. Section 461 of the labor law, as added by chapter 809 of the laws of 1949, subdivision 1 as amended by chapter 150 of the laws of 1971 and subdivision 3 as amended by chapter 1022 of the laws of 1970, is amended to read as follows:

S 461. Record and notice of sales, deliveries or gifts. 1. Every person selling, delivering [or], giving away [an explosive] OR OTHERWISE TRANSFERRING OR DISPOSING OF EXPLOSIVES shall keep at his OR HER principal office or place of business within the state, a record of the transaction, including the name or type and quantity of the explosive, such identification of the explosive as may be required by [rules of the board] THE REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE, the date of each sale, delivery [or], gift, TRANSFER OR DISPOSITION, the name and business address of the purchaser, donee, RECIPIENT or person to whom delivered, the number of the license [to own or possess explosives], if such license is required by section four hundred fifty-eight of this article, and the name and address of the person taking the explosives away. A report of all such transactions, when requested [by him], shall be submitted to the commissioner. Such record shall be open to inspection by the commissioner or by federal, state and local enforcement officers at all times. No person shall have in his OR HER possession any explosives unless he OR SHE has a bill of sale or other evidence of title thereto.

2. Any provision in this article to the contrary notwithstanding, no person in a city having more than one million inhabitants shall ship or transport or cause to be shipped or transported explosives from such city to any other place within the state, unless such person shall, at least twenty-four hours prior to such shipment, transmit to the commissioner a statement in writing giving the weight, name or brand and type of explosives, the name and address of the person to whom such explosives are to be sold, shipped, transported or delivered and the date thereof. UPON RECEIPT OF SUCH STATEMENT, THE COMMISSIONER SHALL PROVIDE IMMEDIATE WRITTEN NOTICE OF SUCH SHIPMENT OR TRANSPORTATION OF EXPLOSIVES TO THE MAYOR OF A CITY HAVING MORE THAN ONE MILLION INHABITANTS, OR TO THE DESIGNEE OF THE MAYOR. No person shall make any such shipment except to a holder of a license issued hereunder.

3. No person within the state shall purchase, receive or accept delivery of explosives from any place outside the state, and no person shall bring explosives into the state from any place outside the state, unless, [in addition to holding a license issued hereunder, such person shall, not more than twenty-four hours thereafter, transmit to the commissioner by mail a written statement giving] HE OR SHE IS IN POSSESSION OF A VALID LICENSE ISSUED BY THE COMMISSIONER. THE LICENSEE RECEIVING THE EXPLOSIVES SHALL MAINTAIN A RECORD INCLUDING THE weight, name or brand and type of the explosives, the name and address of the shipper and the date of shipment, FOR A PERIOD OF THREE YEARS FROM THE DATE OF RECEIPT OR TWO YEARS FROM THE DATE OF FINAL DISPOSITION OF THE EXPLOSIVES WHICHEVER OCCURS LAST.

S 13. Section 462 of the labor law, as amended by chapter 190 of the laws of 1989, is amended to read as follows:

S 462. Rules and regulations. The commissioner may make rules supplemental to this article as [he shall deem] DEEMED necessary or desirable to assure the public safety as well as to provide reasonable and adequate protection of the lives, health and safety of persons employed in the manufacture, storage, handling [and], use, PURCHASE, SALE, DISPOSITION AND OWNERSHIP of explosives. The commissioner may prescribe such regulations as [he may deem] ARE DEEMED necessary and proper for the administration of this article. THE COMMISSIONER SHALL BY RULE ADOPT THE CODES, STANDARDS AND RECOMMENDED PRACTICES PROMULGATED BY THE MOST RECENT EDITION OF NATIONAL FIRE PROTECTION ASSOCIATION, 1123 AND 1126 STANDARDS ON FIREWORKS DISPLAYS AND USE OF PYROTECHNICS BEFORE A PROXI-

MATE AUDIENCE, IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE AND ARTICLE TWENTY-EIGHT-D OF THE GENERAL BUSINESS LAW.

S 14. Section 463 of the labor law, as added by chapter 809 of the laws of 1949, is amended to read as follows:

S 463. Review. All questions of fact arising under this article shall be decided by the commissioner and there shall be no appeal from [his] SUCH decision on any such question of fact[, but there shall be a right of review by the board of standards and appeals of any decision of the commissioner denying an application for a license or certificate, or denying the renewal thereof, or revoking a license or certificate, as provided in section one hundred ten, article three of the labor law]. UPON THE ENTRY OF AN ORDER ISSUED UNDER SECTIONS FOUR HUNDRED FIFTY-NINE AND FOUR HUNDRED SIXTY OF THIS ARTICLE, ANY PARTY AGGRIEVED THEREBY MAY COMMENCE A PROCEEDING FOR REVIEW THEREOF PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES WITHIN THIRTY DAYS FROM THE NOTICE OF THE FILING OF THE SAID ORDER IN THE OFFICE OF THE COMMISSIONER. SAID PROCEEDING SHALL BE COMMENCED DIRECTLY IN THE APPELLATE DIVISION OF THE SUPREME COURT. NOTHING IN THIS SECTION SHALL IN ANY WAY LIMIT, QUALIFY OR PREVENT THE COMMISSIONER FROM DESTROYING EXPLOSIVES AS PROVIDED UNDER SECTION FOUR HUNDRED SIXTY OF THIS ARTICLE.

S 15. Section 464 of the labor law, as amended by chapter 307 of the laws of 1984, is amended to read as follows:

S 464. [Penalties] COSTS AND PENALTIES. 1. IF THE COMMISSIONER DIRECTS THE STORAGE, DESTRUCTION OR OTHER DISPOSITION OF EXPLOSIVES PURSUANT TO THE PROVISIONS OF SECTION FOUR HUNDRED FIFTY-NINE OR FOUR HUNDRED SIXTY OF THIS ARTICLE, THE COMMISSIONER MAY ISSUE AN ORDER WHICH SHALL SET FORTH THE COSTS OF SUCH STORAGE, TRANSPORTATION, HANDLING, DESTRUCTION OR OTHER DISPOSITION AND ASSESS SUCH COSTS AGAINST THE OWNER OF SUCH EXPLOSIVES, WHICH SHALL BE IN ADDITION TO ANY OTHER PENALTIES IMPOSED.

2. (A) IF THE COMMISSIONER DETERMINES THAT ANY PERSON HAS VIOLATED ANY PROVISION OF THIS ARTICLE, SECTION FOUR HUNDRED EIGHTY-TWO OF THE GENERAL BUSINESS LAW RELATING TO BLASTERS AND PYROTECHNICIANS, OR ANY RULE OR REGULATION PROMULGATED THEREUNDER, THE COMMISSIONER MAY ISSUE AN ORDER WHICH SHALL DESCRIBE THE NATURE OF THE VIOLATION AND ASSESS SUCH PERSON A CIVIL PENALTY OF UP TO TEN THOUSAND DOLLARS PER VIOLATION PER DAY UNTIL THE VIOLATION IS CORRECTED. THE PENALTY AUTHORIZED PURSUANT TO THIS PARAGRAPH SHALL BE PAID TO THE COMMISSIONER FOR DEPOSIT IN THE TREASURY OF THE STATE. IN ASSESSING THE AMOUNT OF THE PENALTY, THE COMMISSIONER SHALL GIVE DUE CONSIDERATION TO THE SIZE OF THE PERSON'S BUSINESS, THE GOOD FAITH EFFORT OF THE PERSON, THE GRAVITY OF THE VIOLATION, AND THE HISTORY OF PREVIOUS VIOLATIONS.

(B) WHENEVER THE COMMISSIONER ISSUES AN ORDER UNDER THIS SECTION AGAINST A PERSON, THE COMMISSIONER SHALL SERVE NOTICE OF THE ORDER BY REGISTERED MAIL UPON THE PERSON AT HIS OR HER LAST KNOWN ADDRESS. WITHIN FIVE DAYS OF SERVICE OF THE ORDER, THE PERSON MAY MAKE WRITTEN DEMAND UPON THE COMMISSIONER FOR A HEARING WHEREUPON THE COMMISSIONER SHALL GIVE SUCH PERSON WRITTEN NOTICE OF THE TIME AND PLACE OF THE HEARING TO BE HELD NOT LESS THAN TEN DAYS THEREAFTER.

(C) UPON THE ENTRY OF AN ORDER ISSUED FOLLOWING A HEARING UNDER THIS SECTION, ANY PARTY AGGRIEVED BY AN ORDER ISSUED UNDER THIS SUBDIVISION OR SUBDIVISION ONE OF THIS SECTION MAY COMMENCE A PROCEEDING FOR REVIEW THEREOF PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES WITHIN THIRTY DAYS FROM THE NOTICE OF THE FILING OF THE SAID ORDER IN THE OFFICE OF THE COMMISSIONER. SAID PROCEEDING SHALL BE COMMENCED DIRECTLY IN THE APPELLATE DIVISION OF THE SUPREME COURT.

(D) PROVIDED THAT NO PROCEEDING FOR JUDICIAL REVIEW AS PROVIDED FOR IN THIS SECTION SHALL THEN BE PENDING AND THE TIME FOR INITIATION OF SUCH PROCEEDING SHALL HAVE EXPIRED, THE COMMISSIONER MAY FILE WITH THE COUNTY CLERK OF THE COUNTY WHERE THE PERSON RESIDES OR HAS A PLACE OF BUSINESS, THE ORDER OF THE COMMISSIONER, CONTAINING THE AMOUNT OF THE CIVIL PENALTY. THE FILING OF SUCH ORDER OR DECISION SHALL HAVE THE FULL FORCE AND EFFECT OF A JUDGMENT DULY DOCKETED IN THE OFFICE OF SUCH CLERK, THE ORDER OR DECISION MAY BE ENFORCED BY AND IN THE NAME OF THE COMMISSIONER IN THE SAME MANNER, AND WITH LIKE EFFECT, AS THAT PRESCRIBED BY THE CIVIL PRACTICE LAW AND RULES FOR THE ENFORCEMENT OF A MONEY JUDGMENT.

(E) A CIVIL PENALTY PROVIDED FOR IN THIS SUBDIVISION SHALL BE IN ADDITION TO AND MAY BE IMPOSED CONCURRENTLY WITH ANY OTHER PENALTY OR REMEDY PROVIDED FOR IN THIS ARTICLE.

3. Any person violating any provision of this article, or any rule or regulation made hereunder, shall be guilty of a class E felony; provided, however, that any person who possesses an explosive without being duly licensed or otherwise authorized to do so under the provisions of this article shall be guilty of a class D felony. Whenever, as a result of a plea bargaining agreement the charge is reduced to a lesser offense, such offense may, in addition to any term of imprisonment prescribed by such offense, be punishable by a fine not to exceed twenty-five hundred dollars.

S 16. Section 480 of the general business law, as added by chapter 754 of the laws of 1975, is amended to read as follows:

S 480. Legislative findings. The legislature hereby finds that the use of lasers and radioactive materials, the operation of cranes [and], the detonation of explosives, AND THE PREPARATION AND FIRING OF PYROTECHNICS involve such elements of potential danger to the lives, health and safety of the citizens of this state and to their property that special regulations are necessary to insure that only persons of proper ability and experience shall engage in such uses and operations.

The legislature hereby declares that this article shall be deemed an exercise of the police power of this state for the protection of the lives, health and safety of citizens in this state and of their property.

S 17. Section 481 of the general business law, as added by chapter 754 of the laws of 1975, subdivision 3 as amended by chapter 569 of the laws of 1982 and subdivision 5 as amended by section 1 of part B of chapter 58 of the laws of 2006, is amended to read as follows:

S 481. Definitions. As used in this article:

1. "Laser" means light amplification by simulated emission of radiation.

2. "Radioactive material" means any material in any form that emits ionizing radiation spontaneously. "Radiation equipment" means any equipment or device which can emit ionizing or non-ionizing radiation.

3. "Crane" includes but is not limited to cranes and equipment of the following types: a mobile, carrier-mounted, power-operated hoisting machine utilizing a power-operated boom which moves laterally by rotation of the machine on the carrier, tower cranes, hydraulic cranes and power-operated derricks; provided, however, that "crane" shall not include public utility company line trucks used by a public utility company in the construction and maintenance of its generation, transmission and distribution facilities.

4. "Blaster" means a person who performs the act of preparation for detonation and the detonation of an explosive.

5. "PYROTECHNICIAN" MEANS A PERSON WHO PERFORMS THE PREPARATION FOR AND THE FIRING OF PYROTECHNICS, AS DEFINED IN ARTICLE SIXTEEN OF THE LABOR LAW.

6. "Commissioner" means the commissioner of labor of the state of New York, except that any reference to the commissioner with respect to radioactive material, as defined in this article, or radiation equipment, as defined in this article, shall be a reference to the commissioner of health of the state of New York.

S 18. Section 482 of the general business law, as amended by section 2 of part B of chapter 58 of the laws of 2006, is amended to read as follows:

S 482. Licensing and registration. 1. No individual shall use lasers, operate a crane [or], act as a blaster OR AS A PYROTECHNICIAN without holding a valid certificate of competence issued by the commissioner of labor.

2. No person shall possess or use any radioactive material without a valid license issued by the commissioner of health. Every installation and mobile source consisting of radiation equipment shall be registered with the commissioner of health.

3. No employer, contractor or agent thereof shall knowingly permit any individual to use lasers, operate a crane or act as a blaster OR AS A PYROTECHNICIAN without holding a valid certificate of competence issued by the commissioner of labor.

S 19. Paragraph a of subdivision 1 and subdivision 2 of section 483 of the general business law, paragraph a of subdivision 1 as amended by section 3 of part B of chapter 58 of the laws of 2006, subdivision 2 as added by chapter 754 of the laws of 1975, are amended to read as follows:

a. The commissioner of labor is hereby authorized and directed to prescribe such rules and regulations as may be necessary and proper for the administration and enforcement of this article with respect to lasers, crane operators [and], blasters AND PYROTECHNICIANS.

2. Such regulations may provide for examinations, categories of certificates, licenses, or registrations, age and experience requirements, payment of fees, and may also provide for such limitations and exemptions as the commissioner finds necessary and proper. In the case of blasters AND PYROTECHNICIANS, such regulations may require fingerprinting, and in the case of users of radioactive material, such regulations may require the posting of a bond or other security.

S 20. Section 484 of the general business law, as added by chapter 754 of the laws of 1975, subdivision 1 as amended by section 4 of part B of chapter 58 of the laws of 2006 and subdivision 2 as amended and subdivision 3 as added by chapter 569 of the laws of 1982, is amended to read as follows:

S 484. Enforcement. 1. a. For the purpose of administering and enforcing the provisions of this article with respect to lasers, cranes [and], blasters AND PYROTECHNICIANS, the commissioner of labor shall have and may use all of the powers conferred upon him or her by the labor law, in addition to the powers conferred herein.

b. For the purpose of administering and enforcing the provisions of this article with respect to radioactive material and radiation equipment the commissioner of health shall have and may use all of the powers conferred upon him or her by the public health law, in addition to the powers conferred in this article.

2. [A violation of] ANY PERSON WHO VIOLATES any provision of this article or of any rule or regulation of the commissioner promulgated

hereunder or of any rule or regulation promulgated pursuant to paragraph b of subdivision two of section four hundred eighty-five of this article shall be GUILTY OF a misdemeanor, AND UPON CONVICTION SHALL BE PUNISHED, BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS; FOR A SECOND OFFENSE BY A FINE OF NOT LESS THAN ONE THOUSAND NOR MORE THAN THREE THOUSAND DOLLARS, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR OR BY BOTH SUCH FINE AND IMPRISONMENT; FOR A SUBSEQUENT OFFENSE BY A FINE OF NOT LESS THAN THREE THOUSAND DOLLARS, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH SUCH FINE AND IMPRISONMENT.

3. Where the employer, contractor or agent thereof permitting a violation of any provision of this article or of any rule or regulation of the commissioner promulgated hereunder or of any rule or regulation promulgated pursuant to paragraph b of subdivision two of section four hundred eighty-five of this article shall be a corporation, then in addition to the corporation, the officer or agent of such corporation who knowingly permits the corporation to violate such provisions is guilty of a misdemeanor; and upon conviction thereof shall be punished for a first offense by a fine of not more than one [hundred] THOUSAND dollars; for a second offense by a fine of not less than one [hundred] THOUSAND nor more than [five hundred] THREE THOUSAND dollars, or by imprisonment for not more than [thirty days] ONE YEAR or by both such fine and imprisonment; for a subsequent offense by a fine of not less than three [hundred] THOUSAND dollars or by imprisonment for not more than [sixty days] ONE YEAR, or by both such fine and imprisonment.

S 21. Subdivisions 2, 3, 3-a and 4 of section 405.00 of the penal law, subdivision 3-a as added by chapter 151 of the laws of 2002, are amended to read as follows:

2. Permits for [public] FIREWORKS displays. Notwithstanding the provisions of section 270.00 OF THIS CHAPTER, the permit authority of a state park, county park, city, village or town may [upon application in writing,] grant a permit for the [public] display of fireworks [by] TO municipalities, fair associations, amusement parks, PERSONS, or organizations of individuals THAT SUBMIT AN APPLICATION IN WRITING. The application for such permit shall set forth:

(a) The name of the body sponsoring the display and the names of the persons actually to be in charge of the firing of the display WHO SHALL POSSESS A VALID CERTIFICATE OF COMPETENCE AS A PYROTECHNICIAN AS REQUIRED UNDER THE GENERAL BUSINESS LAW AND ARTICLE SIXTEEN OF THE LABOR LAW. THE PERMIT APPLICATION SHALL FURTHER CONTAIN A VERIFIED STATEMENT FROM THE APPLICANT IDENTIFYING THE INDIVIDUALS WHO ARE AUTHORIZED TO FIRE THE DISPLAY INCLUDING THEIR CERTIFICATE NUMBERS, AND THAT SUCH INDIVIDUALS POSSESS A VALID CERTIFICATE OF COMPETENCE AS A PYROTECHNICIAN.

(b) The date and time of day at which the display is to be held.

(c) The exact location planned for the display.

(d) [The age, experience and physical characteristics of the persons who are to do the actual discharging of the fireworks.

(e)] The number and kind of fireworks to be discharged.

[(f)] (E) The manner and place of storage of such fireworks prior to the display.

[(g)] (F) A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience will be restrained and the location of all nearby trees, telegraph or telephone lines or other overhead obstructions.

[(h)] (G) Such other information as the permit authority may deem necessary to protect persons or property.

3. Applications for permits. All applications for permits for the [public] display of fireworks shall be made at least five days in advance of the date of the display and the permit shall contain provisions that the actual point at which the fireworks are to be fired [shall be at least two hundred feet from the nearest permanent building, public highway or railroad or other means of travel and at least fifty feet from the nearest above ground telephone or telegraph line, tree or other overhead obstruction, that the audience at such display shall be restrained behind lines at least one hundred and fifty feet from the point at which the fireworks are discharged and only persons in active charge of the display shall be allowed inside these lines, that all fireworks that fire a projectile shall be so set up that the projectile will go into the air as nearby as possible in a vertical direction, unless such fireworks are to be fired from the shore of a lake or other large body of water, when they may be directed in such manner that the falling residue from the deflagration will fall into such lake or body of water, that any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining, that no fireworks display shall be held during any wind storm in which the wind reaches a velocity of more than thirty miles per hour,] BE IN ACCORDANCE WITH THE RULES PROMULGATED BY THE COMMISSIONER OF LABOR PURSUANT TO SECTION FOUR HUNDRED SIXTY-TWO OF THE LABOR LAW AND that all the persons in actual charge of firing the fireworks shall be over the age of eighteen years, competent and physically fit for the task, that there shall be at least two such operators constantly on duty during the discharge and that at least two [sodaacid or other] approved type fire extinguishers [of at least two and one-half gallons capacity each] shall be kept at as widely separated points as possible within the actual area of the display. The legislative body of a state park, county park, city, village or town may provide for approval of such permit by the head of the police or fire department or both where there are such departments. No permit granted and issued hereunder shall be transferable. After such permit shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful solely therefor.

3-a. Notwithstanding the provisions of subdivision three of this section, no permit may be issued to conduct a [public] display of fireworks upon any property where the boundary line of such property is less than five hundred yards from the boundary line of any property which is owned, leased or operated by any breeder as defined in subdivision four of section [two hundred forty-four] TWO HUNDRED FIFTY-ONE of the racing, pari-mutuel wagering and breeding law.

4. Bonds. Before granting and issuing a permit for a [public] display of fireworks as herein provided, the permit authority shall require an adequate bond from the applicant therefor, unless it is a state park, county park, city, village or town, [or from the person to whom a contract for such display shall be awarded,] in a sum to be fixed by the permit authority, which, however, shall not be less than [five thousand] ONE MILLION dollars, conditioned for the payment of all damages, which may be caused to a person or persons or to property, by reason of the display so permitted and arising from any acts of the permittee, his agents, employees, contractors or subcontractors. Such bond shall run to the state park, county park, city, village or town in which the permit is granted and issued and shall be for the use and benefit of any person

or persons or any owner or owners of any property so injured or damaged, and such person or persons or such owner or owners are hereby authorized to maintain an action thereon, which right of action also shall accrue to the heirs, executors, administrators, successors or assigns of such person or persons or such owner or owners. The permit authority may accept, in lieu of such bond, an indemnity insurance policy with liability coverage and indemnity protection equivalent to the terms and conditions upon which such bond is predicated and for the purposes [herein] provided IN THIS SECTION.

S 22. This act shall take effect immediately; provided that:

1. section eight of this act shall take effect on the thirtieth day after it shall have become a law, and sections eighteen and twenty-one of this act shall take effect on the one hundred eightieth day after it shall have become a law;

2. all licenses and certificates issued pursuant to article 16 of the labor law and article 28-D of the general business law prior to the effective date of this act shall remain in full force and effect until such licenses and certificates expire; and

3. sections fifteen and twenty of this act shall apply to offenses committed on or after the effective date of such sections.

PART DD

Section 1. Section 484 of the general business law is amended by adding a new subdivision 4 to read as follows:

4. (A) ANY PERSON WHO OPERATES A CRANE WITHOUT A CERTIFICATE OF COMPETENCE ISSUED BY THE COMMISSIONER OF LABOR AS REQUIRED BY SECTION FOUR HUNDRED EIGHTY-TWO OF THIS ARTICLE SHALL BE DEEMED TO HAVE VIOLATED THIS ARTICLE. THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY UPON SUCH PERSON OF NO MORE THAN ONE THOUSAND DOLLARS FOR THE INITIAL VIOLATION, NO MORE THAN TWO THOUSAND DOLLARS FOR THE SECOND VIOLATION, AND NO MORE THAN THREE THOUSAND DOLLARS FOR A THIRD OR SUBSEQUENT VIOLATION.

(B) ANY EMPLOYER, CONTRACTOR OR AGENT THEREOF WHO WILLFULLY PERMITS A PERSON TO OPERATE A CRANE WITHOUT A CERTIFICATE OF COMPETENCE ISSUED BY THE COMMISSIONER OF LABOR AS REQUIRED BY SECTION FOUR HUNDRED EIGHTY-TWO OF THIS ARTICLE SHALL BE DEEMED TO HAVE VIOLATED THIS ARTICLE. THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY UPON SUCH EMPLOYER, CONTRACTOR, OR AGENT OF NO MORE THAN FIVE THOUSAND DOLLARS FOR THE INITIAL VIOLATION, AND NO MORE THAN TEN THOUSAND DOLLARS FOR A SECOND OR SUBSEQUENT VIOLATION.

(C) WHEN TWO FINAL DETERMINATIONS HAVE BEEN RENDERED UNDER THIS SECTION AGAINST A PERSON WHO OPERATES A CRANE IN VIOLATION OF THIS ARTICLE, SUCH PERSON SHALL BE INELIGIBLE TO APPLY FOR A CERTIFICATE OF COMPETENCE FROM THE COMMISSIONER OF LABOR FOR A PERIOD OF TWO YEARS FROM THE DATE OF THE SECOND FINAL DETERMINATION.

S 2. This act shall take effect immediately and shall apply to violations occurring on and after such effective date.

PART EE

Section 1. Section 604 of the education law is amended by adding a new subdivision 12 to read as follows:

12. CONTINENTAL AIRLINES FLIGHT 3407 MEMORIAL SCHOLARSHIPS PURSUANT TO SECTION SIX HUNDRED SIXTY-EIGHT-G OF THIS TITLE.

S 2. The education law is amended by adding a new section 668-g to read as follows:

S 668-G. CONTINENTAL AIRLINES FLIGHT 3407 MEMORIAL SCHOLARSHIPS. 1. ELIGIBLE GROUPS. NOTWITHSTANDING SUBDIVISIONS THREE AND FIVE OF SECTION SIX HUNDRED SIXTY-ONE OF THIS PART, CHILDREN, SPOUSES AND FINANCIAL DEPENDENTS OF PERSONS WHO DIED AS A DIRECT RESULT OF THE CRASH OF CONTINENTAL AIRLINES FLIGHT 3407, IN CLARENCE, NEW YORK, ON FEBRUARY TWELFTH, TWO THOUSAND NINE, SHALL BE ELIGIBLE TO RECEIVE A MEMORIAL SCHOLARSHIP FOR THEIR ATTENDANCE AT AN INSTITUTION LOCATED WITHIN NEW YORK STATE.

2. AMOUNT. THE PRESIDENT SHALL GRANT ANNUAL SCHOLARSHIPS IN AMOUNTS DETERMINED IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION SIX HUNDRED SIXTY-EIGHT-D OF THIS SUBPART.

3. DURATION. AWARDS UNDER THIS SECTION SHALL BE PAYABLE FOR EACH OF NOT MORE THAN FOUR ACADEMIC YEARS OF UNDERGRADUATE STUDY OR FIVE ACADEMIC YEARS IF A PROGRAM NORMALLY REQUIRES FIVE YEARS, AS DEFINED BY THE COMMISSIONER PURSUANT TO ARTICLE THIRTEEN OF THIS TITLE.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2009, and shall be applicable for awards made for the 2009-10 academic year and each following academic year.

PART FF

Section 1. Subdivision 4 of section 903 of the private housing finance law, as amended by section 1 of part II of chapter 59 of the laws of 2008, is amended to read as follows:

4. Contracts entered into hereunder with neighborhood preservation companies shall be limited in duration to periods of one year, but may thereafter be renewed, extended or succeeded by new contracts from year to year in the discretion of the commissioner; they shall be limited in amount to the sum of one hundred thousand dollars in a single year [and to the aggregate sum of two million one hundred four thousand five hundred dollars for a single neighborhood preservation company], provided that in any year in which the aggregate sum of three hundred thousand dollars shall have been reached and all succeeding years, the annual contract amount shall be subject to a limit of ninety-seven thousand five hundred dollars per year; they shall define with particularity the neighborhood or portion thereof within which the neighborhood preservation activities shall be performed; they shall specify the nature of the neighborhood preservation activities which shall be performed including the approximate number of buildings, residential dwelling units and local retail and service establishments which shall be affected; they shall locate and describe, with as much particularity as is reasonably possible, the buildings with respect to which such activities shall be performed during the contract term; and they shall specify the number of persons, salaries or rates of compensation and a description of duties of those who shall be engaged by the neighborhood preservation company to perform the activities embraced by the contract together with a schedule of other anticipated expenses.

S 2. Subdivision 4 of section 1003 of the private housing finance law, as amended by section 2 of part II of chapter 59 of the laws of 2008, is amended to read as follows:

4. Contracts pursuant to this section shall be for a period of no more than one year, but may be renewed or extended from year to year, and shall provide for payment by the division of no more than one hundred thousand dollars per year [and shall be limited to the aggregate sum of two million one hundred four thousand five hundred dollars for a single corporation], provided that in any year in which the aggregate sum of

three hundred thousand dollars shall have been reached and all succeeding years, the annual contract amount shall be subject to a limit of ninety-seven thousand five hundred dollars per year; they shall define with particularity the region or portion thereof within which the housing preservation and community renewal activities shall be performed; they shall specify the nature of the housing preservation and community renewal activities which shall be performed including the approximate number of buildings, residential dwelling units and local retail and service establishments which shall be affected; they shall locate and describe, with as much particularity as is reasonably possible, the buildings with respect to which such activities shall be performed during the contract term; and they shall specify the number of persons, salaries or rates of compensation and a description of duties of those who shall be engaged by the corporation to perform the activities embraced by the contract together with a schedule of other anticipated expenses.

S 3. This act shall take effect immediately.

PART GG

Section 1. Subdivision A of section 6221 of the education law is amended by adding a new paragraph 4-a to read as follows:

4-A. NOTWITHSTANDING THE PROVISION OF ANY LAW, RULE OR REGULATION TO THE CONTRARY, THE CITY UNIVERSITY SHALL BE ENTITLED TO ANNUALLY RECEIVE AN APPORTIONMENT AND PAYMENT OF STATE ASSISTANCE EQUAL TO ALL MONEYS DERIVED AS A RESULT OF THE TUITION INCREASE, CALCULATED AS THE DIFFERENCE IN THE AMOUNT GENERATED USING THE TUITION RATES AUTHORIZED BY THE TRUSTEES OF THE CITY UNIVERSITY FOR THE TWO THOUSAND EIGHT-TWO THOUSAND NINE ACADEMIC YEAR AND THE AMOUNT GENERATED USING THE TUITION RATES AUTHORIZED BY THE TRUSTEES OF THE CITY UNIVERSITY FOR THE TWO THOUSAND NINE-TWO THOUSAND TEN ACADEMIC YEAR, PURSUANT TO THE FOLLOWING SCHEDULE: FOR THE TWO THOUSAND NINE-TWO THOUSAND TEN ACADEMIC YEAR, THE CITY UNIVERSITY SHALL RECEIVE AN AMOUNT EQUAL TO TWENTY PERCENT OF SUCH TUITION INCREASE; FOR THE TWO THOUSAND TEN-TWO THOUSAND ELEVEN ACADEMIC YEAR, THE CITY UNIVERSITY SHALL RECEIVE AN AMOUNT EQUAL TO THIRTY PERCENT OF SUCH TUITION INCREASE; FOR THE TWO THOUSAND ELEVEN-TWO THOUSAND TWELVE ACADEMIC YEAR, THE CITY UNIVERSITY SHALL RECEIVE AN AMOUNT EQUAL TO FORTY PERCENT OF SUCH TUITION INCREASE; AND FOR THE TWO THOUSAND TWELVE-TWO THOUSAND THIRTEEN ACADEMIC YEAR, THE CITY UNIVERSITY SHALL RECEIVE AN AMOUNT EQUAL TO FIFTY PERCENT OF SUCH TUITION INCREASE. SUCH APPORTIONMENT SHALL BE FOR THE ENHANCED INVESTMENT IN THE CITY UNIVERSITY OF THE STATE OF NEW YORK AND SHALL BE USED TO SUPPLEMENT, NOT SUPPLANT, GROSS SENIOR COLLEGE OPERATING BUDGET SUPPORT, UNLESS THE DIRECTOR OF THE BUDGET DETERMINES THAT STATE FISCAL CONDITIONS PRECLUDE SUCH AN OUTCOME AND, IN WHICH CASE, THE DIRECTOR SHALL SUBMIT A REPORT REGARDING THE RECOMMENDED FUNDING LEVELS AND WHETHER THE TUITION INCREASE APPORTIONMENT PROVISIONS OF THIS SUBDIVISION HAVE BEEN COMPLIED WITH FOR THE CITY UNIVERSITY OF THE STATE OF NEW YORK TO THE CHAIRS OF THE SENATE FINANCE COMMITTEE AND THE ASSEMBLY WAYS AND MEANS COMMITTEE AND THE CHAIRS OF THE SENATE HIGHER EDUCATION COMMITTEE AND THE ASSEMBLY HIGHER EDUCATION COMMITTEE NO LATER THAN FIFTEEN DAYS FOLLOWING THE RELEASE OF THE EXECUTIVE BUDGET.

S 2. Section 355 of the education law is amended by adding a new subdivision 8-b to read as follows:

8-B. NOTWITHSTANDING THE PROVISION OF ANY LAW, RULE OR REGULATION TO THE CONTRARY, THE STATE UNIVERSITY SHALL BE ENTITLED TO ANNUALLY RECEIVE

AN APPORTIONMENT AND PAYMENT OF STATE ASSISTANCE EQUAL TO ALL MONEYS DERIVED AS A RESULT OF THE TUITION INCREASE, CALCULATED AS THE DIFFERENCE IN THE AMOUNT GENERATED USING THE TUITION RATES AUTHORIZED BY THE STATE UNIVERSITY TRUSTEES FOR THE TWO THOUSAND SEVEN--TWO THOUSAND EIGHT ACADEMIC YEAR AND THE AMOUNT GENERATED USING THE TUITION RATES AUTHORIZED BY STATE UNIVERSITY TRUSTEES FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN ACADEMIC YEAR, PURSUANT TO THE FOLLOWING SCHEDULE: FOR THE TWO THOUSAND NINE--TWO THOUSAND TEN ACADEMIC YEAR, THE STATE UNIVERSITY SHALL RECEIVE AN AMOUNT EQUAL TO TWENTY PERCENT OF SUCH TUITION INCREASE; FOR THE TWO THOUSAND TEN--TWO THOUSAND ELEVEN ACADEMIC YEAR, THE STATE UNIVERSITY SHALL RECEIVE AN AMOUNT EQUAL TO THIRTY PERCENT OF SUCH TUITION INCREASE; FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE ACADEMIC YEAR, THE STATE UNIVERSITY SHALL RECEIVE AN AMOUNT EQUAL TO FORTY PERCENT OF SUCH TUITION INCREASE; AND FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN ACADEMIC YEAR, THE STATE UNIVERSITY SHALL RECEIVE AN AMOUNT EQUAL TO FIFTY PERCENT OF SUCH TUITION INCREASE. SUCH APPORTIONMENT SHALL BE FOR THE ENHANCED INVESTMENT IN THE STATE UNIVERSITY OF THE STATE OF NEW YORK AND SHALL BE USED TO SUPPLEMENT, NOT SUPPLANT, STATE GROSS GENERAL FUND SUPPORT, UNLESS THE DIRECTOR OF THE BUDGET DETERMINES THAT STATE FISCAL CONDITIONS PRECLUDE SUCH AN OUTCOME AND, IN WHICH CASE, THE DIRECTOR SHALL SUBMIT A REPORT REGARDING THE RECOMMENDED FUNDING LEVELS AND WHETHER THE TUITION INCREASE APPORTIONMENT PROVISIONS OF THIS SUBDIVISION HAVE BEEN COMPLIED WITH FOR THE STATE UNIVERSITY OF THE STATE OF NEW YORK TO THE CHAIRS OF THE SENATE FINANCE COMMITTEE AND THE ASSEMBLY WAYS AND MEANS COMMITTEE AND THE CHAIRS OF THE SENATE HIGHER EDUCATION COMMITTEE AND THE ASSEMBLY HIGHER EDUCATION COMMITTEE NO LATER THAN FIFTEEN DAYS FOLLOWING THE RELEASE OF THE EXECUTIVE BUDGET.

S 3. This act shall take effect April 1, 2009.

PART HH

Section 1. Subdivision B of section 6221 of the education law, as amended by chapter 87 of the laws of 2002, is amended to read as follows:

B. Senior college capital costs. Commencing with the twelve-month period beginning July first, nineteen hundred eighty-two and thereafter, the state shall pay one hundred per centum of capital costs exclusive of those financed pursuant to the provisions of article one hundred twenty-five-B of this chapter, of the senior colleges of the city university of New York, provided however that commencing with the twelve month period beginning July first, nineteen hundred eighty-two and thereafter, the state shall pay one hundred per centum of capital costs exclusive of those financed pursuant to the provisions of article one hundred twenty-five-B of this chapter, of the college of Staten Island, New York city college of technology and, commencing with the twelve month period beginning July first, [nineteen hundred ninety-four] TWO THOUSAND NINE and thereafter, [the state shall pay to the city university of New York fifty per centum of the capital costs of] Medgar Evers college, provided, however, that appropriations authorizing such costs have been approved by the legislature. The advancement of capital projects pursuant to this subdivision shall be undertaken only in accordance with the provisions of section ninety-three of the state finance law. [The advancement of capital projects at Medgar Evers college shall require the prior approval of the mayor of the city of New York.]

S 2. Paragraph (i) of subdivision E of section 6221 of the education law, as added by chapter 170 of the laws of 1994, is amended to read as follows:

(i) in addition to the amounts specified in subparagraph e of paragraph two of subdivision A of this section, the city of New York shall annually appropriate in its expense budget and pay to the city university of New York as operating aid in support of the programs and services, an amount for each full-time equivalent student in the associate degree program of the college equal to the amount the city of New York is appropriating and paying for each full-time equivalent student in the community colleges; AND

S 3. Paragraph (ii) of subdivision E of section 6221 of the education law is REPEALED and paragraph (iii) is renumbered paragraph (ii).

S 4. This act shall take effect immediately, provided that no provision of this act shall be construed to affect the amounts appropriated on or before June 30, 2009 by either the state of New York or the city of New York for the capital costs of Medgar Evers college.

PART II

Section 1. Section 9 of chapter 420 of the laws of 2002 amending the education law relating to the profession of social work, as amended by chapter 433 of the laws of 2003, is amended to read as follows:

S 9. Nothing in this act shall prohibit or limit the activities or services on the part of any person in the employ of a program or service operated, regulated, funded, or approved by the department of mental hygiene or the office of children and family services, or a local [government] GOVERNMENTAL unit as that term is defined in article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law, provided, however, this section shall not authorize the use of any title authorized pursuant to article 154 of the education law, except that this section shall be deemed repealed on [January 1, 2010] JUNE 1, 2010.

S 2. Section 17-a of chapter 676 of the laws of 2002 amending the education law relating to defining the practice of psychology, as amended by chapter 419 of the laws of 2003, is amended to read as follows:

S 17-a. Nothing in this act shall prohibit or limit the activities or services on the part of any person in the employ of a program or service operated, regulated, funded, or approved by the department of mental hygiene or the office of children and family services, or a local [government] GOVERNMENTAL unit as that term is defined in article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law, provided, however, this section shall not authorize the use of any title authorized pursuant to article 153 or 163 of the education law, except as otherwise provided by such articles, except that this section shall be deemed repealed on [January 1, 2010] JUNE 1, 2010.

S 3. This act shall take effect April 1, 2009.

PART JJ

Section 1. The office of children and family services shall continue the demonstration project, established pursuant to part G of chapter 58 of the laws of 2006, as amended, in local social services districts selected by the office of children and family services to determine best

practices in portable information technology for child protective services caseworkers to improve the workload of the child protective workforce, including but not limited to the purchase of new information technology, such as laptop computers, personal digital assistants (PDAs), and cellular phones, that permits caseworkers to work from field locations while investigating allegations of child abuse and maltreatment. The commissioner of the office of children and family services shall submit a report to the governor, the temporary president of the senate and the speaker of the assembly, no later than January 15, 2010, detailing which local social services districts participated in such demonstration project, the impact by district of such demonstration project on caseworker efficiency and productivity, and the impact on caseload for caseworkers with such technology by district.

S 2. This act shall take effect immediately and shall expire and be deemed repealed April 1, 2010.

PART KK

Section 1. Flexible fund for family services. Notwithstanding any other provision of law to the contrary, where an appropriation is made by a chapter of the laws of 2009 to the office of temporary and disability assistance under the temporary and disability assistance program from the special revenue fund - federal aid to localities, federal health and human services fund - 265 "for allocation to local social services districts for the flexible fund for family services", subsequent to the expenditures of such appropriations, the office of temporary and disability assistance shall make available on the agency web site selected data measures on selected programs and services funded by the "flexible fund for family services", including but not limited to TANF Services, TANF employment services and state administered contracts as reflected in original plans submitted by local social services districts to program that portion of their flexible fund for family services allocations. In addition, the office of children and family services shall make available programmatic descriptions for all other programs and services listed under the categories identified as child welfare other than title XX transfer and title XX transfer below 200% as listed in the flexible fund for family services flexible fund plan summary.

S 2. This act shall take effect immediately.

PART A-1

Section 1. Subparagraph (A) of paragraph 1 of subsection (b) of section 605 of the tax law, as amended by chapter 760 of the laws of 1992, is amended to read as follows:

(A) who is domiciled in this state, unless (i) [he] THE TAXPAYER maintains no permanent place of abode in this state, maintains a permanent place of abode elsewhere, and spends in the aggregate not more than thirty days of the taxable year in this state, or (ii) (I) within any period of five hundred forty-eight consecutive days [he] THE TAXPAYER is present in a foreign country or countries for at least four hundred fifty days, and (II) during [such] THE period of five hundred forty-eight consecutive days [he is] THE TAXPAYER, THE TAXPAYER'S SPOUSE (UNLESS THE SPOUSE IS LEGALLY SEPARATED) AND THE TAXPAYER'S MINOR CHILDREN ARE not present in this state for more than ninety days [and does not maintain a permanent place of abode in this state at which his

spouse (unless such spouse is legally separated) or minor children are present for more than ninety days], and (III) during the nonresident portion of the taxable year with or within which [such] THE period of five hundred forty-eight consecutive days begins and the nonresident portion of the taxable year with or within which [such] THE period ends, [he] THE TAXPAYER is present in this state for a number of days which does not exceed an amount which bears the same ratio to ninety as the number of days contained in [such] THAT portion of the taxable year bears to five hundred forty-eight, or

S 2. Paragraph 1 of subsection (a) of section 1305 of the tax law, as amended by chapter 790 of the laws of 1978, is amended to read as follows:

(1) who is domiciled in the city wherein the tax is imposed, unless (A) [he] THE TAXPAYER maintains no permanent place of abode in [such] THE city, maintains a permanent place of abode elsewhere, and spends in the aggregate not more than thirty days of the taxable year in [such] THE city, or (B) (i) within any period of five hundred forty-eight consecutive days [he] THE TAXPAYER is present in a foreign country or countries for at least four hundred fifty days, and (ii) during such period of five hundred forty-eight consecutive days [he is] THE TAXPAYER, THE TAXPAYER'S SPOUSE (UNLESS THE SPOUSE IS LEGALLY SEPARATED) AND THE TAXPAYER'S MINOR CHILDREN ARE not present in [such] THE city for more than ninety days [and does not maintain a permanent place of abode in such city at which his spouse (unless such spouse is legally separated) or minor children are present for more than ninety days], and (iii) during any period of less than twelve months, which would be treated as a separate taxable period pursuant to section thirteen hundred seven, and which period is contained within [such] THE period of five hundred forty-eight consecutive days, [he] THE TAXPAYER is present in [such] THE city for a number of days which does not exceed an amount which bears the same ratio to ninety as the number of days contained in [such] THAT period of less than twelve months bears to five hundred forty-eight, or

S 3. Subparagraph (A) of paragraph 1 of subdivision (b) of section 11-1705 of the administrative code of the city of New York, as amended by chapter 333 of the laws of 1987, is amended to read as follows:

(A) who is domiciled in this city, unless (i) [he] THE TAXPAYER maintains no permanent place of abode in this city, maintains a permanent place of abode elsewhere, and spends in the aggregate not more than thirty days of the taxable year in this city, or (ii) (I) within any period of five hundred forty-eight consecutive days [he] THE TAXPAYER is present in a foreign country or countries for at least four hundred fifty days, and (II) during [such] THE period of five hundred forty-eight consecutive days [he is] THE TAXPAYER, THE TAXPAYER'S SPOUSE (UNLESS THE SPOUSE IS LEGALLY SEPARATED) AND THE TAXPAYER'S MINOR CHILDREN ARE not present in this city for more than ninety days [and does not maintain a permanent place of abode in this city at which his spouse (unless such spouse is legally separated) or minor children are present for more than ninety days], and (III) during any period of less than twelve months, which would be treated as a separate taxable period pursuant to section 11-1754, and which period is contained within [such] THE period of five hundred forty-eight consecutive days, [he] THE TAXPAYER is present in this city for a number of days which does not exceed an amount which bears the same ratio to ninety as the number of days contained in [such] THAT period of less than twelve months bears to five hundred forty-eight, or

S 4. Paragraph 1 of subsection (a) of section 1325 of the tax law, as added by chapter 345 of the laws of 1984, is amended to read as follows:

(1) who is domiciled in the city wherein the city income tax surcharge is imposed pursuant to the authority of this article, unless (A) [he] THE TAXPAYER maintains no permanent place of abode in such city, maintains a permanent place of abode elsewhere, and spends in the aggregate not more than thirty days of the taxable year in [such] THE city, or (B)(i) within any period of five hundred forty-eight consecutive days [he is] THE TAXPAYER, THE TAXPAYER'S SPOUSE (UNLESS THE SPOUSE IS LEGALLY SEPARATED) AND THE TAXPAYER'S MINOR CHILDREN ARE present in a foreign country or countries for at least four hundred fifty days, and (ii) during [such] THE period of five hundred forty-eight consecutive days [he] THE TAXPAYER is not present in [such] THE city for more than ninety days [and does not maintain a permanent place of abode in such city at which his spouse (unless such spouse is legally separated) or minor children are present for more than ninety days], and (iii) during any period of less than twelve months, which would be treated as a separate taxable period pursuant to section thirteen hundred twenty-seven of this article, and which period is contained within [such] THE period of five hundred forty-eight consecutive days, [he] THE TAXPAYER is present in [such] THE city for a number of days which does not exceed an amount which bears the same ratio to ninety as the number of days contained in [such] THAT period of less than twelve months bears to five hundred forty-eight, or

S 5. Paragraph 1 of subsection (f) of section 1 contained in subsection (c) of section 1340 of the tax law, as added by chapter 345 of the laws of 1984, is amended to read as follows:

(1) who is domiciled in the city, unless (A) [he] THE TAXPAYER maintains no permanent place of abode in the city, maintains a permanent place of abode elsewhere, and spends in the aggregate not more than thirty days of the taxable year in the city, or (B) (i) within any period of five hundred forty-eight consecutive days [he] THE TAXPAYER is present in a foreign country or countries for at least four hundred fifty days, and (ii) during such period of five hundred forty-eight consecutive days [he is] THE TAXPAYER, THE TAXPAYER'S SPOUSE (UNLESS THE SPOUSE IS LEGALLY SEPARATED) AND THE TAXPAYER'S MINOR CHILDREN ARE not present in the city for more than ninety days [and does not maintain a permanent place of abode in the city at which his spouse (unless such spouse is legally separated) or minor children are present for more than ninety days], and (iii) during any period of less than twelve months, which would be treated as a separate taxable period based on a change of resident status, and which period is contained within [such] THE period of five hundred forty-eight consecutive days, [he] THE TAXPAYER is present in the city for a number of days which does not exceed an amount which bears the same ratio to ninety as the number of days contained in [such] THAT period of less than twelve months bears to five hundred forty-eight, or

S 6. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2009.

PART B-1

Section 1. Subdivision (a) of section 1500 of the tax law, as amended by chapter 188 of the laws of 2003, is amended to read as follows:

(a) The term "insurance corporation" includes a corporation, association, joint stock company or association, person, society, aggregation

or partnership, by whatever name known, doing an insurance business, and, notwithstanding the provisions of section fifteen hundred twelve of this article, shall include (1) a risk retention group as defined in subsection (n) of section five thousand nine hundred two of the insurance law, (2) the state insurance fund and (3) a corporation, association, joint stock company or association, person, society, aggregation or partnership doing an insurance business as a member of the New York insurance exchange described in section six thousand two hundred one of the insurance law. The definition of the "state insurance fund" contained in this subdivision shall be limited in its effect to the provisions of this article and the related provisions of this chapter and shall have no force and effect other than with respect to such provisions. The term "insurance corporation" shall also include a captive insurance company doing a captive insurance business, as defined in subsections (c) and (b), respectively, of section seven thousand two of the insurance law; provided, however, "insurance corporation" shall not include the metropolitan transportation authority, or a public benefit corporation or not-for-profit corporation formed by a city with a population of one million or more pursuant to subsection (a) of section seven thousand five of the insurance law, each of which is expressly exempt from the payment of fees, taxes or assessments, whether state or local. The term "insurance corporation" shall also include an unauthorized insurer operating from an office within the state, pursuant to paragraph five of subsection (b) of section one thousand one hundred one and subsection (i) of section two thousand one hundred seventeen of the insurance law. THE TERM "INSURANCE CORPORATION" ALSO INCLUDES A HEALTH MAINTENANCE ORGANIZATION REQUIRED TO OBTAIN A CERTIFICATE OF AUTHORITY UNDER ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW.

S 2. Section 1502-a of the tax law, as added by section 2 of part H3 of chapter 62 of the laws of 2003, is amended to read as follows:

S 1502-a. Tax on non-life insurance corporations. In lieu of the tax imposed by section fifteen hundred one of this article, every domestic insurance corporation, every foreign insurance corporation and every alien insurance corporation, other than such corporations transacting the business of life insurance, (1) authorized to transact business in this state under a certificate of authority from the superintendent of insurance [or], (2) [which] THAT is a risk retention group as defined in subsection (n) of section five thousand nine hundred two of the insurance law, OR (3) THAT IS A HEALTH MAINTENANCE ORGANIZATION REQUIRED TO OBTAIN A CERTIFICATE OF AUTHORITY UNDER ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW, shall, for the privilege of exercising corporate franchises or for carrying on business in a corporate or organized capacity within this state, and in addition to any other taxes imposed for such privilege, pay a tax on all gross direct premiums, less return premiums thereon, written on risks located or resident in this state. The tax imposed by this section shall be computed in the manner set forth in subdivision (a) of section fifteen hundred ten of this article as such subdivision applied to taxable years beginning before January first, two thousand three, except that the rate of tax imposed by this section shall be one and seventy-five hundredths percent on all gross direct premiums, less return premiums thereon, for accident and health insurance contracts, INCLUDING CONTRACTS WITH HEALTH MAINTENANCE ORGANIZATIONS FOR HEALTH SERVICES, and two percent on all other such premiums. All the other provisions in section fifteen hundred ten of this article AS AMENDED FROM TIME TO TIME, other than subdivision (b) of such section, shall apply to the tax imposed by this section. In no event

shall the tax imposed under this section be less than two hundred fifty dollars.

S 3. Paragraphs 1 and 2 of subdivision (c) of section 1510 of the tax law, as amended by section 7 of part H3 of chapter 62 of the laws of 2003, is amended to read as follows:

(1) The term "premium" includes all amounts received as consideration for insurance contracts [or], reinsurance contracts OR CONTRACTS WITH HEALTH MAINTENANCE ORGANIZATIONS FOR HEALTH SERVICES, other than for annuity contracts, and shall include premium deposits, assessments, policy fees, membership fees, any separate costs by carriers assessed upon their policyholders and every other compensation for such contract. In ascertaining the amount of direct premiums upon which a tax is payable under this section there shall be first determined the amount of total gross premiums or deposit premiums or assessments, less returns thereon, on all policies, certificates, renewals, policies subsequently cancelled, insurance and reinsurance executed, issued or delivered on property or risks located or resident in this state, including premiums for reinsurance assumed, and also including premiums written, procured or received in this state on business which cannot specifically be allocated or apportioned and reported as taxable premiums or which have been used as a measure of a tax on business of any other state or states. Provided however, in the case of special risk premiums, direct premiums shall include only those premiums written, procured or received in this state on property or risks located or resident in this state. The reporting of premiums for the purpose of the tax imposed by this section shall be on a written basis or on a paid-for basis consistent with the basis required by the annual statement filed with the superintendent of insurance pursuant to section three hundred seven of the insurance law.

(2) The term "gross direct premiums," as used in this section, shall not include premiums for policies issued pursuant to section four thousand two hundred thirty-six of the insurance law and premiums for insurance upon hulls, freights, or disbursements, or upon goods, wares, merchandise and all other personal property and interests therein, in the course of exportation from, importation into any country, or transportation coastwise, including transportation by land or water from point of origin to final destination in respect to, appertaining to, or in connection with, any and all risks or perils of navigation, transit or transportation, and while being prepared for, and while awaiting shipment, and during any delays, storage, transshipment or reshipment incident thereto, including war risks and marine builder's risks. THE TERM "GROSS DIRECT PREMIUMS," AS USED IN THIS SECTION, ALSO SHALL NOT INCLUDE ANY PREMIUMS THAT THIS STATE IS PROHIBITED FROM TAXING PURSUANT TO FEDERAL LAW, INCLUDING (I) SUBSECTION (F) OF SECTION 8909 OF TITLE 5 OF THE UNITED STATES CODE, (II) SUBSECTION (G) OF SECTION 1395W-24 OF TITLE 42 OF THE UNITED STATES CODE, (III) SUBSECTION (G) OF SECTION 1395W-112 OF TITLE 42 OF THE UNITED STATES CODE, AND (IV) SUBPARAGRAPH (B) OF PARAGRAPH (4) OF SUBSECTION (K) OF SECTION 1395MM OF TITLE 42 OF THE UNITED STATES CODE.

S 4. Subdivision (a) of section 1512 of the tax law is amended by adding a new paragraph 10 to read as follows:

(10) ANY NONPROFIT HEALTH MAINTENANCE ORGANIZATION REQUIRED TO OBTAIN A CERTIFICATE OF AUTHORITY UNDER ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW.

S 5. The state comptroller is hereby authorized and directed to deposit to the Health Care Reform Act Resources Fund (061) a portion of the premiums tax on non-life insurance companies collected pursuant to

section 1502-a of the tax law as are periodically identified by the director of the budget as having been intended for such deposit to support disbursements from the Health Care Reform Act Resources Fund made in pursuance of an appropriation by law.

S 6. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2009.

PART C-1

Section 1. Subdivision 1 of section 187-n of the tax law, as added by chapter 446 of the laws of 2005, is amended to read as follows:

(1) Allowance of credit. [A] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND NINE, A taxpayer whose business is not substantially engaged in the commercial generation, distribution, transmission, or servicing of energy or energy products shall be allowed a credit against the taxes imposed by sections one hundred eighty-three, one hundred eighty-four and one hundred eighty-five of this article, equal to its qualified fuel cell electric generating equipment expenditures. Provided, however, that the amount of such credit allowable against the tax imposed by section one hundred eighty-four of this article shall be the excess of the amount of such credit over the amount of any credit allowed by this section against the tax imposed by section one hundred eighty-three of this article. This credit shall not exceed one thousand five hundred dollars per generating unit with respect to any taxable year. The credit provided for herein shall be allowed with respect to the taxable year in which the fuel cell electric generating equipment is placed in service.

S 2. Paragraph (a) of subdivision 37 of section 210 of the tax law, as added by chapter 446 of the laws of 2005, is amended to read as follows:

(a) Allowance of credit. [A] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND NINE, A taxpayer shall be allowed a credit against the tax imposed by this article, equal to its qualified fuel cell electric generating equipment expenditures. This credit shall not exceed one thousand five hundred dollars per generating unit with respect to any taxable year. The credit provided for herein shall be allowed with respect to the taxable year in which the fuel cell electric generating equipment is placed in service.

S 3. Paragraph 1 of subsection (g-2) of section 606 of the tax law, as amended by chapter 446 of the laws of 2005, is amended to read as follows:

(1) General. [An] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND NINE, AN individual taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty percent of qualified fuel cell electric generating equipment expenditures. This credit shall not exceed one thousand five hundred dollars per generating unit with respect to any taxable year. The credit provided for herein shall be allowed with respect to the taxable year in which the fuel cell electric generating equipment is placed in service.

S 4. Paragraph 1 of subsection (t) of section 1456 of the tax law, as added by chapter 446 of the laws of 2005, is amended to read as follows:

(1) Allowance of credit. [A] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND NINE, A taxpayer shall be allowed a credit against the tax imposed by this article, equal to its qualified fuel cell electric generating equipment expenditures. This credit shall not exceed one thousand five hundred dollars per generating unit with respect to any taxable year. The credit provided for in this subsection

shall be allowed with respect to the taxable year in which the fuel cell electric generating equipment is placed in service.

S 5. Paragraph 1 of subdivision (x) of section 1511 of the tax law, as added by chapter 446 of the laws of 2005, is amended to read as follows:

(1) Allowance of credit. [A] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND NINE, A taxpayer shall be allowed a credit against the tax imposed by this article, equal to its qualified fuel cell electric generating equipment expenditures. This credit shall not exceed one thousand five hundred dollars per generating unit with respect to any taxable year. The credit provided for in this subdivision shall be allowed with respect to the taxable year in which the fuel cell electric generating equipment is placed in service.

S 6. Subdivision (a) of section 20 of the tax law, as added by section 1 of part I of chapter 63 of the laws of 2000, is amended to read as follows:

(a) Allowance of credit. [A] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND NINE, A taxpayer subject to tax under article nine, nine-A, twenty-two, thirty-two or thirty-three of this chapter shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (d) of this section. The credit shall be allowed where a taxpayer has made a certified contribution of at least ten million dollars to a qualified transportation improvement project in a prior taxable year. The credit shall be equal to six percent of the taxpayer's increased qualified business facility payroll for the taxable year. The aggregate of all credit amounts allowed to the taxpayer pursuant to this section with respect to a certified contribution shall not exceed the amount of such certified contribution.

S 7. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law, as amended by section 2 of part ZZ-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(B) shall be treated as the owner of a new business with respect to such share if the corporation qualifies as a new business pursuant to paragraph (j) of subdivision twelve of section two hundred ten of this chapter.

With respect to the following credit under this section:	The corporation's credit base under section two hundred ten or section fourteen hundred fifty-six of this chapter is:
(I) Investment tax credit under subsection (a)	Investment credit base or qualified rehabilitation expenditures under subdivision twelve of section two hundred ten
(II) Empire zone investment tax credit under subsection (j)	Cost or other basis under subdivision twelve-B of section two hundred ten
(III) Empire zone wage tax credit under subsection (k)	Eligible wages under subdivision nineteen of section two hundred ten or subsection (e) of section fourteen hundred fifty-six
(IV) Empire zone capital tax credit under subsection (l)	Qualified investments and contributions under subdivision

	twenty of section two hundred ten or subsection (d) of section fourteen hundred fifty-six
(V) Agricultural property tax credit under subsection (n)	Allowable school district property taxes under subdivision twenty-two of section two hundred ten
(VI) Credit for employment of persons with disabilities under subsection (o)	Qualified first-year wages or qualified second-year wages under subdivision twenty-three of section two hundred ten or subsection (f) of section fourteen hundred fifty-six
(VII) Employment incentive credit under subsection (a-1)	Applicable investment credit base under subdivision twelve-D of section two hundred ten
(VIII) Empire zone employment incentive credit under subsection (j-1)	Applicable investment credit under subdivision twelve-C of section two hundred ten
(IX) Alternative fuels credit under subsection (p)	Cost under subdivision twenty-four of section two hundred ten
(X) Qualified emerging technology company employment credit under subsection (q)	Applicable credit base under subdivision twelve-E of section two hundred ten
(XI) Qualified emerging technology company capital tax credit under subsection (r)	Qualified investments under subdivision twelve-F of section two hundred ten
(XII) Credit for purchase of an automated external defibrillator under subsection (s)	Cost of an automated external defibrillator under subdivision twenty-five of section two hundred ten or subsection (j) of section fourteen hundred fifty-six
(XIII) Low-income housing credit under subsection (x)	Credit amount under subdivision thirty of section two hundred ten or subsection (l) of section fourteen hundred fifty-six
(XIV) Credit for transportation improvement contributions under subsection (z)	[Amount] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND NINE, AMOUNT of credit under subdivision thirty-two of section two hundred ten or subsection (n) of section fourteen hundred fifty-six
(XV) QEZE credit for real property taxes under subsection (bb)	Amount of credit under subdivision twenty-seven of section two hundred

	ten or subsection (o) of section fourteen hundred fifty-six
(XVI) QEZE tax reduction credit under subsection (cc)	Amount of benefit period factor, employment increase factor and zone allocation factor (without regard to pro ration) under subdivision twenty-eight of section two hundred ten or subsection (p) of section fourteen hundred fifty-six and amount of tax factor as determined under subdivision (f) of section sixteen
(XVII) Green building credit under subsection (y)	Amount of green building credit under subdivision thirty-one of section two hundred ten or subsection (m) of section fourteen hundred fifty-six
(XVIII) Credit for long-term care insurance premiums under subsection (aa)	Qualified costs under subdivision twenty-five-a of section two hundred ten or subsection (k) of section fourteen hundred fifty-six
(XIX) Brownfield redevelopment credit under subsection (dd)	Amount of credit under subdivision thirty-three of section two hundred ten or subsection (q) of section fourteen hundred fifty-six
(XX) Remediated brownfield credit for real property taxes for qualified sites under subsection (ee)	Amount of credit under subdivision thirty-four of section two hundred ten or subsection (r) of section fourteen hundred fifty-six
(XXI) Environmental remediation insurance credit under subsection (ff)	Amount of credit under subdivision thirty-five of section two hundred ten or subsection (s) of section fourteen hundred fifty-six
(XXII) Empire state film production credit under subsection (gg)	Amount of credit for qualified production costs in production of a qualified film under subdivision thirty-six of section two hundred ten
(XXIII) Qualified emerging technology company facilities, operations and training credit under subsection (nn)	Qualifying expenditures and development activities under subdivision twelve-G of section two hundred ten
(XXIV) Security training tax credit under subsection (ii)	Amount of credit under subdivision thirty-seven of section two hundred ten or under subsection (t) of section fourteen hundred fifty-six

(XXV) Credit for qualified fuel cell electric generating equipment expenditures under subsection (g-2)	[Amount] FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND NINE, AMOUNT of credit under subdivision thirty-seven of section two hundred ten or subsection (t) of section fourteen hundred fifty-six
(XXVI) Empire state commercial production credit under subsection (jj)	Amount of credit for qualified production costs in production of a qualified commercial under subdivision thirty-eight of section two hundred ten
(XXVII) Biofuel production tax credit under subsection (jj)	Amount of credit under subdivision thirty-eight of section two hundred ten
(XXVIII) Clean heating fuel credit under subsection (mm)	Amount of credit under subdivision thirty-nine of section two hundred ten
(XXIX) Credit for rehabilitation of historic properties under subsection (oo)	Amount of credit under subdivision forty of [subsection] SECTION two hundred ten
(XXX) Credit for companies who provide transportation to individuals with disabilities under subsection (oo)	Amount of credit under subdivision forty of section two hundred ten

S 8. This act shall take effect immediately; provided, however that the empire state film production credit under subsection (gg), the empire state commercial production credit under subsection (jj) and the credit for companies who provide transportation to individuals with disabilities under subsection (oo) of section 606 of the tax law contained in section seven of this act shall expire on the same date as provided in section 9 of part P of chapter 60 of the laws of 2004, as amended, section 10 of part V of chapter 62 of the laws of 2006, as amended and section 5 of chapter 522 of the laws of 2006, as amended, respectively.

PART D-1

Section 1. The tax law is amended by adding a new section 171-t to read as follows:

S 171-T. RECIPROCAL OFFSET AGREEMENTS WITH THE UNITED STATES OR OTHER STATES. (1) FOR THE PURPOSES OF THIS SECTION, THE DEFINITIONS PROVIDED FOR IN SECTION ONE HUNDRED SEVENTY-ONE-N OF THIS ARTICLE APPLY TOGETHER WITH THE FOLLOWING:

(A) "CLAIMANT" MEANS ANY STATE OR THE UNITED STATES THAT ENTERS INTO A RECIPROCAL AGREEMENT UNDER THIS SECTION OR REQUESTS APPLICATION OF A VENDOR PAYMENT OR AN OVERPAYMENT TO A DEBT.

(B) "DEBT" MEANS (I), FOR PURPOSES OF STATE DEBT, A "TAX DEBT" AS DEFINED IN SECTION ONE HUNDRED SEVENTY-ONE-N OF THIS ARTICLE AND ANY OTHER PAST DUE LEGALLY ENFORCEABLE OBLIGATION OWED TO A STATE, WHICH

ARISES FROM (A) AN ENFORCEABLE JUDGMENT OF A COURT OF COMPETENT JURISDICTION THAT IS NO LONGER SUBJECT TO JUDICIAL REVIEW, OR (B) AN ENFORCEABLE DETERMINATION OF AN ADMINISTRATIVE BODY THAT IS NO LONGER SUBJECT TO ADMINISTRATIVE OR JUDICIAL REVIEW, OR (C) A DETERMINATION THAT HAS BECOME FINAL OR FINALLY AND IRREVOCABLY FIXED AND NO LONGER SUBJECT TO ADMINISTRATIVE OR JUDICIAL REVIEW; OR (II), FOR PURPOSES OF FEDERAL DEBT, DEBT MEANS ANY AMOUNT OF MONEY, FUNDS OR PROPERTY THAT HAS BEEN DETERMINED BY AN APPROPRIATE OFFICIAL OF THE FEDERAL GOVERNMENT TO BE OWED TO THE UNITED STATES BY A PERSON, ORGANIZATION, OR ENTITY, EXCEPT ANOTHER FEDERAL AGENCY, TO THE EXTENT SUCH AMOUNT IS ELIGIBLE FOR OFFSET UNDER FEDERAL LAW. THE TERM INCLUDES DEBT ADMINISTERED BY A THIRD PARTY ACTING AS AN AGENT FOR THE FEDERAL GOVERNMENT.

(C) "DEBTOR" MEANS A PERSON WHO OWES A DEBT.

(D) "PERSON" HAS THE SAME MEANING AS THAT TERM HAS IN SUBDIVISION (A) OF SECTION ELEVEN HUNDRED ONE OF THIS CHAPTER.

(E) "VENDOR PAYMENT" MEANS ANY PAYMENT, OTHER THAN AN OVERPAYMENT, MADE BY A STATE OR THE UNITED STATES TO ANY PERSON, AND INCLUDES BUT IS NOT LIMITED TO ANY EXPENSE REIMBURSEMENT TO AN EMPLOYEE OF THE STATE OR THE UNITED STATES; BUT DOES NOT INCLUDE A PERSON'S SALARY, WAGES OR PENSION.

(2) THE COMMISSIONER MAY, IN HIS OR HER DISCRETION, ENTER INTO A COLLECTION AND OFFSET AGREEMENT WITH ANOTHER STATE OR WITH THE UNITED STATES SECRETARY OF THE TREASURY THROUGH THE INTERNAL REVENUE SERVICE OR THE FINANCIAL MANAGEMENT SERVICE OF THE DEPARTMENT OF THE TREASURY OF THE UNITED STATES UNDER WHICH THE COMMISSIONER, ON BEHALF OF THE STATE OF NEW YORK, MAY, IN HIS OR HER DISCRETION, AGREE TO PAY TO A CLAIMANT OWED A DEBT BY A TAXPAYER OR OTHER PERSON THE WHOLE OR PART OF AN OVERPAYMENT OR A VENDOR PAYMENT OWED BY THE STATE TO THAT TAXPAYER OR OTHER PERSON, PROVIDED THE CLAIMANT GRANTS SUBSTANTIALLY SIMILAR PRIVILEGES TO THIS STATE. HOWEVER, THE UNITED STATES WILL NOT BE REQUIRED UNDER THIS SECTION TO OFFSET TAX OVERPAYMENTS OWED BY IT EXCEPT TO THE EXTENT THAT IT AGREES TO DO SO. AN AGREEMENT WITH THE CLAIMANT MUST SPECIFY THAT A TAXPAYER OR ANY PERSON OWED A VENDOR PAYMENT WILL RECEIVE THIRTY DAYS ADVANCE WRITTEN NOTICE OF THE OFFSET AND WILL BE PROVIDED WITH AN OPPORTUNITY TO PRESENT WRITTEN OR ORAL EVIDENCE ABOUT THE APPLICATION OF THE OVERPAYMENT OR VENDOR PAYMENT TO THE DEBT. A PROCEEDING FOR JUDICIAL REVIEW OF THE DECISION IN THE MANNER PROVIDED BY ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES MAY BE COMMENCED BY A TAXPAYER OR A PERSON OWED A VENDOR PAYMENT WITHIN FOUR MONTHS AFTER A COPY OF A DECISION ADVERSE TO THE TAXPAYER OR THAT PERSON IS MAILED TO THE TAXPAYER OR THAT PERSON. ARTICLE FORTY OF THIS CHAPTER DOES NOT APPLY TO ANY HEARING OR PROCEEDING ON WHETHER AN OVERPAYMENT OR VENDOR PAYMENT MAY BE APPLIED TO A DEBT UNDER THIS SECTION. THE REMEDY PROVIDED BY THIS SECTION FOR REVIEW OF HEARINGS AND PROCEEDINGS IS THE EXCLUSIVE REMEDY AVAILABLE TO JUDICIALLY DETERMINE WHETHER AN OVERPAYMENT OR VENDOR PAYMENT MAY BE APPLIED TO A DEBT UNDER THIS SECTION. THE AMOUNT OF A DEBT REMAINING DUE AS CERTIFIED BY A CLAIMANT WILL BE PRIMA FACIE EVIDENCE OF THE CORRECT AMOUNT OF A DEBT.

(3) THE COMMISSIONER WILL CALCULATE THE AMOUNT OF AN OVERPAYMENT AND INTEREST THEREON THAT IS TO BE CREDITED AGAINST THE AMOUNT OF A PAST DUE LEGALLY ENFORCEABLE DEBT OWED BY A TAXPAYER WHICH IS CERTIFIED TO THE DEPARTMENT FOR COLLECTION UNDER THIS SECTION USING THE RULES IN SUBDIVISION FIVE OF SECTION ONE HUNDRED SEVENTY-ONE-F OF THIS ARTICLE. IF A TAXPAYER OR A PERSON OWES MORE THAN ONE DEBT WHICH IS CERTIFIED TO THE COMMISSIONER FOR COLLECTION UNDER THIS SECTION, ANY OVERPAYMENT OR VENDOR PAYMENT WILL BE CREDITED AGAINST THE DEBTS IN THE ORDER IN WHICH

THE DEBTS ACCRUED. A DEBT WILL BE CONSIDERED TO HAVE ACCRUED AT THE TIME AT WHICH THE DEBT BECAME PAST DUE.

(4) NOTWITHSTANDING ANY OTHER LAW, THE COMMISSIONER IS AUTHORIZED TO RELEASE TO A CLAIMANT TAXPAYER INFORMATION FOR PURPOSES OF IMPLEMENTING AND ADMINISTERING AN AGREEMENT ENTERED INTO BETWEEN THE CLAIMANT AND THIS STATE UNDER THIS SECTION.

S 2. Subdivision 2 of section 171-p of the tax law, as added by section 1 of part BB-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(2) The commissioner may implement procedures under which any cost or fee imposed or charged by the United States or any state, with respect to payment or remittance of a taxpayer's overpayment to satisfy a tax debt of the taxpayer, must not be credited by the commissioner to payment or satisfaction of the tax debt, must be deemed to be part of the taxpayer's tax debt, and must be eligible for offset against the taxpayer's overpayment to the extent permitted by law. THE COMMISSIONER MAY ALSO IMPLEMENT PROCEDURES UNDER WHICH ANY COST OR FEE IMPOSED OR CHARGED BY THE UNITED STATES OR ANY OTHER STATE, WITH RESPECT TO ANY OTHER PAYMENT OR REMITTANCE OF A TAXPAYER'S OVERPAYMENT OR A VENDOR PAYMENT TO SATISFY A DEBT OF THE TAXPAYER OR THE PERSON WHO IS OWED THE VENDOR PAYMENT AS AUTHORIZED BY SECTION ONE HUNDRED SEVENTY-ONE-T OF THIS ARTICLE, MUST NOT BE CREDITED BY THE STATE OF NEW YORK TO PAYMENT OR SATISFACTION OF THE DEBT, MUST BE DEEMED TO BE PART OF THE TAXPAYER'S OR PERSON'S DEBT, AND MUST BE ELIGIBLE FOR OFFSET AGAINST THE TAXPAYER'S OVERPAYMENT OR THE PERSON'S VENDOR PAYMENT TO THE EXTENT PERMITTED BY LAW.

S 3. Paragraph (c) of subdivision 1 of section 171-n of the tax law, as added by section 2 of part O of chapter 61 of the laws of 2005, is amended to read as follows:

(c) "tax debt" means any past due, legally enforceable tax obligation owed any other state administering that tax, which arises from (i) an enforceable judgment of a court of competent jurisdiction which is no longer subject to judicial review, or (ii) an enforceable determination of an administrative body which is no longer subject to administrative or judicial review, or (iii) an assessment or determination (including self-assessment or self-assessed determination) which has become final or finally and irrevocably fixed and no longer subject to administrative or judicial review[, and which has not been delinquent for more than ten years]; and

S 4. This act shall take effect immediately.

PART E-1

Section 1. Section 2 of the tax law is amended by adding a new subdivision 11 to read as follows:

11. THE TERM "OVERCAPITALIZED CAPTIVE INSURANCE COMPANY" MEANS AN ENTITY THAT IS TREATED AS AN ASSOCIATION TAXABLE AS A CORPORATION UNDER THE INTERNAL REVENUE CODE (A) MORE THAN FIFTY PERCENT OF THE VOTING STOCK OF WHICH IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY A SINGLE ENTITY THAT IS TREATED AS AN ASSOCIATION TAXABLE AS A CORPORATION UNDER THE INTERNAL REVENUE CODE AND NOT EXEMPT FROM FEDERAL INCOME TAX; (B) THAT IS LICENSED AS A CAPTIVE INSURANCE COMPANY UNDER THE LAWS OF THIS STATE OR ANOTHER JURISDICTION; (C) WHOSE BUSINESS INCLUDES PROVIDING, DIRECTLY AND INDIRECTLY, INSURANCE OR REINSURANCE COVERING THE RISKS OF ITS PARENT AND/OR MEMBERS OF ITS AFFILIATED GROUP; AND (D) FIFTY PERCENT OR LESS OF WHOSE GROSS RECEIPTS FOR THE TAXABLE YEAR

CONSIST OF PREMIUMS. FOR PURPOSES OF THIS SUBDIVISION, "AFFILIATED GROUP" HAS THE SAME MEANING AS THAT TERM IS GIVEN IN SECTION 1504 OF THE INTERNAL REVENUE CODE, EXCEPT THAT THE TERM "COMMON PARENT CORPORATION" IN THAT SECTION IS DEEMED TO MEAN ANY PERSON, AS DEFINED IN SECTION 7701 OF THE INTERNAL REVENUE CODE; REFERENCES TO "AT LEAST EIGHTY PERCENT" IN SECTION 1504 OF THE INTERNAL REVENUE CODE ARE TO BE READ AS "FIFTY PERCENT OR MORE;" SECTION 1504 OF THE INTERNAL REVENUE CODE IS TO BE READ WITHOUT REGARD TO THE EXCLUSIONS PROVIDED FOR IN SUBSECTION (B) OF THAT SECTION; "PREMIUMS" HAS THE SAME MEANING AS THAT TERM IS GIVEN IN PARAGRAPH ONE OF SUBDIVISION (C) OF SECTION FIFTEEN HUNDRED TEN OF THIS CHAPTER, EXCEPT THAT IT INCLUDES CONSIDERATION FOR ANNUITY CONTRACTS AND EXCLUDES ANY PART OF THE CONSIDERATION FOR INSURANCE, REINSURANCE OR ANNUITY CONTRACTS THAT DO NOT PROVIDE BONA FIDE INSURANCE, REINSURANCE OR ANNUITY BENEFITS; AND "GROSS RECEIPTS" INCLUDES THE AMOUNTS INCLUDED IN GROSS RECEIPTS FOR PURPOSES OF SECTION 501(C) (15) OF THE INTERNAL REVENUE CODE, EXCEPT THAT THOSE AMOUNTS ALSO INCLUDE ALL PREMIUMS AS DEFINED IN THIS SUBDIVISION.

S 2. Paragraph (a) of subdivision 4 of section 211 of the tax law is amended by adding a new subparagraph 7 to read as follows:

(7) (I) FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "CLOSEST CONTROLLING STOCKHOLDER" MEANS THE CORPORATION THAT INDIRECTLY OWNS OR CONTROLS OVER FIFTY PERCENT OF THE VOTING STOCK OF AN OVERCAPITALIZED CAPTIVE INSURANCE COMPANY; IS SUBJECT TO TAX UNDER THIS ARTICLE OR ARTICLE THIRTY-TWO OF THIS CHAPTER, OR IS OTHERWISE REQUIRED TO BE INCLUDED IN A COMBINED RETURN OR REPORT UNDER THIS ARTICLE OR ARTICLE THIRTY-TWO OF THIS CHAPTER; AND IS THE FEWEST TIERS OF CORPORATIONS AWAY IN THE OWNERSHIP STRUCTURE FROM THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY. THE COMMISSIONER IS AUTHORIZED TO PRESCRIBE BY REGULATION OR PUBLISHED GUIDANCE THE CRITERIA FOR DETERMINING THE CLOSEST CONTROLLING STOCKHOLDER.

(II) AN OVERCAPITALIZED CAPTIVE INSURANCE COMPANY MUST BE INCLUDED IN A COMBINED REPORT WITH THE CORPORATION THAT DIRECTLY OWNS OR CONTROLS OVER FIFTY PERCENT OF THE VOTING STOCK OF THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY IF THAT CORPORATION IS SUBJECT TO TAX OR REQUIRED TO BE INCLUDED IN A COMBINED REPORT UNDER THIS ARTICLE.

(III) IF OVER FIFTY PERCENT OF THE VOTING STOCK OF AN OVERCAPITALIZED CAPTIVE INSURANCE COMPANY IS NOT DIRECTLY OWNED OR CONTROLLED BY A CORPORATION THAT IS SUBJECT TO TAX OR REQUIRED TO BE INCLUDED IN A COMBINED REPORT UNDER THIS ARTICLE, THEN THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY MUST BE INCLUDED IN A COMBINED RETURN OR REPORT WITH THE CORPORATION THAT IS THE CLOSEST CONTROLLING STOCKHOLDER OF THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY. IF THE CLOSEST CONTROLLING STOCKHOLDER OF THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY IS SUBJECT TO TAX OR OTHERWISE REQUIRED TO BE INCLUDED IN A COMBINED REPORT UNDER THIS ARTICLE, THEN THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY MUST BE INCLUDED IN A COMBINED REPORT UNDER THIS ARTICLE.

(IV) IF THE CORPORATION THAT DIRECTLY OWNS OR CONTROLS THE VOTING STOCK OF THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY IS DESCRIBED IN SUBPARAGRAPH TWO, THREE, OR FIVE OF THIS PARAGRAPH AS A CORPORATION NOT PERMITTED TO MAKE A COMBINED REPORT, THEN THE PROVISIONS IN CLAUSE (III) OF THIS SUBPARAGRAPH MUST BE APPLIED TO DETERMINE THE CORPORATION IN WHOSE COMBINED RETURN OR REPORT THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY SHOULD BE INCLUDED. IF, UNDER CLAUSE (III) OF THIS SUBPARAGRAPH, THE CORPORATION THAT IS THE CLOSEST CONTROLLING STOCKHOLDER OF THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY IS DESCRIBED IN SUBPARAGRAPH TWO, THREE OR FIVE OF THIS PARAGRAPH AS A CORPORATION NOT PERMITTED TO MAKE A COMBINED RETURN, THEN THAT CORPORATION IS DEEMED NOT TO BE IN THE OWNER-

SHIP STRUCTURE OF THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY, AND THE CLOSEST CONTROLLING STOCKHOLDER WILL BE DETERMINED WITHOUT REGARD TO THAT CORPORATION.

(V) IF AN OVERCAPITALIZED CAPTIVE INSURANCE COMPANY IS REQUIRED UNDER THIS SUBPARAGRAPH TO BE INCLUDED IN A COMBINED REPORT WITH ANOTHER CORPORATION, AND THAT OTHER CORPORATION IS ALSO REQUIRED TO BE INCLUDED IN A COMBINED REPORT WITH ANOTHER RELATED CORPORATION OR CORPORATIONS UNDER THIS PARAGRAPH, THEN THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY MUST BE INCLUDED IN THAT COMBINED REPORT WITH THOSE CORPORATIONS.

(VI) IF AN OVERCAPITALIZED CAPTIVE INSURANCE COMPANY IS NOT REQUIRED TO BE INCLUDED IN A COMBINED REPORT WITH ANOTHER CORPORATION UNDER CLAUSE (II) OR (III) OF THIS SUBPARAGRAPH, OR IN A COMBINED RETURN UNDER THE PROVISIONS OF SUBPARAGRAPH (V) OF PARAGRAPH TWO OF SUBSECTION (F) OF SECTION FOURTEEN HUNDRED SIXTY-TWO OF THIS CHAPTER, THEN THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY IS SUBJECT TO THE OPENING PROVISIONS OF THIS PARAGRAPH AND THE PROVISIONS OF SUBPARAGRAPH FOUR OF THIS PARAGRAPH. THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY MUST BE INCLUDED IN A COMBINED REPORT UNDER THIS ARTICLE WITH ANOTHER CORPORATION IF EITHER THE SUBSTANTIAL INTERCORPORATE TRANSACTIONS REQUIREMENT IN THE OPENING PROVISIONS OF THIS PARAGRAPH OR THE INTER-COMPANY TRANSACTIONS OR AGREEMENT, UNDERSTANDING, ARRANGEMENT OR TRANSACTION REQUIREMENT OF SUBPARAGRAPH FOUR OF THIS PARAGRAPH IS SATISFIED, AND BOTH MORE THAN FIFTY PERCENT OF THE VOTING STOCK OF THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY AND SUBSTANTIALLY ALL OF THE CAPITAL STOCK OF THAT OTHER CORPORATION ARE OWNED AND CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE SAME CORPORATION.

S 3. Subparagraph 1 of paragraph (b) of subdivision 4 of section 211 of the tax law, as amended by section 4 of part FF-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(1) Tax. (i) In the case of a combined report the tax shall be measured by the combined entire net income, combined minimum taxable income, combined pre-nineteen hundred ninety minimum taxable income or combined capital, of all the corporations included in the report, including any captive REIT [or], captive RIC OR OVERCAPITALIZED CAPTIVE INSURANCE COMPANY; provided, however, in no event shall the tax measured by combined capital exceed the limitation provided for in paragraph (b) of subdivision one of section two hundred ten of this article.

(ii) In the case of a captive REIT or captive RIC required under this subdivision to be included in a combined report, entire net income must be computed as required under subdivision five (in the case of a captive REIT) or subdivision seven (in the case of a captive RIC) of section two hundred nine of this article. However, the deduction under the internal revenue code for dividends paid by the captive REIT or captive RIC to any member of the affiliated group that includes the corporation that directly or indirectly owns over fifty percent of the voting stock of the captive REIT or captive RIC shall not be allowed for taxable years beginning on or after January first, two thousand eight. The term "affiliated group" means "affiliated group" as defined in section fifteen hundred four of the internal revenue code, but without regard to the exceptions provided for in subsection (b) of that section.

(III) IN THE CASE OF AN OVERCAPITALIZED CAPTIVE INSURANCE COMPANY REQUIRED UNDER THIS SUBDIVISION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET INCOME MUST BE COMPUTED AS REQUIRED BY SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE.

S 4. Subsection (d) of section 1452 of the tax law, as amended by section 5 of part FF-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(d) Corporations taxable under article nine-A. Notwithstanding the provisions of this article, all corporations of classes now or heretofore taxable under article nine-A of this chapter shall continue to be taxable under article nine-A, except: (1) corporations organized under article five-A of the banking law; (2) corporations subject to article three-A of the banking law, or registered under the federal bank holding company act of nineteen hundred fifty-six, as amended, or registered as a savings and loan holding company (but excluding a diversified savings and loan holding company) under the federal national housing act, as amended, which make a combined return under the provisions of subsection (f) of section fourteen hundred sixty-two; (3) banking corporations described in paragraph nine of subsection (a) of this section; [and] (4) any captive REIT or captive RIC that is required to be included in a combined return under the provisions of subsection (f) of section fourteen hundred sixty-two of this article; AND (5) ANY OVERCAPITALIZED CAPTIVE INSURANCE COMPANY REQUIRED TO BE INCLUDED IN A COMBINED RETURN UNDER SUBSECTION (F) OF SECTION FOURTEEN HUNDRED SIXTY-TWO OF THIS ARTICLE. Provided, however, that a corporation described in paragraph three of this subsection which was subject to the tax imposed by article nine-A of this chapter for its taxable year ending during nineteen hundred eighty-four may, on or before the due date for filing its return (determined with regard to extensions) for its taxable year ending during nineteen hundred eighty-five, make a one time election to continue to be taxable under such article nine-A. Such election shall continue to be in effect until revoked by the taxpayer. In no event shall such election or revocation be for a part of a taxable year.

S 5. Paragraph 4 of subsection (m) of section 1452 of the tax law, as added by section 6 of part FF-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(4) The provisions of this subsection shall not apply to a captive REIT [or], a captive RIC OR AN OVERCAPITALIZED CAPTIVE INSURANCE COMPANY.

S 6. Paragraph 2 of subsection (f) of section 1462 of the tax law is amended by adding a new subparagraph (vi) to read as follows:

(VI) (A) FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "CLOSEST CONTROLLING STOCKHOLDER" MEANS THE CORPORATION THAT INDIRECTLY OWNS OR CONTROLS OVER FIFTY PERCENT OF THE VOTING STOCK OF AN OVERCAPITALIZED CAPTIVE INSURANCE COMPANY, IS SUBJECT TO TAX UNDER THIS ARTICLE OR ARTICLE NINE-A OF THIS CHAPTER OR OTHERWISE REQUIRED TO BE INCLUDED IN A COMBINED RETURN UNDER THIS ARTICLE OR ARTICLE NINE-A OF THIS CHAPTER, AND IS THE FEWEST TIERS OF CORPORATIONS AWAY IN THE OWNERSHIP STRUCTURE FROM THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY. THE COMMISSIONER IS AUTHORIZED TO PRESCRIBE BY REGULATION OR PUBLISHED GUIDANCE THE CRITERIA FOR DETERMINING THE CLOSEST CONTROLLING STOCKHOLDER.

(B) AN OVERCAPITALIZED CAPTIVE INSURANCE COMPANY MUST BE INCLUDED IN A COMBINED RETURN WITH THE BANKING CORPORATION OR BANK HOLDING COMPANY THAT DIRECTLY OWNS OR CONTROLS OVER FIFTY PERCENT OF THE VOTING STOCK OF THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY IF THAT BANKING CORPORATION OR BANK HOLDING COMPANY IS SUBJECT TO TAX OR REQUIRED TO BE INCLUDED IN A COMBINED RETURN UNDER THIS ARTICLE.

(C) IF OVER FIFTY PERCENT OF THE VOTING STOCK OF AN OVERCAPITALIZED CAPTIVE INSURANCE COMPANY IS NOT DIRECTLY OWNED OR CONTROLLED BY A BANKING CORPORATION OR BANK HOLDING COMPANY THAT IS SUBJECT TO TAX OR

REQUIRED TO BE INCLUDED IN A COMBINED RETURN UNDER THIS ARTICLE, THEN THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY MUST BE INCLUDED IN A COMBINED RETURN OR REPORT WITH THE CORPORATION THAT IS THE CLOSEST CONTROLLING STOCKHOLDER OF THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY. IF THE CLOSEST CONTROLLING STOCKHOLDER OF THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY IS A BANKING CORPORATION OR BANK HOLDING COMPANY THAT IS SUBJECT TO TAX OR OTHERWISE REQUIRED TO BE INCLUDED IN A COMBINED RETURN UNDER THIS ARTICLE, THEN THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY MUST BE INCLUDED IN A COMBINED RETURN UNDER THIS ARTICLE.

(D) IF THE CORPORATION THAT DIRECTLY OWNS OR CONTROLS THE VOTING STOCK OF THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY IS DESCRIBED IN SUBPARAGRAPH (II) OR (IV) OF PARAGRAPH FOUR OF THIS SUBSECTION AS A CORPORATION NOT PERMITTED TO MAKE A COMBINED RETURN, THEN THE PROVISIONS IN CLAUSE (C) OF THIS SUBPARAGRAPH MUST BE APPLIED TO DETERMINE THE CORPORATION IN WHOSE COMBINED RETURN OR REPORT THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY SHOULD BE INCLUDED. IF, UNDER CLAUSE (C) OF THIS SUBPARAGRAPH, THE CORPORATION THAT IS THE CLOSEST CONTROLLING STOCKHOLDER OF THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY IS DESCRIBED IN SUBPARAGRAPH (II) OR (IV) OF PARAGRAPH FOUR OF THIS SUBSECTION AS A CORPORATION NOT PERMITTED TO MAKE A COMBINED RETURN, THEN THAT CORPORATION IS DEEMED NOT TO BE IN THE OWNERSHIP STRUCTURE OF THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY, AND THE CLOSEST CONTROLLING STOCKHOLDER WILL BE DETERMINED WITHOUT REGARD TO THAT CORPORATION.

(E) IF AN OVERCAPITALIZED CAPTIVE INSURANCE COMPANY IS REQUIRED UNDER THIS SUBPARAGRAPH TO BE INCLUDED IN A COMBINED RETURN WITH ANOTHER CORPORATION, AND THAT OTHER CORPORATION IS REQUIRED TO BE INCLUDED IN A COMBINED RETURN WITH ANOTHER CORPORATION UNDER OTHER PROVISIONS OF THIS SUBSECTION, THE OVERCAPITALIZED CAPTIVE INSURANCE COMPANY MUST BE INCLUDED IN THAT COMBINED RETURN WITH THOSE CORPORATIONS.

S 7. Paragraph 3 of subsection (f) of section 1462 of the tax law, as amended by section 11 of part FF-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(3) (i) In the case of a combined return, the tax shall be measured by the combined entire net income, combined alternative entire net income or combined assets of all the corporations included in the return, including any captive REIT [or], captive RIC OR OVERCAPITALIZED CAPTIVE INSURANCE COMPANY. The allocation percentage shall be computed based on the combined factors with respect to all the corporations included in the combined return. In computing combined entire net income and combined alternative entire net income intercorporate dividends and all other intercorporate transactions shall be eliminated and in computing combined assets intercorporate stockholdings and intercorporate bills, notes and accounts receivable and payable and other intercorporate indebtedness shall be eliminated.

(ii) In the case of a captive REIT required under this subsection to be included in a combined return, "entire net income" means "real estate investment trust taxable income" as defined in paragraph two of subdivision (b) of section eight hundred fifty-seven (as modified by section eight hundred fifty-eight) of the internal revenue code, plus the amount taxable under paragraph three of subdivision (b) of section eight hundred fifty-seven of that code, subject to the modifications required by section fourteen hundred fifty-three of this article. In the case of a captive RIC required under this subsection to be included in a combined return, "entire net income" means "investment company taxable income" as defined in paragraph two of subdivision (b) of section eight

hundred fifty-two (as modified by section eight hundred fifty-five) of the internal revenue code, plus the amount taxable under paragraph three of subdivision (b) of section eight hundred fifty-two of that code, subject to the modifications required by section fourteen hundred fifty-three of this article. However, the deduction under the internal revenue code for dividends paid by the captive REIT or captive RIC to any member of the affiliated group that includes the corporation that directly or indirectly owns over fifty percent of the voting stock of the captive REIT or captive RIC will be limited to the following percentages: (A) fifty percent for taxable years beginning on or after January first, two thousand eight and before January first, two thousand nine; (B) twenty-five percent for taxable years beginning on or after January first, two thousand nine and before January first, two thousand eleven; and (C) zero percent for taxable years beginning on or after January first, two thousand eleven. The term "affiliated group" means "affiliated group" as defined in section fifteen hundred four of the internal revenue code, but without regard to the exceptions provided for in subsection (b) of SUCH section fifteen hundred four.

(III) IN THE CASE OF AN OVERCAPITALIZED CAPTIVE INSURANCE COMPANY REQUIRED UNDER THIS SUBSECTION TO BE INCLUDED IN A COMBINED RETURN, ENTIRE NET INCOME MUST BE COMPUTED AS REQUIRED BY SECTION FOURTEEN HUNDRED FIFTY-THREE OF THIS ARTICLE.

S 8. Subdivision (a) of section 1500 of the tax law, as amended by chapter 188 of the laws of 2003, is amended to read as follows:

(a) The term "insurance corporation" includes a corporation, association, joint stock company or association, person, society, aggregation or partnership, by whatever name known, doing an insurance business, and, notwithstanding the provisions of section fifteen hundred twelve of this article, shall include (1) a risk retention group as defined in subsection (n) of section five thousand nine hundred two of the insurance law, (2) the state insurance fund and (3) a corporation, association, joint stock company or association, person, society, aggregation or partnership doing an insurance business as a member of the New York insurance exchange described in section six thousand two hundred one of the insurance law. The definition of the "state insurance fund" contained in this subdivision shall be limited in its effect to the provisions of this article and the related provisions of this chapter and shall have no force and effect other than with respect to such provisions. The term "insurance corporation" shall also include a captive insurance company doing a captive insurance business, as defined in subsections (c) and (b), respectively, of section seven thousand two of the insurance law; provided, however, "insurance corporation" shall not include the metropolitan transportation authority, or a public benefit corporation or not-for-profit corporation formed by a city with a population of one million or more pursuant to subsection (a) of section seven thousand five of the insurance law, each of which is expressly exempt from the payment of fees, taxes or assessments, whether state or local; AND PROVIDED FURTHER "INSURANCE CORPORATION" DOES NOT INCLUDE ANY OVERCAPITALIZED CAPTIVE INSURANCE COMPANY. The term "insurance corporation" shall also include an unauthorized insurer operating from an office within the state, pursuant to paragraph five of subsection (b) of section one thousand one hundred one and subsection (i) of section two thousand one hundred seventeen of the insurance law.

S 9. Subdivision (a) of section 1502-b of the tax law, as separately amended by chapter 188 and section 3 of part H3 of chapter 62 of the laws of 2003, is amended to read as follows:

(a) In lieu of the taxes and tax surcharge imposed by sections fifteen hundred one, fifteen hundred two-a, fifteen hundred five-a, and fifteen hundred ten of this article, every captive insurance company licensed by the superintendent of insurance pursuant to the provisions of article seventy of the insurance law, other than the metropolitan transportation authority and a public benefit corporation or not-for-profit corporation formed by a city with a population of one million or more pursuant to subsection (a) of section seven thousand five of the insurance law, each of which is expressly exempt from the payment of fees, taxes or assessments whether state or local, AND OTHER THAN AN OVERCAPITALIZED CAPTIVE INSURANCE COMPANY, shall, for the privilege of exercising its corporate franchise, pay a tax on (1) all gross direct premiums, less return premiums thereon, written on risks located or resident in this state and (2) all assumed reinsurance premiums, less return premiums thereon, written on risks located or resident in this state. The rate of the tax imposed on gross direct premiums shall be four-tenths of one percent on all or any part of the first twenty million dollars of premiums, three-tenths of one percent on all or any part of the second twenty million dollars of premiums, two-tenths of one percent on all or any part of the third twenty million dollars of premiums, and seventy-five thousandths of one percent on each dollar of premiums thereafter. The rate of the tax on assumed reinsurance premiums shall be two hundred twenty-five thousandths of one percent on all or any part of the first twenty million dollars of premiums, one hundred and fifty thousandths of one percent on all or any part of the second twenty million dollars of premiums, fifty thousandths of one percent on all or any part of the third twenty million dollars of premiums and twenty-five thousandths of one percent on each dollar of premiums thereafter. The tax imposed by this section shall be equal to the greater of (i) the sum of the tax imposed on gross direct premiums and the tax imposed on assumed reinsurance premiums or (ii) five thousand dollars.

S 10. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2009; provided, however that the amendments to subparagraph 1 of paragraph (b) of subdivision 4 of section 211 of the tax law made by section three of this act shall not affect the expiration of such subparagraph and shall be deemed expired therewith; the amendments to subsection (d) and paragraph 4 of subsection (m) of section 1452 of the tax law made by sections four and five of this act, respectively, shall not affect the expiration and repeal of such subsection and paragraph and shall be deemed expired and repealed therewith; and the amendments to paragraph 3 of subsection (f) of section 1462 of the tax law made by section seven of this act shall not affect the expiration and reversion of such paragraph and shall expire and be deemed repealed therewith.

PART F-1

Section 1. Subparagraph (A) of paragraph 1 of subsection (b) of section 631 of the tax law is amended by adding a new clause 1 to read as follows:

(1) FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "REAL PROPERTY LOCATED IN THIS STATE" INCLUDES AN INTEREST IN A PARTNERSHIP, LIMITED LIABILITY CORPORATION, S CORPORATION, OR NON-PUBLICLY TRADED C CORPORATION WITH ONE HUNDRED OR FEWER SHAREHOLDERS (HEREINAFTER THE "ENTITY") THAT OWNS REAL PROPERTY THAT IS LOCATED IN NEW YORK AND HAS A FAIR MARKET VALUE THAT EQUALS OR EXCEEDS FIFTY PERCENT OF ALL THE ASSETS OF THE ENTITY ON

THE DATE OF SALE OR EXCHANGE OF THE TAXPAYER'S INTEREST IN THE ENTITY. ONLY THOSE ASSETS THAT THE ENTITY OWNED FOR AT LEAST TWO YEARS BEFORE THE DATE OF THE SALE OR EXCHANGE OF THE TAXPAYER'S INTEREST IN THE ENTITY ARE TO BE USED IN DETERMINING THE FAIR MARKET VALUE OF ALL THE ASSETS OF THE ENTITY ON THE DATE OF SALE OR EXCHANGE. THE GAIN OR LOSS DERIVED FROM NEW YORK SOURCES FROM THE TAXPAYER'S SALE OR EXCHANGE OF AN INTEREST IN AN ENTITY THAT IS SUBJECT TO THE PROVISIONS OF THIS SUBPARAGRAPH IS THE TOTAL GAIN OR LOSS FOR FEDERAL INCOME TAX PURPOSES FROM THAT SALE OR EXCHANGE MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE FAIR MARKET VALUE OF THE REAL PROPERTY LOCATED IN NEW YORK ON THE DATE OF SALE OR EXCHANGE AND THE DENOMINATOR OF WHICH IS THE FAIR MARKET VALUE OF ALL THE ASSETS OF THE ENTITY ON THE DATE OF SALE OR EXCHANGE.

S 2. This act shall take effect immediately and shall apply to sales or exchanges of entity interests that occur thirty or more days after the date this act becomes law.

PART G-1

Section 1. Paragraph (a) of subdivision 1 of section 197-b of the tax law, as amended by section 1 of part JJ-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(a) For taxable years beginning on or after January first, nineteen hundred seventy-seven, every taxpayer subject to tax under section one hundred eighty-two, one hundred eighty-two-a, former section one hundred eighty-two-b, one hundred eighty-four, one hundred eighty-six-a or one hundred eighty-six-e of this article, must pay in each year an amount equal to (i) twenty-five percent of the tax imposed under each of such sections for the preceding taxable year if the preceding year's tax exceeded one thousand dollars but was equal to or less than one hundred thousand dollars, or (ii) [thirty] FORTY percent of the tax imposed under any of these sections for the preceding taxable year if the preceding year's tax exceeded one hundred thousand dollars. If the preceding year's tax under section one hundred eighty-four, one hundred eighty-six-a or one hundred eighty-six-e of this article exceeded one thousand dollars and the taxpayer is subject to the tax surcharge imposed by section one hundred eighty-four-a or one hundred eighty-six-c of this article, respectively, the taxpayer must also pay in each such year an amount equal to (i) twenty-five percent of the tax surcharge imposed under such section for the preceding taxable year if the preceding year's tax exceeded one thousand dollars but was equal to or less than one hundred thousand dollars, or (ii) [thirty] FORTY percent of the tax surcharge imposed under that section for the preceding taxable year if the preceding year's tax exceeded one hundred thousand dollars. The amount or amounts must be paid with the return or report required to be filed with respect to the tax or tax surcharge for the preceding taxable year or with an application for extension of the time for filing the return or report.

S 2. Subdivision (a) of section 213-b of the tax law, as amended by section 2 of part JJ-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(a) First installments for certain taxpayers.--In privilege periods of twelve months ending at any time during the calendar year nineteen hundred seventy and thereafter, every taxpayer subject to the tax imposed by section two hundred nine of this chapter must pay with the report required to be filed for the preceding privilege period, or with an application for extension of the time for filing the report, an

amount equal to (i) twenty-five percent of the preceding year's tax if the preceding year's tax exceeded one thousand dollars but was equal to or less than one hundred thousand dollars, or (ii) [thirty] FORTY percent of the preceding year's tax if the preceding year's tax exceeded one hundred thousand dollars. If the preceding year's tax under section two hundred nine of this chapter exceeded one thousand dollars and the taxpayer is subject to the tax surcharge imposed by section two hundred nine-B of this chapter, the taxpayer must also pay with the tax surcharge report required to be filed for the preceding privilege period, or with an application for extension of the time for filing the report, an amount equal to (i) twenty-five percent of the tax surcharge imposed for the preceding year if the preceding year's tax was equal to or less than one hundred thousand dollars, or (ii) [thirty] FORTY percent of the tax surcharge imposed for the preceding year if the preceding year's tax exceeded one hundred thousand dollars.

S 3. Subsection (a) of section 1461 of the tax law, as amended by section 3 of part JJ-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(a) Every taxpayer subject to the tax imposed by section fourteen hundred fifty-one must pay an amount equal to (i) twenty-five percent of the preceding year's tax if the preceding year's tax exceeded one thousand dollars but was equal to or less than one hundred thousand dollars, or (ii) [thirty] FORTY percent of the preceding year's tax if the preceding year's tax exceeded one hundred thousand dollars. The amount must be paid with the return required to be filed for the preceding taxable year or with an application for an extension of the time for filing the return. If the preceding year's tax under section fourteen hundred fifty-one OF THIS ARTICLE exceeded one thousand dollars and the taxpayer is subject to the tax surcharge imposed by section fourteen hundred fifty-five-B OF THIS ARTICLE, the taxpayer must also pay with the tax surcharge return required to be filed for the preceding taxable year, or with an application for an extension of the time for filing the return, an amount equal to (i) twenty-five percent of the tax surcharge imposed for the preceding year if the preceding year's tax was equal to or less than one hundred thousand dollars, or (ii) [thirty] FORTY percent of the tax surcharge imposed for the preceding year if the preceding year's tax exceeded one hundred thousand dollars.

S 4. Paragraph 1 of subdivision (a) of section 1514 of the tax law, as amended by section 4 of part JJ-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(1) Except as otherwise provided in paragraph two of this subdivision, for taxable years beginning on or after January first, nineteen hundred seventy-six, every taxpayer subject to tax under this article must pay in each year an amount equal to (i) twenty-five percent of the tax imposed under this article for the preceding taxable year if the preceding year's tax exceeded one thousand dollars but was equal to or less than one hundred thousand dollars, or (ii) [thirty] FORTY percent of the tax imposed under this article for the preceding taxable year if the preceding year's tax exceeded one hundred thousand dollars. If the preceding year's tax exceeded one thousand dollars and the taxpayer is subject to the tax surcharge imposed by section fifteen hundred five-a of this article, the taxpayer must also pay an amount equal to (i) twenty-five percent of the tax surcharge imposed under section fifteen hundred five-a for the preceding taxable year if the preceding year's tax was equal to or less than one hundred thousand dollars, or (ii) [thirty] FORTY percent of the tax surcharge imposed for the preceding

taxable year if the preceding year's tax exceeded one hundred thousand dollars.

S 5. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2010.

PART H-1

Section 1. Paragraph 3 of subsection (c) of section 658 of the tax law, as amended by section 1 of part AA-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(3) Filing fees. (A) Every subchapter K limited liability company, every limited liability company that is a disregarded entity for federal income tax purposes, and every [limited liability] partnership [under article eight-B of the partnership law and every foreign limited liability partnership,] which has any income derived from New York sources, determined in accordance with the applicable rules of section six hundred thirty-one of this article as in the case of a nonresident individual, shall, within thirty days after the last day of the taxable year, make a payment of a filing fee. The amount of the filing fee is the amount set forth in subparagraph (B) of this paragraph. The minimum filing fee is twenty-five dollars for taxable years beginning in two thousand eight and [after] THEREAFTER. Limited liability companies that are disregarded [entitled] ENTITIES for federal income tax purposes must pay a filing fee of twenty-five dollars for taxable years beginning on or after January first, two thousand eight.

(B) The filing fee will be based on the New York source gross income of the limited liability company or [limited liability] partnership for the taxable year immediately preceding the taxable year for which the fee is due. If the limited liability company or [limited liability] partnership does not have any New York source gross income for the taxable year immediately preceding the taxable year for which the fee is due, the limited liability company or [limited liability] partnership shall pay the minimum filing fee. PARTNERSHIPS, OTHER THAN LIMITED LIABILITY PARTNERSHIPS UNDER ARTICLE EIGHT-B OF THE PARTNERSHIP LAW AND FOREIGN LIMITED LIABILITY PARTNERSHIPS, WITH LESS THAN ONE MILLION DOLLARS IN NEW YORK SOURCE GROSS INCOME ARE EXEMPT FROM THE FILING FEE. New York source gross income is the sum of the partners' or members' shares of federal gross income from the [limited liability] partnership or limited liability company derived from or connected with New York sources, determined in accordance with the provisions of section six hundred thirty-one of this article as if those provisions and any related provisions expressly referred to a computation of federal gross income from New York sources. For this purpose, federal gross income is computed without any allowance or deduction for cost of goods sold.

The amount of the filing fee for taxable years beginning on or after January first, two thousand eight will be determined in accordance with the following table:

If the New York source gross income is:	The fee is:
not more than $100,000	$25
more than $100,000 but not over $250,000	$50
more than $250,000 but not over $500,000	$175
more than $500,000 but not over $1,000,000	$500
more than $1,000,000 but not over $5,000,000	$1,500
more than $5,000,000 but not over $25,000,000	$3,000
Over $25,000,000	$4,500

(C) No credits provided by this article may be taken against the fee imposed by this paragraph.

(D) Where the filing fee is not timely paid, it shall be paid upon notice and demand and shall be assessed, collected and paid in the same manner as taxes, and for those purposes any reference in this article to tax imposed by this article shall be deemed also to refer to this filing fee.

S 2. Subsection (a) of section 1304-C of the tax law, as amended by section 5 of part AA-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(a) In addition to any other taxes or fees authorized by this article or any other law, any city imposing the taxes authorized by this article is hereby authorized and empowered to adopt and amend local laws providing that every subchapter K limited liability company (as such term is defined in subsection (b) of section thirteen hundred two of this article), every limited liability company that is a disregarded entity for federal income tax purposes and every [limited liability] partnership [under article eight-B of the partnership law and every foreign limited liability partnership,] which has any income derived from sources within such city, determined in accordance with the applicable rules of section six hundred thirty-one of this chapter as in the case of a state nonresident individual (except that in making that determination any references in section six hundred thirty-one of this chapter to "New York source" or "New York sources" shall be read as references to "New York city source" or "New York city sources" and any references in that section to "this state" or "the state" shall be read as references to "this city" or "the city"), shall within thirty days after the last day of the taxable year make a payment of a filing fee. The amount of the filing fee shall be the amount determined under paragraph three of subsection (c) of section six hundred fifty-eight of this chapter, except that in making that determination any references in that section to "New York source gross income" must be read as reference to "New York city source gross income". Any local law imposing the filing fee authorized by this section shall provide that where the filing fee is not timely paid, it shall be paid upon notice and demand and shall be assessed, collected and paid in the same manner as the taxes imposed pursuant to the authority of this article, and for these purposes any reference in the local law imposing those taxes to the taxes imposed by that local law shall be deemed also to refer to the filing fee imposed pursuant to the authority of this section.

S 3. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2009.

PART I-1

Section 1. Paragraph (a) of subdivision 1 of section 471-b of the tax law, as amended by section 2 of part QQ-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(a) Such tax on tobacco products other than snuff shall be at the rate of [thirty-seven] FORTY-SIX percent of the wholesale price, and is intended to be imposed only once upon the sale of any tobacco products other than snuff.

S 2. Section 471-c of the tax law, as separately amended by section 3 of part QQ-1 of chapter 57 and chapter 552 of the laws of 2008, is amended to read as follows:

S 471-c. Use tax on tobacco products. (A) There is hereby imposed and shall be paid a tax on all tobacco products used in the state by any person, except that no such tax shall be imposed (1) if the tax provided in section four hundred seventy-one-b of this article is paid, or (2) on the use of tobacco products which are exempt from the tax imposed by said section, or (3) on the use of two hundred fifty cigars or less, or five pounds or less of tobacco other than roll-your-own tobacco, or thirty-six ounces or less of roll-your-own tobacco brought into the state on, or in the possession of, any person.

[(a)] (I) Such tax on tobacco products other than snuff shall be at the rate of [thirty-seven] FORTY-SIX percent of the wholesale price.

[(b)] (II) Such tax on snuff shall be at the rate of ninety-six cents per ounce and a proportionate rate on any fractional parts of an ounce, provided that cans or packages of snuff with a net weight of less than one ounce shall be taxed at the equivalent rate of cans or packages weighing one ounce. Such tax shall be computed based on the net weight as listed by the manufacturer.

(B) Within twenty-four hours after liability for the tax accrues, each such person shall file with the commissioner a return in such form as the commissioner may prescribe together with a remittance of the tax shown to be due thereon. For purposes of this article, the word "use" means the exercise of any right or power actual or constructive and shall include but is not limited to the receipt, storage or any keeping or retention for any length of time, but shall not include possession for sale. All the other provisions of this article, if not inconsistent, shall apply to the administration and enforcement of the tax imposed by this section in the same manner as if the language of said provisions had been incorporated in full into this section.

S 3. This act shall take effect immediately.

PART J-1

Section 1. Subdivision 4 of section 22 of the public housing law, as amended by section 1 of part XX-1 of chapter 57 of the laws of 2008, is amended to read as follows:

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be [twenty] TWENTY-FOUR million dollars. The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not apply to allowance to a taxpayer of the credit with respect to an eligible low-income building for each year of the credit period.

S 2. Paragraph 7 of subdivision (b) of section 18 of the tax law, as added by section 2 of part CC of chapter 63 of the laws of 2000, is amended to read as follows:

(7) [Bond in lieu of recapture. In the case of a disposition of a building or an interest therein, the taxpayer shall be discharged from liability for any recapture under this subdivision by reason of such disposition if the taxpayer furnishes to the commissioner a bond or other security acceptable to the commissioner in an amount satisfactory to the commissioner and for the period required by the commissioner, and] (A) THE CREDIT RECAPTURE REQUIRED UNDER THIS SUBDIVISION WILL NOT APPLY SOLELY BY REASON OF THE DISPOSITION OF A BUILDING OR AN INTEREST THEREIN IF it is reasonably expected that such building will continue to be operated as an eligible low-income building for the remaining compliance period with respect to such building.

(B) STATUTE OF LIMITATIONS. IF A BUILDING (OR AN INTEREST THEREIN) IS DISPOSED OF DURING ANY TAXABLE YEAR AND THERE IS ANY REDUCTION IN THE QUALIFIED BASIS OF SUCH BUILDING WHICH RESULTS IN AN INCREASE IN TAX UNDER THIS SECTION FOR SUCH TAXABLE OR ANY SUBSEQUENT TAXABLE YEAR, THEN

(I) THE STATUTORY PERIOD FOR THE ASSESSMENT OF ANY DEFICIENCY WITH RESPECT TO SUCH INCREASE IN TAX WILL NOT EXPIRE BEFORE THE EXPIRATION OF THREE YEARS FROM THE DATE THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL IS NOTIFIED BY THE TAXPAYER (IN SUCH MANNER AS THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL MAY PRESCRIBE) OF SUCH REDUCTION IN QUALIFIED BASIS, AND

(II) SUCH DEFICIENCY MAY BE ASSESSED BEFORE THE EXPIRATION OF SUCH THREE-YEAR PERIOD NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW OR RULE OF LAW WHICH WOULD OTHERWISE PREVENT SUCH ASSESSMENT.

S 3. This act shall take effect immediately.

PART K-1

Section 1. Section 502 of the tax law is amended by adding a new subdivision 6 to read as follows:

6. A. THE COMMISSIONER MAY REQUIRE THE USE OF DECALS AS EVIDENCE THAT A CARRIER HAS A VALID CERTIFICATE OF REGISTRATION FOR EACH MOTOR VEHICLE OPERATED OR TO BE OPERATED ON THE PUBLIC HIGHWAYS OF THIS STATE AS REQUIRED BY PARAGRAPH A OF SUBDIVISION ONE OF THIS SECTION. IF THE COMMISSIONER REQUIRES THE USE OF DECALS, THE COMMISSIONER SHALL ISSUE FOR EACH MOTOR VEHICLE WITH A VALID CERTIFICATE OF REGISTRATION A DECAL THAT SHALL BE OF A SIZE AND DESIGN AND CONTAINING SUCH INFORMATION AS THE COMMISSIONER PRESCRIBES. THE FEE FOR ANY DECAL ISSUED PURSUANT TO THIS PARAGRAPH IS FOUR DOLLARS. IN THE CASE OF THE LOSS, MUTILATION, OR DESTRUCTION OF A DECAL, THE COMMISSIONER SHALL ISSUE A NEW DECAL UPON PROOF OF THE FACTS AND PAYMENT OF FOUR DOLLARS. THE DECAL SHALL BE FIRMLY AND CONSPICUOUSLY AFFIXED UPON THE MOTOR VEHICLE FOR WHICH IT IS ISSUED AS CLOSELY AS PRACTICAL TO THE REGISTRATION OR LICENSE PLATES AND AT ALL TIMES BE VISIBLE AND LEGIBLE. NO DECAL IS TRANSFERABLE. A DECAL SHALL BE VALID UNTIL IT EXPIRES OR IS REVOKED, SUSPENDED, OR SURRENDERED.

B. THE COMMISSIONER MAY REQUIRE THE USE OF SPECIAL DECALS AS EVIDENCE THAT AN AUTOMOTIVE FUEL CARRIER HAS A VALID SPECIAL CERTIFICATE OF REGISTRATION FOR EACH MOTOR VEHICLE OPERATED OR TO BE OPERATED ON THE PUBLIC HIGHWAYS OF THIS STATE TO TRANSPORT AUTOMOTIVE FUEL AS REQUIRED BY PARAGRAPH B OF SUBDIVISION ONE OF THIS SECTION. IF THE COMMISSIONER REQUIRES THE USE OF SPECIAL DECALS, THE COMMISSIONER SHALL ISSUE FOR EACH MOTOR VEHICLE WITH A VALID SPECIAL CERTIFICATE OF REGISTRATION A SPECIAL DECAL THAT SHALL BE DISTINCTIVELY COLORED AND OF A SIZE AND DESIGN AND CONTAINING SUCH INFORMATION AS THE COMMISSIONER PRESCRIBES. THE FEE FOR ANY SPECIAL DECAL ISSUED PURSUANT TO THIS PARAGRAPH IS FOUR DOLLARS. IN THE CASE OF THE LOSS, MUTILATION, OR DESTRUCTION OF A SPECIAL DECAL, THE COMMISSIONER SHALL ISSUE A NEW SPECIAL DECAL UPON PROOF OF THE FACTS AND PAYMENT OF FOUR DOLLARS. THE SPECIAL DECAL SHALL BE FIRMLY AND CONSPICUOUSLY AFFIXED UPON THE MOTOR VEHICLE FOR WHICH IT IS ISSUED PURSUANT TO THE RULES AND REGULATIONS PRESCRIBED BY THE COMMISSIONER TO ENABLE THE EASY IDENTIFICATION OF THE AUTOMOTIVE FUEL CARRIER CERTIFICATE OF REGISTRATION NUMBER AND AT ALL TIMES BE VISIBLE AND LEGIBLE. NO SPECIAL DECAL IS TRANSFERABLE AND SHALL BE VALID UNTIL IT EXPIRES OR IS REVOKED, SUSPENDED, OR SURRENDERED.

C. THE SUSPENSION OR REVOCATION OF ANY CERTIFICATE OF REGISTRATION ISSUED UNDER THIS ARTICLE SHALL BE DEEMED TO INCLUDE THE SUSPENSION AND REVOCATION OF ANY DECAL ISSUED UNDER THIS SUBDIVISION.

S 2. Subdivision 5-a of section 509 of the tax law, as amended by section 4 of part E of chapter 60 of the laws of 2007, is amended to read as follows:

5-a. To take possession of any certificate of registration which has been suspended or revoked under the provisions of this article AND ANY DECAL ISSUED IN CONJUNCTION THEREWITH, and any certificate of registration which is being used for a motor vehicle other than the one for which it was issued AND ANY DECAL THAT IS ON A MOTOR VEHICLE OTHER THAN THE ONE FOR WHICH IT WAS ISSUED, OR TO DIRECT ANY PEACE OFFICER, ACTING PURSUANT TO HIS OR HER SPECIAL DUTIES, OR ANY POLICE OFFICER OR ANY EMPLOYEE OF THE DEPARTMENT TO TAKE POSSESSION THEREOF AND RETURN THE SAME TO THE COMMISSIONER.

S 3. Subdivision 8 of section 509 of the tax law, as amended by section 5 of part E of chapter 60 of the laws of 2007, is amended to read as follows:

8. To issue replacement certificates of registration OR DECALS at such times as the commissioner may deem necessary for the proper and efficient enforcement of the provisions of this article, but not more often than once every year and to require the surrender of the then outstanding certificates of registration AND DECALS. All of the provisions of this article with respect to certificates of registration AND DECALS shall be applicable to replacement certificates of registration AND DECALS issued hereunder, except that the replacement certificate of registration OR DECAL shall be issued upon payment of a fee of four dollars for each motor vehicle and two dollars for any trailer, semi-trailer, dolly or other device drawn thereby for which a certificate of registration OR DECAL is required to be issued under this article;

S 4. Paragraph (e) of subdivision 1 of section 512 of the tax law, as added by section 8 of part E of chapter 60 of the laws of 2007, is amended to read as follows:

(e) In addition to any other penalty imposed by this chapter, any person who fails to obtain a certificate of registration OR DECAL as required under this article shall, after due notice and an opportunity for a hearing, for a first violation be liable for a civil fine not less than five hundred dollars but not to exceed two thousand dollars and for a second or subsequent violation within three years following a prior finding of violation be liable for a civil fine not less than one thousand dollars but not to exceed three thousand five hundred dollars.

S 5. Clause (i) of subparagraph (A) of paragraph 1 of subdivision (a) of section 1815 of the tax law, as amended by section 10 of part E of chapter 60 of the laws of 2007, is amended to read as follows:

(i) Use or cause or permit to be used, any public highway in this state for the operation of a motor vehicle subject to the provisions of article twenty-one of this chapter without first applying for and obtaining the certificate of registration required under such article OR A DECAL THAT HAS BEEN SUSPENDED OR REVOKED OR THAT WAS ISSUED FOR A MOTOR VEHICLE OTHER THAN THE ONE ON WHICH AFFIXED. THE OPERATION OF ANY MOTOR VEHICLE ON ANY PUBLIC HIGHWAY OF THIS STATE WITHOUT A DECAL REQUIRED UNDER SUCH ARTICLE SHALL BE PRESUMPTIVE EVIDENCE THAT A CERTIFICATE OF REGISTRATION OR DECAL HAS NOT BEEN OBTAINED FOR SUCH MOTOR VEHICLE;

S 6. This act shall take effect immediately.

PART L-1

Section 1. Paragraph (a) of subdivision 1 of section 1003 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

(a) Any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of horse races on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for in this article may apply to the board for a license so to do. Applications for licenses shall be in such form as may be prescribed by the board and shall contain such information or other material or evidence as the board may require. No license shall be issued by the board authorizing the simulcast transmission of thoroughbred races from a track located in Suffolk county. The fee for such licenses shall be five hundred dollars per simulcast facility per year payable by the licensee to the board for deposit into the general fund. Except as provided herein, the board shall not approve any application to conduct simulcasting into individual or group residences, homes or other areas for the purposes of or in connection with pari-mutuel wagering. The board may approve simulcasting into residences, homes or other areas to be conducted jointly by one or more regional off-track betting corporations and one or more of the following: a franchised corporation, thoroughbred racing corporation or a harness racing corporation or association; provided (i) the simulcasting consists only of those races on which pari-mutuel betting is authorized by this chapter at one or more simulcast facilities for each of the contracting off-track betting corporations which shall include wagers made in accordance with section one thousand fifteen, one thousand sixteen and one thousand seventeen of this [chapter] ARTICLE; provided further that the contract provisions or other simulcast arrangements for such simulcast facility shall be no less favorable than those in effect on January first, two thousand five; (ii) that each off-track betting corporation having within its geographic boundaries such residences, homes or other areas technically capable of receiving the simulcast signal shall be a contracting party; (iii) the distribution of revenues shall be subject to contractual agreement of the parties except that statutory payments to non-contracting parties, if any, may not be reduced; provided, however, that nothing herein to the contrary shall prevent a track from televising its races on an irregular basis primarily for promotional or marketing purposes as found by the board. For purposes of this paragraph, the provisions of section one thousand thirteen of this article shall not apply. Any agreement authorizing an in-home simulcasting experiment commencing prior to May fifteenth, nineteen hundred ninety-five, may, and all its terms, be extended until June thirtieth, two thousand [nine] TEN; provided, however, that any party to such agreement may elect to terminate such agreement upon conveying written notice to all other parties of such agreement at least forty-five days prior to the effective date of the termination, via registered mail. Any party to an agreement receiving such notice of an intent to terminate, may request the board to mediate between the parties new terms and conditions in a replacement agreement between the parties as will permit continuation of an in-home experiment until June thirtieth, two thousand [nine] TEN; and (iv) no in-home simulcasting in the thoroughbred special betting district shall occur without the approval of the regional thoroughbred track.

S 2. Subparagraph (iii) of paragraph d of subdivision 3 of section 1007 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

(iii) Of the sums retained by a receiving track located in Westchester county on races received from a franchised corporation, for the period commencing January first, two thousand eight and continuing through June thirtieth, two thousand [nine] TEN, the amount used exclusively for purses to be awarded at races conducted by such receiving track shall be computed as follows: of the sums so retained, two and one-half percent of the total pools. Such amount shall be increased or decreased in the amount of fifty percent of the difference in total commissions determined by comparing the total commissions available after July twenty-first, nineteen hundred ninety-five to the total commissions that would have been available to such track prior to July twenty-first, nineteen hundred ninety-five.

S 3. The opening paragraph of subdivision 1 of section 1014 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand [nine] TEN and on any day regardless of whether or not a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack after June thirtieth, two thousand [nine] TEN. On any day on which a franchised corporation has not scheduled a racing program but a thoroughbred racing corporation located within the state is conducting racing, every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven (that have entered into a written agreement with such facility's representative horsemen's organization, as approved by the board), one thousand eight, or one thousand nine of this article shall be authorized to accept wagers and display the live simulcast signal from thoroughbred tracks located in another state or foreign country subject to the following provisions:

S 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

1. The provisions of this section shall govern the simulcasting of races conducted at harness tracks located in another state or country during the period July first, nineteen hundred ninety-four through June thirtieth, two thousand [nine] TEN. This section shall supersede all inconsistent provisions of this chapter.

S 5. The opening paragraph of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is not conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand [nine] TEN. Every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven that have entered into a written agreement with such facility's representative horsemen's organization as approved by the board, one thousand eight or one thousand nine of this article shall be authorized to accept wagers and display the live full-

card simulcast signal of thoroughbred tracks (which may include quarter horse or mixed meetings provided that all such wagering on such races shall be construed to be thoroughbred races) located in another state or foreign country, subject to the following provisions; provided, however, no such written agreement shall be required of a franchised corporation licensed in accordance with section one thousand seven of this article:

S 6. The opening paragraph of section 1018 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

Notwithstanding any other provision of this chapter, for the period July twenty-fifth, two thousand one through September [ninth] EIGHTH, two thousand [eight] NINE, when a franchised corporation is conducting a race meeting within the state at Saratoga Race Course, every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven (that has entered into a written agreement with such facility's representative horsemen's organization as approved by the board), one thousand eight or one thousand nine of this article shall be authorized to accept wagers and display the live simulcast signal from thoroughbred tracks located in another state, provided that such facility shall accept wagers on races run at all in-state thoroughbred tracks which are conducting racing programs subject to the following provisions; provided, however, no such written agreement shall be required of a franchised corporation licensed in accordance with section one thousand seven of this article.

S 7. Section 32 of chapter 281 of the laws of 1994, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

S 32. This act shall take effect immediately and the pari-mutuel tax reductions in section six of this act shall expire and be deemed repealed on July 1, [2009] 2010; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration, or repeal of any provision of law amended by any section of this act, and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law; provided further, however, that sections twenty-three and twenty-five of this act shall remain in full force and effect only until May 1, 1997 and at such time shall be deemed to be repealed.

S 8. Section 54 of 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, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

S 54. This act shall take effect immediately; provided, however, sections three through twelve of this act shall take effect on January 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breeding law, as added by section thirty-eight of this act, shall expire and be deemed repealed on July 1, [2009] 2010; and section eighteen of this act shall take effect on July 1, 2008 and sections fifty-one and fifty-two of this act shall take effect as of the same date as chapter 772 of the laws of 1989 took effect.

S 9. Paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 115 of the laws of 2008, is amended to read as follows:

(a) The franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall

distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets be presented for payment before April first of the year following the year of their purchase, less an amount which shall be established and retained by such franchised corporation of between sixteen to seventeen per centum of the total deposits in pools resulting from on-track regular bets, and eighteen and one-half to twenty-one per centum of the total deposits in pools resulting from on-track multiple bets and twenty-six per centum of the total deposits in pools resulting from on-track exotic bets and sixteen to thirty-six per centum of the total deposits in pools resulting from on-track super exotic bets, and twenty-six to thirty-six per centum when such on-track super exotic betting pools are carried forward, plus the breaks. The retention rate to be established is subject to the prior approval of the racing and wagering board. Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter. "Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter. "Super exotic bets" shall have the meaning set forth in section three hundred one of this chapter. For purposes of this section, a "pick six bet" shall mean a single bet or wager on the outcomes of six races. The breaks are hereby defined as the odd cents over any multiple of five for payoffs greater than one dollar five cents but less than five dollars, over any multiple of ten for payoffs greater than five dollars but less than twenty-five dollars, over any multiple of twenty-five for payoffs greater than twenty-five dollars but less than two hundred fifty dollars, or over any multiple of fifty for payoffs over two hundred fifty dollars. Out of the amount so retained there shall be paid by such franchised corporation to the commissioner of taxation and finance, as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the race meetings held by such franchised corporation, the following percentages of the total pool for regular and multiple bets five per centum of regular bets and four per centum of multiple bets plus twenty per centum of the breaks; for exotic wagers seven and one-half per centum plus twenty per centum of the breaks, and for super exotic bets seven and one-half per centum plus fifty per centum of the breaks. For the period June first, nineteen hundred ninety-five through September ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be three per centum and such tax on multiple wagers shall be two and one-half per centum, plus twenty per centum of the breaks. For the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such tax on all wagers shall be two and six-tenths per centum and for the period April first, two thousand one through December thirty-first, two thousand [nine] TEN, such tax on all wagers shall be one and six-tenths per centum, plus, in each such period, twenty per centum of the breaks. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one per centum of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three per centum of super exotic bets provided, however, that for the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such payment shall be six-tenths of one per centum of regular, multiple and exotic pools and for the period April first, two thousand one through December thirty-first, two thousand [nine] TEN, such payment shall be seven-tenths of one per centum of such pools.

S 10. Paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

(a) The franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets be presented for payment before April first of the year following the year of their purchase, less an amount which shall be established and retained by such franchised corporation of between twelve to seventeen per centum of the total deposits in pools resulting from on-track regular bets, and fourteen to twenty-one per centum of the total deposits in pools resulting from on-track multiple bets and fifteen to twenty-five per centum of the total deposits in pools resulting from on-track exotic bets and fifteen to thirty-six per centum of the total deposits in pools resulting from on-track super exotic bets, plus the breaks. The retention rate to be established is subject to the prior approval of the racing and wagering board. Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter. "Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter. "Super exotic bets" shall have the meaning set forth in section three hundred one of this chapter. For purposes of this section, a "pick six bet" shall mean a single bet or wager on the outcomes of six races. The breaks are hereby defined as the odd cents over any multiple of five for payoffs greater than one dollar five cents but less than five dollars, over any multiple of ten for payoffs greater than five dollars but less than twenty-five dollars, over any multiple of twenty-five for payoffs greater than twenty-five dollars but less than two hundred fifty dollars, or over any multiple of fifty for payoffs over two hundred fifty dollars. Out of the amount so retained there shall be paid by such franchised corporation to the commissioner of taxation and finance, as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the race meetings held by such franchised corporation, the following percentages of the total pool for regular and multiple bets five per centum of regular bets and four per centum of multiple bets plus twenty per centum of the breaks; for exotic wagers seven and one-half per centum plus twenty per centum of the breaks, and for super exotic bets seven and one-half per centum plus fifty per centum of the breaks. For the period June first, nineteen hundred ninety-five through September ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be three per centum and such tax on multiple wagers shall be two and one-half per centum, plus twenty per centum of the breaks. For the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such tax on all wagers shall be two and six-tenths per centum and for the period April first, two thousand one through December thirty-first, two thousand [nine] TEN, such tax on all wagers shall be one and six-tenths per centum, plus, in each such period, twenty per centum of the breaks. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one per centum of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three per centum of super exotic bets provided, however, that for the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such payment shall be six-tenths of one per centum of regular, multiple and exotic pools and for the period April

first, two thousand one through December thirty-first, two thousand [eight] TEN, such payment shall be seven-tenths of one per centum of such pools.

S 11. Subdivision 5 of section 1012 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

5. The provisions of this section shall expire and be of no further force and effect after June thirtieth, two thousand [nine] TEN.

S 12. This act shall take effect immediately, provided that the amendments to paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law made by section nine of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 32 of chapter 115 of the laws of 2008, as amended, when upon such date the provisions of section ten of this act shall take effect.

PART M-1

Section 1. Paragraph 1 of subdivision (j) of section 1111 of the tax law, as amended by section 1 of part E of chapter 85 of the laws of 2002, is amended to read as follows:

(1) The tax required to be prepaid pursuant to section eleven hundred three of this article shall be computed by multiplying the base retail price by a tax rate of [seven] EIGHT percent and rounding the result thereof to the nearest whole cent per package.

S 2. This act shall take effect June 1, 2009; and shall apply to sales made and uses occurring on or after that date in accordance with applicable transitional provisions in article 28 of the tax law.

PART N-1

Section 1. Paragraph 17 of subdivision (b) of section 1101 of the tax law, as added by chapter 309 of the laws of 1996, is amended to read as follows:

(17) Commercial aircraft. Aircraft used primarily (i) to transport persons or property, for hire, (ii) by the purchaser of the aircraft [primarily] to transport such person's tangible personal property in the conduct of such person's business, or (iii) for both such purposes. TRANSPORTING PERSONS FOR HIRE DOES NOT INCLUDE TRANSPORTING AGENTS, EMPLOYEES, OFFICERS, MEMBERS, PARTNERS, MANAGERS OR DIRECTORS OF AFFILIATED PERSONS. PERSONS ARE AFFILIATED PERSONS WITH RESPECT TO EACH OTHER WHERE ONE OF THE PERSONS HAS AN OWNERSHIP INTEREST OF MORE THAN FIVE PERCENT, WHETHER DIRECT OR INDIRECT, IN THE OTHER, OR WHERE AN OWNERSHIP INTEREST OF MORE THAN FIVE PERCENT, WHETHER DIRECT OR INDIRECT, IS HELD IN EACH OF THE PERSONS BY ANOTHER PERSON OR BY A GROUP OF OTHER PERSONS THAT ARE AFFILIATED PERSONS WITH RESPECT TO EACH OTHER.

S 2. Subdivision 2 of section 1118 of the tax law, as amended by chapter 651 of the laws of 1999, is amended to read as follows:

(2) In respect to the use of property or services purchased by the user while a nonresident of this state, except in the case of tangible personal property or services which the user, in the performance of a contract, incorporates into real property located in the state. A person while engaged in any manner in carrying on in this state any employment, trade, business or profession, shall not be deemed a nonresident with respect to the use in this state of property or services in such employment, trade, business or profession. THIS EXEMPTION DOES NOT APPLY TO

THE USE OF QUALIFIED PROPERTY WHERE THE QUALIFIED PROPERTY IS PURCHASED PRIMARILY TO CARRY INDIVIDUALS, WHETHER OR NOT FOR HIRE, WHO ARE AGENTS, EMPLOYEES, OFFICERS, SHAREHOLDERS, MEMBERS, MANAGERS, PARTNERS, OR DIRECTORS OF (A) THE PURCHASER, WHERE ANY OF THOSE INDIVIDUALS WAS A RESIDENT OF THIS STATE WHEN THE QUALIFIED PROPERTY WAS PURCHASED OR (B) ANY AFFILIATED PERSON THAT WAS A RESIDENT WHEN THE QUALIFIED PROPERTY WAS PURCHASED. FOR PURPOSES OF THIS SUBDIVISION: (I) PERSONS ARE AFFILIATED PERSONS WITH RESPECT TO EACH OTHER WHERE ONE OF THE PERSONS HAS AN OWNERSHIP INTEREST OF MORE THAN FIVE PERCENT, WHETHER DIRECT OR INDIRECT, IN THE OTHER, OR WHERE AN OWNERSHIP INTEREST OF MORE THAN FIVE PERCENT, WHETHER DIRECT OR INDIRECT, IS HELD IN EACH OF THE PERSONS BY ANOTHER PERSON OR BY A GROUP OF OTHER PERSONS THAT ARE AFFILIATED PERSONS WITH RESPECT TO EACH OTHER; (II) "QUALIFIED PROPERTY" MEANS AIRCRAFT, VESSELS AND MOTOR VEHICLES; AND (III) "CARRY" MEANS TO TAKE ANY PERSON FROM ONE POINT TO ANOTHER, WHETHER FOR THE BUSINESS PURPOSES OR PLEASURE OF THAT PERSON.

S 3. This act shall take effect on June 1, 2009, and shall apply to sales made and uses occurring on or after such date in accordance with the applicable transitional provisions in sections 1106 and 1217 of the tax law.

PART O-1

Section 1. Subdivision b of section 1612 of the tax law, as amended by chapter 140 of the laws of 2008, clauses (D) and (F) of subparagraph (ii) and subparagraph (iii) of paragraph 1 and paragraph 2 as separately amended by chapter 286 of the laws of 2008 and clause (G) of subparagraph (ii) of paragraph 1 as added and clause (H) of subparagraph (ii) of paragraph 1 as amended by chapter 286 of the laws of 2008, is amended to read as follows:

b. 1. Notwithstanding section one hundred twenty-one of the state finance law, on or before the twentieth day of each month, the division shall pay into the state treasury, to the credit of the state lottery fund created by section ninety-two-c of the state finance law, not less than forty-five percent of the total amount for which tickets have been sold for games defined in paragraph four of subdivision a of this section during the preceding month, not less than thirty-five percent of the total amount for which tickets have been sold for games defined in paragraph three of subdivision a of this section during the preceding month, not less than twenty percent of the total amount for which tickets have been sold for games defined in paragraph two of subdivision a of this section during the preceding month, provided however that for games with a prize payout of seventy-five percent of the total amount for which tickets have been sold, the division shall pay not less than ten percent of sales into the state treasury and not less than twenty-five percent of the total amount for which tickets have been sold for games defined in paragraph one of subdivision a of this section during the preceding month; and the balance of the total revenue after payout for prizes for games known as "video lottery gaming," (i) less ten percent of the total revenue wagered after payout for prizes to be retained by the division for operation, administration, and procurement purposes; (ii) less a vendor's fee the amount of which is to be paid for serving as a lottery agent to the track operator of a vendor track:

(A) having fewer than one thousand one hundred video gaming machines, at a rate of thirty-six percent for the first fifty million dollars annually, twenty-nine percent for the next hundred million dollars annu-

ally, and twenty-six percent thereafter of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter;

(B) having one thousand one hundred or more video gaming machines, at a rate of thirty-two percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, except for such facility located in the county of Westchester, in which case the rate shall be thirty-four percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, for a period of twenty-four months effective beginning April first, two thousand eight; provided, however, that in the event that the vendor track located in Westchester county completes a successful restructuring prior to March thirty-first, two thousand ten, the vendor fee will be reduced to thirty-two percent ninety days following the completion of the successful restructuring. A successful restructuring is defined as a restructuring of the existing debt obligations of such vendor track located in Westchester county that meets the following two conditions:

(i) it requires no more than twenty million dollars of additional equity invested in such track; and

(ii) results in average net interest costs of less than nine percent.

Notwithstanding the foregoing, the vendor fee at such track will become thirty-one percent effective April first, two thousand ten and remain at that level for a period equal to two times the period of time (measured in days) that the vendor fee was thirty-four percent or until March thirty-first, two thousand twelve, whichever is later. Notwithstanding the foregoing, not later than April first, two thousand twelve, the vendor fee shall become thirty-two percent and remain at that level thereafter; and except for Aqueduct racetrack, in which case the vendor fee shall be thirty-eight percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter;

(C) notwithstanding clauses (A) and (B) of this subparagraph, when the vendor track is located in an area with a population of less than one million within the forty mile radius around such track, at a rate of forty percent for the first fifty million dollars annually, twenty-nine percent for the next hundred million dollars annually, and twenty-six percent thereafter of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter;

(D) notwithstanding clauses (A), (B) and (C) of this subparagraph, when the vendor track is located within fifteen miles of a Native American class III gaming facility [or, for a period of five years effective beginning April first, two thousand eight when the vendor track is located within Sullivan county and within sixty miles from any gaming facility in a contiguous state,] at a rate of forty-two percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter [unless such vendor track relocates outside the specified geographic area sooner, in which case such rate shall be as for all other tracks in the applicable clause of this subparagraph];

[(D) notwithstanding clauses (A), (B) and (C) of this subparagraph, when the vendor track is within fifteen miles of a Native American gaming facility, at a rate of forty-two percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter;]

(E) notwithstanding clauses (A), (B), (C) and (D) of this subparagraph, when a Native American class III gaming facility is established, after the effective date of this subparagraph, within fifteen miles of the vendor track, at a rate of forty-two percent of the total revenue wagered after payout for prizes pursuant to this chapter;

[(F) notwithstanding clauses (A), (B), (C), (D) and (E) of this subparagraph, the track operator of a vendor track shall be eligible for a vendor's capital award of up to four percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, which shall be used exclusively for capital project investments to improve the facilities of the vendor track which promote or encourage increased attendance at the video lottery gaming facility including, but not limited to hotels, other lodging facilities, entertainment facilities, retail facilities, dining facilities, events arenas, parking garages and other improvements that enhance facility amenities; provided that such capital investments shall be approved by the division, in consultation with the state racing and wagering board, and that such vendor track demonstrates that such capital expenditures will increase patronage at such vendor track's facilities and increase the amount of revenue generated to support state education programs. The annual amount of such vendor's capital awards that a vendor track shall be eligible to receive shall be limited to two million five hundred thousand dollars, except for Aqueduct racetrack, for which there shall be no vendor's capital awards. Except for tracks having less than one thousand one hundred video gaming machines, each track operator shall be required to co-invest an amount of capital expenditure equal to its cumulative vendor's capital awards. For all tracks, except for Aqueduct racetrack, the amount of any vendor's capital award that is not used during any one year period may be carried over into subsequent years ending before April first, two thousand thirteen. Any amount attributable to a capital expenditure approved prior to April first, two thousand thirteen and completed before April first, two thousand fifteen shall be eligible to receive the vendor's capital award. In the event that a vendor track's capital expenditures, approved by the division prior to April first, two thousand thirteen and completed prior to April first, two thousand fifteen, exceed the vendor track's cumulative capital award during the five year period ending April first, two thousand thirteen, the vendor shall continue to receive the capital award after April first, two thousand thirteen until such approved capital expenditures are paid to the vendor track subject to any required co-investment. In no event shall such track facility located in Sullivan county and within sixty miles from any gaming facility in a contiguous state be eligible for a vendor's capital award under this section, unless it shall have moved from such location or the five year period commencing on April first, two thousand eight has expired, whichever comes first. Any operator of a vendor track which has received a vendor's capital award, choosing to divest the capital improvement toward which the award was applied, prior to reaching the forty year straightline depreciation value of the improvement, shall reimburse the state in amounts equal to the total of any such awards. Any capital award not approved for a capital expenditure at a video lottery gaming facility by April first, two thousand thirteen shall be deposited in the state lottery fund for education aid; and]

(E-1) FOR PURPOSES OF THIS SUBDIVISION, THE TERM "CLASS III GAMING" SHALL HAVE THE MEANING DEFINED IN 25 U.S.C. S 2703(8).

(F) notwithstanding clauses (A), (B), (C), (D) and (E) of this subparagraph, when a vendor track, is located in Sullivan county and within sixty miles from any gaming facility in a contiguous state such vendor fee shall, for a period of five years commencing April first, two thousand eight, be at a rate of forty-two percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this

chapter, after which time such rate shall be as for all tracks in clause (C) of this subparagraph.

[(G) For purposes of this subdivision, the term "class III gaming" shall have the meaning defined in 25 U.S.C. S 2703(8).]

(G) notwithstanding any other provisions of this section, when a relocated vendor track at which a qualified capital investment has been made and no fewer than two thousand full-time, permanent employees have been newly hired, is located in Sullivan county and is within sixty miles from any gaming facility in a contiguous state, then for a period of forty years the division shall pay into the state treasury, to the credit of the state lottery fund created by section ninety-two-c of the state finance law the greater of (i) twenty-five percent of total revenue after payout for prizes for "video lottery games" or (ii) for the first eight years of operation thirty-eight million dollars, and beginning in the ninth year of operation such amount shall increase annually by the lesser of the increase in the consumer price index or two percent plus the division shall retain an amount equal to all actual expenses related to operations, administration and procurement of the video lottery terminal operation at the relocated vendor track, provided, however, such amount retained by the division shall not exceed seven percent of total revenue after payout of prizes. In addition, in the event the division makes a payment pursuant to subclause (i) of this clause, the division shall pay to the credit of the state lottery fund created by section ninety-two-c of the state finance law 11.11 percent of the amount by which total revenue after payout for prizes exceeds two hundred fifteen million dollars, but in no event shall such payment exceed five million dollars.

The balance shall be paid as a vendor's fee to the track operator of the relocated vendor track for serving as a lottery agent under this chapter.

Provided, however, that in the case of a relocated vendor track with a qualified capital investment, if at any time after July first, two thousand ten the vendor track experiences an employment shortfall, then the recapture amount shall apply, for only such period as the shortfall exists.

For the purposes of this section "qualified capital investment" shall mean an investment of a minimum of one billion dollars as reflected by audited financial statements of which not less than three hundred million dollars shall be comprised of equity and/or mezzanine financing as an initial investment in a county where twelve percent of the population is below the federal poverty level as measured by the most recent Bureau of Census Statistics prior to the qualified capital investment commencing that results in the construction, development or improvement of at least one eighteen hole golf course, and the construction and issuance of certificates of occupancy for hotels, lodging, convention centers, spas, dining, retail and entertainment venues, parking garages and other capital improvements at or adjacent to the licensed video gaming facility or licensed vendor track which promote or encourage increased attendance at such facilities.

For the purposes of this section, "full-time, permanent employee" shall mean an employee who has worked at the vendor track or related and adjacent facilities for a minimum of thirty-five hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended to other employees with comparable rank and duties; or two part-time employees who have worked at the vendor track or related and adjacent facilities for a combined

minimum of thirty-five hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended to other employees with comparable rank and duties.

For the purpose of this section "employment goal" shall mean two thousand full-time permanent employees.

For the purpose of this section "employment shortfall" shall mean a level of employment that falls below the employment goal, as certified annually by vendor's certified accountants and the chairman of the empire state development corporation.

For the purposes of this section "recapture amount" shall mean the difference between the amount of the vendor's fee paid to a vendor track with a qualified capital investment, and the vendor fee otherwise payable to a vendor track pursuant to clause (F) of this subparagraph, that is reimbursable by the vendor track to the division for payment into the state treasury, to the credit of the state lottery fund created by section ninety-two-c of the state finance law, due to an employment shortfall pursuant to the following schedule only for the period of the employment shortfall:

(i) sixty-six percent of the recapture amount if the employment shortfall is greater than fifty percent of the employment goal;

(ii) sixty percent of the recapture amount if the employment shortfall is greater than forty percent of the employment goal;

(iii) forty-five percent of the recapture amount if the employment shortfall is greater than thirty percent of the employment goal;

(iv) twenty percent of the recapture amount if the employment shortfall is greater than twenty percent of the employment goal;

(v) ten percent of the recapture amount if the employment shortfall is greater than ten percent of the employment goal.

(H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of this subparagraph, the track operator of a vendor track shall be eligible for a vendor's capital award of up to four percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, which shall be used exclusively for capital project investments to improve the facilities of the vendor track which promote or encourage increased attendance at the video lottery gaming facility including, but not limited to hotels, other lodging facilities, entertainment facilities, retail facilities, dining facilities, events arenas, parking garages and other improvements that enhance facility amenities; provided that such capital investments shall be approved by the division, in consultation with the state racing and wagering board, and that such vendor track demonstrates that such capital expenditures will increase patronage at such vendor track's facilities and increase the amount of revenue generated to support state education programs. The annual amount of such vendor's capital awards that a vendor track shall be eligible to receive shall be limited to two million five hundred thousand dollars, except for Aqueduct racetrack, for which there shall be no vendor's capital awards. Except for tracks having less than one thousand one hundred video gaming machines, each track operator shall be required to co-invest an amount of capital expenditure equal to its cumulative vendor's capital award. For all tracks, except for Aqueduct racetrack, the amount of any vendor's capital award that is not used during any one year period may be carried over into subsequent years ending before April first, two thousand thirteen. Any amount attributable to a capital expenditure approved prior to April first, two thousand thirteen and completed before April first, two thousand fifteen shall be eligible to receive the vendor's capital award. IN THE EVENT

THAT A VENDOR TRACK'S CAPITAL EXPENDITURES, APPROVED BY THE DIVISION PRIOR TO APRIL FIRST, TWO THOUSAND THIRTEEN AND COMPLETED PRIOR TO APRIL FIRST, TWO THOUSAND FIFTEEN, EXCEED THE VENDOR TRACK'S CUMULATIVE CAPITAL AWARD DURING THE FIVE YEAR PERIOD ENDING APRIL FIRST, TWO THOUSAND THIRTEEN, THE VENDOR SHALL CONTINUE TO RECEIVE THE CAPITAL AWARD AFTER APRIL FIRST, TWO THOUSAND THIRTEEN UNTIL SUCH APPROVED CAPITAL EXPENDITURES ARE PAID TO THE VENDOR TRACK SUBJECT TO ANY REQUIRED CO-INVESTMENT. In no event shall any vendor track that receives a vendor fee pursuant to clause (F) or (G) of this [paragraph] SUBPARAGRAPH be eligible for a vendor's capital award under this section. Any operator of a vendor track which has received a vendor's capital award, choosing to divest the capital improvement toward which the award was applied, prior to [reaching the forty year straightline depreciation value of the improvement] THE FULL DEPRECIATION OF THE CAPITAL IMPROVEMENT IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, shall reimburse the state in amounts equal to the total of any such awards. ANY CAPITAL AWARD NOT APPROVED FOR A CAPITAL EXPENDITURE AT A VIDEO LOTTERY GAMING FACILITY BY APRIL FIRST, TWO THOUSAND THIRTEEN SHALL BE DEPOSITED INTO THE STATE LOTTERY FUND FOR EDUCATION AID; and

(iii) less an additional vendor's marketing allowance at a rate of ten percent for the first one hundred million dollars annually and eight percent thereafter of the total revenue wagered at the vendor track after payout for prizes to be used by the vendor track for the marketing and promotion and associated costs of its video lottery gaming operations and pari-mutuel horse racing operations, as long as any such costs associated with pari-mutuel horse racing operations simultaneously encourage increased attendance at such vendor's video lottery gaming facilities, consistent with the customary manner of marketing comparable operations in the industry and subject to the overall supervision of the division; provided, however, that the additional vendor's marketing allowance shall not exceed eight percent in any year for any operator of a racetrack located in the county of Westchester or Queens; provided, however, a vendor track that receives a vendor fee pursuant to clause (G) of [this] subparagraph (II) OF THIS PARAGRAPH shall not receive the additional vendor's marketing allowance. In establishing the vendor fee, the division shall ensure the maximum lottery support for education while also ensuring the effective implementation of section sixteen hundred seventeen-a of this article through the provision of reasonable reimbursements and compensation to vendor tracks for participation in such program. Within twenty days after any award of lottery prizes, the division shall pay into the state treasury, to the credit of the state lottery fund, the balance of all moneys received from the sale of all tickets for the lottery in which such prizes were awarded remaining after provision for the payment of prizes as herein provided. Any revenues derived from the sale of advertising on lottery tickets shall be deposited in the state lottery fund.

2. As consideration for the operation of a video lottery gaming facility, the division, shall cause the investment in the racing industry of a portion of the vendor fee received pursuant to paragraph one of this subdivision in the manner set forth in this subdivision. With the exception of Aqueduct racetrack, each such track shall dedicate a portion of its vendor fees, received pursuant to clause (A), (B), (C), (D), (E), (F), or (G) of subparagraph (ii) of paragraph one of this subdivision, solely for the purpose of enhancing purses at such track, in an amount equal to eight and three-quarters percent of the total revenue wagered at the vendor track after pay out for prizes. In addition, WITH THE

EXCEPTION OF AQUEDUCT RACETRACK, one and one-quarter percent of total revenue wagered at the vendor track after pay out for prizes, received pursuant to clause (A), (B), (C), (D), (E), (F), or (G) of subparagraph (ii) of paragraph one of this subdivision, shall be distributed to the appropriate breeding fund for the manner of racing conducted by such track.

Provided, further, that nothing in this paragraph shall prevent each track from entering into an agreement, not to exceed five years, with the organization authorized to represent its horsemen to increase or decrease the portion of its vendor fee dedicated to enhancing purses at such track during the years of participation by such track, or to race fewer dates than required herein.

3. Nothing in paragraph two of this subdivision shall affect any agreement in effect on or before the effective date of this paragraph.

S 2. Subdivision a of section 1617-a of the tax law, as amended by section 2 of part Z3 of chapter 62 of the laws of 2003 and paragraph 3 as amended by chapter 18 of the laws of 2008, are amended to read as follows:

a. The division of the lottery is hereby authorized to license, pursuant to rules and regulations to be promulgated by the division of the lottery, the operation of video lottery gaming at Aqueduct, Monticello, Yonkers, Finger Lakes, and Vernon Downs racetracks, or at any other racetrack licensed pursuant to article three of the racing, pari-mutuel wagering and breeding law that are located in a county or counties in which video lottery gaming has been authorized pursuant to local law, excluding the licensed racetrack commonly referred to in article three of the racing, pari-mutuel wagering and breeding law as the "New York state exposition" held in Onondaga county and the racetracks of the non-profit racing association known as Belmont Park racetrack and the Saratoga thoroughbred racetrack. Such rules and regulations shall provide, as a condition of licensure, that racetracks to be licensed are certified to be in compliance with all state and local fire and safety codes, that the division is afforded adequate space, infrastructure, and amenities consistent with industry standards for such video gaming operations as found at racetracks in other states, that racetrack employees involved in the operation of video lottery gaming pursuant to this section are licensed by the racing and wagering board, and such other terms and conditions of licensure as the division may establish. Notwithstanding any inconsistent provision of law, video lottery gaming at a racetrack pursuant to this section shall be deemed an approved activity for such racetrack under the relevant city, county, town, or village land use or zoning ordinances, rules, or regulations. No [racetrack] ENTITY LICENSED BY THE DIVISION operating video lottery gaming pursuant to this section may house such gaming activity in a structure deemed or approved by the division as "temporary" for a duration of longer than eighteen-months. NOTHING IN THIS SECTION SHALL PROHIBIT THE DIVISION FROM LICENSING AN ENTITY TO OPERATE VIDEO LOTTERY GAMING AT AN EXISTING RACETRACK AS AUTHORIZED IN THIS SUBDIVISION WHETHER OR NOT A DIFFERENT ENTITY IS LICENSED TO CONDUCT HORSE RACING AND PARI-MUTUEL WAGERING AT SUCH RACETRACK PURSUANT TO ARTICLE TWO OR THREE OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW.

The division, in consultation with the racing and wagering board, shall establish standards for approval of the temporary and permanent physical layout and construction of any facility or building devoted to a video lottery gaming operation. In reviewing such application for the construction or reconstruction of facilities related or devoted to the

operation or housing of video lottery gaming operations, the division, in consultation with the racing and wagering board, shall ensure that such facility:

(1) possesses superior consumer amenities and conveniences to encourage and attract the patronage of tourists and other visitors from across the region, state, and nation.

(2) has adequate motor vehicle parking facilities to satisfy patron requirements.

(3) has a physical layout and location that facilitates access to and from the horse racing track portion of such facility to encourage patronage of live horse racing events that are conducted at such track.

S 3. Section 1617-a of the tax law is amended by adding a new subdivision e to read as follows:

E. THE DIVISION SHALL NOT APPROVE THE CONSTRUCTION OR ALTERATION OF ANY FACILITY OR BUILDING DEVOTED TO THE OPERATION OR HOUSING OF VIDEO LOTTERY GAMING UNTIL THE PERSON OR ENTITY SELECTED TO OPERATE SUCH VIDEO LOTTERY GAMING SHALL HAVE SUBMITTED TO THE DIVISION A STATEMENT OF THE LOCATION OF THE PROPOSED FACILITY OR BUILDING, TOGETHER WITH A PLAN OF SUCH RACETRACK, AND PLANS OF ALL EXISTING BUILDINGS, SEATING STANDS AND OTHER STRUCTURES ON THE GROUNDS OF SUCH RACETRACK, IN SUCH FORM AS THE DIVISION MAY PRESCRIBE, AND SUCH PLANS SHALL HAVE BEEN APPROVED BY THE DIVISION. THE DIVISION, AT THE EXPENSE OF THE APPLICANT, MAY ORDER SUCH ENGINEERING EXAMINATION THEREOF AS THE DIVISION MAY DEEM NECESSARY. SUCH CONSTRUCTION OR ALTERATION MAY BE MADE ONLY WITH THE APPROVAL OF THE DIVISION AND AFTER EXAMINATION AND INSPECTION OF THE PLANS THEREOF AND THE ISSUANCE OF A PERMIT THEREFOR BY THE DIVISION.

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2008; provided, however, that the amendment made to section 1617-a of the tax law by sections two and three of this act shall not affect the repeal of such section as provided in section 4 of part C of chapter 383 of the laws of 2001, as amended, and shall be deemed repealed therewith.

PART P-1

Section 1. Clauses (G) and (H) of subparagraph (i) of paragraph 8 of subdivision (b) of section 1101 of the tax law, as amended by chapter 61 of the laws of 1989 and as relettered by chapter 190 of the laws of 1990, are amended and a new clause (I) is added to read as follows:

(G) Any other person making sales to persons within the state of tangible personal property or services, the use of which is taxed by this article, who may be authorized by the commissioner of taxation and finance to collect such tax by part IV of this article; [and]

(H) The state of New York, any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions when such entity sells services or property of a kind ordinarily sold by private persons[.]; AND

(I) A SELLER OF TANGIBLE PERSONAL PROPERTY OR SERVICES, THE USE OF WHICH IS TAXED BY THIS ARTICLE IF EITHER (I) AN AFFILIATED PERSON THAT IS A VENDOR AS OTHERWISE DEFINED IN THIS PARAGRAPH USES IN THE STATE TRADEMARKS, SERVICE MARKS, OR TRADE NAMES THAT ARE THE SAME AS THOSE THE SELLER USES; OR (II) AN AFFILIATED PERSON ENGAGES IN ACTIVITIES IN THE STATE THAT INURE TO THE BENEFIT OF THE SELLER, IN ITS DEVELOPMENT OR MAINTENANCE OF A MARKET FOR ITS GOODS OR SERVICES IN THE STATE, TO THE EXTENT THAT THOSE ACTIVITIES OF THE AFFILIATE ARE SUFFICIENT TO SATISFY

THE NEXUS REQUIREMENT OF THE UNITED STATES CONSTITUTION. FOR PURPOSES OF THIS CLAUSE, "AFFILIATED PERSON" HAS THE SAME MEANING AS IN CLAUSE (B) OF SUBPARAGRAPH (V) OF THIS PARAGRAPH. NOTHING IN THIS CLAUSE SHALL BE CONSTRUED TO NARROW THE SCOPE OF ANY OTHER PROVISION IN THIS PARAGRAPH.

S 2. This act shall take effect June 1, 2009 and shall apply to sales made or uses occurring on or after such date in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law.

PART Q-1

Section 1. Section 1617 of the tax law, as added by section 3 of part D of chapter 383 of the laws of 2001, is amended to read as follows:

S 1617. Joint, multi-jurisdiction, and out-of-state lottery. The director may enter into an agreement with a government-authorized group of one or more other jurisdictions providing for the operation and administration of a joint, multi-jurisdiction, and out-of-state lottery[, except the director may not agree to participate in the games of more than one such group at any single time]. Such a joint, multi-jurisdiction, and out-of-state lottery game or games may include a combined drawing, a combined prize pool, the transfer of sales and prize monies to other jurisdictions as may be necessary, and such other cooperative arrangements as the director deems necessary or desirable.

S 2. This act shall take effect immediately.

PART R-1

Section 1. Paragraph 1 of subdivision (a) of section 1160 of the tax law, as added by chapter 190 of the laws of 1990, is amended to read as follows:

(1) [On and after June first, nineteen hundred ninety, in] IN addition to any tax imposed under any other article of this chapter, there is hereby imposed and there shall be paid a tax of [five] SIX percent upon the receipts from every rental of a passenger car which is a retail sale of such passenger car.

S 2. Paragraph 2 of subdivision (a) of section 1160 of the tax law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

(2) Except to the extent that a passenger car rental described in paragraph one of this subdivision has already been or will be subject to the tax imposed under such paragraph and except as otherwise exempted under this article, there is hereby imposed on every person and there shall be paid a use tax for the use within this state [on and after June first, nineteen hundred ninety] of any passenger car rented by the user, which is a purchase at retail of such passenger car, but not including any lease of a passenger car to which subdivision (i) of section eleven hundred eleven of this chapter applies. For purposes of this paragraph, the tax shall be at the rate of [five] SIX percent of the consideration given or contracted to be given for such property, or for the use of such property, including any charges for shipping or delivery as described in paragraph three of subdivision (b) of section eleven hundred one of this chapter, but excluding any credit for tangible personal property accepted in part payment and intended for resale.

S 3. This act shall take effect June 1, 2009, and shall apply to sales made or uses occurring on or after such date in accordance with applicable transitional provisions in sections 1106 and 1217 of the tax law.

PART S-1

Section 1. Section 957 of the general municipal law, as added by chapter 686 of the laws of 1986, subdivisions (b) and (f) as amended and subdivisions (c), (g), (i), (j), (k), and (l) as added by chapter 624 of the laws of 1990, subdivision (d) as amended and subdivision (r) as added by section 1 of part HH of chapter 59 of the laws of 2006, paragraphs (iii), (iv), (v) and (vi) of subdivision (d) as added by section 5 of part A of chapter 63 of the laws of 2005, subdivision (e) as amended and subdivisions (m), (n) and (o) as added by chapter 708 of the laws of 1993, subdivision (h) as amended by chapter 39 of the laws of 2004, subdivision (p) as added by chapter 170 of the laws of 1994, subdivision (q) as amended by chapter 161 of the laws of 2005, subdivisions (s) and (t) as added by section 1 of part V-1 of chapter 109 of the laws of 2006, and subdivisions (a), (e), (f), (k), and (m) as further amended pursuant to section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

S 957. Definitions. As used in this article, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

(a) "Applicant" shall mean the county, city, town or village submitting an application in the manner authorized by local law for designation of an area as an empire zone.

(b) "Commissioner" shall mean the commissioner of economic development.

(c) "Minority-owned business enterprise" shall [mean a business enterprise, including a sole proprietorship, partnership or corporation, that is:

(i) at least fifty-one percent owned by one or more minority group members;

(ii) an enterprise in which such minority ownership is real, substantial and continuing;

(iii) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and

(iv) an enterprise authorized to do business in this state and independently owned and operated] HAVE THE SAME MEANING AS PROVIDED IN SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.

(d) "Empire zone" shall mean an area within the state that has been designated as an empire zone pursuant to this article and:

(i) all empire zones designated under paragraph (i) of subdivision (a) and subdivision (d) of section nine hundred fifty-eight of this article shall be referred to as "investment zones" and shall be wholly contained within up to three distinct and separate contiguous areas; provided, however, that empire zones designated prior to the enactment of this paragraph shall identify up to three distinct and separate contiguous areas, which shall equal up to their total allotted acreage at the time of designation by January first, two thousand six. Provided however, the existing zone must include as much designated acreage into the distinct and separate contiguous areas as possible. Provided, however, notwithstanding the provisions of paragraphs (i) and (ii) of subdivision (a) of section nine hundred fifty-eight and subdivision (d) of section nine hundred fifty-nine of this article a regionally significant project may be located outside of the investment zone's distinct and separate contiguous areas, provided such significant project is located within the zone applicant's municipal boundaries. Provided further however, if

the investment zone is located in a county that does not have a development zone such significant project may be located within the county's boundaries. For the purpose of this article a "regionally significant project" shall mean: a manufacturer projecting the creation of fifty or more jobs; or an agri-business or high tech or biotech business making a capital investment of ten million dollars and creating twenty or more jobs; or a financial or insurance services or distribution center creating three hundred or more jobs; or a clean energy research and development enterprise shall be eligible as a regionally significant project as determined by the local zone administrative board and commissioner. Other projects may be considered by the zone designation board;

(ii) all empire zones designated under subdivisions (b) and (c) of section nine hundred fifty-eight of this article shall be referred to as "development zones" and shall be wholly contained within up to six distinct and separate contiguous areas. However, an empire zone located in more than one county at the time of designation shall be wholly contained in up to twelve distinct and separate contiguous areas. Provided, however, that empire zones designated prior to the enactment of this paragraph shall identify up to six distinct and separate contiguous areas, which shall equal up to their total allotted acreage at the time of designation, by January first, two thousand six or in the case of an empire zone located in more than one county, at the time of designation shall identify twelve distinct and separate contiguous areas. Provided however, the existing zone must include as much designated acreage into the distinct and separate contiguous areas as possible. Provided, however, a regionally significant project may be located outside of the development zone's distinct and separate contiguous areas. For the purpose of this article a "regionally significant project" shall mean: a manufacturer projecting the creation of fifty or more jobs; or an agri-business or high tech or biotech business making a capital investment of ten million dollars and creating twenty or more jobs; or a financial or insurance services or distribution center creating three hundred or more jobs; or a clean energy research and development enterprise shall be eligible as a regionally significant project as determined by the local zone administrative board and the commissioner. Other projects may be considered by the zone designation board;

(iii) provided, however, a zone may apply to add one additional distinct and separate contiguous area, pursuant to paragraphs (i) and (ii) of this subdivision, to such zone upon the demonstration of need, provided, however, such additional distinct and separate contiguous area shall not result in an empire zone that exceeds the maximum allotted acreage;

(iv) a "development zone", pursuant to paragraph (ii) of this subdivision, shall apply, pursuant to subdivisions (a) and (d) of section nine hundred fifty-eight of this article, to have up to three distinct and separate contiguous areas defined as "investment zones", pursuant to this subdivision;

(v) any certified businesses located outside of the empire zone's distinct and separate contiguous areas, pursuant to this section, shall be allowed the empire zone benefits until they are decertified; and

(vi) the boundaries that comprise the distinct and separate contiguous areas in this subdivision must include at least the real property on one side of a public thoroughfare when such street is used as a boundary. No boundary shall be constructed as to connect one tax parcel to another tax parcel by using a thoroughfare's center line, sidewalk or other

similar means of connecting a non-contiguous area to the zone's distinct and separate contiguous areas.

(e) "Local empire zone administrative board" shall mean the entity designated by the applicant that is responsible for RECOMMENDING BUSINESS ENTERPRISES FOR CERTIFICATION PURSUANT TO PARAGRAPH (III) OF SUBDIVISION (A) OF SECTION NINE HUNDRED FIFTY-NINE OF THIS ARTICLE AND FOR monitoring, evaluating and coordinating all empire zone benefits on behalf of the applicant. Such entity shall consist of at least six members, [none of whom shall be the local empire zone certification officer,] and shall be representative of local businesses, organized labor, community organizations, financial institutions, local educational institutions and residents of the empire zone.

(f) ["Local empire zone certification officer" shall mean the official designated by the applicant who is responsible for jointly certifying and decertifying together with the commissioner and the commissioner of labor those business enterprises eligible to receive benefits pursuant to this article.

(g)] "Women-owned business enterprise" shall [mean a business enterprise, including a sole proprietorship, partnership or corporation, that is:

(i) at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women;

(ii) an enterprise in which the ownership interest of such women is real, substantial and continuing;

(iii) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and

(iv) an enterprise authorized to do business in this state and independently owned and operated] HAVE THE SAME MEANING AS PROVIDED IN SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.

[(h)] (G) "Locally owned business enterprise" shall mean (i) a business firm in which the total ownership interest held by individuals who are full time bona fide residents of such zone is more than eighty percent, whose business activities are conducted in a manner whereby at least fifty percent of the assets of such firm are located and utilized in such zone, and at least forty percent of such firm's employees are principally employed in such zone; or (ii) an agricultural cooperative established pursuant to section one hundred eleven of the cooperative corporations law; provided however, for business firms located within zones designated in a city such individuals shall reside within a community planning board or within traditional neighborhood boundaries and provided further however for business firms located within zones outside of a city such individuals may reside in the county in which the zone is designated.

[(i)] (H) "Chief executive" shall mean (i) a county executive or manager of a county; (ii) in a county not having a county executive or manager, the chairperson or other presiding officer of the county legislative body; (iii) a mayor of a city or village, except where a city or village has a manager, it shall mean such a manager; or (iv) a supervisor of a town, except where a town has a manager, it shall mean such manager.

[(j)] (I) "Minority group member" shall [mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

(i) Black persons having origins in any of the Black African racial groups;

(ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(iii) Native American or Alaskan native persons having origins in any of the original peoples of North America; and

(iv) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands] HAVE THE SAME MEANING AS PROVIDED IN SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.

[(k)] (J) "Targeted employee" shall mean a New York resident who receives empire zone wages pursuant to subdivision nineteen of section two hundred ten of the tax law and who is (i) an eligible individual under the provision of the targeted jobs tax credit (section fifty-one of the internal revenue code), (ii) eligible for benefits under the provisions of the job training partnership act (P.L. 97-300, as amended), (iii) a recipient of public assistance benefits, or (iv) an individual whose income is below the most recently established poverty rate promulgated by the United States department of commerce, or a member of a family whose family income is below the most recently established poverty rate promulgated by the appropriate federal agency.

An individual who satisfies the criteria set forth in clause (i), (ii) or (iv) of this subdivision at the time of initial employment in the job with respect to which the credit is claimed, or who satisfies the criterion set forth in clause (iii) of this subdivision at such time or at any time within the previous two years, shall be a targeted employee so long as such individual continues to receive empire zone wages.

[(l)] (K) "Single enterprise" means two or more related business enterprises characterized by an absence of arms length relationships found among enterprises that are not integrated. Factors to be considered, among other things, in determining the existence of a single enterprise are interrelation of operations, common management, centralized control of labor relations, common ownership and common financial control.

[(m)] (L) "Zone administrative entity" shall mean a community-based local development corporation or entity contracting with the local empire zone board pursuant to paragraph (viii) of subdivision [(b)] A of section nine hundred sixty-three of this article or the municipality in which the zone is located in those instances where the municipality actively participates in the local administration of the zone program.

[(n)] (M) "Human resource development" shall mean job preparation and placement, skills training and education for zone residents and employees of zone businesses, child and family care services and facilities, and activities to improve the health benefits and other benefits provided by zone businesses to their employees.

[(o)] (N) "Community development projects" shall mean projects sponsored by not-for-profit organizations which have been approved by the zone board, which will advance the zone development plan. For purposes described in subdivision twenty of section two hundred ten, subsection (l) of section six hundred six, subsection (d) of section fourteen hundred fifty-six and subdivision (h) of section fifteen hundred eleven of the tax law, such projects shall be limited to child care programs serving zone residents and businesses; community development projects in direct support of economic development and business revitalization activities, such as commercial revitalization projects; and business development activities of local development corporations.

[(p)] (O) "Zone equivalent area" shall mean an area designated as such pursuant to FORMER subdivision (bb) of section nine hundred fifty-nine of this article.

[(q)] (P) "Cost benefit analysis" shall mean, FOR PURPOSES OF PARAGRAPH (III) OF SUBDIVISION (A) OF SECTION NINE HUNDRED FIFTY-NINE OF THIS ARTICLE, a method of determining whether to certify a business [pursuant to section nine hundred sixty-three of this article] ENTERPRISE based on the [business'] BUSINESS ENTERPRISE'S projected job creation and/or investment in the zone versus the TOTAL amount of empire zone TAX benefits the business ENTERPRISE will potentially be allowed to [claim pursuant to sections fourteen, fifteen, and sixteen of the tax law.] USE AND HAVE REFUNDED TO IT AND SHALL BE A RATIO OF AT LEAST 10AGING FOR MANUFACTURING ENTERPRISES AND 20AGING FOR ALL OTHER BUSINESS ENTERPRISES, THE NUMERATOR OF WHICH IS THE SUM OF (I) THE ESTIMATED VALUE OF ALL WAGES AND BENEFITS PAID FOR THE FIRST THREE YEARS OF CERTIFICATION TO ALL EXISTING AND PROJECTED EMPLOYEES OF THE BUSINESS ENTERPRISE IN THE ZONE AND (II) THE ESTIMATED VALUE OF CAPITAL INVESTMENTS FOR THE FIRST THREE YEARS OF CERTIFICATION IN THE ZONE, AND THE DENOMINATOR OF WHICH IS THE ESTIMATED AMOUNT OF TOTAL EMPIRE ZONE TAX BENEFITS THAT MAY BE USED AND MAY BE REFUNDED FOR THE FIRST THREE YEARS OF CERTIFICATION.

[Such cost benefit analysis shall include, but not be limited to, an estimate for the first five years commencing in the year in which the business is certified, of: (i) the amount of all the state tax credits under the empire zones program which may be claimed by the entity or its members, partners, or shareholders each year, (ii) the value of the sales tax exemption on an annual basis, (iii) the estimated number of jobs created, (iv) the total annual remuneration and benefits for the employees within the zone location, (v) the cost of construction, renovation or expansion of the business's location within the zone, and (vi) the investment being made with respect to tangible personal property or other tangible property which is depreciable pursuant to section 179(d) of the Internal Revenue Code. Non-quantifiable factors may include a business enterprise's positive impact on an area that has high commercial vacancy rates, and/or is characterized by blight and disinvestment or the business enterprise is part of a strategic industry cluster or supply chain; or is anticipated to access zone capital credits.]

(r) "Clean energy research and development enterprise" shall mean any electric generating facility that used pulverized coal technology, circulating fluidized bed technology or integrated gasification combined cycle technology and that is capable of capturing carbon dioxide for sequestration or capable of being retrofitted to capture carbon dioxide for sequestration.

(s) "Qualified investment project" shall mean a project (i) located within an empire zone, (ii) at which five hundred or more jobs will be created, provided such jobs are new to the state and are in addition to any other jobs previously created by the owner of such project in the state, and (iii) which will consist of tangible personal property and other tangible property, including buildings and structural components of buildings, described in subparagraphs (i), (ii), (iii), (iv) and clause (A) or (C) of subparagraph (v) of paragraph (b) of subdivision twelve-B of section two hundred ten of the tax law, the basis of which for federal income tax purposes will equal or exceed seven hundred fifty million dollars. Provided however, the owner of such project does not employ more than two hundred persons in the state at the time such project is commenced.

(t) "Significant capital investment project" shall mean a project (i) located within an empire zone, (ii) which will be either a newly constructed facility or a newly constructed addition to or expansion of a qualified investment project, consisting of tangible personal property and other tangible property, including buildings and structural components of buildings, described in subparagraphs (i), (ii), (iii), (iv) and clause (A) or (C) of subparagraph (v) of paragraph (b) of subdivision twelve-B of section two hundred ten of the tax law, the basis of which for federal income tax purposes will equal or exceed seven hundred fifty million dollars, (iii) which is constructed after the basis for federal income tax purposes of the property comprising such qualified investment project equals or exceeds seven hundred fifty million dollars, and (iv) at which five hundred or more jobs will be created, provided such jobs are new to the state and are in addition to any other jobs previously created by the owner of such project in the state.

S 2. Intentionally omitted.

S 3. Section 959 of the general municipal law, as amended by section 5 of part A of chapter 63 of the laws of 2005 and subdivision (w) as amended by section 2 of part CCC1 of chapter 57 of the laws of 2008, is amended to read as follows:

S 959. Responsibilities of the commissioner. The commissioner shall:

(a) After consultation with the director of the budget, the commissioner of labor, and the commissioner of taxation and finance, promulgate regulations, WHICH, NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY IN THE STATE ADMINISTRATIVE PROCEDURE ACT, MAY BE ADOPTED ON AN EMERGENCY BASIS, governing (i) criteria of eligibility for empire zone designation, provided, however, that such criteria be approved by the director of the budget; (ii) the application process; (iii) the [joint] certification by the commissioner[, the commissioner of labor, and, in the case of an empire zone, the local empire zone certification officer,] as to the eligibility of business enterprises for benefits referred to in section nine hundred sixty-six of this article, WHICH SHALL BE GOVERNED BY CRITERIA INCLUDING, BUT NOT LIMITED TO: (1) WHETHER THE BUSINESS ENTERPRISE, IF CERTIFIED, IS REASONABLY LIKELY TO CREATE NEW EMPLOYMENT OR PREVENT A LOSS OF EMPLOYMENT IN THE ZONE, (2) WHETHER SUCH NEW EMPLOYMENT OPPORTUNITIES WILL BE FOR INDIVIDUALS WHO WILL PERFORM A SUBSTANTIAL PART OF THEIR EMPLOYMENT ACTIVITIES IN THE ZONE, (3) WHETHER CERTIFICATION WILL HAVE THE UNDESIRED EFFECT OF CAUSING INDIVIDUALS TO TRANSFER FROM EXISTING EMPLOYMENT WITH ANOTHER BUSINESS ENTERPRISE TO SIMILAR EMPLOYMENT WITH THE BUSINESS ENTERPRISE SO CERTIFIED, AND TRANSFERRING EXISTING EMPLOYMENT FROM ONE OR MORE OTHER MUNICIPALITIES, TOWNS OR VILLAGES IN THE STATE, OR TRANSFERRING EXISTING EMPLOYMENT FROM ONE OR MORE OTHER BUSINESSES IN THE ZONE, (4) WHETHER SUCH ENTERPRISE IS LIKELY TO ENHANCE THE ECONOMIC CLIMATE OF THE ZONE, (5) WHETHER THE COMMISSIONER OF LABOR ESTABLISHES THAT SUCH BUSINESS ENTERPRISE, DURING THE THREE YEARS PRECEDING THE SUBMISSION OF AN APPLICATION FOR CERTIFICATION, HAS ENGAGED IN A SUBSTANTIAL VIOLATION OR A PATTERN OF VIOLATIONS OF LAWS REGULATING UNEMPLOYMENT INSURANCE, WORKERS COMPENSATION, PUBLIC WORK, CHILD LABOR, EMPLOYMENT OF MINORITIES AND WOMEN, SAFETY AND HEALTH, OR OTHER LAWS FOR THE PROTECTION OF WORKERS AS DETERMINED BY FINAL JUDGMENT OF A JUDICIAL OR ADMINISTRATIVE PROCEEDING; (6) WHETHER SUCH BUSINESS MEETS THE REQUIREMENTS OF THE COST BENEFIT ANALYSIS AS ESTABLISHED IN PARAGRAPH (P) OF SECTION NINE HUNDRED FIFTY-SEVEN OF THIS ARTICLE, AND (7) IF THE COMMISSIONER OF LABOR ESTABLISHES THAT THE BUSINESS ENTERPRISE HAS BEEN FOUND IN A CRIMINAL PROCEEDING TO HAVE VIOLATED, IN THE PREVIOUS THREE YEARS, ANY OF THE LAWS REFERRED TO

IN SUBPARAGRAPH FIVE OF THIS PARAGRAPH OR REGULATIONS PROMULGATED PURSUANT TO SUCH LAWS, THE CONDITIONS OF ANY PERMIT ISSUED THEREUNDER, OR SIMILAR STATUTE, REGULATION, ORDER OR PERMIT CONDITION OF ANY OTHER GOVERNMENT AGENCY, FOREIGN OR DOMESTIC, SUCH BUSINESS SHALL NOT BE CERTIFIED; provided, however, that a business enterprise that has shifted its operations, or some portions thereof, from an area within New York state not designated as an empire zone or zone equivalent area to an area so designated shall not be certified to receive such benefits except where such shift is entirely within a municipality and has been approved by the local governing body of such municipality or in situations where it has been established, after a public hearing, that extraordinary circumstances exist which warrant the relocation of a business, in whole or part, into an empire zone or a zone equivalent area from another municipality and the municipality from which the business is relocating approves of such relocation; or where such shift in operations is from a business incubator facility operated by a municipality or by a public or private not-for-profit entity which provides space and business support services to newly established firms; and (iv) the [joint] decertification BY THE COMMISSIONER, UPON THE RECOMMENDATION OF THE COMMISSIONER OF LABOR, SO AS TO REVOKE THE CERTIFICATION OF BUSINESS ENTERPRISES FOR BENEFITS REFERRED TO IN SECTION NINE HUNDRED SIXTY-SIX OF THIS ARTICLE WITH RESPECT TO AN EMPIRE ZONE OR ZONE EQUIVALENT AREA UPON A FINDING THAT THE BUSINESS ENTERPRISE HAS COMMITTED SUBSTANTIAL VIOLATIONS OF LAWS FOR THE PROTECTION OF WORKERS INCLUDING ALL FEDERAL, STATE AND LOCAL LABOR LAWS, RULES OR REGULATIONS; AND (V) THE DECERTIFICATION by the commissioner[, the commissioner of labor, and, in the case of an empire zone, the local empire zone certification officer] so as to revoke the certification of business enterprises for benefits referred to in section nine hundred sixty-six of this article with respect to an empire zone or zone equivalent area upon a finding [that] OF ANY ONE OF THE FOLLOWING: (1) the business enterprise made material misrepresentations of fact on its application for certification OR IN ANY OF ITS BUSINESS ANNUAL REPORTS, or the business enterprise failed to disclose facts in its application for certification that would constitute grounds for not issuing a certification; (2) the business enterprise has failed to construct, expand, rehabilitate or operate OR INVEST IN its facility substantially in accordance with the representations contained in its application for certification; (3) the business enterprise has failed to create new employment or prevent a loss of employment in the empire zone or zone equivalent area [provided, however, that such failure was not due to economic circumstances or conditions which such business could not anticipate or which were beyond its control]; (4) where applicable, the business enterprise has failed to submit an annual report after it has applied for zone [incentives] TAX BENEFITS or program assistance based on new hires or investments or failed to submit other information [to the local empire zone certification officer] when due; [or] (5) the business enterprise [has committed substantial violations of laws for the protection of workers including all federal, state and local labor laws, rules or regulations;], IF FIRST CERTIFIED PURSUANT TO THIS ARTICLE PRIOR TO THE FIRST DAY OF AUGUST, TWO THOUSAND TWO, CAUSED INDIVIDUALS TO TRANSFER FROM EXISTING EMPLOYMENT WITH ANOTHER BUSINESS ENTERPRISE WITH SIMILAR OWNERSHIP AND LOCATED IN NEW YORK STATE TO SIMILAR EMPLOYMENT WITH THE CERTIFIED BUSINESS ENTERPRISE OR IF THE ENTERPRISE ACQUIRED, PURCHASED, LEASED, OR HAD TRANSFERRED TO IT REAL PROPERTY PREVIOUSLY OWNED BY AN ENTITY WITH SIMILAR OWNERSHIP, REGARDLESS OF FORM OF INCORPORATION OR ORGANIZATION; (6)

THE BUSINESS ENTERPRISE HAS FAILED TO PROVIDE ECONOMIC RETURNS TO THE STATE IN THE FORM OF TOTAL REMUNERATION TO ITS EMPLOYEES (I.E. WAGES AND BENEFITS) AND INVESTMENTS IN ITS FACILITY GREATER IN VALUE TO THE TAX BENEFITS THE BUSINESS ENTERPRISE USED AND HAD REFUNDED TO IT; OR (7) THE BUSINESS ENTERPRISE HAS CHANGED OWNERSHIP OR MOVED ITS OPERATIONS OUT OF THE EMPIRE ZONE; said regulations shall provide that whenever any business enterprise is decertified with respect to an empire zone: (A) the date determined to be the earliest event constituting grounds for revoking certification shall be the effective date of decertification; (B) its certified single enterprise, if any, may also be decertified; and (C) the commissioner shall notify the commissioner of taxation and finance that such decertification has occurred, and such notification should include the effective date of such decertification and the zone or zone equivalent area to which such decertification applies;

(b) Receive and review applications for designation of areas as empire zones;

(c) Analyze and make recommendations to the empire zones designation board for designation of areas as empire zones, provided, however, that all such areas recommended by the commissioner shall meet the requirements of this article;

(d) Review new applications to replace any previously designated empire zone the designation of which has been terminated or withdrawn[;

(e) File] AND FILE notice of the designation or redesignation of an empire zone or of the revision or termination of such designation with the applicant, the department of taxation and finance, the secretary of state, with the county, city, town or village clerk of each county, city, town, or village, respectively, in which the empire zone is located, with the school district governing body in which the empire zone is located, with the state board of real property services and with other state and local entities; provided, however, that such notice shall specify the date such action was taken and shall contain a description sufficient to identify the empire zone, including the names of the abutting streets, roads, highways, bodies of water, or other identifying physical features;

[(f)] (E) Request, and shall receive from any department, division, board, bureau, commission, agency or public authority of the state such assistance as may be necessary to establish a procedure whereby applications submitted by business entities, community-based organizations, not-for-profit organizations, human service agencies, labor unions and municipal agencies located within an empire zone requesting financial and other assistance provided by state programs, including, but not limited to, capital development, human resource development, business assistance, job training and job placement shall, consistent with federal law, be given priority over applications submitted by entities not located in empire zones;

[(g)] (F) Establish a priority for the allocation of authority to issue private activity bonds for the benefit of municipalities and business enterprises located or to be located within empire zones;

[(h)] (G) Coordinate, with the local empire zone administrative board and state agencies and authorities, the provision of business development programs and services for each empire zone in order to stimulate the creation and development of new small businesses, including new small minority-owned and women-owned business enterprises, and may request and shall receive from any department, division, board, bureau, commission, agency or public authority of the state such assistance as may be necessary;

[(i)] (H) Coordinate with the comptroller and the commissioner of taxation and finance a linked deposit program. The comptroller and the commissioner of taxation and finance are hereby authorized and empowered to enter into agreements with financial institutions located in or serving the empire zones, to provide for the deposit of funds administered jointly by them in such institutions, at reduced rates of return to the state, in return for commitments by such institutions to businesses of loans of comparable amounts, at reduced interest rates, for business development projects in the zones that will create or preserve jobs;

[(j)] (I) Assist each local empire zone board in preparing a small business assistance plan as required by section nine hundred sixty-three of this article and coordinate with the local empire zone administrative board and state agencies and authorities the development of small business procurement, export and marketing programs for businesses within the empire zones;

[(k)] (J) Promulgate regulations, in consultation with the commissioner of labor, for program evaluation and coordinate implementation of an evaluation system, which is capable of compiling and analyzing accurate and consistent information necessary for an assessment of whether statutory objectives and criteria are being met;

[(l)] (K) Review performance objectives and progress in meeting objectives with zone boards and zone administrative entities as part of the annual administrative contract process;

[(m)] (L) Assist zone boards and zone administrative entities to effect and implement job training and social services agreements and programs provided for in paragraphs (v), (vi) and (vii) of subdivision [(b)] (A) of section nine hundred sixty-three of this article and request and receive from any agency or authority of the state such assistance as may be necessary to improve the delivery and coordination of human resource development programs to the zones;

[(n)] (M) Assist zones in increasing their child care capacity and in planning special care activities, including the provision of technical assistance by the department in planning for the provision of child care services in the zones;

[(o)] (N) Coordinate with the department of labor, the state education department, the job training partnership council and agencies of the state the inclusion in annual and biennial plans of such entities strategies for increasing and improving human resource development services on a priority basis, consistent with federal statutory and regulatory requirements, to residents of the zones and employees of zone businesses, including, but not limited to, the governor's plan for coordination and special services of the job training partnership council, the jobs plan and Wagner-Peyser annual plan for services of the department of labor, and the career education state plan of the state education department;

[(p)] (O) Arrange with the job training partnership council the provision of the workforce investment act funds for use within the zones with the cooperation of the service delivery areas in the governor's plan for coordination and special services;

[(q)] (P) Subject to the availability of funds, arrange for the allocation and reservation of funds from the infrastructure improvement programs of state agencies and authorities to assist the zones to make public improvements necessary for community, commercial, industrial and tourism development projects in support of zone revitalization;

[(r)] (Q) Systematically enlist other state agencies and authorities to participate in zone programs and projects and in cooperative planning

of interagency zone activities in support of zone revitalization efforts;

[(s)] (R) Recommend for economic development loan and grant programs of the department of economic development, urban development corporation, job development authority, and science and technology foundation special terms and conditions for viable zone projects and programs;

[(t)] (S) Award preference to be given to applications submitted by or on behalf of zones for entrepreneurial assistance programs under article nine of the omnibus economic development act of nineteen hundred eighty-seven to support the creation of new entrepreneurial development and entrepreneurial support centers;

[(u)] (T) Coordinate with the urban development corporation the creation of a special category of assistance for zones within the regional economic development partnership program, which will make available economic development assistance grants for zone programs and activities, including, but not limited to, planning, service coordination, and local institutional capacity building for human resource development necessary for economic revitalization; planning and development of small business incubators; job placement and preparedness programs for zones residents; education and training programs for zone businesses; child care programs and projects supportive of business development; technical assistance for minority and women-owned business development; training for zone officials; business and tourism development and marketing programs; and other innovative programs and activities in support of economic and community development within the zones; [and]

[(v)] (U) Assist in the development of a plan, in coordination with the health and insurance departments, to assist zones in obtaining affordable employee health insurance for small business enterprises located within the zone[.];

[(w)] (V) Approve applications for qualification of a business enterprise as the owner of a qualified investment project or as the owner of a significant capital investment project, as defined in subdivisions (s) and (t), respectively, of section nine hundred fifty-seven of this article. As a condition for approval of such application, the commissioner is authorized to specify certain requirements to be satisfied as a condition for approval of such application as the commissioner deems necessary to ensure that the project will make a substantial contribution to the economic development of this state. An application for qualification of a business enterprise as the owner of a qualified investment must be submitted by December thirty-first, two thousand nine. An application for qualification of a business as the owner of a significant capital investment project as defined in subdivision (t) of section nine hundred fifty-seven of this article, which application is submitted by an entity previously qualified by the commissioner as the owner of a qualified investment project or an entity which is a related person, as that term is defined in section 465(b)(3)(c) of the internal revenue code, to an entity previously qualified by the commissioner as the owner of a qualified investment project, must be submitted by June thirtieth, two thousand eleven. No applications submitted after these dates may be approved; AND

(W) CONDUCT A REVIEW DURING CALENDAR YEAR TWO THOUSAND NINE OF ALL BUSINESS ENTERPRISES TO DETERMINE WHETHER THE BUSINESS ENTERPRISES SHOULD BE DECERTIFIED PURSUANT TO SUBPARAGRAPHS FIVE AND SIX OF PARAGRAPH (V) OF SUBDIVISION (A) OF THIS SECTION AND THE REGULATIONS PROMULGATED UNDER THIS ARTICLE. AFTER SUCH REVIEW, THE COMMISSIONER SHALL

ISSUE AN EMPIRE ZONE RETENTION CERTIFICATE TO EACH FIRM THAT THE COMMISSIONER DETERMINES IS NOT SUBJECT TO DECERTIFICATION UNDER SUBPARAGRAPHS FIVE AND SIX OF PARAGRAPH (V) OF SUBDIVISION (A) OF THIS SECTION. THE DECERTIFICATION REFERRED TO IN SUBPARAGRAPH SIX OF PARAGRAPH (V) OF SUBDIVISION (A) OF THIS SECTION SHALL BE BASED UPON AN ANALYSIS OF DATA CONTAINED IN AT LEAST THREE BUSINESS ANNUAL REPORTS FILED BY THE BUSINESS ENTERPRISE. IF ANY BUSINESS ENTERPRISE FAILS THE ANALYSIS DESCRIBED IN THE IMMEDIATELY PRECEDING SENTENCE, OR IF THE COMMISSIONER MAKES THE FINDING DESCRIBED IN SUBPARAGRAPH FIVE OF PARAGRAPH (V) OF SUBDIVISION (A) OF THIS SECTION, THE COMMISSIONER SHALL REVOKE THE CERTIFICATION OF SUCH BUSINESS ENTERPRISE PURSUANT TO PARAGRAPH (IV) OF SUBDIVISION (A) OF THIS SECTION AND AS SPECIFIED HEREIN; PROVIDED, HOWEVER, THE COMMISSIONER MAY CONSIDER, AFTER CONSULTATION WITH THE DIRECTOR OF THE BUDGET, AND IN HIS OR HER SOLE DISCRETION, OTHER ECONOMIC, SOCIAL AND ENVIRONMENTAL FACTORS WHEN EVALUATING THE COSTS AND BENEFITS OF A PROJECT TO THE STATE AND WHETHER CONTINUED CERTIFICATION IS WARRANTED BASED ON SUCH FACTORS. THE COMMISSIONER SHALL PROVIDE WRITTEN NOTIFICATION TO SUCH BUSINESS ENTERPRISE OF HIS OR HER DETERMINATION TO REVOKE THE CERTIFICATION, INCLUDING THE REASONS THEREFOR. SUCH NOTIFICATION SHALL STATE THAT THE BUSINESS ENTERPRISE MAY APPEAL THE DETERMINATION BY SENDING A WRITTEN NOTICE TO THE EMPIRE ZONE DESIGNATION BOARD OF SUCH APPEAL NO LATER THAN FIFTEEN BUSINESS DAYS FROM THE DATE OF THE COMMISSIONER'S REVOCATION NOTIFICATION. PROVIDED THAT THE BUSINESS ENTERPRISE APPEALS THE COMMISSIONER'S DETERMINATION WITHIN FIFTEEN BUSINESS DAYS OF THE COMMISSIONER'S REVOCATION NOTIFICATION, THE BUSINESS ENTERPRISE MAY PRESENT A WRITTEN SUBMISSION TO THE EMPIRE ZONE DESIGNATION BOARD NO LATER THAN SIXTY DAYS FOLLOWING THE DATE THE COMMISSIONER'S REVOCATION NOTIFICATION WAS SENT TO THE BUSINESS ENTERPRISE EXPLAINING WHY ITS CERTIFICATION SHOULD BE CONTINUED. THE EMPIRE ZONE DESIGNATION BOARD SHALL CONSIDER THE EXPLANATION PROVIDED BY THE BUSINESS ENTERPRISE, BUT SHALL ONLY REVERSE THE DETERMINATION TO REVOKE THE BUSINESS ENTERPRISE'S CERTIFICATION IF THE EMPIRE ZONE DESIGNATION BOARD UNANIMOUSLY FINDS THAT THERE WAS INSUFFICIENT EVIDENCE PRESENTED DEMONSTRATING THAT THE COMMISSIONER'S FINDING, WITH RESPECT TO SUBPARAGRAPH SIX OF PARAGRAPH (V) OF SUBDIVISION (A) OF THIS SECTION, WAS IN ERROR, OR THAT, WITH RESPECT TO SUBPARAGRAPH FIVE OF PARAGRAPH (V) OF SUBDIVISION (A) OF THIS SECTION, ANY EXTRAORDINARY CIRCUMSTANCES OCCURRED WHICH WOULD JUSTIFY THE CONTINUED CERTIFICATION OF THE BUSINESS ENTERPRISE.

S 4. Subdivision (b) of section 959-b of the general municipal law, as added by section 17 of part W1 of chapter 109 of the laws of 2006, is amended to read as follows:

(b) The commissioner of economic development shall serve as the sole certification officer for businesses seeking certification as a clean energy enterprise. The commissioner of economic development, after consultation with the executive director of the New York state energy research and development authority, shall promulgate regulations governing (i) criteria of eligibility for designation of a clean energy enterprise, (ii) the application process, and (iii) the certification by the commissioner of economic development as to the eligibility of business enterprises for benefits referred to in section nine hundred sixty-six of this article. A business so certified shall be deemed to be eligible for such benefits as if such business were located in an investment zone as defined in paragraph (i) of subdivision (d) of section nine hundred fifty-seven of this article. No such certification shall be made after [December thirty-first] JUNE THIRTIETH, two thousand [eleven] TEN.

S 5. Subdivisions (a-1) and (a-2) and the opening paragraph of paragraph (ii) of subdivision (e) of section 960 of the general municipal law, subdivision (a-1) as amended by section 2 of part HH of chapter 59 of the laws of 2006, subdivision (a-2) as added and the opening paragraph of paragraph (ii) of subdivision (e) as amended by section 5 of part A of chapter 63 of the laws of 2005, are amended to read as follows:

(a-1) The empire zones designation board may consider designating empire zone acreage for the following categories of regionally significant projects as set forth in section nine hundred fifty-seven of this article: agri-business or high tech or biotech business making a capital investment of ten million dollars and creating twenty or more jobs; or a financial or insurance services or distribution center creating three hundred or more jobs; or a clean energy research and development enterprise. Such consideration shall be upon application SUBMITTED by the [local zone administrative board and/or the] commissioner. Such application shall be made after a public hearing in accordance with section nine hundred sixty-nine of this article and in accordance with findings which shall consider factors including but not limited to: the creation and retention of a regionally significant number of skilled or otherwise quality jobs; substantial capital investment; or the export of a substantial amount of goods or services beyond the immediate region; and further findings as to why such project cannot be accommodated within the distinct and separate contiguous areas pursuant to section nine hundred fifty-seven of this article. Such findings shall be published once a week for four successive weeks, in two newspapers of the county of which the project is to be located or if no newspaper is published therein, in the newspaper nearest thereto. Proof of such publication shall be submitted to the board. The board shall not act on such project or projects until thirty days of the final publication of such findings.

(a-2) The empire zones designation board may consider designating empire zone acreage for other regionally significant projects in accordance with section nine hundred fifty-seven of this article, upon application SUBMITTED by the [local zone administrative board and/or the] commissioner. Such application shall be made after a public hearing in accordance with section nine hundred sixty-nine of this article and in accordance with findings which shall consider factors including, but not limited to: the creation and retention of a regionally significant number of skilled or otherwise quality jobs; substantial capital investment; or the export of a substantial amount of goods or services beyond the immediate region; and further findings as to why such project cannot be accommodated within the distinct and separate contiguous areas pursuant to section nine hundred fifty-seven of this article. Such findings shall be published once a week for four successive weeks, in two newspapers of the county of which the project is to be located or if no newspaper is published therein, in the newspaper nearest thereto. Proof of such publication shall be submitted to the board. The board shall not act on such project or projects until thirty days of the final publication of such findings. Provided, however, that the commissioner shall promulgate rules and regulations for the implementation of this subdivision after approval by the empire zones designation board. Provided further, approval of such projects and related regulations requires an affirmative vote by at least five voting members of such board.

[An entity independent of the department shall conduct and submit to the governor and the legislature by no later than December thirty-first, two thousand nine, a comprehensive evaluation of the performance of the

zones program and of individual zones on meeting criteria established pursuant to this section. The criteria by which the empire zones program and individual zones are to be evaluated shall include, but not be limited to, the following:]

S 6. Subdivision (cc) of section 962 of the general municipal law is REPEALED.

S 7. Subdivision (a) of section 963 of the general municipal law is REPEALED and subdivisions (b), (c), (d), (e), (f) and (g) are relettered subdivisions (a), (b), (c), (d), (e) and (f).

S 8. Subdivision (f) of section 963 of the general municipal law, as added by section 5 of part A of chapter 63 of the laws of 2005, and as relettered by section seven of this act, is amended to read as follows:

(f) All certified businesses are required to provide a certified annual report to the local zone administration board which report shall include but not be limited to the following:

(i) Business certification information to include: organization name, organization address in the zone, contact information, federal employment ID number, New York state unemployment insurance number, state of formation or incorporation, verification that the business is authorized to conduct business in the state of New York;

(ii) Employment numbers calculated in the same manner in which the employment number is required to be calculated by section fourteen of the tax law including: total existing full-time equivalent jobs in the zone as of the date of certification within that zone, total existing jobs in the zone for the year for which the report is being provided, total remuneration paid to employees in the zone each quarter of the reported year, total number of employees in all zones, total annual remuneration in all zones, total annual remuneration paid in New York state for the reported year, total employment number in New York state for the reported year as shown on each business' NYS-45 wage reporting form filed with the department of labor;

(iii) Capital investment to include: total investment made in the zone for the reported year[, with such investment being made with respect to tangible personal property or other tangible property which is depreciable pursuant to section one hundred seventy-nine (d) of the internal revenue code];

(iv) Tax [credits claimed] BENEFITS USED AND REFUNDED: provide an estimation of the amount of the [following credits claimed] TAX BENEFITS USED AND REFUNDED for the reported year by the certified business, or by the taxpayers within the certified business including its shareholders, members, partners or the owner of a sole proprietorship[:] INCLUDING THE wage tax credits, investment tax credits, employment incentive tax credits, real property tax credit, [and] tax reduction credit; and

(v) [Other benefits: estimated value to the certified business of the] THE sales tax [exemption] CREDITS AND REFUNDS for the reported year.

S 9. Subdivision (a) of section 964 of the general municipal law, as amended by chapter 708 of the laws of 1993 and as further amended pursuant to section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(a) No more than three empire zone capital corporations may be established in each zone for the purpose of raising funds through private and public grants, donations or investments, to be used in making investments in, and loans to, business firms certified pursuant to subdivision (a) of section nine hundred [sixty-three] FIFTY-NINE of this article for the purpose of encouraging the establishment or expansion of businesses and the provision of additional job opportunities within such area. A

zone capital corporation may serve one or more zones within an economic development region or zones within two or more regions. Prior to the establishment of a zone capital corporation, the zone board and the commissioner of the department of economic development shall approve the formation of the proposed zone capital corporation, its board of directors and management, and its procedures for making, servicing and monitoring investments. In no event, however, shall an empire zone capital corporation acquire an ownership interest in any certified business firm which amounts to more than twenty-five percent of the ownership interest of such certified business firm. No loan to or investment in any business firm shall be made by an empire zone capital corporation located in a zone within a town with a population of more than twenty-five thousand, until such corporation has accumulated at least two hundred thousand dollars in capital stock. No loan or investment in any business firm shall be made by an empire zone capital corporation located in a zone within a town with a population of less than twenty-five thousand until such corporation has accumulated at least one hundred thousand dollars in capital stock. A zone capital corporation shall submit to the zone board an annual report on its activities.

S 10. Subdivision (a) of section 969 of the general municipal law, as amended by section 5 of part A of chapter 63 of the laws of 2005, is amended to read as follows:

(a) Except as provided in this section, any designation of an area as an empire zone shall remain in effect during the period beginning on the date of designation and ending June thirtieth, two thousand [eleven] TEN.

S 11. Subdivision 19 of section 210 of the tax law is amended by adding a new paragraph (e-1) to read as follows:

(E-1) ANY CARRY OVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE ALLOWED IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE CREDIT.

S 12. Subsection (k) of section 606 of the tax law is amended by adding a new paragraph 5-a to read as follows:

(5-A) ANY CARRY OVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE ALLOWED IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE CREDIT.

S 13. Subsection (e) of section 1456 of the tax law is amended by adding a new paragraph 5-a to read as follows:

(5-A) ANY CARRY OVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE ALLOWED IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE CREDIT.

S 14. Subdivision (g) of section 1511 of the tax law is amended by adding a new paragraph 5-a to read as follows:

(5-A) ANY CARRY OVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE ALLOWED IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE CREDIT.

S 15. Subdivision 12-B of section 210 of the tax law is amended by adding a new paragraph (d-1) to read as follows:

(D-1) ANY CARRY OVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE ALLOWED IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE CREDIT.

S 16. Subsection (j) of section 606 of the tax law is amended by adding a new paragraph 4-a to read as follows:

(4-A) ANY CARRY OVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE ALLOWED IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE CREDIT.

S 17. Subdivision 12-C of section 210 of the tax law is amended by adding a new paragraph (c-1) to read as follows:

(C-1) ANY CARRY OVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE ALLOWED IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE CREDIT.

S 18. Subsection (j-1) of section 606 of the tax law is amended by adding a new paragraph 3-a to read as follows:

(3-A) ANY CARRY OVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE ALLOWED TO AN EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE CREDIT, IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED TO SUCH ENTITY PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW.

S 19. Subdivision 20 of section 210 of the tax law is amended by adding a new paragraph (b-1) to read as follows:

(B-1) ANY CARRY OVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE ALLOWED TO AN EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE CREDIT, IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED TO SUCH ENTITY PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW.

S 20. Subsection (1) of section 606 of the tax law is amended by adding a new paragraph 1-a to read as follows:

(1-A) ANY CARRY OVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE ALLOWED TO AN EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE CREDIT, IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED TO SUCH ENTITY PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW.

S 21. Subsection (d) of section 1456 of the tax law is amended by adding a new paragraph 2-a to read as follows:

(2-A) ANY CARRY OVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE ALLOWED TO AN EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE CREDIT, IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED TO SUCH ENTITY PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW.

S 22. Subdivision (h) of section 1511 of the tax law is amended by adding a new paragraph 2-a to read as follows:

(2-A) ANY CARRY OVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE ALLOWED TO AN EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE CREDIT, IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED TO SUCH ENTITY PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW.

S 23. Section 1088 of the tax law is amended by adding a new subsection (h) to read as follows:

(H) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHT AND BEFORE JANUARY FIRST, TWO THOUSAND NINE, INTEREST WILL BE ALLOWED ON AN OVER-PAYMENT ON ANY RETURN OR REPORT ON WHICH ONE OR MORE EMPIRE ZONE TAX CREDITS ARE CLAIMED, ONLY FROM THE ONE HUNDRED EIGHTIETH DAY AFTER THE TAXPAYER FILES WITH THE DEPARTMENT AN EMPIRE ZONE RETENTION CERTIFICATE ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS FOR THE TAX CREDIT OR CREDITS CLAIMED ON THE RETURN OR REPORT.

S 24. Section 688 of the tax law is amended by adding a new subsection (h) to read as follows:

(H) NOTWITHSTANDING ANY OTHER PROVISIONS IN THIS SECTION, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHT AND BEFORE JANUARY FIRST, TWO THOUSAND NINE, INTEREST WILL BE ALLOWED ON AN OVER-PAYMENT ON ANY RETURN OR REPORT ON WHICH ONE OR MORE EMPIRE ZONE TAX CREDITS ARE CLAIMED, ONLY FROM THE ONE HUNDRED EIGHTIETH DAY AFTER THE TAXPAYER FILES WITH THE DEPARTMENT AN EMPIRE ZONE RETENTION CERTIFICATE ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS FOR THE TAX CREDIT OR CREDITS CLAIMED ON THE RETURN OR REPORT.

S 25. Subsection (c) of section 1089 of the tax law is amended by adding a new paragraph 4 to read as follows:

(4) NOTWITHSTANDING PARAGRAPH THREE OF THIS SUBSECTION, NO PETITION MAY BE FILED BY A TAXPAYER CLAIMING A REFUND OF ONE OR MORE EMPIRE ZONE TAX CREDITS FOR A TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHT AND BEFORE JANUARY FIRST, TWO THOUSAND NINE, UNTIL SIX MONTHS HAVE EXPIRED AFTER THE DATE ON WHICH AN EMPIRE ZONE RETENTION CERTIFICATE WAS ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS FOR THE TAX CREDIT OR CREDITS CLAIMED ON THE RETURN OR REPORT.

S 26. Subsection (c) of section 689 of the tax law is amended by adding a new paragraph 4 to read as follows:

(4) NOTWITHSTANDING PARAGRAPH THREE OF THIS SUBSECTION, NO PETITION MAY BE FILED BY A TAXPAYER CLAIMING A REFUND OF ONE OR MORE EMPIRE ZONE TAX CREDITS FOR A TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHT AND BEFORE JANUARY FIRST, TWO THOUSAND NINE, UNTIL SIX MONTHS HAVE EXPIRED AFTER THE DATE ON WHICH AN EMPIRE ZONE RETENTION CERTIFICATE WAS ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS FOR THE TAX CREDIT OR CREDITS CLAIMED ON THE RETURN OR REPORT.

S 27. Section 1085 of the tax law is amended by adding a new subsection (k-2) to read as follows:

(K-2) NO PENALTY WILL BE IMPOSED PURSUANT TO SUBSECTION (C) OR (K) OF THIS SECTION FOR A TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHT AND BEFORE JANUARY FIRST, TWO THOUSAND NINE RESULTING FROM THE DENIAL OF AN EMPIRE ZONE TAX CREDIT CLAIMED BY THE TAXPAYER BECAUSE AN EMPIRE ZONE RETENTION CERTIFICATE WAS NOT ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS FOR THE TAX CREDIT OR CREDITS CLAIMED ON THE RETURN OR REPORT.

S 28. Section 685 of the tax law is amended by adding a new subsection (p-2) to read as follows:

(P-2) NO PENALTY WILL BE IMPOSED PURSUANT TO SUBSECTION (C) OR (P) OF THIS SECTION FOR A TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO

THOUSAND EIGHT AND BEFORE JANUARY FIRST, TWO THOUSAND NINE RESULTING FROM THE DENIAL OF AN EMPIRE ZONE TAX CREDIT CLAIMED BY THE TAXPAYER BECAUSE AN EMPIRE ZONE RETENTION CERTIFICATE WAS NOT ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS FOR THE TAX CREDIT OR CREDITS CLAIMED ON THE RETURN.

S 29. Subdivision (b) of section 15 of the tax law is amended by adding a new paragraph 3 to read as follows:

(3) FOR A BUSINESS ENTERPRISE WHICH IS FIRST CERTIFIED UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW ON OR AFTER APRIL FIRST, TWO THOUSAND NINE, THE CREDIT ALLOWED SHALL BE SEVENTY-FIVE PERCENT OF THE AMOUNT CALCULATED UNDER PARAGRAPH TWO OF THIS SUBDIVISION.

S 30. Subdivision (z) of section 1115 of the tax law is REPEALED.

S 31. Section 1119 of the tax law is amended by adding a new subdivision (d) to read as follows:

(D)(1) SUBJECT TO THE CONDITIONS AND LIMITATIONS PROVIDED FOR IN THIS SECTION, A REFUND OR CREDIT WILL BE ALLOWED FOR TAXES IMPOSED ON THE RETAIL SALE OF TANGIBLE PERSONAL PROPERTY DESCRIBED IN SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE, AND ON EVERY SALE OF SERVICES DESCRIBED IN SUBDIVISIONS (B) AND (C) OF SUCH SECTION, AND CONSIDERATION GIVEN OR CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, SUCH TANGIBLE PERSONAL PROPERTY OR SERVICES, WHERE SUCH TANGIBLE PERSONAL PROPERTY OR SERVICES ARE SOLD TO A QUALIFIED EMPIRE ZONE ENTERPRISE, PROVIDED THAT (A) SUCH TANGIBLE PERSONAL PROPERTY OR TANGIBLE PERSONAL PROPERTY UPON WHICH SUCH A SERVICE HAS BEEN PERFORMED OR SUCH SERVICE (OTHER THAN A SERVICE DESCRIBED IN SUBDIVISION (B) OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE) IS DIRECTLY AND PREDOMINANTLY, OR SUCH A SERVICE DESCRIBED IN CLAUSE (A) OR (D) OF PARAGRAPH ONE OF SUCH SUBDIVISION (B) OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE IS DIRECTLY AND EXCLUSIVELY, USED OR CONSUMED BY SUCH ENTERPRISE IN AN AREA DESIGNATED AS AN EMPIRE ZONE PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW WITH RESPECT TO WHICH SUCH ENTERPRISE IS CERTIFIED PURSUANT TO SUCH ARTICLE EIGHTEEN-B, OR (B) SUCH A SERVICE DESCRIBED IN CLAUSE (B) OR (C) OF PARAGRAPH ONE OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE IS DELIVERED AND BILLED TO SUCH ENTERPRISE AT AN ADDRESS IN SUCH EMPIRE ZONE, OR (C) THE ENTERPRISE'S PLACE OF PRIMARY USE OF THE SERVICE DESCRIBED IN PARAGRAPH TWO OF SUCH SUBDIVISION (B) OF SECTION ELEVEN HUNDRED FIVE IS AT AN ADDRESS IN SUCH EMPIRE ZONE; PROVIDED, FURTHER, THAT, IN ORDER FOR A MOTOR VEHICLE, AS DEFINED IN SUBDIVISION (C) OF SECTION ELEVEN HUNDRED SEVENTEEN OF THIS ARTICLE, OR TANGIBLE PERSONAL PROPERTY RELATED TO SUCH A MOTOR VEHICLE TO BE FOUND TO BE USED PREDOMINANTLY IN SUCH A ZONE, AT LEAST FIFTY PERCENT OF SUCH MOTOR VEHICLE'S USE SHALL BE EXCLUSIVELY WITHIN SUCH ZONE OR AT LEAST FIFTY PERCENT OF SUCH MOTOR VEHICLE'S USE SHALL BE IN ACTIVITIES ORIGINATING OR TERMINATING IN SUCH ZONE, OR BOTH; AND EITHER OR BOTH SUCH USAGES SHALL BE COMPUTED EITHER ON THE BASIS OF MILEAGE OR HOURS OF USE, AT THE DISCRETION OF SUCH ENTERPRISE. FOR PURPOSES OF THIS SUBDIVISION, TANGIBLE PERSONAL PROPERTY RELATED TO SUCH A MOTOR VEHICLE SHALL INCLUDE A BATTERY, DIESEL MOTOR FUEL, AN ENGINE, ENGINE COMPONENTS, MOTOR FUEL, A MUFFLER, TIRES AND SIMILAR TANGIBLE PERSONAL PROPERTY USED IN OR ON SUCH A MOTOR VEHICLE.

(2) SUBJECT TO THE CONDITIONS AND LIMITATIONS PROVIDED FOR IN THIS SECTION, A REFUND OR CREDIT WILL BE ALLOWED FOR TAXES IMPOSED ON THE RETAIL SALE OF, AND CONSIDERATION GIVEN OR CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, TANGIBLE PERSONAL PROPERTY SOLD TO A CONTRACTOR, SUBCONTRACTOR OR REPAIRMAN FOR USE IN (A) ERECTING A STRUCTURE OR BUILD-

ING OF A QUALIFIED EMPIRE ZONE ENTERPRISE, (B) ADDING TO, ALTERING OR IMPROVING REAL PROPERTY, PROPERTY OR LAND OF SUCH AN ENTERPRISE OR (C) MAINTAINING, SERVICING OR REPAIRING REAL PROPERTY, PROPERTY OR LAND OF SUCH AN ENTERPRISE, AS THE TERMS REAL PROPERTY, PROPERTY OR LAND ARE DEFINED IN THE REAL PROPERTY TAX LAW; PROVIDED, HOWEVER, NO CREDIT OR REFUND WILL BE ALLOWED UNDER THIS PARAGRAPH UNLESS SUCH TANGIBLE PERSONAL PROPERTY IS TO BECOME AN INTEGRAL COMPONENT PART OF SUCH STRUCTURE, BUILDING, REAL PROPERTY, PROPERTY OR LAND LOCATED IN AN AREA DESIGNATED AS AN EMPIRE ZONE PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW IN, AND WITH RESPECT TO WHICH SUCH ENTERPRISE IS CERTIFIED PURSUANT TO SUCH ARTICLE EIGHTEEN-B.

(3) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE REFUND OR CREDIT PROVIDED FOR IN THIS SUBDIVISION WILL NOT APPLY TO TAXES IMPOSED BY PARAGRAPH TEN OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE AND ELEVEN HUNDRED SEVEN OF THIS ARTICLE OR TO TAXES IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE TWENTY-NINE OF THIS CHAPTER.

(4) IN THOSE INSTANCES WHEN THE PROVISIONS OF SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW ARE APPLICABLE, NO REFUND OR CREDIT WILL BE ALLOWED UNDER THIS SUBDIVISION UNLESS THE QUALIFIED EMPIRE ZONE ENTERPRISE HAS BEEN ISSUED AN EMPIRE ZONE RETENTION CERTIFICATE.

(5) A TAXPAYER MAY NOT APPLY FOR A CREDIT OR REFUND UNDER THIS SUBDIVISION MORE FREQUENTLY THAN ONCE A SALES TAX QUARTER, PURSUANT TO SUBDIVISION (B) OF SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS ARTICLE.

(6) ANY REFERENCE IN THIS CHAPTER TO FORMER SUBDIVISION (Z) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE WILL BE DEEMED TO BE A REFERENCE TO THIS SUBDIVISION.

(7) NOTWITHSTANDING ANY OTHER PROVISION IN THIS ARTICLE, ARTICLE TWENTY-NINE OF THIS CHAPTER, OR ANY OTHER LAW TO THE CONTRARY, A CREDIT OR REFUND FOR ANY SALE OR USE UNDER THIS SECTION SHALL NOT BE ALLOWED TO A PERSON THAT IS FIRST CERTIFIED UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW ON OR AFTER APRIL FIRST, TWO THOUSAND NINE, UNLESS THAT SALE OR USE IS ELIGIBLE FOR A CREDIT OR REFUND OF THE COUNTY OR CITY SALES AND COMPENSATING USE TAXES IMPOSED PURSUANT TO THE AUTHORITY OF SUBPART B OF PART I OF ARTICLE TWENTY-NINE OF THIS CHAPTER.

S 32. Paragraph 2 of subdivision (a) of section 14 of the tax law, as amended by section 1 of part AA of chapter 62 of the laws of 2006, is amended to read as follows:

(2) for purposes of articles twenty-eight and twenty-nine of this chapter, during the "sales and use tax benefit period." Such period shall consist of one hundred twenty consecutive months beginning on the later of (A) March first, two thousand one, or (B) WITH REGARD TO BUSINESS ENTERPRISES CERTIFIED PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW PRIOR TO APRIL FIRST, TWO THOUSAND NINE, the first day of the month next following the date of issuance of a qualified empire zone enterprise certification by the commissioner under subdivision (h) of this section, OR (C) WITH REGARD TO BUSINESS ENTERPRISES CERTIFIED PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON OR AFTER APRIL FIRST, TWO THOUSAND NINE, THE FIRST DAY OF THE MONTH NEXT FOLLOWING THE DATE OF CERTIFICATION UNDER ARTICLE EIGHTEEN-B AS AN EMPIRE ZONE BUSINESS. Provided however, such period shall not include any month falling within a taxable year immediately preceded by a taxable year with respect to which the business enterprise did not meet the employment test.

S 33. Subdivision (h) of section 14 of the tax law is REPEALED.

S 34. Subparagraph (i) of paragraph 1 of subdivision (a) of section 1210 of the tax law, as amended by section 4 of part SS1 of chapter 57 of the laws of 2008, is amended to read as follows:

(i) Either, all of the taxes described in article twenty-eight of this chapter, at the same uniform rate, as to which taxes all provisions of the local laws, ordinances or resolutions imposing such taxes shall be identical, except as to rate and except as otherwise provided, with the corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. The taxes authorized under this subdivision may not be imposed by a city or county unless the local law, ordinance or resolution imposes such taxes so as to include all portions and all types of receipts, charges or rents, subject to state tax under sections eleven hundred five and eleven hundred ten of this chapter, except as otherwise provided. (I) Any local law, ordinance or resolution enacted by any city of less than one million or by any county or school district, imposing the taxes authorized by this subdivision, shall, notwithstanding any provision of law to the contrary, exclude from the operation of such local taxes all sales of tangible personal property for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, generating, assembly, refining, mining or extracting; and all sales of tangible personal property for use or consumption predominantly either in the production of tangible personal property, for sale, by farming or in a commercial horse boarding operation, or in both; and, unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivision (a) OR SUBDIVISION (D) of section eleven hundred nineteen of this chapter. (II) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment exemption provided for in subdivision (ee)[,] AND the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) [and the qualified empire zone enterprise exemptions provided for in subdivision (z)] of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment exemption or such clothing and footwear exemption [or such qualified empire zone enterprise exemptions; provided that if such a city having a population of one million or more in which the taxes imposed by section eleven hundred seven of this chapter are in effect enacts the resolution described in subdivision (k) of this section or repeals such resolution or enacts the resolution described in subdivision (l) of this section or repeals such resolution or enacts the resolution described in subdivision (n) of this section or repeals such resolution, such resolution or repeal shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this subdivision, whether or not such taxes are suspended at the time such city enacts its resolution pursuant to subdivision (k), (l) or (n) of this section or at the time of any such repeal; provided, further, that any such local law, ordinance or resolution and section eleven hundred seven of this chapter, as deemed to be amended in the event a city of one million or more enacts a resolution pursuant to the authority of subdivision (k), (l) or

(n) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the residential solar energy systems equipment exemption or the clothing and footwear exemption or the qualified empire zone enterprise exemptions in any such local law, ordinance or resolution or in such section eleven hundred seven are the same, as the case may be, as the residential solar energy systems equipment exemption provided for in subdivision (ee), the clothing and footwear exemption in paragraph thirty of subdivision (a) or the qualified empire zone enterprise exemptions in subdivision (z) of section eleven hundred fifteen of this chapter].

S 35. Paragraph 4 of subdivision (a) of section 1210 of the tax law, as amended by section 5 of part SS1 of chapter 57 of the laws of 2008, is amended to read as follows:

(4) Notwithstanding any other provision of law to the contrary, any local law enacted by any city of one million or more that imposes the taxes authorized by this subdivision (i) may omit the exception provided in subparagraph (ii) of paragraph three of subdivision (c) of section eleven hundred five of this chapter for receipts from laundering, dry-cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining; (ii) may impose the tax described in paragraph six of subdivision (c) of section eleven hundred five of this chapter at a rate in addition to the rate prescribed by this section not to exceed two percent in multiples of one-half of one percent; (iii) shall provide that the tax described in paragraph six of subdivision (c) of section eleven hundred five of this chapter does not apply to facilities owned and operated by the city or an agency or instrumentality of the city or a public corporation the majority of whose members are appointed by the chief executive officer of the city or the legislative body of the city or both of them; (iv) shall not include any tax on receipts from, or the use of, the services described in paragraph seven of subdivision (c) of section eleven hundred five of this chapter; (v) shall provide that, for purposes of the tax described in subdivision (e) of section eleven hundred five of this chapter, "permanent resident" means any occupant of any room or rooms in a hotel for at least one hundred eighty consecutive days with regard to the period of such occupancy; (vi) may omit the exception provided in paragraph one of subdivision (f) of section eleven hundred five of this chapter for charges to a patron for admission to, or use of, facilities for sporting activities in which the patron is to be a participant, such as bowling alleys and swimming pools; (vii) shall not provide the clothing and footwear exemption in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter but must exempt clothing and footwear and any item used or consumed to make or repair exempt clothing and which becomes a physical component part of that exempt clothing; (viii) shall omit the exemption provided in paragraph forty-one of subdivision (a) of section eleven hundred fifteen of this chapter; (ix) shall omit the exemption provided in subdivision (c) of section eleven hundred fifteen of this chapter insofar as it applies to fuel, gas, electricity, refrigeration and steam, and gas, electric, refrigeration and steam service of whatever nature for use or consumption directly and exclusively in the production of gas, electricity, refrigeration or steam; and (x) shall omit, unless such city elects otherwise, the provision for refund or credit contained in clause six of subdivision (a) OR IN SUBDIVISION (D) of section eleven hundred nineteen of this chapter.

S 36. Paragraph 1 of subdivision (b) of section 1210 of the tax law, as separately amended by section 36 of part Y and section 11 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(1) Or, one or more of the taxes described in subdivisions (b), (d), (e) and (f) of section eleven hundred five of this chapter, at the same uniform rate, including the transitional provisions in section eleven hundred six of this chapter covering such taxes, but not the taxes described in subdivisions (a) and (c) of section eleven hundred five of this chapter. Provided, further, that where the tax described in subdivision (b) of section eleven hundred five of this chapter is imposed, the compensating use taxes described in clauses (E), (G) and (H) of subdivision (a) of section eleven hundred ten of this chapter shall also be imposed. Provided, further, that where the taxes described in subdivision (b) of section eleven hundred five are imposed, such taxes shall omit the [exemptions provided for in subdivision (z) of section eleven hundred fifteen] PROVISION FOR REFUND OR CREDIT CONTAINED IN SUBDIVISION (D) OF SECTION ELEVEN HUNDRED NINETEEN OF THIS CHAPTER with respect to such taxes described in such subdivision (b) of section eleven hundred five unless such city or county elects to provide such [exemptions] PROVISION or, if so elected, to repeal such [exemptions] PROVISION.

S 37. Subdivision (d) of section 1210 of the tax law, as amended by section 12 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(d) A local law, ordinance or resolution imposing any tax pursuant to this section, increasing or decreasing the rate of such tax, repealing or suspending such tax, exempting from such tax the energy sources and services described in paragraph three of subdivision (a) or of subdivision (b) of this section or changing the rate of tax imposed on such energy sources and services or providing for the credit or refund described in clause six of subdivision (a) of section eleven hundred nineteen of this chapter must go into effect only on one of the following dates: March first, June first, September first or December first; provided, that a local law, ordinance or resolution providing for the exemption described in paragraph thirty of subdivision (a) [or providing for the exemptions described in subdivision (z)] of section eleven hundred fifteen of this chapter or repealing any such exemption [so provided and a resolution enacted pursuant to the authority of subdivision (k) of this section providing such exemption or subdivision (l) of this section providing such exemptions or repealing such exemption or exemptions so provided] OR A LOCAL LAW, ORDINANCE OR RESOLUTION PROVIDING FOR A REFUND OR CREDIT DESCRIBED IN SUBDIVISION (D) OF SECTION ELEVEN HUNDRED NINETEEN OF THIS CHAPTER OR REPEALING SUCH PROVISION SO PROVIDED must go into effect only on March first. No such local law, ordinance or resolution shall be effective unless a certified copy of such law, ordinance or resolution is mailed by registered or certified mail to the commissioner at the commissioner's office in Albany at least ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice requirement to a mailing of such certified copy by registered or certified mail within a period of not less than thirty days prior to such effective date if the commissioner deems such action to be consistent with the commissioner's duties under section twelve hundred fifty of this article and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three of this article as to the effective date of a tax and the notice requirement provided for therein are applicable and have not been waived, the

restriction and notice requirement in section twelve hundred twenty-three of this article shall also apply.

S 38. Subdivision (1) of section 1210 of the tax law is REPEALED.

S 39. Subdivision (d) of section 1211 of the tax law, as amended by chapter 577 of the laws of 1997, is amended to read as follows:

(d) A local law or resolution imposing any tax pursuant to this section, increasing or decreasing the rate of such tax, repealing or suspending such tax or providing for the credit or refund described in clause six of subdivision (a) of section eleven hundred nineteen of this chapter must go into effect only on one of the following dates: March first, June first, September first or December first, subject to further requirement as to effective date provided for in subdivision (b) of this section; PROVIDED, THAT A LOCAL LAW OR RESOLUTION PROVIDING FOR A REFUND OR CREDIT DESCRIBED IN SUBDIVISION (D) OF SECTION ELEVEN HUNDRED NINETEEN OF THIS CHAPTER OR REPEALING SUCH PROVISION SO PROVIDED MUST GO INTO EFFECT ONLY ON MARCH FIRST, SUBJECT TO FURTHER REQUIREMENT AS TO EFFECTIVE DATE PROVIDED FOR IN SUBDIVISION (B) OF THIS SECTION. No such local law or resolution shall be effective unless a certified copy of such local law or resolution is mailed by registered or certified mail to the commissioner at the commissioner's office in Albany at least ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice requirement to a mailing of such certified copy by registered or certified mail within a period of not less than thirty days prior to such effective date if the commissioner deems such action to be consistent with the commissioner's duties under section twelve hundred fifty of this article and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three of this article as to the effective date of a tax and the notice requirement provided for therein are applicable and have not been waived, the restriction and notice requirement in section twelve hundred twenty-three of this article shall also apply.

S 40. Subdivisions (a) and (e) of section 1212 of the tax law, as amended by section 14 of part GG and subdivision (a) as separately amended by section 37 of part Y of chapter 63 of the laws of 2000, are amended to read as follows:

(a) Any school district which is coterminous with, partly within or wholly within a city having a population of less than one hundred twenty-five thousand, is hereby authorized and empowered, by majority vote of the whole number of its school authorities, to impose for school district purposes, within the territorial limits of such school district and without discrimination between residents and nonresidents thereof, the taxes described in subdivision (b) of section eleven hundred five (but excluding the tax on prepaid telephone calling services) and the taxes described in clauses (E) and (H) of subdivision (a) of section eleven hundred ten, including the transitional provisions in subdivision (b) of section eleven hundred six of this chapter, so far as such provisions can be made applicable to the taxes imposed by such school district and with such limitations and special provisions as are set forth in this article, such taxes to be imposed at the rate of one-half, one, one and one-half, two, two and one-half or three percent which rate shall be uniform for all portions and all types of receipts and uses subject to such taxes. In respect to such taxes, all provisions of the resolution imposing them, except as to rate and except as otherwise provided herein, shall be identical with the corresponding provisions in such article twenty-eight of this chapter, including the applicable

definition and exemption provisions of such article, so far as the provisions of such article twenty-eight of this chapter can be made applicable to the taxes imposed by such school district and with such limitations and special provisions as are set forth in this article. The taxes described in subdivision (b) of section eleven hundred five (but excluding the tax on prepaid telephone calling service) and clauses (E) and (H) of subdivision (a) of section eleven hundred ten, including the transitional provision in subdivision (b) of such section eleven hundred six of this chapter, may not be imposed by such school district unless the resolution imposes such taxes so as to include all portions and all types of receipts and uses subject to tax under such subdivision (but excluding the tax on prepaid telephone calling service) and clauses. Provided, however, that, where a school district imposes such taxes, such taxes shall omit the [exemptions provided for in subdivision (z) of section eleven hundred fifteen] PROVISION FOR REFUND OR CREDIT CONTAINED IN SUBDIVISION (D) OF SECTION ELEVEN HUNDRED NINETEEN OF THIS CHAPTER with respect to such taxes described in such subdivision (b) of section eleven hundred five unless such school district elects to provide such [exemptions] PROVISION or, if so elected, to repeal such [exemptions] PROVISION.

(e) A resolution imposing a tax pursuant to this section, increasing or decreasing the rate of such tax, or repealing or suspending such tax must go into effect only on one of the following dates: March first, June first, September first or December first; provided, that a resolution providing for the [exemptions described in subdivision (z) of section eleven hundred fifteen] REFUND OR CREDIT DESCRIBED IN SUBDIVISION (D) OF SECTION ELEVEN HUNDRED NINETEEN of this chapter or repealing such [exemptions so provided] PROVISION must go into effect only on March first. No such resolution shall be effective unless a certified copy of such resolution is mailed by registered or certified mail to the commissioner at the commissioner's office in Albany at least ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice requirement to a mailing of such certified copy by registered or certified mail within a period of not less than thirty days prior to such effective date if the commissioner deems such action to be consistent with the commissioner's duties under section twelve hundred fifty of this article and the commissioner acts by resolution.

S 41. Notwithstanding any provision of state or local law, ordinance or resolution to the contrary:

(a) Every local enactment that elected the qualified empire zone enterprise exemptions described in subdivision (z) of section 1115 of the tax law elected by a county or city pursuant to the authority of article 29 of the tax law that is in effect on the day before this act becomes a law or was elected prior to such date to take effect at a later date is hereby amended to elect the refund or credit described in subdivision (d) of section 1119 of the tax law.

(b) A county or city that elected the qualified empire zone enterprise exemptions described in subdivision (z) of section 1115 of the tax law pursuant to the authority of article 29 of the tax law may repeal such exemptions in accord with the provisions of subdivisions (d) and (e) of section 1210 of the tax law.

S 42. Subdivision (m) of section 14 of the tax law is REPEALED.

S 43. The tax law is amended by adding a new section 17 to read as follows:

S 17. EMPIRE ZONES TAX BENEFITS REPORT. (A) THE DEPARTMENT OF TAXATION AND FINANCE MUST PUBLISH AN EMPIRE ZONES TAX BENEFITS REPORT ANNUALLY BY JANUARY THIRTY-FIRST. THE FIRST REPORT MUST BE PUBLISHED BY JANUARY THIRTY-FIRST, TWO THOUSAND THIRTEEN.

(B) (1) THE EMPIRE ZONES TAX BENEFITS REPORT MUST CONTAIN THE FOLLOWING INFORMATION ABOUT THE EMPIRE ZONE TAX CREDITS CLAIMED UNDER ARTICLES NINE, NINE-A, TWENTY-TWO, THIRTY-TWO AND THIRTY-THREE OF THIS CHAPTER DURING THE PREVIOUS CALENDAR YEAR:

(A) THE NAME OF EACH TAXPAYER CLAIMING A CREDIT; AND

(B) THE AMOUNT OF EACH CREDIT EARNED BY EACH TAXPAYER.

(2) IF THE TAXPAYER CLAIMS A EMPIRE ZONE TAX CREDIT BECAUSE THE TAXPAYER IS A MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER IN A SUBCHAPTER S CORPORATION, THE NAME OF EACH LIMITED LIABILITY COMPANY, PARTNERSHIP OR SUBCHAPTER S CORPORATION EARNING ANY OF THOSE CREDITS AND THE AMOUNT OF CREDIT EARNED BY EACH ENTITY MUST BE INCLUDED IN THE REPORT INSTEAD OF INFORMATION ABOUT THE TAXPAYER CLAIMING THE CREDIT.

(C) THE EMPIRE ZONES TAX BENEFITS REPORT MUST ALSO CONTAIN THE FOLLOWING INFORMATION ABOUT THE SALES AND USE TAX REFUNDS AND CREDITS CLAIMED UNDER SUBDIVISION (D) OF SECTION ELEVEN HUNDRED NINETEEN OF THIS CHAPTER DURING THE PREVIOUS CALENDAR YEAR:

(A) THE NAME OF EACH TAXPAYER CLAIMING A CREDIT OR REFUND; AND

(B) THE TOTAL AMOUNT OF CREDITS OR REFUNDS ALLOWED TO EACH TAXPAYER.

(D) THE INFORMATION INCLUDED IN THE EMPIRE ZONES TAX BENEFITS REPORT WILL BE BASED ON THE INFORMATION FILED WITH THE DEPARTMENT DURING THE PREVIOUS CALENDAR YEAR, TO THE EXTENT THAT IT IS PRACTICABLE TO USE THAT INFORMATION.

S 44. This act shall take effect immediately, provided, however, that:

(a) sections eleven through twenty-two of this act shall apply to taxable years beginning on and after January 1, 2008;

(b) sections thirty and thirty-one and sections thirty-four through forty-one of this act shall take effect on the first day of the sales tax quarter next commencing at least 60 days after this act becomes a law; and provided further that any refund or credit allowed pursuant to the amendments made by section thirty-one of this act may not be paid for that quarter for at least two hundred seventy days after this act becomes a law;

(c) section thirty-three of this act shall take effect April 1, 2009;

(d) section forty-two of this act shall take effect on January 1, 2012; and

(e) the amendments to subdivision (u) of section 957 of the general municipal law made by section one of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.

PART T-1

Section 1. Paragraph b of subdivision 1 of section 502 of the tax law, as amended by section 1 of part E of chapter 60 of the laws of 2007, is amended to read as follows:

b. Every automotive fuel carrier shall apply to the commissioner for a special certificate of registration, in place of the certificate of registration described in paragraph a of this subdivision, for each motor vehicle operated or to be operated by him on the public highways in this state to transport automotive fuel. Provided, however, a special certificate of registration shall not be required under this paragraph for a tractor or other self-propelled device which, except with respect

to the fuel in the ordinary fuel tank intended for its propulsion, transports automotive fuel solely by means of a trailer, dolly or other device drawn by such tractor or other self-propelled device if a certificate of registration prescribed by paragraph a of this subdivision has been issued for the self-propelled device. Application shall be made upon an application form prescribed by the commissioner. The application shall be accompanied by a fee of [five] FIFTEEN dollars for each trailer, semi-trailer, dolly or other device [and fifteen dollars for each self-propelled device] listed in the application. The commissioner shall issue without further charge such special certificate of registration for each motor vehicle listed in the application or a consolidated certificate of registration for all or any portion of such vehicles of such carrier. All of the provisions of this article with respect to certificates of registration shall be applicable to the special certificates of registration issued to automotive fuel carriers under this paragraph as if those provisions had been set forth in full in this paragraph and expressly referred to the special certificates of registration required by this paragraph except to the extent that any such provision is either inconsistent with a provision of this paragraph or not relevant to the certificates of registration required by this paragraph. Any certificate of registration shall not be transferable, and shall be valid until revoked, suspended or surrendered. Such special certificate of registration shall be maintained in the carrier's regular place of business. Nothing contained in this paragraph shall in any way exempt an automotive fuel carrier from payment of the taxes imposed pursuant to this article.

S 2. Subdivision 8 of section 509 of the tax law, as amended by section 5 of part E of chapter 60 of the laws of 2007, is amended to read as follows:

8. To issue replacement certificates of registration at such times as the commissioner may deem necessary for the proper and efficient enforcement of the provisions of this article, but not more often than once every year and to require the surrender of the then outstanding certificates of registration. All of the provisions of this article with respect to certificates of registration shall be applicable to replacement certificates of registration issued hereunder, except that the replacement certificate of registration shall be issued upon payment of a fee of [four] FIFTEEN dollars for each motor vehicle and [two dollars] for any trailer, semi-trailer, dolly or other device drawn thereby for which a certificate of registration is required to be issued under this article;

S 3. This act shall take effect immediately.

PART U-1

Section 1. Subdivision (b) of section 1101 of the tax law is amended by adding a new paragraph 34 to read as follows:

(34) TRANSPORTATION SERVICE. THE SERVICE OF TRANSPORTING, CARRYING OR CONVEYING A PERSON OR PERSONS BY LIVERY SERVICE; WHETHER TO A SINGLE DESTINATION OR TO MULTIPLE DESTINATIONS; AND WHETHER THE COMPENSATION PAID BY OR ON BEHALF OF THE PASSENGER IS BASED ON MILEAGE, TRIP, TIME CONSUMED OR ANY OTHER BASIS. A SERVICE THAT BEGINS AND ENDS IN THIS STATE IS DEEMED INTRA-STATE EVEN IF IT PASSES OUTSIDE THIS STATE DURING A PORTION OF THE TRIP. HOWEVER, TRANSPORTATION SERVICE DOES NOT INCLUDE TRANSPORTATION OF PERSONS IN CONNECTION WITH FUNERALS. TRANSPORTATION SERVICE INCLUDES TRANSPORTING, CARRYING, OR CONVEYING PROPERTY OF THE

PERSON BEING TRANSPORTED, WHETHER OWNED BY OR IN THE CARE OF SUCH PERSON. IN ADDITION TO WHAT IS INCLUDED IN THE DEFINITION OF "RECEIPT" IN PARAGRAPH THREE OF THIS SUBDIVISION, RECEIPTS FROM THE SALE OF TRANSPORTATION SERVICE SUBJECT TO TAX INCLUDE ANY HANDLING, CARRYING, BAGGAGE, BOOKING SERVICE, ADMINISTRATIVE, MARK-UP, ADDITIONAL, OR OTHER CHARGE, OF ANY NATURE, MADE IN CONJUNCTION WITH THE TRANSPORTATION SERVICE. LIVERY SERVICE MEANS SERVICE PROVIDED BY LIMOUSINE, BLACK CAR OR OTHER MOTOR VEHICLE, WITH A DRIVER, BUT EXCLUDING A TAXICAB AND A BUS, AND EXCLUDING ANY SCHEDULED PUBLIC SERVICE. LIMOUSINE MEANS A VEHICLE WITH A SEATING CAPACITY OF UP TO FOURTEEN PERSONS, EXCLUDING THE DRIVER. BLACK CAR MEANS A FOR-HIRE VEHICLE DISPATCHED FROM A CENTRAL FACILITY.

S 2. Subdivision (c) of section 1105 of the tax law is amended by adding a new paragraph 10 to read as follows:

(10) TRANSPORTATION SERVICE, WHETHER OR NOT ANY TANGIBLE PERSONAL PROPERTY IS TRANSFERRED IN CONJUNCTION THEREWITH, AND REGARDLESS OF WHETHER THE CHARGE IS PAID IN THIS STATE OR OUT OF STATE SO LONG AS THE SERVICE IS PROVIDED IN THIS STATE.

S 3. Section 1106 of the tax law is amended by adding a new subdivision (1) to read as follows:

(1) THE TAX IMPOSED BY PARAGRAPH TEN OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE OF THIS PART MUST BE PAID WITH RESPECT TO RECEIPTS FROM ALL SALES OF SERVICES ON OR AFTER THE EFFECTIVE DATE OF SUCH PARAGRAPH ALTHOUGH RENDERED OR AGREED TO BE RENDERED UNDER A PRIOR CONTRACT. WHERE A SERVICE IS SOLD ON A MONTHLY, QUARTERLY, YEARLY, OR OTHER TERM BASIS, THE CHARGE FOR THE SERVICE WILL BE SUBJECT TO THE TAX IMPOSED BY THAT PARAGRAPH TO THE EXTENT THAT THE CHARGE IS APPLICABLE TO ANY PERIOD ON OR AFTER THE DATE THE TAX BECOMES EFFECTIVE, AND THE CHARGE MUST BE APPORTIONED ON THE BASIS OF THE RATIO OF THE NUMBER OF DAYS FALLING WITHIN THE PERIOD TO THE TOTAL NUMBER OF DAYS IN THE FULL TERM OR PERIOD.

S 4. Section 1111 of the tax law is amended by adding a new subdivision (o) to read as follows:

(O) (1) IF A TRANSPORTATION SERVICE SUBJECT TO TAX UNDER PARAGRAPH TEN OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE OF THIS PART IS PROVIDED BY VEHICLE, AND THE OWNER OR LESSOR OF THE VEHICLE LEASES OR RENTS THE VEHICLE TO AN UNRELATED PERSON WHO PROVIDES THE TRANSPORTATION SERVICE, SUCH AS A LIMOUSINE DRIVER WHO DRIVES A LIMOUSINE OWNED BY ANOTHER PERSON, THEN (I) THE OWNER OR LESSOR IS DEEMED TO PROVIDE THE TRANSPORTATION SERVICE DURING THE DAY OR OTHER PERIOD THAT THE UNRELATED PERSON USES THE VEHICLE TO PROVIDE THE SERVICE, (II) THE OWNER OR LESSOR IS DEEMED TO BE THE VENDOR OF THE SERVICE PROVIDED BY THE UNRELATED PERSON, (III) THE TAX IMPOSED BY SUCH PARAGRAPH TEN IS DEEMED TO BE IMPOSED ON THE UNRELATED PERSON, (IV) THE OWNER OR LESSOR, AS VENDOR, MUST COLLECT THE TAX FROM THE UNRELATED PERSON, BASED ON THE LOCAL JURISDICTION WHERE THE DRIVER TAKES DELIVERY OF THE VEHICLE AND PAY OVER SUCH TAX REQUIRED TO BE COLLECTED WITH ITS RETURNS REQUIRED TO BE FILED UNDER THIS ARTICLE, AND (V) THE RECEIPTS SUBJECT TO THE TAX EQUAL TWO HUNDRED PERCENT OF THE AMOUNT THAT THE OWNER OR LESSOR CHARGES THE UNRELATED PERSON FOR THE USE OF THE VEHICLE DURING THE DAY OR OTHER PERIOD, INCLUDING ANY CHARGE RELATED TO INSURANCE, MAINTENANCE, REPAIRS, FUEL, THE USE, RENTAL OR ECONOMIC VALUE OF ANY VEHICLE OR BUSINESS LICENSE, AND ANY OTHER CHARGE MADE BY THE OWNER OR LESSOR TO THE UNRELATED PERSON FOR THE DAY OR OTHER PERIOD, REGARDLESS OF WHETHER THE UNRELATED PERSON TRANSPORTED, CARRIED OR CONVEYED ANY PERSON OR EARNED ANY FARES WITH THAT VEHICLE DURING THAT DAY OR OTHER PERIOD.

(2) NOTWITHSTANDING ANY LAW TO THE CONTRARY:

(I) ANY MUNICIPALITY OR PUBLIC CORPORATION THAT ESTABLISHES OR REGULATES BLACK CAR, LIMOUSINE OR OTHER VEHICLE SERVICE FARES MUST ADJUST THOSE FARES TO INCLUDE THEREIN THE TAX IMPOSED BY PARAGRAPH TEN OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE OF THIS PART AND THE TAXES IMPOSED BY OTHER SECTIONS OF THIS PART AND PURSUANT TO THE AUTHORITY OF ARTICLE TWENTY-NINE OF THIS CHAPTER ON THE SERVICES TAXED BY SUCH PARAGRAPH TEN AND MUST REQUIRE THAT ANY METERS OR OTHER DEVICES IN THE VEHICLES OR OTHERWISE THAT MEASURE FARES BE ADJUSTED TO INCLUDE THESE TAXES, AS THE SAME ARE FROM TIME TO TIME IMPOSED AND AS THE RATES OF THOSE TAXES MAY CHANGE.

(II) ANY PERSON THAT SELLS THE SERVICES DESCRIBED IN PARAGRAPH ONE OF THIS SUBDIVISION MUST ADJUST ANY METERS OR OTHER DEVICES IN THE VEHICLES OR OTHERWISE THAT MEASURE FARES SO THAT THEY TIMELY REFLECT ANY CHANGE IN THE RATES OF THE TAXES DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH. NEITHER THE FAILURE OF A MUNICIPAL OR OTHER PUBLIC CORPORATION TO ADJUST FARES NOR THE FAILURE OF ANY PERSON TO ADJUST THE METERS OR DEVICES WILL RELIEVE ANY PERSON FROM THE OBLIGATION TO COLLECT AND PAY OR PAY OVER SUCH TAXES TIMELY, AT THE CORRECT COMBINED RATE.

(3) FOR PURPOSES OF THIS SUBDIVISION, "UNRELATED PERSON" MEANS A PERSON OTHER THAN A RELATED PERSON AS DEFINED FOR PURPOSES OF SECTION FOURTEEN OF THIS CHAPTER.

S 5. Section 1213 of the tax law, as amended by chapter 651 of the laws of 1999, is amended to read as follows:

S 1213. Deliveries outside the jurisdiction where sale is made. Where a sale of tangible personal property or services, including prepaid telephone calling services, but not including other services described in subdivision (b) of section eleven hundred five OF THIS CHAPTER, including an agreement therefor, is made in any city, county or school district, but the property sold, the property upon which the services were performed or prepaid telephone calling or other service is or will be delivered to the purchaser elsewhere, such sale shall not be subject to tax by such city, county or school district. However, if delivery occurs or will occur in a city, county or school district imposing a tax on the sale or use of such property, prepaid telephone calling or other services, the vendor shall be required to collect from the purchaser, as provided in section twelve hundred fifty-four OF THIS ARTICLE, the aggregate sales or compensating use taxes imposed by the city, if any, county and school district in which delivery occurs or will occur, for distribution by the commissioner to such taxing jurisdiction or jurisdictions. For the purposes of this section delivery shall be deemed to include transfer of possession to the purchaser and the receiving of the property or of the service, including prepaid telephone calling service, by the purchaser. NOTWITHSTANDING THE FOREGOING, WHERE A TRANSPORTATION SERVICE DESCRIBED IN PARAGRAPH TEN OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE OF THIS CHAPTER BEGINS IN ONE JURISDICTION BUT ENDS IN ANOTHER JURISDICTION, ANY TAX IMPOSED BY THIS ARTICLE SHALL BE DUE THE JURISDICTION OR JURISDICTIONS WHERE THE SERVICE COMMENCED.

S 6. This act shall take effect June 1, 2009.

PART V-1

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2009-2010 state fiscal year. Each component is wholly contained within a Subpart identified as Subparts A through J. The effective date for each partic-

ular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this Part sets forth the general effective date of this Part.

SUBPART A

Section 1. Section 1135 of the tax law is amended by adding a new subdivision (h) to read as follows:

(H) NOTWITHSTANDING THE PROVISIONS OF SECTION THREE HUNDRED FIVE AND THREE HUNDRED NINE OF THE STATE TECHNOLOGY LAW OR ANY OTHER LAW, THE COMMISSIONER MAY REQUIRE ANY PERSON WHO HAS ELECTED TO MAINTAIN IN AN ELECTRONIC FORMAT ANY PORTION OF THE RECORDS REQUIRED TO BE MAINTAINED BY THAT PERSON UNDER THIS ARTICLE, TO MAKE THE ELECTRONIC RECORDS AVAILABLE AND ACCESSIBLE TO THE COMMISSIONER, NOTWITHSTANDING THAT THE RECORDS ARE ALSO MAINTAINED IN A HARD COPY FORMAT.

S 2. Section 1145 of the tax law is amended by adding a new subdivision (i) to read as follows:

(I) ANY PERSON REQUIRED TO MAKE OR MAINTAIN RECORDS UNDER THIS ARTICLE (BUT NOT INCLUDING THE RECORDS REQUIRED UNDER SECTION ELEVEN HUNDRED FORTY-TWO-A OF THIS PART) WHO FAILS TO MAKE OR MAINTAIN OR MAKE AVAILABLE TO THE COMMISSIONER THESE RECORDS IS SUBJECT TO A PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR THE FIRST QUARTER OR PART THEREOF FOR WHICH THE FAILURE OCCURS AND NOT TO EXCEED FIVE THOUSAND DOLLARS FOR EACH ADDITIONAL QUARTERLY PERIOD OR PART THEREOF FOR WHICH THE FAILURE OCCURS. THIS PENALTY IS IN ADDITION TO ANY OTHER PENALTY PROVIDED FOR IN THIS ARTICLE BUT MAY NOT BE IMPOSED AND COLLECTED MORE THAN ONCE FOR FAILURES FOR THE SAME QUARTERLY PERIOD OR PART THEREOF. IF THE COMMISSIONER DETERMINES THAT A FAILURE TO MAKE OR MAINTAIN OR MAKE AVAILABLE RECORDS IN ANY QUARTER WAS ENTIRELY DUE TO REASONABLE CAUSE AND NOT TO WILLFUL NEGLECT, THE COMMISSIONER MUST REMIT THE PENALTY IMPOSED FOR THAT QUARTER. THESE PENALTIES WILL BE PAID AND DISPOSED OF IN THE SAME MANNER AS OTHER REVENUES FROM THIS ARTICLE. THESE PENALTIES WILL BE DETERMINED, ASSESSED, COLLECTED, PAID AND ENFORCED IN THE SAME MANNER AS THE TAX IMPOSED BY THIS ARTICLE, AND ALL THE PROVISIONS OF THIS ARTICLE RELATING TO TAX WILL BE DEEMED ALSO TO APPLY TO THE PENALTIES IMPOSED BY THIS SUBDIVISION. FOR PURPOSES OF THE PENALTY IMPOSED BY THIS SUBDIVISION, A PERSON WILL BE CONSIDERED TO HAVE FAILED TO MAKE OR MAINTAIN THE REQUIRED RECORDS WHEN THE RECORDS MADE OR MAINTAINED BY THAT PERSON FOR A QUARTERLY PERIOD MAKE IT VIRTUALLY IMPOSSIBLE TO VERIFY SALES RECEIPTS OR THE TAXABILITY OF THOSE RECEIPTS AND TO CONDUCT A COMPLETE AUDIT.

S 3. Section 1145 of the tax law is amended by adding a new subdivision (j) to read as follows:

(J) ANY PERSON REQUIRED TO MAKE OR MAINTAIN RECORDS UNDER THIS ARTICLE WHO FAILS TO PRESENT AND MAKE AVAILABLE THESE RECORDS IN AN AUDITABLE FORM IS SUBJECT TO A PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH QUARTERLY PERIOD OR PART THEREOF FOR WHICH RECORDS MAINTAINED BY THAT PERSON ARE NOT PRESENTED AND MADE AVAILABLE BY THAT PERSON IN AUDITABLE FORM, EVEN IF THESE RECORDS ARE ADEQUATE TO VERIFY CREDITS, RECEIPTS, AND THE TAXABILITY THEREOF AND TO PERFORM A COMPLETE AUDIT. THIS PENALTY IS IN ADDITION TO ANY OTHER PENALTY PROVIDED FOR IN THIS ARTICLE, BUT WILL NOT BE IMPOSED AND COLLECTED MORE THAN ONCE FOR THESE FAILURES FOR THE SAME QUARTERLY PERIOD OR PART THEREOF. IF THE COMMISSIONER DETER-

MINES THAT ANY FAILURE DESCRIBED IN THIS SUBDIVISION FOR A QUARTERLY PERIOD WAS ENTIRELY DUE TO REASONABLE CAUSE AND NOT TO WILLFUL NEGLECT, THE COMMISSIONER MUST REMIT THE PENALTY IMPOSED FOR THAT QUARTER. THE PENALTIES IMPOSED BY THIS SUBDIVISION WILL BE PAID AND DISPOSED OF IN THE SAME MANNER AS OTHER REVENUES FROM THIS ARTICLE. THESE PENALTIES WILL BE DETERMINED, ASSESSED, COLLECTED, PAID AND ENFORCED IN THE SAME MANNER AS THE TAX IMPOSED BY THIS ARTICLE, AND ALL THE PROVISIONS OF THIS ARTICLE RELATING TO TAX WILL BE DEEMED ALSO TO APPLY TO THE PENALTIES IMPOSED BY THIS SUBDIVISION. FOR PURPOSES OF THE PENALTY IMPOSED BY THIS SUBDIVISION, A PERSON WILL BE CONSIDERED TO HAVE FAILED TO PRESENT AND MAKE RECORDS AVAILABLE IN AUDITABLE FORM WHEN THE RECORDS PRESENTED BY THAT PERSON FOR THAT QUARTER LACK SUFFICIENT ORGANIZATION, SUCH AS BY DATE, INVOICE NUMBER, SALES RECEIPTS, OR SEQUENTIAL NUMBERING, OR ARE OTHERWISE INADEQUATE (WITHOUT REORGANIZING, REORDERING OR OTHERWISE REARRANGING THE RECORDS INTO AN AUDITABLE FORM) TO PERMIT DIRECT RECONCILIATION OF THE RECEIPTS, INVOICES OR OTHER SOURCE DOCUMENTS WITH THE ENTRIES FOR THE QUARTERLY PERIOD IN THE BOOKS AND RECORDS AND ON THE RETURNS OF THAT PERSON.

S 4. Section 1145 of the tax law is amended by adding a new subdivision (k) to read as follows:

(K) ANY PERSON WHO, HAVING ELECTED TO MAINTAIN IN AN ELECTRONIC FORMAT ANY PORTION OR ALL OF THE RECORDS HE OR SHE IS REQUIRED TO MAKE AND MAINTAIN BY THIS ARTICLE, FAILS TO PRESENT AND MAKE THESE RECORDS AVAILABLE AND ACCESSIBLE TO THE COMMISSIONER IN ELECTRONIC FORMAT, IS SUBJECT TO A PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS FOR EACH QUARTERLY PERIOD OR PART THEREOF FOR WHICH THESE ELECTRONIC RECORDS ARE NOT PRESENTED AND MADE AVAILABLE AND ACCESSIBLE UPON REQUEST, NOTWITHSTANDING THAT THE RECORDS MAY ALSO BE MAINTAINED AND AVAILABLE IN HARD COPY FORMAT. THIS PENALTY IS IN ADDITION TO ANY OTHER PENALTY PROVIDED FOR IN THIS ARTICLE, BUT MAY NOT BE IMPOSED AND COLLECTED MORE THAN ONCE FOR A FAILURE FOR THE SAME QUARTERLY PERIOD OR PART THEREOF. PROVIDED, HOWEVER, NOTHING IN THIS SUBDIVISION WILL PREVENT THE SEPARATE IMPOSITION, IF APPLICABLE, OF ANY PENALTY IMPOSED BY SUBDIVISION (I) OR (J) OF THIS SECTION FOR THE SAME QUARTERLY PERIOD OR PART THEREOF. IF THE COMMISSIONER DETERMINES THAT THE FAILURE TO PRESENT AND MAKE ELECTRONICALLY MAINTAINED RECORDS AVAILABLE AND ACCESSIBLE FOR A QUARTERLY PERIOD WAS ENTIRELY DUE TO REASONABLE CAUSE AND NOT TO WILLFUL NEGLECT, THE COMMISSIONER MUST REMIT THE PENALTY IMPOSED FOR THAT QUARTER. THESE PENALTIES WILL BE PAID AND DISPOSED OF IN THE SAME MANNER AS OTHER REVENUES FROM THIS ARTICLE. THESE PENALTIES WILL BE DETERMINED, ASSESSED, COLLECTED, PAID AND ENFORCED IN THE SAME MANNER AS THE TAX IMPOSED BY THIS ARTICLE, AND ALL THE PROVISIONS OF THIS ARTICLE RELATING TO TAX WILL BE DEEMED ALSO TO APPLY TO THE PENALTY IMPOSED BY THIS SUBDIVISION. FOR PURPOSES OF THE PENALTY IMPOSED BY THIS SUBDIVISION, A FAILURE TO PRESENT AND MAKE AVAILABLE AND ACCESSIBLE A RECORD MAINTAINED IN ELECTRONIC FORMAT INCLUDES NOT ONLY THE DENIAL OF ACCESS TO THE REQUESTED RECORDS THAT WERE MAINTAINED ELECTRONICALLY, BUT ALSO THE FAILURE TO MAKE AVAILABLE TO THE COMMISSIONER THE INFORMATION, KNOWLEDGE, OR MEANS NECESSARY TO ACCESS AND OTHERWISE USE THE ELECTRONICALLY MAINTAINED RECORDS IN THE INSPECTION AND EXAMINATION OF THESE RECORDS.

S 5. This act shall take effect immediately and apply to failures occurring on and after such date, except that subdivision (i) of section 1145 of the tax law, as added by section two of this act, shall only apply for records required to be made and maintained for sales tax quarterly periods commencing on or after such date.

SUBPART B

Section 1. Subsection (g) of section 685 of the tax law, as amended by chapter 9 of the laws of 1976, is amended to read as follows:

(g) Willful failure to collect and pay over tax.-- Any person required to collect, truthfully account for, and pay over the tax imposed by this article who willfully fails to collect such tax or truthfully account for and pay over such tax or willfully attempts in any manner to evade or defeat the tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to THE SUM OF (I) the total amount of the tax evaded, or not collected, or not accounted for and paid over, AND (II) THE INTEREST THAT HAS ACCRUED ON THE TOTAL AMOUNT OF TAX EVADED ON THE DATE THIS PENALTY IS FIRST IMPOSED UNTIL THIS PENALTY IS PAID WITH INTEREST THEREON. No addition to tax under subsections (b) or (e) OF THIS SECTION shall be imposed for any offense to which this subsection applies. The tax commission shall have the power, in its discretion, to waive, reduce or compromise any penalty under this subsection.

S 2. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2009.

SUBPART C

Section 1. Paragraphs (b) and (e) of subdivision 3-a of section 170 of the tax law, as added by chapter 282 of the laws of 1986, are amended to read as follows:

(b) A request for a conciliation conference shall be applied for in the manner as set forth by regulation of the commissioner and, notwithstanding any provision of law to the contrary, shall suspend the running of the period of limitations for the filing of a petition protesting such notice and requesting a hearing, EXCEPT THAT THE RECIPIENT OF A WRITTEN NOTICE DESCRIBED IN PARAGRAPH (H) OF THIS SUBDIVISION WILL HAVE THIRTY DAYS FROM THE TIME SUCH REQUEST OF DISCONTINUANCE IS MADE TO PETITION THE DIVISION OF TAX APPEALS FOR A HEARING. [To discontinue the conciliation proceeding, the recipient of the notice shall make a request in writing and such person shall have ninety days from the time such request of discontinuance is made to petition the division of tax appeals for a hearing.] The commissioner shall notify the division of tax appeals when any person requests a conference or requests to discontinue such conference.

(e) A conciliation order shall be rendered within thirty days after the proceeding is concluded and such order shall, in the absence of a showing of fraud, malfeasance or misrepresentation of a material fact, be binding upon the department and the person who requested the conference, except such order shall not be binding on such person if such person petitions for the hearing provided for under this chapter within ninety days after the conciliation order is issued, OR, FOR A CONCILIATION ORDER AFFIRMING A WRITTEN NOTICE DESCRIBED IN PARAGRAPH (H) OF THIS SUBDIVISION, WITHIN THIRTY DAYS AFTER THE CONCILIATION ORDER IS ISSUED, notwithstanding any other provision of law to the contrary.

S 2. Subdivision 3-a of section 170 the tax law is amended by adding a new paragraph (h) to read as follows:

(H) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ANY PERSON WHO SEEKS REVIEW BY THE BUREAU OF CONCILIATION AND MEDIATION SERVICES OF A WRITTEN NOTICE THAT ADVISES THAT PERSON OF (I) THE PROPOSED CANCELLATION, REVOCATION, OR SUSPENSION OF A LICENSE, PERMIT, REGISTRATION, OR

OTHER CREDENTIAL ISSUED UNDER THE AUTHORITY OF THIS CHAPTER, (II) THE DENIAL OF AN APPLICATION FOR A LICENSE, PERMIT, REGISTRATION, OR OTHER CREDENTIAL ISSUED UNDER THE AUTHORITY OF THIS CHAPTER EXCLUDING AN APPLICATION TO RENEW A CERTIFICATE OF AUTHORITY FILED PURSUANT TO PARAGRAPH FIVE OF SUBDIVISION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF THIS CHAPTER AND ANY OTHER LAW, OR, (III) THE IMPOSITION OF A FRAUD PENALTY UNDER THIS CHAPTER, MUST REQUEST A CONCILIATION CONFERENCE WITHIN THIRTY DAYS OF RECEIPT OF THAT NOTICE.

S 3. Section 2008 of the tax law, as amended by chapter 401 of the laws of 1987, is amended to read as follows:

S 2008. Commencement of proceedings. 1. All proceedings in the division of tax appeals shall be commenced by the filing of a petition with the division of tax appeals protesting any written notice of the division of taxation which has advised the petitioner of a tax deficiency, a determination of tax due, a denial of a refund or credit application, a cancellation, revocation or suspension of a license, permit or registration, a denial of an application for a license, permit or registration or any other notice which gives a person the right to a hearing in the division of tax appeals under this chapter or other law.

2. EXPEDITED HEARINGS. (A) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ANY PERSON WHO RECEIVES A WRITTEN NOTICE THAT ADVISES THAT PERSON OF (I) THE PROPOSED CANCELLATION, REVOCATION, OR SUSPENSION OF A LICENSE, PERMIT, REGISTRATION, OR OTHER CREDENTIAL ISSUED UNDER THE AUTHORITY OF THIS CHAPTER, (II) THE DENIAL OF AN APPLICATION FOR A LICENSE, PERMIT, REGISTRATION, OR OTHER CREDENTIAL ISSUED UNDER THE AUTHORITY OF THIS CHAPTER EXCLUDING AN APPLICATION TO RENEW A CERTIFICATE OF AUTHORITY FILED PURSUANT TO PARAGRAPH FIVE OF SUBDIVISION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF THIS CHAPTER AND ANY OTHER LAW, OR, (III) THE IMPOSITION OF A FRAUD PENALTY UNDER THIS CHAPTER, MUST FILE A PETITION WITH THE DIVISION OF TAX APPEALS WITHIN THIRTY DAYS OF RECEIPT OF THAT NOTICE (UNLESS THAT PERSON HAS REQUESTED A CONCILIATION CONFERENCE AS PROVIDED IN SUBDIVISION THREE-A OF SECTION ONE HUNDRED SEVENTY OF THIS CHAPTER), OR THE CANCELLATION, REVOCATION, SUSPENSION, DENIAL, OR PENALTY WILL BE PERMANENTLY AND IRREVOCABLY FIXED. AN EXPEDITED HEARING MUST BE SCHEDULED WITHIN TEN BUSINESS DAYS OF RECEIPT OF THE PETITION.

(B) IN THE CASE OF ANY EXPEDITED HEARING PROVIDED FOR UNDER THIS SUBDIVISION, THE ADMINISTRATIVE LAW JUDGE MUST RENDER A DECISION WITHIN THIRTY DAYS FROM RECEIPT OF THE PETITION. WHEN EXCEPTION IS TAKEN TO AN ADMINISTRATIVE LAW JUDGE'S DETERMINATION, THE TAX APPEALS TRIBUNAL MUST ISSUE ITS DECISION WITHIN THREE MONTHS FROM RECEIPT OF THE PETITION. ANY REQUEST BY THE PETITIONER THAT DELAYS THE EXPEDITED HEARING PROCESS WILL EXTEND THE TIME LIMITATIONS IMPOSED ON THE TRIBUNAL OR THE ADMINISTRATIVE LAW JUDGE TO ISSUE A DECISION OR DETERMINATION. THE TRIBUNAL OR ADMINISTRATIVE LAW JUDGE MAY NOT APPROVE ANY POSTPONEMENT OR OTHER DELAY WITHOUT A SHOWING OF GOOD CAUSE BY THE MOVING PARTY AND MUST RENDER A DEFAULT DETERMINATION OR DECISION AGAINST THE DILATORY PARTY FOR ANY UNWARRANTED DELAY.

(C) IN ANY CASE WHERE AN EXPEDITED HEARING IS REQUIRED UNDER THIS SUBDIVISION, IF THE COMMISSIONER BELIEVES THAT THE COLLECTION OF ANY TAX OR THE PUBLIC SAFETY WILL BE JEOPARDIZED BY DELAY, HE OR SHE MAY IMMEDIATELY CANCEL, REVOKE, OR SUSPEND A LICENSE, PERMIT, REGISTRATION, OR OTHER CREDENTIAL ISSUED UNDER THE AUTHORITY OF THIS CHAPTER BEFORE THE COMMENCEMENT OF THOSE PROCEEDINGS. WRITTEN NOTICE OF THE CANCELLATION, REVOCATION, OR SUSPENSION MUST BE GIVEN TO THE LICENSEE, PERMITTEE, REGISTRANT, OR OTHERWISE CREDENTIALED PERSON BY REGISTERED OR CERTIFIED

MAIL OR PERSONAL SERVICE AS PROVIDED BY THE CIVIL PRACTICE LAW AND RULES. THE LICENSE, PERMIT, REGISTRATION, OR OTHER CREDENTIAL WILL BE PERMANENTLY AND IRREVOCABLY CANCELLED, REVOKED, OR SUSPENDED, UNLESS THE LICENSEE, PERMITTEE, REGISTRANT, OR OTHERWISE CREDENTIALED PERSON, WITHIN THIRTY DAYS OF RECEIPT OF THE WRITTEN NOTICE, FILES A PETITION WITH THE DIVISION OF TAX APPEALS TO REVIEW THE CANCELLATION, REVOCATION, OR SUSPENSION. AN EXPEDITED HEARING MUST BE SCHEDULED WITHIN TEN BUSINESS DAYS OF RECEIPT OF THE PETITION.

S 4. This act shall take effect immediately and shall apply to notices issued on and after such date.

SUBPART D

Section 1. Paragraph a of subdivision twenty-sixth of section 171 of the tax law, as amended by section 1 of part M3 of chapter 62 of the laws of 2003, is amended to read as follows:

a. Set the overpayment and underpayment rates of interest for purposes of articles twelve-A, eighteen, twenty and twenty-one of this chapter. Such rates shall be the overpayment and underpayment rates of interest set pursuant to subsection (e) of section one thousand ninety-six of this chapter, but the underpayment rate shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rates set by such commissioner shall apply to taxes, or any portion thereof, which remain or become due or overpaid (other than overpayments under such article twenty and not including reimbursements, if any, under any of such articles) on or after the date on which such rates become effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period during which such rates are in effect. In computing the amount of any interest required to be paid under such articles by such commissioner or by the taxpayer, or any other amount determined by reference to such amount of interest, such interest and such amount shall be compounded daily.

S 2. Subsections (a) and (j) of section 684 of the tax law, as amended by section 6 of part R of chapter 85 of the laws of 2002, are amended to read as follows:

(a) General.--If any amount of income tax is not paid on or before the last date prescribed in this article for payment, interest on such amount at the underpayment rate set by the commissioner pursuant to section six hundred ninety-seven OF THIS PART, or if no rate is set, at the rate of [six per cent] SEVEN AND ONE-HALF PERCENT per annum shall be paid for the period from such last date to the date paid, whether or not any extension of time for payment was granted. Interest under this subsection shall not be paid if the amount thereof is less than one dollar. If the time for filing of a return of tax withheld by an employer is extended, the employer shall pay interest for the period for which the extension is granted and may not charge such interest to the employee.

(j) Interest on erroneous refund.--Any portion of tax or other amount which has been erroneously refunded, and which is recoverable by the commissioner, shall bear interest at the underpayment rate set by the commissioner pursuant to section six hundred ninety-seven OF THIS PART, or if no rate is set, at the rate of [six per cent] SEVEN AND ONE-HALF PERCENT per annum from the date of the payment of the refund, but only if it appears that any part of the refund was induced by fraud or a misrepresentation of a material fact.

S 3. Paragraph 1 of subsection (c) of section 685 of the tax law, as amended by section 7 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(1) Addition to the tax.--Except as otherwise provided in this subsection and subsection (d) OF THIS SECTION, in the case of any underpayment of estimated tax by an individual, there shall be added to the tax under this article for the taxable year an amount determined by applying the underpayment rate established under subsection (j) of section six hundred ninety-seven OF THIS PART, or if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, to the amount of the underpayment for the period of the underpayment. Such period shall run from the due date for the required installment to the earlier of the fifteenth day of the fourth month following the close of the taxable year or, with respect to any portion of the underpayment, the date on which such portion is paid. For purposes of determining such date, a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid. There shall be four required installments for each taxable year, due on April fifteenth, June fifteenth and September fifteenth of such taxable year and on January fifteenth of the following taxable year.

S 4. Paragraph 1 of subsection (j) of section 697 of the tax law, as amended by section 2 of part M3 of chapter 62 of the laws of 2003, is amended to read as follows:

(1) The commissioner shall set the overpayment and underpayment rates of interest to be paid pursuant to sections six hundred eighty-four, six hundred eighty-five and six hundred eighty-eight OF THIS PART, but if no such rates of interest are set, such [rates] OVERPAYMENT RATE shall be deemed to be set at six percent per annum AND SUCH UNDERPAYMENT RATE SHALL BE DEEMED TO BE SET AT SEVEN AND ONE-HALF PERCENT PER ANNUM. Such rates shall be the rates prescribed in paragraphs two and four of this subsection, but the underpayment rate shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rates set by the commissioner shall apply to taxes, or any portion thereof, which remain or become due or overpaid on or after the date on which such rates become effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period during which such rates are in effect.

S 5. Subparagraph (B) of paragraph 2 of subsection (j) of section 697 of the tax law, as amended by section 10 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(B) Underpayment rate. The underpayment rate of interest set under this subsection shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subsection, plus (ii) [four] FIVE AND ONE-HALF percentage points.

S 6. Subsections (a) and (j) of section 1084 of the tax law, as amended by section 123 and subsection (j) as relettered by section 148 of chapter 61 of the laws of 1989, are amended to read as follows:

(a) General.--If any amount of tax is not paid on or before the last date prescribed in article nine or nine-a OF THIS CHAPTER for payment, interest on such amount at the underpayment rate set by the commissioner [of taxation and finance] pursuant to section one thousand ninety-six OF THIS ARTICLE, or if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum shall be paid for the period from such last date to the date paid, whether or not any extension of time for payment was granted. Interest under this subsection shall not be paid if the amount thereof is less than one dollar.

(j) Interest on erroneous refund.---Any portion of tax or other amount which has been erroneously refunded, and which is recoverable by the commissioner [of taxation and finance], shall bear interest at the underpayment rate set by the commissioner pursuant to section one thousand ninety-six OF THIS ARTICLE, or if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum from the date of the payment of the refund, but only if it appears that any part of the refund was induced by fraud or a misrepresentation of a material fact.

S 7. Paragraph 1 of subsection (c) of section 1085 of the tax law, as amended by chapter 57 of the laws of 1993, is amended to read as follows:

(1) If any taxpayer fails to file a declaration of estimated tax under article nine-A OF THIS CHAPTER, or fails to pay all or any part of an amount which is applied as an installment against such estimated tax, it shall be deemed to have made an underpayment of estimated tax. There shall be added to the tax for the taxable year an amount at the underpayment rate set by the commissioner pursuant to section one thousand ninety-six OF THIS ARTICLE, or if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum upon the amount of the underpayment for the period of the underpayment but not beyond the fifteenth day of the third month following the close of the taxable year. The amount of the underpayment shall be, with respect to any installment of estimated tax computed on the basis of the preceding year's tax, the excess of the amount required to be paid over the amount, if any, paid on or before the last day prescribed for such payment or, with respect to any other installment of estimated tax, the excess of the amount of the installment which would be required to be paid if the estimated tax were equal to ninety-one percent of the tax shown on the return for the taxable year (or if no return was filed, ninety-one percent of the tax for such year) over the amount, if any, of the installment paid on or before the last day prescribed for such payment. In any case in which there would be no underpayment if "eighty percent" were substituted for "ninety-one percent" each place it appears in this subsection, the addition to the tax shall be equal to seventy-five percent of the amount otherwise determined. No underpayment shall be deemed to exist with respect to a declaration or installment otherwise due on or after the termination of existence of the taxpayer.

S 8. Paragraph 1 of subsection (e) of section 1096 of the tax law, as amended by section 3 of part M3 of chapter 62 of the laws of 2003, is amended to read as follows:

(1) Authority to set interest rates.---The commissioner shall set the overpayment and underpayment rates of interest to be paid pursuant to sections two hundred thirteen, two hundred thirteen-b, two hundred fifty-eight, two hundred sixty-three, two hundred ninety-four, one thousand eighty-four, one thousand eighty-five, one thousand eighty-eight, fourteen hundred sixty-one and fourteen hundred sixty-three OF THIS CHAPTER, but if no such rate or rates of interest are set, such OVERPAYMENT rate [or rates] shall be deemed to be set at six percent per annum AND SUCH UNDERPAYMENT RATE SHALL BE DEEMED TO BE SET AT SEVEN AND ONE-HALF PERCENT PER ANNUM. Such overpayment and underpayment rates shall be the rates prescribed in paragraph two of this subsection, but the underpayment rate shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rates set by the commissioner shall apply to taxes, or any portion thereof, which remain or become due or overpaid on or after the date on which such rates become effective and shall apply only with respect to interest computed or computable for periods or

portions of periods occurring in the period during which such rates are in effect.

S 9. Subparagraph (B) of paragraph 2 of subsection (e) of section 1096 of the tax law, as amended by section 11 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(B) Underpayment rate. The underpayment rate set under this subsection shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subsection, plus (ii) [five] SEVEN percentage points.

S 10. Subdivision (d) of section 1139 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

(d) (1) Except in respect to an overpayment made on a return described in paragraph [(ii)] TWO of subdivision (a) of section eleven hundred thirty-six [hereof] OF THIS PART or on a return described in subdivision (c) of section eleven hundred thirty-seven-A OF THIS PART, interest shall be allowed and paid upon any refund made or credit allowed pursuant to this section except as otherwise provided in PARAGRAPH TWO OF THIS SUBDIVISION OR subdivision (e) of this section and except that no interest shall be allowed or paid if the amount thereof would be less than one dollar. Such interest shall be at the overpayment rate set by the commissioner [of taxation and finance] pursuant to section eleven hundred forty-two OF THIS PART, or if no rate is set, at the rate of six [per cent] PERCENT per annum from the date when the tax, penalty or interest refunded or credited was paid to a date preceding the date of the refund check by not more than thirty days, provided, however, that for the purposes of this subdivision any tax paid before the last day prescribed for its payment shall be deemed to have been paid on such last day. In the case of a REFUND OR CREDIT CLAIMED ON A return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), OR CLAIMED ON AN APPLICATION FOR REFUND OR CREDIT, no interest shall be allowed or paid for any day before the date on which the return OR APPLICATION is filed. For purposes of this subdivision, a return OR APPLICATION FOR REFUND OR CREDIT shall not be treated as filed until it is filed in processible form. A return OR APPLICATION is in a processible form if [such return] IT is filed on a permitted form, and [such return] contains the taxpayer's name, address and identifying number and the required signatures, and sufficient required information (whether on the return OR APPLICATION or on required attachments) to permit the mathematical verification of tax liability shown on the return OR REFUND OR CREDIT CLAIMED ON THE APPLICATION.

(2) IF A REFUND IS MADE OR A CREDIT IS ALLOWED WITHIN THREE MONTHS AFTER THE LAST DATE PRESCRIBED OR PERMITTED BY EXTENSION OF TIME FOR FILING A RETURN ON WHICH THE REFUND OR CREDIT WAS CLAIMED OR WITHIN THREE MONTHS AFTER THE RETURN WAS FILED, WHICHEVER IS LATER, OR WITHIN THREE MONTHS AFTER AN APPLICATION FOR REFUND OR CREDIT IS FILED ON WHICH THAT REFUND OR CREDIT WAS CLAIMED, NO INTEREST WILL BE ALLOWED OR PAID ON THAT REFUND OR CREDIT.

S 11. Subdivision 9 of section 1142 of the tax law, as amended by section 4 of part M3 of chapter 62 of the laws of 2003, is amended to read as follows:

9. To set the overpayment and underpayment rates of interest for purposes of sections eleven hundred thirty-nine and eleven hundred forty-five OF THIS PART. Such rates shall be the overpayment and underpayment rates of interest set pursuant to subsection (e) of section one thousand ninety-six of this chapter, but the underpayment rate shall not

be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rates set by the commissioner shall apply to taxes, or any portion thereof, which remain or become due or overpaid on or after the date on which such rates become effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period during which such rates are in effect. In computing the amount of any interest required to be paid under this article by the commissioner or by the taxpayer, or any other amount determined by reference to such amount of interest, such interest and such amount shall be compounded daily. The preceding sentence shall not apply for purposes of computing the amount of any interest for failure to pay estimated tax under subparagraph (iv) of paragraph one of subdivision (a) of section [one thousand one] ELEVEN hundred forty-five of this [article] PART.

S 12. Subparagraph (ii) of paragraph 1 and paragraph 2 of subdivision (a) of section 1145 of the tax law, as amended by section 12 of part R of chapter 85 of the laws of 2002, are amended to read as follows:

(ii) If any amount of tax is not paid on or before the last date prescribed in this article for payment, interest on such amount at the rate of fourteen AND ONE-HALF percent per annum or at the underpayment rate set by the commissioner pursuant to section eleven hundred forty-two OF THIS PART, whichever is greater, shall be paid for the period from such last date to the date paid, whether or not any extension of time for payment was granted. Interest under this subparagraph shall not be paid if the amount thereof is less than one dollar.

(2) If the failure to pay or pay over any tax to the commissioner within the time required by this article is due to fraud, in lieu of the penalties and interest provided for in subparagraphs (i) and (ii) of paragraph one of this subdivision, there shall be added to the tax (i) a penalty of fifty percent of the amount of the tax due, plus (ii) interest on such unpaid tax at the rate of fourteen AND ONE-HALF percent per annum or the underpayment rate of interest set by the commissioner pursuant to section eleven hundred forty-two OF THIS PART, whichever is greater, for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to any extension of time for paying) and ending on the day on which such tax is paid, plus (iii) for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to any extension of time for paying) and ending on the day the amount of tax due is finally determined or, if earlier, on the day on which such tax is paid, an amount equal to fifty percent of the interest payable under subparagraph (ii) of this paragraph, on that portion of the unpaid tax which is attributable to fraud.

S 13. Subdivision 6 of section 72-0201 of the environmental conservation law, as amended by section 14 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

6. In addition to any penalty that may be assessed pursuant to subdivision five of this section, there shall be collected interest upon the unpaid amount at the underpayment rate set by the commissioner of taxation and finance pursuant to section one thousand ninety-six of the tax law, minus [two] FOUR percentage points. Such interest shall accrue thirty days from the date prescribed for fee payment until payment is actually made to the department.

S 14. Subparagraph (iii) of paragraph 2 of subsection (a) of section 1112 of the insurance law, as amended by section 15 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(iii) If any insurer fails to pay all or any part of the initial payment or estimated payment due pursuant to subparagraph (i) or (ii) of this paragraph, it shall be deemed to have made an underpayment. There shall be added to the amount due pursuant to paragraph one of this subsection, an amount at the rate set for underpayments by the commissioner of taxation and finance pursuant to section one thousand ninety-six of the tax law, minus [two] FOUR percentage points, or if no rate is set, at the rate of six percent per annum upon the amount of the underpayment for the period of the underpayment. In computing the amount of any interest required to be paid, such interest shall not be compounded. The amount of the underpayment shall be, with respect to the initial payment or any estimated payment, the excess of the amount required to be paid over the amount, if any, paid on or before the last day prescribed for such payment. If the superintendent demands payment of the initial payment or any estimated payment, and if such amount is paid within ten days after the date of such demand, interest on the amount so paid shall not be imposed for the period after the date of such demand. No portion of the interest imposed pursuant to this subparagraph may be waived.

S 15. Paragraph (a) of subsection 4 of section 9110 of the insurance law, as amended by section 16 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(a) Interest. If any amount of tax is not paid on or before the date prescribed for payment thereof in subsection two of this section, interest on such amount of tax at the underpayment rate set by the commissioner of taxation and finance pursuant to section one thousand ninety-six of the tax law, plus [three] ONE percentage [points] POINT, shall be paid to the superintendent for the period from the date prescribed for payment until the date paid.

S 16. Paragraph (a) of subsection 4 of section 9111 of the insurance law, as amended by section 17 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(a) Interest. If any amount of tax is not paid on or before the date prescribed for payment thereof in subsection two of this section, interest on such amount of tax at the underpayment rate set by the commissioner of taxation and finance pursuant to section one thousand ninety-six of the tax law, plus [three] ONE percentage [points] POINT, shall be paid to the superintendent for the period from the date prescribed for payment until the date paid.

S 17. Paragraph 1 of subsection (d) of section 9111-a of the insurance law, as amended by section 18 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(1) Interest. If any amount of tax is not paid on or before the date prescribed for payment thereof in paragraph two of this subsection, interest on such amount of tax at the underpayment rate set by the commissioner of taxation and finance pursuant to section one thousand ninety-six of the tax law, plus [three] ONE percentage [points] POINT, shall be paid to the superintendent for the period from the date prescribed for payment until the date paid.

S 18. Paragraph 1 of subsection (d) of section 9111-b of the insurance law, as amended by section 19 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(1) Interest. If any amount of tax is not paid on or before the date prescribed for payment thereof in paragraph two of this subsection, interest on such amount of tax at the underpayment rate set by the commissioner of taxation and finance pursuant to section one thousand

ninety-six of the tax law, plus [three] ONE percentage [points] POINT, shall be paid to the superintendent for the period from the date prescribed for payment until the date paid.

S 19. Paragraph 1 of subsection (d) of section 9111-c of the insurance law, as amended by section 20 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(1) Interest. If any amount of tax is not paid on or before the date prescribed for payment thereof in paragraph two of this subsection, interest on such amount of tax at the underpayment rate set by the commissioner of taxation and finance pursuant to section one thousand ninety-six of the tax law, plus [three] ONE percentage [points] POINT, shall be paid to the superintendent for the period from the date prescribed for payment until the date paid.

S 20. Subparagraph (i) of paragraph (a) of subdivision 3 of section 77 of the lien law, as amended by section 21 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(i) Relief to compel an interim or final accounting by the trustee; to identify and recover trust assets in the hands of any person together with interest accrued thereon from the time of the diversion. Interest shall be computed at the rate equal to the underpayment rate set by the commissioner of taxation and finance pursuant to subsection (e) of section one thousand ninety-six of the tax law, minus [two] FOUR percentage points; to set aside as a diversion any unauthorized payment, assignment or other transfer, whether voluntary or involuntary; to enjoin a diversion; to recover damages for breach of trust or partic-ipation therein;

S 21. Paragraph (a) of subdivision 8 of section 43.04 of the mental hygiene law, as amended by section 22 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(a) If an estimated payment made for a month to which an assessment applies is less than ninety percent of the actual amount due for such month, interest shall be due and payable to the commissioner of the office of mental retardation and developmental disabilities on the difference between the amount paid and the amount due from the day of the month the estimated payment was due until the date of payment. The rate of interest shall be twelve percent per annum or at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law minus [two] FOUR percentage points. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest, if not paid by the due date of the following month's estimated payment, may be collected by the commissioner of the office of mental retardation and developmental disabilities pursuant to paragraph (c) of subdivision six of this section in the same manner as an assessment pursuant to subdivision two of this section.

S 22. Paragraph (a) of subdivision 8 of section 43.06 of the mental hygiene law, as amended by section 23 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(a) If an estimated payment made for a month to which an assessment applies is less than ninety percent of the actual amount due for such month, interest shall be due and payable to the commissioner on the difference between the amount paid and the amount due from the day of the month the estimated payment was due until the date of payment. The rate of interest shall be twelve percent per annum or at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand

ninety-six of the tax law minus [two] FOUR percentage points. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest, if not paid by the due date of the following month's estimated payment, may be collected by the commissioner pursuant to paragraph (c) of subdivision six of this section in the same manner as an assessment pursuant to subdivision two of this section.

S 23. Subparagraph (i) of paragraph (c) of subdivision 20 of section 2807-c of the public health law, as amended by section 24 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(i) Interest shall be due and payable to the commissioner by a general hospital or by a payor paying directly to a pool on the difference between the amount paid to a pool and the amount due to such pool by the hospital or payor from the day of the month the payment was due until the date of payment. The rate of interest shall be twelve percent per annum or at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law minus [two] FOUR percentage points. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest may be collected by the commissioner in the same manner as an arrearage pursuant to this subdivision.

S 24. Paragraph (a) of subdivision 8 of section 2807-d of the public health law, as amended by section 25 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(a) If an estimated payment made for a month to which an assessment applies is less than ninety percent of the actual amount due for such month, interest shall be due and payable to the commissioner on the difference between the amount paid and the amount due from the day of the month the estimated payment was due until the date of payment. The rate of interest shall be twelve percent per annum or at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law minus [two] FOUR percentage points. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest, if not paid by the due date of the following month's estimated payment, may be collected by the commissioner pursuant to paragraph (c) of subdivision six of this section in the same manner as an assessment pursuant to subdivision two of this section.

S 25. Subparagraph (i) of paragraph (c) of subdivision 4 of section 2807-f of the public health law, as amended by section 26 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(i) If a payment made for a month to which a payment factor applies is less than ninety percent of the actual amount due for such month, interest shall be due and payable to the commissioner by a health maintenance organization on the difference between the amount paid and the amount due from the day of the month the payment was due until the date of payment. The rate of interest shall be twelve percent per annum or, if greater, at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law minus [two] FOUR percentage points. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar.

S 26. Paragraph (a) of subdivision 8 of section 2807-j of the public health law, as amended by section 27 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(a) If a payment made pursuant to this section or to section twenty-eight hundred seven-s or twenty-eight hundred seven-t of this article for a month to which an allowance applies is less than ninety percent of the amount due or which the commissioner estimates, based on available financial and statistical data, is due for such month, interest shall be due and payable to the commissioner by a designated provider of services, or by a third-party payor, other than a state governmental agency, that has elected to pay an allowance directly, on the difference between the amount paid and the amount due or estimated to be due from the day of the month the payment was due until the date of payment. The rate of interest shall be twelve percent per annum or, if greater, at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law minus [two] FOUR percentage points. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest due from a designated provider of services, if not paid by the due date of the following month's payment, may be collected by the commissioner pursuant to paragraph (c) of subdivision six of this section in the same manner as an allowance pursuant to subdivision two of this section.

S 27. Paragraph (a) of subdivision 8 of section 3614-a of the public health law, as amended by section 28 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(a) If an estimated payment made for a month to which an assessment applies is less than ninety percent of the actual amount due for such month, interest shall be due and payable to the commissioner on the difference between the amount paid and the amount due from the day of the month the estimated payment was due until the date of payment. The rate of interest shall be twelve percent per annum or at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law minus [two] FOUR percentage points. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest, if not paid by the due date of the following month's estimated payment, may be collected by the commissioner pursuant to paragraph (c) of subdivision six of this section in the same manner as an assessment pursuant to subdivision two of this section.

S 28. Paragraph (a) of subdivision 8 of section 3614-b of the public health law, as amended by section 29 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(a) If an estimated payment made for a month to which assessment applies is less than ninety percent of the actual amount due for such month, interest shall be due and payable to the commissioner on the difference between the amount paid and the amount due from the day of the month the estimated payment was due until the date of the payment. The rate of interest shall be twelve percent per annum or at the rate of interest set by the commissioner of taxation and finance with respect to underpayment of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law minus [two] FOUR percentage points. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest, if not paid by the due date of the following month's estimated payment, may be collected by the commissioner pursuant to paragraph (c) of subdivision six of this section in the same manner as an assessment pursuant to subdivision two of this section.

S 29. Paragraph (a) of subdivision 7 of section 367-i of the social services law, as amended by section 32 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(a) If an estimated payment made for a month to which an assessment applies is less than ninety percent of the actual amount due for such month, interest shall be due and payable to the commissioner of health on the difference between the amount paid and the amount due from the day of the month the estimated payment was due until the date of payment. The rate of interest shall be twelve percent per annum or at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law minus [two] FOUR percentage points. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest, if not paid by the due date of the following month's estimated payment, may be collected by the commissioner of health pursuant to paragraph (c) of subdivision five of this section in the same manner as an assessment pursuant to subdivision two of this section.

S 30. Subdivision 4 of section 18 of the state finance law, as amended by section 33 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

4. Unless provided otherwise by contract, statute or regulation, a debtor that fails to make payment of a debt within the period set forth in subdivision three of this section shall pay, in addition to the amount of debt, the greater of: (a) interest on the outstanding balance of the debt, accruing on the date on which the receipt of the first billing invoice or first notice occurs, computed at the underpayment rate which is in effect on the date which the receipt of the first billing invoice or first billing notice occurs; or (b) a late payment charge of ten dollars. For the purposes of this section, the underpayment rate shall be that rate set by the commissioner of taxation and finance and published in the state register pursuant to subsection (e) of section one thousand ninety-six of the tax law minus [two] FOUR percentage points. With respect to specific classes of debt collected by a state agency, the director of the budget or official of a state agency so designated by the director of the budget may approve the assessment of interest or late payment charges at a date later than the thirtieth day following such debtor's receipt of any billing invoice or notice sent by the state agency.

S 31. Subdivisions (a) and (j) of section 11-1784 of the administrative code of the city of New York, as amended by section 34 of part R of chapter 85 of the laws of 2002, are amended to read as follows:

(a) General. If any amount of income tax is not paid on or before the last date prescribed in this chapter for payment, interest on such amount at the underpayment rate set by the commissioner of taxation and finance pursuant to section 11-1797 OF THIS SUBCHAPTER, or if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum shall be paid for the period from such last date to the date paid, whether or not any extension of time for payment was granted. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar. If the time for filing of a return of tax withheld by an employer is extended, the employer shall pay interest for the period for which the extension is granted and may not charge such interest to the employee.

(j) Interest on erroneous refund. Any portion of tax or other amount which has been erroneously refunded, and which is recoverable by the

commissioner of taxation and finance, shall bear interest at the underpayment rate set by such commissioner pursuant to section 11-1797 OF THIS SUBCHAPTER, or if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum from the date of the payment of the refund, but only if it appears that any part of the refund was induced by fraud or a misrepresentation of a material fact.

S 32. Paragraph 1 of subdivision (c) of section 11-1785 of the administrative code of the city of New York, as amended by section 35 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(1) Addition to the tax. Except as otherwise provided in this subdivision and subdivision (d) OF THIS SECTION, in the case of any underpayment of estimated tax by an individual, there shall be added to the tax under this chapter for the taxable year an amount determined by applying the underpayment rate established under section 11-1797 OF THIS SUBCHAPTER, or if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, to the amount of the underpayment for the period of the underpayment. Such period shall run from the due date for the required installment to the earlier of the fifteenth day of the fourth month following the close of the taxable year or, with respect to any portion of the underpayment, the date on which such portion is paid. For purposes of determining such date, a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid. There shall be four required installments for each taxable year, due on April fifteenth, June fifteenth and September fifteenth of such taxable year and on January fifteenth of the following taxable year.

S 33. Paragraph 1 of subdivision (j) of section 11-1797 of the administrative code of the city of New York, as amended by section 5 of part M3 of chapter 62 of the laws of 2003, is amended to read as follows:

(1) Authority to set interest rates. The commissioner of taxation and finance shall set the overpayment and underpayment rates of interest to be paid pursuant to sections 11-1784, 11-1785 and 11-1788 OF THIS SUBCHAPTER, but if no such rates of interest are set, such [rates] OVERPAYMENT RATE shall be deemed to be set at six percent per annum AND THE UNDERPAYMENT RATE SHALL BE DEEMED TO BE SET AT SEVEN AND ONE-HALF PERCENT PER ANNUM. Such rates shall be the rates prescribed by paragraphs two and four of this subdivision, but the underpayment rate shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rates set by such commissioner shall apply to taxes, or any portion thereof, which remain or become due or overpaid on or after the date on which such rates become effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period during which such rates are in effect.

S 34. Subparagraph (B) of paragraph 2 of subdivision (j) of section 11-1797 of the administrative code of the city of New York, as amended by section 37 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(B) Underpayment rate. The underpayment rate of interest set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) [four] FIVE AND ONE-HALF percentage points.

S 35. This act shall take effect immediately, and shall apply to the interest chargeable or due on taxes or on any other amounts, or any portion thereof, that remain or become due or overpaid on that day, except that:

(a) Section ten of this act shall take effect on June 1, 2009, and shall apply to refunds or credits claimed on returns or applications for refund or credit filed on or after that date;

(b) Provided, however, that the amendments to paragraph (a) of subdivision 8 of section 2807-j of the public health law made by section twenty-six of this act shall not affect the expiration of such section and shall be deemed to expire therewith; and

(c) Notwithstanding any other provision of law, for the calendar quarter in which this act becomes a law, the department of taxation and finance may provide appropriate general notice of the new interest rates for that calendar quarter within twenty days after the date this act has become a law, without needing to have notice of the rates published in advance in the State Register, and shall cause such a notice to be published in the State Register as soon as is practicable.

SUBPART E

Section 1. Subparagraph (A) of paragraph 4 of subsection (a) of section 674 of the tax law, as amended by chapter 477 of the laws of 1998, is amended to read as follows:

(A) All employers described in paragraph one of subsection (a) of section six hundred seventy-one of this part, including those whose wages paid are not sufficient to require the withholding of tax from the wages of any of their employees, all employers required to provide the wage reporting information for the employees described in subdivision one of section one hundred seventy-one-a of this chapter, and all employers liable for unemployment insurance contributions or for payments in lieu of such contributions pursuant to article eighteen of the labor law, shall file a quarterly combined withholding, wage reporting and unemployment insurance return detailing the preceding calendar quarter's withholding tax transactions, such quarter's wage reporting information, such quarter's unemployment insurance contributions, and such other related information as the commissioner of taxation and finance or the commissioner of labor, as applicable, may prescribe. In addition, the return covering the last calendar quarter of each year shall also include withholding reconciliation information for such calendar year. Such returns shall be filed no later than the last day of the month following the last day of each calendar quarter[; provided, however, that an employer may provide the wage reporting information covering the last calendar quarter of each year, and the withholding reconciliation information for such year no later than February twenty-eighth of the succeeding year].

S 2. This act shall take effect immediately.

SUBPART F

Section 1. Section 702 of the county law is amended by adding a new subdivision 7 to read as follows:

7. NOTWITHSTANDING ANY PROVISION OF LAW WITH RESPECT TO THE REQUIREMENTS OF RESIDENCE, A DISTRICT ATTORNEY MAY APPOINT ONE OR MORE ATTORNEYS EMPLOYED BY THE DEPARTMENT OF TAXATION AND FINANCE AS SPECIAL ASSISTANT DISTRICT ATTORNEYS WITH RESPECT TO ANY INVESTIGATION OR PROSECUTION CONCERNING, IN WHOLE OR PART, A VIOLATION OF ARTICLE THIRTY-SEVEN OF THE TAX LAW OR OF THE PENAL LAW AS IT APPLIES TO THE ENFORCEMENT OF ANY PROVISION OF THE TAX LAW.

S 2. This act shall take effect immediately.

SUBPART G

Section 1. Section 1136 of the tax law is amended by adding a new subdivision (i) to read as follows:

(I) (1) THE FOLLOWING PERSONS MUST FILE, IN ADDITION TO ANY OTHER RETURN REQUIRED BY THIS CHAPTER, ANNUAL INFORMATION RETURNS WITH THE COMMISSIONER PROVIDING THE INFORMATION SPECIFIED BELOW ABOUT THEIR TRANSACTIONS WITH VENDORS, HOTEL OPERATORS, AND RECIPIENTS OF AMUSEMENT CHARGES:

(A) EVERY INSURER LICENSED TO ISSUE MOTOR VEHICLE PHYSICAL DAMAGE OR MOTOR VEHICLE PROPERTY DAMAGE LIABILITY INSURANCE FOR MOTOR VEHICLES REGISTERED IN THIS STATE IF, DURING THE PERIOD COVERED BY THE RETURN, IT HAS PAID CONSIDERATION OR AN AMOUNT UNDER AN INSURANCE CONTRACT FOR THE SERVICING OR REPAIR OF A MOTOR VEHICLE ON BEHALF OF AN INSURED. FOR EACH PERSON TO WHOM THE INSURER HAS PAID THE CONSIDERATION OR AMOUNT DESCRIBED IN THE PRECEDING SENTENCE, THE RETURN MUST REPORT THE TOTAL AMOUNT PAID FOR THAT PERIOD, ALONG WITH THE OTHER INFORMATION REQUIRED BY PARAGRAPH TWO OF THIS SUBDIVISION.

(B) EVERY FRANCHISOR, AS DEFINED BY SECTION SIX HUNDRED EIGHTY-ONE OF THE GENERAL BUSINESS LAW, THAT HAS AT LEAST ONE FRANCHISEE, AS DEFINED BY SUBDIVISION FOUR OF SECTION SIX HUNDRED EIGHTY-ONE OF THE GENERAL BUSINESS LAW, THAT IS REQUIRED TO BE REGISTERED UNDER SECTION ELEVEN HUNDRED THIRTY-FOUR OF THIS PART. FOR EACH FRANCHISEE, THE RETURN MUST INCLUDE THE GROSS SALES OF THE FRANCHISEE IN THIS STATE REPORTED BY THE FRANCHISEE TO THE FRANCHISOR, THE TOTAL AMOUNT OF SALES BY THE FRANCHISOR TO THE FRANCHISEE, AND ANY INCOME REPORTED TO THE FRANCHISOR BY EACH FRANCHISEE, ALONG WITH THE INFORMATION REQUIRED BY PARAGRAPH TWO OF THIS SUBDIVISION.

(C) EVERY WHOLESALER, AS DEFINED BY SECTION THREE OF THE ALCOHOLIC BEVERAGE CONTROL LAW, IF IT HAS MADE A SALE OF AN ALCOHOLIC BEVERAGE, AS DEFINED BY SECTION FOUR HUNDRED TWENTY OF THIS CHAPTER, WITHOUT COLLECTING SALES OR USE TAX DURING THE PERIOD COVERED BY THE RETURN, EXCEPT (I) A SALE TO A PERSON THAT HAS FURNISHED AN EXEMPT ORGANIZATION CERTIFICATE TO THE WHOLESALER FOR THAT SALE; OR (II) A SALE TO ANOTHER WHOLESALER WHOSE LICENSE UNDER THE ALCOHOLIC BEVERAGE CONTROL LAW DOES NOT ALLOW IT TO MAKE RETAIL SALES OF THE ALCOHOLIC BEVERAGE. FOR EACH VENDOR, OPERATOR, OR RECIPIENT TO WHOM THE WHOLESALER HAS MADE A SALE WITHOUT COLLECTING SALES OR COMPENSATING USE TAX, THE RETURN MUST INCLUDE THE TOTAL VALUE OF THOSE SALES MADE DURING THE PERIOD COVERED BY THE RETURN (EXCEPTING THE SALES DESCRIBED IN CLAUSES (I) AND (II) OF THIS SUBPARAGRAPH) AND THE VENDOR'S, OPERATOR'S OR RECIPIENT'S STATE LIQUOR AUTHORITY LICENSE NUMBER, ALONG WITH THE INFORMATION REQUIRED BY PARAGRAPH TWO OF THIS SUBDIVISION.

(2) THE RETURNS REQUIRED BY PARAGRAPH ONE OF THIS SUBDIVISION MUST ALSO INCLUDE, FOR EACH VENDOR, OPERATOR, OR RECIPIENT ABOUT WHOM INFORMATION IS REQUIRED TO BE REPORTED UNDER SUCH PARAGRAPH, THE NAME AND ADDRESS, AND THE CERTIFICATE OF AUTHORITY OR FEDERAL IDENTIFICATION NUMBER, AND ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER. THE COMMISSIONER MAY, IN THE COMMISSIONER'S DISCRETION, REQUIRE THE REPORTING OF LESS THAN ALL THE INFORMATION OTHERWISE REQUIRED TO BE REPORTED BY THIS PARAGRAPH AND PARAGRAPH ONE OF THIS SUBDIVISION.

(3) THE RETURNS REQUIRED BY PARAGRAPH ONE OF THIS SUBDIVISION MUST BE FILED ANNUALLY ON OR BEFORE MARCH TWENTIETH AND MUST COVER THE FOUR SALES TAX QUARTERLY PERIODS IMMEDIATELY PRECEDING SUCH DATE. NOTWITHSTANDING SECTION THREE HUNDRED FIVE OF THE STATE TECHNOLOGY LAW OR ANY

OTHER LAW TO THE CONTRARY, THE RETURNS MUST BE FILED ELECTRONICALLY IN THE MANNER PRESCRIBED BY THE COMMISSIONER.

(4) ANY PERSON REQUIRED TO FILE A RETURN UNDER PARAGRAPH ONE OF THIS SUBDIVISION MUST, ON OR BEFORE MARCH TWENTIETH, GIVE TO EACH VENDOR, OPERATOR, OR RECIPIENT ABOUT WHOM INFORMATION IS REQUIRED TO BE REPORTED IN THE RETURN THE INFORMATION PERTAINING TO THAT PERSON. THE COMMISSIONER MAY PRESCRIBE A FORM TO BE USED TO PROVIDE THE INFORMATION REQUIRED TO BE GIVEN BY THIS PARAGRAPH.

(5) NOTHING IN THIS SUBDIVISION IS TO BE CONSTRUED TO LIMIT THE PERSONS FROM WHOM THE COMMISSIONER CAN SECURE INFORMATION OR THE INFORMATION THE COMMISSIONER CAN REQUIRE FROM THOSE PERSONS PURSUANT TO THE COMMISSIONER'S AUTHORITY UNDER SECTION ELEVEN HUNDRED FORTY-THREE OF THIS PART OR ANY OTHER PROVISION OF LAW.

S 2. Section 1145 of the tax law is amended by adding a new subdivision (i) to read as follows:

(I)(1) EVERY PERSON REQUIRED TO FILE AN INFORMATION RETURN BY SUBDIVISION (I) OF SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS PART WHO (A) FAILS TO PROVIDE ANY OF THE INFORMATION REQUIRED BY PARAGRAPH ONE OR TWO OF SUBDIVISION (I) OF SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS PART FOR A VENDOR, OPERATOR, OR RECIPIENT, OR WHO FAILS TO INCLUDE ANY SUCH INFORMATION THAT IS TRUE AND CORRECT (WHETHER OR NOT SUCH A REPORT IS FILED) FOR A VENDOR, OPERATOR, OR RECIPIENT, OR (B) FAILS TO PROVIDE THE INFORMATION REQUIRED BY PARAGRAPH FOUR OF SUBDIVISION (I) OF SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS PART TO A VENDOR, OPERATOR, OR RECIPIENT SPECIFIED IN PARAGRAPH FOUR OF SUBDIVISION (I) OF SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS PART, WILL, IN ADDITION TO ANY OTHER PENALTY PROVIDED IN THIS ARTICLE OR OTHERWISE IMPOSED BY LAW, BE SUBJECT TO A PENALTY OF FIVE HUNDRED DOLLARS FOR TEN OR FEWER FAILURES, AND UP TO FIFTY DOLLARS FOR EACH ADDITIONAL FAILURE.

(2) EVERY PERSON FAILING TO FILE AN INFORMATION RETURN REQUIRED BY SUBDIVISION (I) OF SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS PART WITHIN THE TIME REQUIRED BY SUBDIVISION (I) OF SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS PART WILL, IN ADDITION TO ANY OTHER PENALTY PROVIDED FOR IN THIS ARTICLE OR OTHERWISE IMPOSED BY LAW, BE SUBJECT TO A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS FOR EACH SUCH FAILURE, PROVIDED THAT THE MINIMUM PENALTY UNDER THIS PARAGRAPH IS FIVE HUNDRED DOLLARS.

(3) IN NO EVENT WILL THE PENALTY IMPOSED BY PARAGRAPH ONE, OR THE AGGREGATE OF THE PENALTIES IMPOSED UNDER PARAGRAPHS ONE AND TWO OF THIS SUBDIVISION, EXCEED TEN THOUSAND DOLLARS FOR ANY ANNUAL FILING PERIOD AS DESCRIBED BY PARAGRAPH THREE OF SUBDIVISION (I) OF SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS PART.

(4) IF THE COMMISSIONER DETERMINES THAT ANY OF THE FAILURES THAT ARE SUBJECT TO PENALTY UNDER THIS SUBDIVISION WAS ENTIRELY DUE TO REASONABLE CAUSE AND NOT DUE TO WILLFUL NEGLECT, THE COMMISSIONER MUST REMIT THE PENALTY IMPOSED UNDER THIS SUBDIVISION. THESE PENALTIES WILL BE DETERMINED, ASSESSED, COLLECTED, PAID, DISPOSED OF AND ENFORCED IN THE SAME MANNER AS TAXES IMPOSED BY THIS ARTICLE AND ALL THE PROVISIONS OF THIS ARTICLE RELATING THERETO WILL BE DEEMED ALSO TO REFER TO THESE PENALTIES.

S 3. This act shall take effect immediately, provided that the first return required by subdivision (i) of section 1136 of the tax law, as added by section one of this act, shall be due on or before September 20, 2009 and shall cover the period March 1, 2009 through August 31, 2009; provided, further, that the returns required to be filed by such

subdivision on or before March 20, 2010, shall cover the period from September 1, 2009 to February 28, 2010.

SUBPART H

Section 1. Subdivision 4 of section 1700 of the tax law, as added by section 1 of part CC1 of chapter 57 of the laws of 2008, is amended to read as follows:

4. To participate in the voluntary disclosure and compliance program, an eligible taxpayer must apply by submitting a disclosure statement in the form and manner prescribed by the commissioner. The disclosure statement shall contain all the information the commissioner reasonably deems necessary to effectively administer the program. As long as all the requirements of the voluntary disclosure and compliance program are met, no application shall be denied solely because the taxpayer has admitted that the delinquency was the result of willful or fraudulent conduct. Except in instances where the taxpayer has failed to comply with the terms of a voluntary disclosure and compliance agreement, the commissioner shall not use the taxpayer's disclosure as evidence in any proceeding brought against the taxpayer or reveal the contents of the disclosure to any law enforcement or other agency. HOWEVER, THE DISCLOSURE OF ANY RETURNS OR REPORTS FILED UNDER THIS PROGRAM WITH THE SECRETARY OF THE TREASURY OF THE UNITED STATES, HIS OR HER DELEGATES, OR THE PROPER TAX OFFICER OF ANY STATE OR CITY IS PERMITTED AS OTHERWISE PROVIDED FOR IN THIS CHAPTER.

S 2. This act shall take effect immediately.

SUBPART I

Section 1. Subdivision 4 of section 20.40 of the criminal procedure law is amended by adding a new paragraph (m) to read as follows:

(M) AN OFFENSE UNDER THE TAX LAW OR THE PENAL LAW OF FILING A FALSE OR FRAUDULENT RETURN, REPORT, DOCUMENT, DECLARATION, STATEMENT, OR FILING, OR OF TAX EVASION, FRAUD, OR LARCENY RESULTING FROM THE FILING OF A FALSE OR FRAUDULENT RETURN, REPORT, DOCUMENT, DECLARATION, OR FILING IN CONNECTION WITH THE PAYMENT OF TAXES TO THE STATE OR A POLITICAL SUBDIVISION OF THE STATE, MAY BE PROSECUTED IN ANY COUNTY IN WHICH AN UNDERLYING TRANSACTION REFLECTED, REPORTED OR REQUIRED TO BE REFLECTED OR REPORTED, IN WHOLE OR PART, ON SUCH RETURN, REPORT, DOCUMENT, DECLARATION, STATEMENT, OR FILING OCCURRED.

S 2. Subdivision 1 of section 470.05 of the penal law, as added by chapter 489 of the laws of 2000, is amended to read as follows:

1. Knowing that the property involved in one or more financial transactions represents the proceeds of criminal conduct:

(a) he or she conducts one or more such financial transactions which in fact involve the proceeds of specified criminal conduct:

(i) With intent to:

(A) promote the carrying on of criminal conduct; or

(B) engage in conduct constituting a felony as set forth in section [eighteen hundred two,] eighteen hundred three, eighteen hundred four, eighteen hundred five, [eighteen hundred seven or eighteen hundred eight] OR EIGHTEEN HUNDRED SIX of the tax law; or

(ii) Knowing that the transaction or transactions in whole or in part are designed to:

(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of criminal conduct; or

(B) avoid any transaction reporting requirement imposed by law; and

(b) The total value of the property involved in such financial transaction or transactions exceeds five thousand dollars; or

S 3. Subdivision 1 of section 470.10 of the penal law, as added by chapter 489 of the laws of 2000, is amended to read as follows:

1. Knowing that the property involved in one or more financial transactions represents:

(a) the proceeds of the criminal sale of a controlled substance, he or she conducts one or more such financial transactions which in fact involve the proceeds of the criminal sale of a controlled substance:

(i) With intent to:

(A) promote the carrying on of specified criminal conduct; or

(B) engage in conduct constituting a felony as set forth in section [eighteen hundred two,] eighteen hundred three, eighteen hundred four, eighteen hundred five, [eighteen hundred seven or eighteen hundred eight] OR EIGHTEEN HUNDRED SIX of the tax law; or

(ii) Knowing that the transaction or transactions in whole or in part are designed to:

(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or

(B) avoid any transaction reporting requirement imposed by law; and

(iii) The total value of the property involved in such financial transaction or transactions exceeds ten thousand dollars; or

(b) the proceeds of criminal conduct, he or she conducts one or more such financial transactions which in fact involve the proceeds of specified criminal conduct:

(i) With intent to:

(A) promote the carrying on of criminal conduct; or

(B) engage in conduct constituting a felony as set forth in section [eighteen hundred two,] eighteen hundred three, eighteen hundred four, eighteen hundred five, [eighteen hundred seven or eighteen hundred eight] OR EIGHTEEN HUNDRED SIX of the tax law; or

(ii) knowing that the transaction or transactions in whole or in part are designed to:

(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of criminal conduct; or

(B) avoid any transaction reporting requirement imposed by law; and

(iii) The total value of the property involved in such financial transaction or transactions exceeds fifty thousand dollars; or

S 4. Subdivision 1 of section 470.15 of the penal law, as added by chapter 489 of the laws of 2000, is amended to read as follows:

1. Knowing that the property involved in one or more financial transactions represents:

(a) the proceeds of the criminal sale of a controlled substance, he or she conducts one or more such financial transactions which in fact involve the proceeds of the criminal sale of a controlled substance:

(i) With intent to:

(A) promote the carrying on of specified criminal conduct; or

(B) engage in conduct constituting a felony as set forth in section [eighteen hundred two,] eighteen hundred three, eighteen hundred four, eighteen hundred five, [eighteen hundred seven or eighteen hundred eight] OR EIGHTEEN HUNDRED SIX of the tax law; or

(ii) Knowing that the transaction or transactions in whole or in part are designed to:

(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or

(B) avoid any transaction reporting requirement imposed by law; and

(iii) The total value of the property involved in such financial transaction or transactions exceeds fifty thousand dollars; or

(b) the proceeds of specified criminal conduct, he or she conducts one or more such financial transactions which in fact involve the proceeds of specified criminal conduct:

(i) With intent to:

(A) promote the carrying on of specified criminal conduct; or

(B) engage in conduct constituting a felony as set forth in section [eighteen hundred two,] eighteen hundred three, eighteen hundred four, eighteen hundred five, [eighteen hundred seven or eighteen hundred eight] OR EIGHTEEN HUNDRED SIX of the tax law; or

(ii) Knowing that the transaction or transactions in whole or in part are designed to:

(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or

(B) avoid any transaction reporting requirement imposed by law; and

(iii) The total value of the property involved in such financial transaction or transactions exceeds one hundred thousand dollars; or

S 5. Subdivision 1 of section 470.20 of the penal law, as added by chapter 489 of the laws of 2000, is amended to read as follows:

1. Knowing that the property involved in one or more financial transactions represents:

(a) the proceeds of the criminal sale of a controlled substance, he or she conducts one or more such financial transactions which in fact involve the proceeds of the criminal sale of a controlled substance:

(i) With intent to:

(A) promote the carrying on of specified criminal conduct; or

(B) engage in conduct constituting a felony as set forth in section [eighteen hundred two,] eighteen hundred three, eighteen hundred four, eighteen hundred five, [eighteen hundred seven or eighteen hundred eight] OR EIGHTEEN HUNDRED SIX of the tax law; or

(ii) Knowing that the transaction or transactions in whole or in part are designed to:

(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or

(B) avoid any transaction reporting requirement imposed by law; and

(iii) The total value of the property involved in such financial transaction or transactions exceeds five hundred thousand dollars; or

(b) the proceeds of a class A, B or C felony, or of a crime in any other jurisdiction that is or would be a class A, B or C felony under the laws of this state, he or she conducts one or more such financial transactions which in fact involve the proceeds of any such felony:

(i) With intent to:

(A) promote the carrying on of specified criminal conduct; or

(B) engage in conduct constituting a felony as set forth in section [eighteen hundred two,] eighteen hundred three, eighteen hundred four, eighteen hundred five, [eighteen hundred seven or eighteen hundred eight] EIGHTEEN HUNDRED SIX of the tax law; or

(ii) Knowing that the transaction or transactions in whole or in part are designed to:

(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or

(B) avoid any transaction reporting requirement imposed by law; and

(iii) The total value of the property involved in such financial transaction or transactions exceeds one million dollars.

S 6. Subdivision 1 of section 470.21 of the penal law, as added by section 18 of part A of chapter 1 of the laws of 2004, is amended to read as follows:

1. Knowing that the property involved in one or more financial transactions represents either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:

(a) he or she conducts one or more such financial transactions which in fact involve either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:

(i) With intent to:

(A) promote the carrying on of criminal conduct; or

(B) engage in conduct constituting a felony as set forth in section [eighteen hundred two,] eighteen hundred three, eighteen hundred four, eighteen hundred five, [eighteen hundred seven or eighteen hundred eight] OR EIGHTEEN HUNDRED SIX of the tax law; or

(ii) Knowing that the transaction or transactions in whole or in part are designed to:

(A) conceal or disguise the nature, the location, the source, the ownership or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or

(B) avoid any transaction reporting requirement imposed by law; and

(b) the total value of the property involved in such financial transaction or transactions exceeds one thousand dollars; or

S 7. Subdivision 1 of section 470.22 of the penal law, as added by section 18 of part A of chapter 1 of the laws of 2004, is amended to read as follows:

1. Knowing that the property involved in one or more financial transactions represents either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:

(a) he or she conducts one or more such financial transactions which in fact involve either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:

(i) With intent to:

(A) promote the carrying on of specified criminal conduct; or

(B) engage in conduct constituting a felony as set forth in section [eighteen hundred two,] eighteen hundred three, eighteen hundred four, eighteen hundred five, [eighteen hundred seven or eighteen hundred eight] OR EIGHTEEN HUNDRED SIX of the tax law; or

(ii) Knowing that the transaction or transactions in whole or in part are designed to:

(A) conceal or disguise the nature, the location, the source, the ownership or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or

(B) avoid any transaction reporting requirement imposed by law; and

(b) the total value of the property involved in such financial transaction or transactions exceeds five thousand dollars; or

S 8. Subdivision 1 of section 470.23 of the penal law, as added by section 18 of part A of chapter 1 of the laws of 2004, is amended to read as follows:

1. Knowing that the property involved in one or more financial transactions represents either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:

(a) he or she conducts one or more such financial transactions which in fact involve either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:

(i) With intent to:

(A) promote the carrying on of specified criminal conduct; or

(B) engage in conduct constituting a felony as set forth in section [eighteen hundred two,] eighteen hundred three, eighteen hundred four, eighteen hundred five, [eighteen hundred seven or eighteen hundred eight] OR EIGHTEEN HUNDRED SIX of the tax law; or

(ii) Knowing that the transaction or transactions in whole or in part are designed to:

(A) conceal or disguise the nature, the location, the source, the ownership or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or

(B) avoid any transaction reporting requirement imposed by law; and

(b) the total value of the property involved in such financial transaction or transactions exceeds twenty-five thousand dollars; or

S 9. Subdivision 1 of section 470.24 of the penal law, as added by section 18 of part A of chapter 1 of the laws of 2004, is amended to read as follows:

1. Knowing that the property involved in one or more financial transactions represents either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:

(a) he or she conducts one or more financial transactions which in fact involve either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:

(i) With intent to:

(A) promote the carrying on of specified criminal conduct; or

(B) engage in conduct constituting a felony as set forth in section [eighteen hundred two,] eighteen hundred three, eighteen hundred four, eighteen hundred five, [eighteen hundred seven or eighteen hundred eight] OR EIGHTEEN HUNDRED SIX of the tax law; or

(ii) Knowing that the transaction or transactions in whole or in part are designed to:

(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or

(B) avoid any transaction reporting requirement imposed by law; and

(iii) The total value of the property involved in such financial transaction or transactions exceeds seventy-five thousand dollars.

S 10. Subdivision 5 of section 480-a of the tax law, as amended by chapter 760 of the laws of 1992 and as renumbered by chapter 629 of the laws of 1996, is amended to read as follows:

5. Except for subdivision [(k)] (I) of section eighteen hundred fourteen of this chapter, the criminal penalties set forth in article thirty-seven of this chapter shall not apply to a violation of this section.

S 11. Paragraph 7 of subdivision (m) of section 1111 of the tax law, as added by section 1 of part M1 of chapter 109 of the laws of 2006, is amended to read as follows:

(7) Notwithstanding any foregoing provision of this subdivision or other law to the contrary, this subdivision, subdivision (h) of section eleven hundred nine OF THIS PART and subdivision [(t)] (N) of section eighteen hundred seventeen of this chapter, section three hundred ninety-two-i of the general business law and other provisions of law which refer or relate to this subdivision shall apply only to (A) motor fuel or diesel motor fuel sold for use directly and exclusively in the engine of a motor vehicle and (B) motor fuel or diesel motor fuel, other than water-white kerosene sold exclusively for heating purposes in containers of no more than twenty gallons, sold by a retail gas station. For purposes of this subdivision and such other provisions of law, "retail gas station" shall mean a filling station where such fuel is stored primarily for sale by delivery directly into the ordinary fuel tank connected with the engine of a motor vehicle to be consumed in the operation of such motor vehicle or where such fuel is stored primarily for sale by delivery directly into the ordinary fuel tank connected with the engine of a vessel to be consumed in the operation of such vessel. The commissioner is hereby authorized to require the use of certificates or other documents, and procedures related thereto, to effect the purposes of this subdivision; and any such certificate or other document so required by the commissioner for a purchaser to tender to a vendor to purchase such fuel subject to tax on the reduced base established by or pursuant to this subdivision is hereby deemed to be an exemption certificate as such term is used in subdivision (c) of section eleven hundred thirty-two of this article and as if the provisions of such subdivision (c) referred to such a certificate or document required pursuant to this subdivision.

S 12. Paragraph 5 of subdivision (f) of section 1137 of the tax law, as added by chapter 170 of the laws of 1994, is amended to read as follows:

(5) (i) Where a person takes a credit pursuant to this subdivision in an amount greater than allowed or under circumstances where the credit is not authorized, or (ii) where a person takes a credit pursuant to this subdivision at the time of filing a return for a quarterly or longer period and such person later becomes subject to a penalty imposed under subparagraph (vi) of paragraph one of subdivision (a) or under paragraph two of subdivision (a) of section eleven hundred forty-five of

this [article] PART or is later found guilty of a crime or offense under section EIGHTEEN HUNDRED THREE, EIGHTEEN HUNDRED FOUR, EIGHTEEN HUNDRED FIVE, EIGHTEEN HUNDRED SIX, OR eighteen hundred seventeen of this chapter, relating to the period for which the return was filed, the amount of such credit taken in such greater amount, under such circumstances or for such period shall be disallowed and the person shall be required to pay, as tax, an amount equal to the credit so taken, at such time and in such manner as prescribed by the commissioner; provided, however, that such amount shall be paid and disposed of in the same manner as other revenues from this article, and may be determined, assessed, collected and enforced in the same manner as the tax imposed by this article.

S 13. Subdivision (c) of section 1800 of the tax law, as added by chapter 65 of the laws of 1985, is amended to read as follows:

(c) As used in this article, the term "felony" and the term "misdemeanor" shall have the same meaning as they have in the penal law, and the disposition of such offenses and the sentences imposed therefor shall be as provided in such law except; (1) notwithstanding the provisions of paragraph a of subdivision one of section 80.00 and paragraph (a) of subdivision one of section 80.10 of the penal law relating to the fine for a felony, the court may impose a fine not to exceed THE GREATER OF DOUBLE THE AMOUNT OF THE UNDERPAID TAX LIABILITY RESULTING FROM THE COMMISSION OF THE CRIME OR fifty thousand dollars, [except that] OR, in the case of a corporation the fine may not exceed THE GREATER OF DOUBLE THE AMOUNT OF THE UNDERPAID TAX LIABILITY RESULTING FROM THE COMMISSION OF THE CRIME OR two hundred fifty thousand dollars and (2) notwithstanding the provisions of subdivision one of section 80.05 and paragraph (b) of subdivision one of section 80.10 of the penal law relating to the fine for a class A misdemeanor, the court may impose a fine not to exceed ten thousand dollars, except that in the case of a corporation the fine may not exceed twenty thousand dollars.

S 14. The part heading of part 2 of article 37 of the tax law, as added by chapter 65 of the laws of 1985, is amended to read as follows:

[INCOME, EARNINGS AND CORPORATE TAXES] TAX FRAUD ACTS AND PENALTIES

S 15. Section 1801 of the tax law is REPEALED and a new section 1801 is added to read as follows:

S 1801. TAX FRAUD ACTS. (A) AS USED IN THIS ARTICLE, "TAX FRAUD ACT" MEANS WILLFULLY ENGAGING IN AN ACT OR ACTS OR WILLFULLY CAUSING ANOTHER TO ENGAGE IN AN ACT OR ACTS PURSUANT TO WHICH A PERSON:

(1) FAILS TO MAKE, RENDER, SIGN, CERTIFY, OR FILE ANY RETURN OR REPORT REQUIRED UNDER THIS CHAPTER OR ANY REGULATION PROMULGATED UNDER THIS CHAPTER WITHIN THE TIME REQUIRED BY OR UNDER THE PROVISIONS OF THIS CHAPTER OR SUCH REGULATION;

(2) KNOWING THAT A RETURN, REPORT, STATEMENT OR OTHER DOCUMENT UNDER THIS CHAPTER CONTAINS ANY MATERIALLY FALSE OR FRAUDULENT INFORMATION, OR OMITS ANY MATERIAL INFORMATION, FILES OR SUBMITS THAT RETURN, REPORT, STATEMENT OR DOCUMENT WITH THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE, OR WITH ANY PUBLIC OFFICE OR PUBLIC OFFICER OF THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE;

(3) KNOWINGLY SUPPLIES OR SUBMITS MATERIALLY FALSE OR FRAUDULENT INFORMATION IN CONNECTION WITH ANY RETURN, AUDIT, INVESTIGATION, OR PROCEEDING OR FAILS TO SUPPLY INFORMATION WITHIN THE TIME REQUIRED BY OR UNDER THE PROVISIONS OF THIS CHAPTER OR ANY REGULATION PROMULGATED UNDER THIS CHAPTER;

(4) ENGAGES IN ANY SCHEME TO DEFRAUD THE STATE OR A POLITICAL SUBDIVISION OF THE STATE OR A GOVERNMENT INSTRUMENTALITY WITHIN THE STATE BY

FALSE OR FRAUDULENT PRETENSES, REPRESENTATIONS OR PROMISES AS TO ANY MATERIAL MATTER, IN CONNECTION WITH ANY TAX IMPOSED UNDER THIS CHAPTER OR ANY MATTER UNDER THIS CHAPTER;

(5) FAILS TO REMIT ANY TAX COLLECTED IN THE NAME OF THE STATE OR ON BEHALF OF THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE WHEN SUCH COLLECTION IS REQUIRED UNDER THIS CHAPTER;

(6) FAILS TO COLLECT ANY TAX REQUIRED TO BE COLLECTED UNDER ARTICLES TWELVE-A, EIGHTEEN, TWENTY, TWENTY-TWO OR TWENTY-EIGHT OF THIS CHAPTER, OR PURSUANT TO THE AUTHORITY OF ARTICLE TWENTY-NINE OF THIS CHAPTER;

(7) WITH INTENT TO EVADE ANY TAX FAILS TO PAY THAT TAX; OR

(8) ISSUES AN EXEMPTION CERTIFICATE, INTERDISTRIBUTOR SALES CERTIFICATE, RESALE CERTIFICATE, OR ANY OTHER DOCUMENT CAPABLE OF EVIDENCING A CLAIM THAT TAXES DO NOT APPLY TO A TRANSACTION, WHICH HE OR SHE DOES NOT BELIEVE TO BE TRUE AND CORRECT AS TO ANY MATERIAL MATTER, WHICH OMITS ANY MATERIAL INFORMATION, OR WHICH IS FALSE, FRAUDULENT, OR COUNTERFEIT.

(B) FOR PURPOSES OF THIS SUBDIVISION, "THIS CHAPTER" INCLUDES ANY "RELATED STATUTE" OR ANY "RELATED INCOME OR EARNINGS TAX STATUTE", AS DEFINED IN SECTION EIGHTEEN HUNDRED OF THIS ARTICLE.

(C) FOR PURPOSES OF THIS SUBDIVISION, THE TERM "WILLFULLY" SHALL BE DEFINED TO MEAN ACTING WITH EITHER INTENT TO DEFRAUD, INTENT TO EVADE THE PAYMENT OF TAXES OR INTENT TO AVOID A REQUIREMENT OF THIS CHAPTER, A LAWFUL REQUIREMENT OF THE COMMISSIONER OR A KNOWN LEGAL DUTY.

S 16. Section 1802 of the tax law is REPEALED and a new section 1802 is added to read as follows:

S 1802. CRIMINAL TAX FRAUD IN THE FIFTH DEGREE. A PERSON COMMITS CRIMINAL TAX FRAUD IN THE FIFTH DEGREE WHEN HE OR SHE COMMITS A TAX FRAUD ACT. CRIMINAL TAX FRAUD IN THE FIFTH DEGREE IS A CLASS A MISDEMEANOR.

S 17. Section 1803 of the tax law is REPEALED and a new section 1803 is added to read as follows:

S 1803. CRIMINAL TAX FRAUD IN THE FOURTH DEGREE. A PERSON COMMITS CRIMINAL TAX FRAUD IN THE FOURTH DEGREE WHEN HE OR SHE COMMITS A TAX FRAUD ACT OR ACTS AND, WITH THE INTENT TO EVADE ANY TAX DUE UNDER THIS CHAPTER, OR TO DEFRAUD THE STATE OR ANY SUBDIVISION THEREOF, THE PERSON PAYS THE STATE AND/OR A POLITICAL SUBDIVISION OF THE STATE (WHETHER BY MEANS OF UNDERPAYMENT OR RECEIPT OF REFUND OR BOTH), IN A PERIOD OF NOT MORE THAN ONE YEAR IN EXCESS OF THREE THOUSAND DOLLARS LESS THAN THE TAX LIABILITY THAT IS DUE. CRIMINAL TAX FRAUD IN THE FOURTH DEGREE IS A CLASS E FELONY.

S 18. Section 1804 of the tax law is REPEALED and a new section 1804 is added to read as follows:

S 1804. CRIMINAL TAX FRAUD IN THE THIRD DEGREE. A PERSON COMMITS CRIMINAL TAX FRAUD IN THE THIRD DEGREE WHEN HE OR SHE COMMITS A TAX FRAUD ACT OR ACTS AND, WITH THE INTENT TO EVADE ANY TAX DUE UNDER THIS CHAPTER, OR TO DEFRAUD THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE, THE PERSON PAYS THE STATE AND/OR A POLITICAL SUBDIVISION OF THE STATE (WHETHER BY MEANS OF UNDERPAYMENT OR RECEIPT OF REFUND OR BOTH), IN A PERIOD OF NOT MORE THAN ONE YEAR IN EXCESS OF TEN THOUSAND DOLLARS LESS THAN THE TAX LIABILITY THAT IS DUE. CRIMINAL TAX FRAUD IN THE THIRD DEGREE IS A CLASS D FELONY.

S 19. Section 1805 of the tax law is REPEALED and a new section 1805 is added to read as follows:

S 1805. CRIMINAL TAX FRAUD IN THE SECOND DEGREE. A PERSON COMMITS CRIMINAL TAX FRAUD IN THE SECOND DEGREE WHEN HE OR SHE COMMITS A TAX FRAUD ACT OR ACTS AND, WITH THE INTENT TO EVADE ANY TAX DUE UNDER THIS CHAPTER, OR TO DEFRAUD THE STATE OR ANY SUBDIVISION OF THE STATE, THE PERSON PAYS THE STATE AND/OR A POLITICAL SUBDIVISION OF THE STATE

(WHETHER BY MEANS OF UNDERPAYMENT OR RECEIPT OF REFUND OR BOTH), IN A PERIOD OF NOT MORE THAN ONE YEAR IN EXCESS OF FIFTY THOUSAND DOLLARS LESS THAN THE TAX LIABILITY THAT IS DUE. CRIMINAL TAX FRAUD IN THE SECOND DEGREE IS A CLASS C FELONY.

S 20. Section 1806 of the tax law is REPEALED and a new section 1806 is added to read as follows:

S 1806. CRIMINAL TAX FRAUD IN THE FIRST DEGREE. A PERSON COMMITS CRIMINAL TAX FRAUD IN THE FIRST DEGREE WHEN HE OR SHE COMMITS A TAX FRAUD ACT OR ACTS AND, WITH THE INTENT TO EVADE ANY TAX DUE UNDER THIS CHAPTER, OR TO DEFRAUD THE STATE OR ANY SUBDIVISION OF THE STATE, THE PERSON PAYS THE STATE AND/OR A POLITICAL SUBDIVISION OF THE STATE (WHETHER BY MEANS OF UNDERPAYMENT OR RECEIPT OF REFUND OR BOTH), IN A PERIOD OF NOT MORE THAN ONE YEAR IN EXCESS OF ONE MILLION DOLLARS LESS THAN THE TAX LIABILITY THAT IS DUE. CRIMINAL TAX FRAUD IN THE FIRST DEGREE IS A CLASS B FELONY.

S 21. Section 1807 of the tax law is REPEALED and a new section 1807 is added to read as follows:

S 1807. AGGREGATION. FOR PURPOSES OF THIS ARTICLE, THE PAYMENTS DUE AND NOT PAID UNDER ARTICLE ONE OF THIS CHAPTER PURSUANT TO A COMMON SCHEME OR PLAN OR DUE AND NOT PAID, WITHIN ONE YEAR, MAY BE CHARGED IN A SINGLE COUNT, AND THE AMOUNT OF UNDERPAID TAX LIABILITY INCURRED, WITHIN ONE YEAR, MAY BE AGGREGATED IN A SINGLE COUNT.

S 22. Section 1808 of the tax law is REPEALED.

S 23. Sections 1809 and 1810 of the tax law are REPEALED.

S 24. Section 1811 of the tax law, as amended by section 116, subdivisions (a) and (b) as separately amended by section 145 of chapter 190 of the laws of 1990, is amended to read as follows:

S 1811. Estate, gift and transfer taxes.[--(a) Failure to file a return or report, or pay tax.--Any person required under article twenty-six, twenty-six-A or twenty-six-B of this chapter to pay tax, or make a return or report, who, with intent to evade tax or any requirement of such articles, fails to pay such tax or make such return or report, at the time or times so required, shall be guilty of a misdemeanor.

(b) Fraudulent returns, reports, statements or other documents.--(1) Any person who, with intent to evade the tax or any requirement of article twenty-six, twenty-six-A or twenty-six-B of this chapter or any lawful requirement of the commissioner of taxation and finance thereunder, makes and subscribes any return, report, statement or other document which is required to be filed with or furnished to the commissioner or to any person, pursuant to or under the provisions of such articles, which he does not believe to be true and correct as to every material matter shall be guilty of a misdemeanor.

(2) Any person who, with intent to evade the tax or any requirement of article twenty-six, twenty-six-A or twenty-six-B of this chapter or any lawful requirement of the commissioner of taxation and finance thereunder, who delivers or discloses to the commissioner or to any person, pursuant to or under the provisions of such articles, any list, return, report, account, statement or other document known by him to be fraudulent or to be false as to any material matter shall be guilty of a misdemeanor.

(3) For purposes of this section, the omission by any person of any material matter with intent to deceive shall constitute the delivery or disclosure of a document known by him to be fraudulent or to be false as to any material matter.

(c)] Wrongful entry into safe deposit box.--Any person who enters a safe deposit box of a decedent, or a box standing in the joint names of

such a decedent and one or more persons, with knowledge of the death of the lessee of such box, which entry results in an evasion of the tax imposed by article twenty-six of this chapter shall be guilty of a misdemeanor.

S 25. Section 1812 of the tax law, as added by chapter 65 of the laws of 1985, paragraphs 4 and 5 of subdivision (c) as added and subdivision (d) as amended by chapter 261 of the laws of 1988 and subdivisions (g) and (h) as added by chapter 276 of the laws of 1986, is amended to read as follows:

S 1812. Motor fuel taxes.--(a) Attempt to evade or defeat tax.--Any person who willfully attempts in any manner to evade or defeat any tax imposed by article twelve-A of this chapter or the payment thereof shall, in addition to other penalties provided by law, be guilty of a class E felony.

(b) [Willful failure to file a return or report, or pay tax.--Any person required under article twelve-A of this chapter to pay tax, or make a return or report, who willfully fails to pay such tax or make such return or report, at the time or times so required, shall be guilty of a misdemeanor.

(c) Fraudulent returns, reports, statements or other documents.--(1) Any person who willfully makes and subscribes any return, report, statement or other document which is required to be filed with or furnished to the tax commission or to any person, pursuant to the provisions of article twelve-A of this chapter, which he does not believe to be true and correct as to every material matter shall be guilty of a class E felony.

(2) Any person who willfully delivers or discloses to the tax commission or to any person, pursuant to the provisions of article twelve-A of this chapter, any list, return, report, account, statement or other document known by him to be fraudulent or to be false as to any material matter shall be guilty of a misdemeanor.

(3) For purposes of this section, the omission by any person of any material matter with intent to deceive shall constitute the delivery or disclosure of a document known by him to be fraudulent or to be false as to any material matter.

(4) Any person who willfully issues an exempt transaction certificate (or similar document which has been prescribed by the commissioner of taxation and finance) or interdistributor sale certificate in order to claim an exemption from the taxes imposed on Diesel motor fuel by article twelve-A of this chapter which he does not believe to be true and correct as to any material matter shall, in addition to any other penalty provided by law, be guilty of a misdemeanor.

(5)] Any person who willfully accepts an exempt transaction certificate (or similar document which has been prescribed by the commissioner [of taxation and finance]) or interdistributor sale certificate with respect to claiming exemption from the taxes imposed on Diesel motor fuel by article twelve-A of this chapter which he does not believe to be true and correct as to any material matter shall, in addition to any other penalty provided by law, be guilty of a misdemeanor.

[(d)] (C) Any owner of a filling station who shall willfully and knowingly have in his custody, possession or under his control any motor fuel or Diesel motor fuel on which (1) the taxes imposed by or pursuant to the authority of such article have not been assumed or paid by a distributor registered as such under such article or (2) the taxes imposed by or pursuant to the authority of such article have not been included in the cost to him of such fuel where such taxes were required

to have been passed through to him and included in the cost to him of such fuel, shall in either case, be guilty of a class E felony. For purposes of this subdivision, such owner shall willfully and knowingly have in his custody, possession or under his control any motor fuel or Diesel motor fuel on which such taxes have not been assumed or paid by a distributor registered as such where such owner has knowledge of the requirement that such taxes be paid and where, to his knowledge, such taxes have not been assumed or paid by a registered distributor on such motor fuel or Diesel motor fuel. Such owner shall willfully and knowingly have in his custody, possession or under his control any motor fuel or Diesel motor fuel on which such taxes are required to have been passed through to him and have not been included in his cost where such owner has knowledge of the requirement that such taxes be passed through and where to his knowledge such taxes have not been so included.

[(e)] (D) Any willful act or omission, other than those described in subdivision (a), (b), OR (c) [or (d)] of this section, by any person which constitutes a violation of any provision of article twelve-A of this chapter shall constitute a misdemeanor.

[(f)] (E) The provisions of this section shall apply for purposes of the tax imposed pursuant to the authority of section two hundred eighty-four-b of this chapter.

[(g) Any person who, being duly subpoenaed, pursuant to section one hundred seventy-four of this chapter or the provisions of the civil practice law and rules, in connection with a matter arising under article twelve-A of this chapter, to attend as a witness or to produce books, accounts, records, memoranda, documents or other papers who (i) fails or refuses to attend without lawful excuse, (ii) refuses to be sworn, (iii) refuses to answer any material and proper question, or (iv) refuses, after reasonable notice, to produce books, accounts, records, memoranda, documents or other papers in his possession or under his control which constitute material and proper evidence shall be guilty of a misdemeanor.

(h)] (F) Any person who willfully makes a manifest required by section two hundred eighty-six-b of this chapter which he does not believe to be true and correct as to every material matter or who willfully produces any manifest for inspection as required under section two hundred eighty-six-b of this chapter which is known to be fraudulent or to be false as to any material matter shall be guilty of a class E felony.

S 26. Section 1812-f of the tax law, as added by chapter 190 of the laws of 1990, is amended to read as follows:

S 1812-f. Article thirteen-A tax. (a) [Attempt to evade or defeat tax. Any person who willfully attempts in any manner to evade or defeat any tax imposed by article thirteen-A of this chapter or the payment thereof shall be guilty of a misdemeanor; provided, however, that if the tax liability evaded or defeated as a result of such conduct is equal to or greater than one thousand dollars, such person shall be guilty of class E felony.

(b) Willful failure to file a return or report, or pay tax. Any person required under article thirteen-A of this chapter to pay tax, or make a return or report, who willfully fails to pay such tax or make such return or report, at the time or times so required, shall be guilty of a misdemeanor.

(c) Fraudulent returns, reports, statements or other documents. (1) Any person who willfully makes and subscribes any return, report, statement or other document which is required to be filed with or furnished to the commissioner of taxation and finance or to any person, pursuant

to the provisions of article thirteen-A of this chapter, which he does not believe to be true and correct as to every material matter shall be guilty of a misdemeanor. Provided, however, where such person substantially understates on such return, report, statement, or other document his tax liability under such article, such person shall be guilty of a class E felony. For purposes of this subdivision, the term "substantially understates" refers to the excess amount of the tax required to be shown on the return or report for the taxable period over the amount of the tax imposed which is shown on the return, report, statement, or other document, provided that the excess is one thousand dollars or more, and provided that the taxpayer, acting without reasonable ground for believing that his conduct is lawful, intended to evade at least the amount of such excess.

(2) Any person who willfully delivers or discloses to the commissioner of taxation and finance or to any person, pursuant to the provisions of article thirteen-A of this chapter, any list, return, report, account, statement or other document known by him to be fraudulent or to be false as to any material matter shall be guilty of a misdemeanor.

(3) For purposes of this section, the omission by any person of any material matter with intent to deceive shall constitute the delivery or disclosure of a document known by him to be fraudulent or to be false as to any material matter.

(4) Any person who willfully issues an exempt transaction certificate (or similar document which has been prescribed by the commissioner of taxation and finance) or interdistributor sale certificate in order to claim an exemption from taxes imposed with respect to diesel motor fuel or residual petroleum product by article thirteen-A of this chapter which he does not believe to be true and correct as to any material matter shall be guilty of a misdemeanor.

(5)] Any person who willfully accepts an exempt transaction certificate (or similar document which has been prescribed by the commissioner of taxation and finance) or interdistributor sale certificate with respect to claiming exemption from the taxes imposed with respect to diesel motor fuel or residual petroleum product by article thirteen-A of this chapter which he does not believe to be true and correct as to any material matter shall be guilty of a misdemeanor.

[(d)] (B) Any willful act or omission, other than those described in SECTION EIGHTEEN HUNDRED ONE OF THIS ARTICLE OR subdivision (a)[, (b)] or (c) of this section, by any person which constitutes a violation of any provision of article thirteen-A of this chapter shall constitute a misdemeanor.

[(e) Any person who duly is subpoenaed, pursuant to section one hundred seventy-four of this chapter or the provisions of the civil practice law and rules, in connection with a matter arising under article thirteen-A of this chapter, to attend as a witness or to produce books, accounts, records, memoranda, documents or other papers and who (i) fails or refuses to attend without lawful excuse, (ii) refuses to be sworn, (iii) refuses to answer any material and proper question, or (iv) refuses, after reasonable notice, to produce books, accounts, records, memoranda, documents or other papers in his possession or under his control which constitute material and proper evidence shall be guilty of a misdemeanor.

(f)] (C) Any person who willfully makes a movement tracking document required pursuant to subdivision (b) of section three hundred fifteen of this chapter, which he does not believe to be true and correct as to every material matter or who willfully produces any such document for

inspection as required under subdivision (b) of section three hundred fifteen of this chapter which he knows to be fraudulent or to be false as to any material matter shall be guilty of a misdemeanor; provided, however, that if the tax liability under article thirteen-A of this chapter with respect to the product being transported, is equal to or greater than one thousand dollars, such person shall be guilty of a class E felony.

S 27. Section 1813 of the tax law, as added by chapter 65 of the laws of 1985, subdivisions (h), (i) and (j) as added by chapter 508 of the laws of 1993, is amended to read as follows:

S 1813. Alcoholic beverage tax.--(a) [Attempt to evade or defeat tax.--Any person who willfully attempts in any manner to evade or defeat any tax imposed by article eighteen of this chapter or the payment thereof shall, in addition to other penalties provided by law, be guilty of a misdemeanor.

(b) Willful failure to file a return or report, or pay tax.--Any person required under article eighteen of this chapter to pay or make a return or report, who willfully fails to pay such tax or make such return or report at the time or times so required, shall be guilty of a misdemeanor.

(c) Fraudulent returns, reports, statements or other documents.--(1) Any person who willfully makes and subscribes any return, report, statement or other document which is required to be filed with or furnished to the tax commission or to any person, pursuant to article eighteen of this chapter, which he does not believe to be true and correct as to every material matter shall be guilty of a class E felony.

(2) Any person who willfully delivers or discloses to the tax commission or to any person, pursuant to article eighteen of this chapter, any list, return, report, account, statement or other document known by him to be fraudulent or to be false as to any material matter shall be guilty of a misdemeanor.

(3) For purposes of this section, the omission by any person of any material matter with intent to deceive shall constitute the delivery or disclosure of a document known by him to be fraudulent or to be false as to any material matter.

(d)] Unlawful use of stamps.--Any person who shall counterfeit stamps prescribed by section four hundred thirty-eight of this chapter or who shall willfully remove or alter or knowingly permit to be removed or altered, the cancellation or defacing marks required to be placed upon any stamp under provisions of article eighteen of this chapter with intent to use such stamp, or who shall willfully open any container of alcoholic beverages without first destroying the stamp affixed thereto or who shall knowingly or willfully buy, prepare for use, use, have in his possession or suffer to be used any washed, restored or counterfeit stamp shall be guilty of a misdemeanor.

[(e)] (B) Unlawful use of alcoholic beverages.--Any person who shall willfully sell or use any alcoholic beverages upon which tax has not been paid by the affixation of stamps as prescribed pursuant to section four hundred thirty-eight of this chapter shall be guilty of a misdemeanor.

[(f)] (C) Any willful act or omission, other than those described in SECTION EIGHTEEN HUNDRED ONE OF THIS ARTICLE OR subdivision (a)[,] OR (b)[, (c), (d) or (e)] of this section, by any person which constitutes a violation of any provision of article eighteen of this chapter shall constitute a misdemeanor.

[(g)] (D) The provisions of this section shall apply for purposes of any tax imposed pursuant to the authority of section four hundred forty-five of this chapter.

[(h)] (E) Person not registered as a distributor. (1) Any person required to be registered as a distributor pursuant to the provisions of article eighteen of this chapter who, while not so registered, knowingly imports or causes to be imported into the state, for sale or use therein, any liquors or, who, except in accordance with clause (i) or (ii) of paragraph (b) of subdivision four of section four hundred twenty of this chapter, knowingly produces, distills, manufactures, compounds, mixes or ferments in this state any such liquors for sale, or who, as a purchaser of a warehouse receipt, knowingly causes liquors covered by such receipt to be removed from a warehouse in this state, shall be guilty of a class A misdemeanor. Provided, however, that any person who has twice been convicted under this section within the preceding five years, shall be guilty of a class E felony for any subsequent violation of this paragraph.

(2) Any person who, while not registered as a distributor pursuant to the provisions of article eighteen of this chapter, knowingly and intentionally imports or causes to be imported into this state, for sale or use therein, more than three hundred sixty liters of liquors into this state in a one-year period or, except in accordance with clause (i) or (ii) of paragraph (b) of subdivision four of section four hundred twenty of this chapter, knowingly and intentionally produces, distills, manufactures, compounds, mixes or ferments for sale more than three hundred sixty liters of such liquors within this state in a one-year period, or, as a purchaser of a warehouse receipt, knowingly and intentionally causes more than three hundred sixty liters of liquors in a one-year period to be removed from a warehouse in this state, shall be guilty of a class E felony.

(3) For purposes of this subdivision, it shall be presumed that the importation or the causing to be imported into this state or the production, distillation, manufacture, compounding, mixing or fermenting in this state of more than ninety liters of such liquors by any person in a one-year period is for purposes of sale. Such presumption may be rebutted by the introduction of substantial evidence to the contrary.

[(i)] (F) Person not registered as a distributor for city purposes. (1) Any person required to be registered as a distributor for city purposes pursuant to the provisions of section four hundred forty-five of article eighteen of this chapter who, while not so registered, knowingly imports or causes to be imported into such city, for sale or use therein, any liquors or, who, except in accordance with clause (i) or (ii) of paragraph (b) of subdivision four of section four hundred twenty of this chapter as incorporated into such section four hundred forty-five, knowingly produces, distills, manufactures, compounds, mixes or ferments in such city any such liquors for sale, or who, as a purchaser of a warehouse receipt, causes liquors covered by such receipt to be removed from a warehouse in this state, shall be guilty of a class A misdemeanor. Provided, however, that any person who has twice been convicted under this section within the preceding five years shall be guilty of a class E felony for any subsequent violation of this paragraph.

(2) Any person who, while not registered as a distributor for city purposes pursuant to the provisions of section four hundred forty-five of article eighteen of this chapter, knowingly and intentionally imports or causes to be imported into such city, for sale or use therein, more

than three hundred sixty liters of liquors into such city in a one-year period or, except in accordance with clause (i) or (ii) of paragraph (b) of subdivision four of section four hundred twenty of this chapter as incorporated into such section four hundred forty-five, knowingly and intentionally produces, distills, manufactures, compounds, mixes or ferments for sale more than three hundred sixty liters of such liquors within such city in a one-year period, or, as a purchaser of a warehouse receipt, knowingly and intentionally causes more than three hundred sixty liters of liquors in a one-year period to be removed from a warehouse in this [store] STATE, shall be guilty of a class E felony.

(3) For purposes of this subdivision, it shall be presumed that the importation or the causing to be imported into such city or the production, distillation, manufacture, compounding, mixing or fermenting in such city of more than ninety liters of liquors by any person in a one-year period is for purposes of sale. Such presumption may be rebutted by the introduction of substantial evidence to the contrary.

[(j)] (G) Any person, other than the distributor registered under article eighteen of this chapter which imported or caused the liquors to be imported into this state, who shall willfully and knowingly have in his custody, possession or under his control liquors with respect to which the taxes imposed by or pursuant to the authority of article eighteen of this chapter have not been assumed or paid by a distributor registered as such under such article, shall be guilty of a class B misdemeanor; if such person shall willfully and knowingly have more than ninety liters of such liquors in his custody or possession or under his control, such person shall be guilty of a class A misdemeanor; or if such person shall knowingly and intentionally have more than three hundred sixty liters of such liquors in his custody or possession or under his control, such person shall be guilty of a class E felony. For purposes of this subdivision, such person shall willfully and knowingly have in his custody, possession or under his control any liquors with respect to which such taxes have not been assumed or paid by a distributor registered as such where such person has knowledge of the requirement of such taxes and where, to his knowledge, such taxes have not been assumed or paid by a registered distributor with respect to such liquors.

S 28. Section 1814 of the tax law, as added by chapter 65 of the laws of 1985, the section heading and subdivisions (c), (g) and (h) as amended and subdivision (j) as added by chapter 61 of the laws of 1989, paragraph 2 of subdivision (a) and paragraph 1 of subdivision (e) as amended by chapter 508 of the laws of 2004, subdivisions (d) and (e) as amended by chapter 262 of the laws of 2000 and subdivision (k) as added by chapter 190 of the laws of 1990, is amended to read as follows:

S 1814. Cigarette and tobacco products tax.--(a) [Attempt to evade or defeat tax.--(1) Any person who willfully attempts in any manner to evade or defeat any tax imposed by article twenty of this chapter or the payment thereof shall, in addition to other penalties provided by law, be guilty of a misdemeanor.

(2)] Any person who willfully attempts in any manner to evade or defeat the taxes imposed by article twenty of this chapter or payment thereof on (i) ten thousand cigarettes or more (ii) twenty-two thousand cigars or more, or (iii) four hundred forty pounds of tobacco or more or has previously been convicted two or more times of a violation of paragraph one of this subdivision shall be guilty of a class E felony.

(b) [Willful failure to file a return or report, or pay tax.--Any person required under article twenty of this chapter to pay or make a

return or report, who willfully fails to pay such tax or make such return or report, at the time or times so required, shall be guilty of a misdemeanor.

(c) Fraudulent returns, reports, statements or other documents.--(1) Any person who willfully makes and subscribes any return, report, statement or other document which is required to be filed with or furnished to the commissioner of taxation and finance or to any person, pursuant to article twenty of this chapter, which he does not believe to be true and correct as to every material matter shall be guilty of a misdemeanor.

(2) Any person who willfully delivers or discloses to the commissioner of taxation and finance or to any person, pursuant to article twenty of this chapter, any list, return, report, account, statement or other document known by him to be fraudulent or to be false as to any material matter shall be guilty of a misdemeanor.

(3) For purposes of this section, the omission by any person of any material matter with intent to deceive shall constitute the delivery or disclosure of a document known by him to be fraudulent or to be false as to any material matter.

(d)] Any person, other than an agent licensed by the commissioner, who possesses or transports for the purpose of sale any unstamped or unlawfully stamped packages of cigarettes subject to tax imposed by section four hundred seventy-one of this chapter, or who sells or offers for sale unstamped or unlawfully stamped packages of cigarettes in violation of the provisions of article twenty of this chapter shall be guilty of a misdemeanor. Any person who violates the provisions of this subdivision after having previously been convicted of a violation of this subdivision within the preceding five years shall be guilty of a class E felony.

[(e)] (C) (1) Any person, other than an agent licensed by the commissioner, who willfully possesses or transports for the purpose of sale ten thousand or more cigarettes subject to the tax imposed by section four hundred seventy-one of this chapter in any unstamped or unlawfully stamped packages or who willfully sells or offers for sale ten thousand or more cigarettes in any unstamped or unlawfully stamped packages in violation of article twenty of this chapter shall be guilty of a class E felony.

(2) Any person, other than an agent licensed by the commissioner, who willfully possesses or transports for the purpose of sale thirty thousand or more cigarettes subject to the tax imposed by section four hundred seventy-one of this chapter in any unstamped or unlawfully stamped packages or who willfully sells or offers for sale thirty thousand or more cigarettes in any unstamped or unlawfully stamped packages in violation of article twenty of this chapter shall be guilty of a class D felony.

[(f)] (D) For the purposes of this section, the possession or transportation within this state by any person, other than an agent, at any one time of five thousand or more cigarettes in unstamped or unlawfully stamped packages shall be presumptive evidence that such cigarettes are possessed or transported for the purpose of sale and are subject to the tax imposed by section four hundred seventy-one of this chapter. With respect to such possession or transportation any provisions of article twenty of this chapter providing for a time period during which a use tax imposed by such article may be paid on unstamped cigarettes or unlawfully or improperly stamped cigarettes or during which such cigarettes may be returned to an agent shall not apply. The possession with-

in this state of more than four hundred cigarettes in unstamped or unlawfully stamped packages by any person other than an agent at any one time shall be presumptive evidence that such cigarettes are subject to tax as provided by article twenty of this chapter.

[(g)] (E) Nothing in this section shall apply to common or contract carriers or warehousemen while engaged in lawfully transporting or storing unstamped packages of cigarettes as merchandise, or lawfully transporting or storing tobacco products, nor to any employee of such carrier or warehouseman acting within the scope of his employment, nor to public officers or employees in the performance of their official duties requiring possession or control of unstamped or unlawfully stamped packages of cigarettes or possession or control of tobacco products, nor to temporary incidental possession by employees or agents of persons lawfully entitled to possession, nor to persons whose possession is for the purpose of aiding police officers in performing their duties.

[(h)] (F) Any willful act or omission, other than those described in SECTION EIGHTEEN HUNDRED ONE OF THIS ARTICLE OR subdivision (a), (b), (c), (d), (e), [(f),] (g), (H) OR (i) [or (j)] of this section, by any person which constitutes a violation of any provision of article twenty of this chapter shall constitute a misdemeanor.

[(i)] (G) Any person who falsely or fraudulently makes, alters or counterfeits any stamp prescribed by the tax commission under the provisions of article twenty of this chapter, or causes or procures to be falsely or fraudulently made, altered or counterfeited any such stamp, or knowingly and willfully utters, purchases, passes or tenders as true any such false, altered or counterfeited stamp, or knowingly and willfully possesses any cigarettes in packages bearing any such false, altered or counterfeited stamp, and any person who knowingly and willfully makes, causes to be made, purchases or receives any device for forging or counterfeiting any stamp, prescribed by the tax commission under the provisions of article twenty of this chapter, or who knowingly and willfully possesses any such device, shall be guilty of a class E felony. For the purposes of this subdivision, the words "stamp prescribed by the tax commission" shall include a stamp, impression or imprint made by a metering machine, the design of which has been approved by such commission.

[(j)] (H) (1) Any dealer, other than a distributor appointed by the commissioner of taxation and finance under article twenty of this chapter, who shall knowingly transport or have in his custody, possession or under his control more than ten pounds of tobacco or more than five hundred cigars upon which the taxes imposed by article twenty of this chapter have not been assumed or paid by a distributor appointed by the commissioner of taxation and finance under article twenty of this chapter, or other person treated as a distributor pursuant to section four hundred seventy-one-d of this chapter, shall be guilty of a misdemeanor punishable by a fine of not more than five thousand dollars or by a term of imprisonment not to exceed thirty days.

(2) Any person, other than a dealer or a distributor appointed by the commissioner [of taxation and finance] under article twenty of this chapter, who shall knowingly transport or have in his custody, possession or under his control more than fifteen pounds of tobacco or more than seven hundred fifty cigars upon which the taxes imposed by article twenty of this chapter have not been assumed or paid by a distributor appointed by the commissioner [of taxation and finance] under article twenty of this chapter, or other person treated as a distributor pursuant to section four hundred seventy-one-d of this chap-

ter shall be guilty of a misdemeanor punishable by a fine of not more than five thousand dollars or by a term of imprisonment not to exceed thirty days.

(3) Any person, other than a distributor appointed by the commissioner [of taxation and finance] under article twenty of this chapter, who shall knowingly transport or have in his custody, possession or under his control twenty-five hundred or more cigars or fifty or more pounds of tobacco upon which the taxes imposed by article twenty of this chapter have not been assumed or paid by a distributor appointed by the commissioner [of taxation and finance] under article twenty of this chapter, or other person treated as a distributor pursuant to section four hundred seventy-one-d of this chapter shall be guilty of a misdemeanor. Provided further, that any person who has twice been convicted under this subdivision shall be guilty of a class E felony for any subsequent violation of this section, regardless of the amount of tobacco products involved in such violation.

(4) For purposes of this subdivision, such person shall knowingly transport or have in his custody, possession or under his control tobacco or cigars on which such taxes have not been assumed or paid by a distributor appointed by the commissioner [of taxation and finance] where such person has knowledge of the requirement of the tax on tobacco products and, where to his knowledge, such taxes have not been assumed or paid on such tobacco products by a distributor appointed by the commissioner of taxation and finance.

[(k)] (I) Any person who falsely or fraudulently makes, alters or counterfeits a registration certificate or sticker required under the provisions of section four hundred eighty-a of this chapter, or causes or procures to be falsely or fraudulently made, altered or counterfeited any such registration certificate or sticker, or knowingly and willfully utters, purchases, passes or tenders as true any such false, altered or counterfeited registration certificate or sticker, and any person who knowingly and willfully makes, causes to be made, purchases or receives any device for forging or counterfeiting any registration certificate or sticker required under the provisions of such section, or who knowingly and willfully possesses any such device, shall be guilty of a class B misdemeanor.

S 29. Section 1815 of the tax law, as amended by chapter 170 of the laws of 1994, clause (i) of subparagraph (A) of paragraph 1 of subdivision (a) as amended by section 10, subparagraph (B) of paragraph 1 of subdivision (a) as amended by section 11 and subparagraph (C) of paragraph 1 of subdivision (a) as amended by section 12 of part E of chapter 60 of the laws of 2007, is amended to read as follows:

S 1815. Highway use and fuel use taxes. - (a) Violations. (1) It shall be unlawful for any person to:

(A) (i) Use or cause or permit to be used, any public highway in this state for the operation of a motor vehicle subject to the provisions of article twenty-one of this chapter without first applying for and obtaining the certificate of registration required under such article;

(ii) Use or cause or permit to be used, any public highway in this state for the operation of a qualified motor vehicle subject to the provisions of article twenty-one-A of this chapter without first obtaining the license and decal required pursuant to such article or to carry or cause or permit to be carried upon any qualified motor vehicle a license or decal which has been suspended or revoked or which was issued for a qualified motor vehicle other than the one on which carried. The operation of any qualified motor vehicle on any public highway of this

state without carrying thereon the license or decal required under such article shall be presumptive evidence that a license or decal has not been obtained for such qualified motor vehicle;

(B) Operate, or cause or permit to be operated, on any public highway any motor vehicle subject to the provisions of article twenty-one of this chapter having an actual gross or unloaded weight in excess of the gross or unloaded weight set forth on the certificate of registration issued for such motor vehicle;

(C) Fail to deliver or surrender, pursuant to the provisions of article twenty-one or twenty-one-A of this chapter or any rule or regulation promulgated by the commissioner, a certificate of registration or license or decal to such commissioner, or any person directed by such commissioner to take possession thereof;

(D) Fail [to make any return under article twenty-one or twenty-one-A of this chapter or] to keep records of operations of motor vehicles or qualified motor vehicles as the commissioner shall prescribe;

(E) [Make any false return; or

(F)] Violate any other provision of article twenty-one or twenty-one-A of this chapter or any rule or regulation promulgated thereunder.

(2) Any person who violates any provision of this subdivision, upon a first conviction shall be subject to a fine of not less than one hundred dollars or more than two hundred fifty dollars; and upon a second or subsequent conviction to a fine of not less than two hundred fifty dollars or more than five hundred dollars or by imprisonment for not more than ten days. Except as otherwise provided by law such a violation shall not be a crime and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person convicted thereof.

(3) For the purposes of conferring jurisdiction upon courts and police officers, and on the officers specified in subdivision four of section 2.10 of the criminal procedure law and on judicial officers generally, such violations shall be deemed traffic infractions and for such purpose only all provisions of law relating to traffic infractions shall apply to such violations; provided, however, that the commissioner of motor vehicles, any hearing officer appointed by him, or any administrative tribunal authorized to hear and determine any charges or offenses which are traffic infractions shall not have jurisdiction of such infractions.

(4) Upon the conviction of any person for a violation of any of the provisions of this subdivision, the trial court or the clerk thereof shall within forty-eight hours certify the facts of the case to the commissioner and such certificate shall be presumptive evidence of the facts recited therein. If any such conviction shall be reversed upon appeal therefrom, the person whose conviction has been so reversed may serve upon the commissioner a certified copy of the order of reversal and the commissioner shall thereupon record the same.

(b) [Felonies. Any person who files or causes to be filed any return, affidavit or statement required or permitted by article twenty-one or twenty-one-A of this chapter which is willfully false or fraudulent or who willfully fails to file a return with intent to evade the tax is guilty of a class E felony.

(c)] An official weigh slip or ticket issued and certified by any truck weigher in the employ of the department of transportation or by any duly licensed weight master shall constitute prima facie evidence of the information therein set forth and of the operation of the vehicle

therein described upon a public highway and shall be admissible before any court in any violation proceeding or criminal proceeding.

S 30. Section 1817 of the tax law, as added by chapter 65 of the laws of 1985, paragraph 1 of subdivision (c) as amended by chapter 411 of the laws of 1986, subdivision (e) as amended by chapter 765 of the laws of 1985, subdivision (g) as amended by chapter 412 of the laws of 1986, subdivision (h) as amended by chapter 275 of the laws of 1986, subdivision (i) as amended by chapter 261 of the laws of 1988, subdivision (k) as amended by chapter 3 of the laws of 2004, subdivisions (l) and (s) as amended and subdivisions (q) and (r) as added by chapter 2 of the laws of 1995, subdivision (o) as added by chapter 61 of the laws of 1989, subdivision (p) as added by chapter 810 of the laws of 1992 and subdivision (t) as added by section 3 of part A of chapter 35 of the laws of 2006, is amended to read as follows:

S 1817. Sales and compensating use taxes.--(a) [Willful failure to file a return or report.--Any person required under article twenty-eight of this chapter to make a return or report (other than a return of compensating use tax), who willfully fails to make such return or report, at the time or times so required, shall be guilty of a misdemeanor.

(b) Fraudulent returns, reports, statements or other documents.--(1) Any person who willfully makes and subscribes any return, report, statement or other document which is required to be filed with or furnished to the tax commission or to any person, pursuant to the provisions of article twenty-eight of this chapter, which he does not believe to be true and correct as to every material matter shall be guilty of a misdemeanor.

(2) Any person who willfully delivers or discloses to the tax commission or to any person, pursuant to the provisions of article twenty-eight of this chapter, any list, return, report, account, statement or other document known by him to be fraudulent or to be false as to any material matter shall be guilty of a misdemeanor.

(3) For purposes of this section, the omission by any person of any material matter with intent to deceive shall constitute the delivery or disclosure of a document known by him to be fraudulent or to be false as to any material matter.

(c) Failure to collect tax.--(1) Any person who willfully fails to collect the tax imposed under article twenty-eight of this chapter from a customer shall, in addition to other penalties provided by law, be guilty of a misdemeanor.

(2) A person is guilty of failure to collect sales tax when he fails to collect a sales tax required to be collected by article twenty-eight of this chapter and when (a) he does so with intent to defraud the state or a political subdivision thereof and thereby deprives the state or a political subdivision thereof, or both together, of ten thousand dollars or more, or (b) he does so with intent to defraud the state or a political subdivision thereof through a common scheme or plan consisting of ten or more failures to collect the required tax on sales in the amount of one hundred dollars or more each. Failure to collect sales tax under this paragraph is a class E felony.

(d)] Any person required to obtain a certificate of authority under section eleven hundred thirty-four of this chapter who, without possessing a valid certificate of authority, willfully (1) sells tangible personal property or services subject to tax, receives amusement charges or operates a hotel, (2) purchases or sells tangible personal property for resale, or (3) sells automotive fuel; and any person who fails to

surrender a certificate of authority as required by such article shall be guilty of a misdemeanor.

[(e)] (B) Any person required to obtain a certificate of authority under section eleven hundred thirty-four of this chapter who within five years after a determination by the tax commission, pursuant to such section, to suspend, revoke or refuse to issue a certificate of authority has become final, and without possession of a valid certificate of authority (1) sells tangible personal property or services subject to tax, receives amusement charges or operates a hotel, (2) purchases or sells tangible personal property for resale, or (3) sells automotive fuel, shall be guilty of a misdemeanor. It shall be an affirmative defense that such person performed the acts described in this subdivision without knowledge of such determination. Any person who violates a provision of this subdivision, upon conviction, shall be subject to a fine in any amount authorized by this article, but not less than five hundred dollars, in addition to any other penalty provided by law.

[(f)] (C) Any person who willfully fails to file a notice of a show as required by article twenty-eight of this chapter or who willfully rents, leases or grants a license to use space for a show or operates a show without obtaining a permit pursuant to paragraph two of subdivision (b) of section eleven hundred thirty-four of this chapter shall be guilty of a misdemeanor.

[(g)] (D) Any person (1) who willfully fails to charge separately the tax imposed under article twenty-eight of this chapter or to state such tax separately on any bill, statement, memorandum or receipt issued or employed by him upon which the tax is required to be stated separately as provided in subdivision (a) of section eleven hundred thirty-two of this chapter; or (2) who shall refer or cause reference to be made to such tax in a form or manner other than that required by such article twenty-eight, shall be guilty of a misdemeanor.

[(h)] (E) Any person willfully failing to file a bond or other security or deposit taxes in any banking institution where such filing or deposit is required pursuant to the provisions of paragraph two or three of subdivision (e) of section eleven hundred thirty-seven of this chapter shall be guilty of a misdemeanor.

[(i)] (F) Any owner of a filling station who shall willfully and knowingly have in his custody, possession or under his control any motor fuel or diesel motor fuel on which (1) the prepaid tax imposed by section eleven hundred two of this chapter has not been assumed or paid by a distributor registered as such under article twelve-A of this chapter or (2) the prepaid tax imposed by section eleven hundred two of this chapter was required to have been passed through to him and has not been included in the cost of such fuel to him, shall in either case, be guilty of a class E felony. For purposes of this subdivision, such owner shall willfully and knowingly have in his custody, possession or under his control any motor fuel or diesel motor fuel on which such tax has not been assumed or paid by a distributor registered as such where such owner has knowledge of the requirement that such tax be paid and where, to his knowledge, such tax has not been assumed or paid by such registered distributor on such motor fuel or diesel motor fuel. Such owner shall willfully and knowingly have in his custody, possession or under his control motor fuel or diesel motor fuel on which such tax is required to have been passed through to him and has not been included in the cost to him where such owner has knowledge of the requirement that such tax be passed through and where to his knowledge such tax has not been so included.

[(j)] (G) Any person who willfully fails to keep any records required by article twenty-eight of this chapter shall be guilty of a misdemeanor.

[(k)] (H) The penalties provided for in this section shall not preclude prosecution pursuant to the penal law with respect to the willful failure of any person to pay over to the state any sales tax imposed by section eleven hundred four, eleven hundred five, eleven hundred seven, eleven hundred eight or eleven hundred nine of this chapter or by any local law adopted by any city or county pursuant to article twenty-nine of this chapter, whenever such person has been required to collect and has collected any such sales tax. In any such prosecution under the penal law, a person who has been required to collect and has collected any such tax shall be deemed to have acted in a fiduciary character with respect to the state or a political subdivision thereof, and the tax collected shall be deemed to have been entrusted to such person by the state or a political subdivision thereof.

[(l) Any person who willfully fails to pay sales or compensating use tax, or to file a return of compensating use tax imposed by or pursuant to the authority of article twenty-eight or twenty-nine of this chapter, with respect to the purchase or use of automotive fuel or cigarettes shall be guilty of a misdemeanor.

(m) Any person who willfully issues a false or fraudulent resale or other exemption certificate or document with intent to evade tax shall be guilty of a misdemeanor.

(n) Any person who, being duly subpoenaed, pursuant to section one hundred seventy-four of this chapter or the provisions of the civil practice law and rules, in connection with a matter arising under article twenty-eight of this chapter, to attend as a witness or to produce books, accounts, records, memoranda, documents or other papers who (i) fails or refuses to attend without lawful excuse, (ii) refuses to be sworn, (iii) refuses to answer any material and proper question, or (iv) refuses, after reasonable notice, to produce books, accounts, records, memoranda, documents or other papers in his possession or under his control which constitute material and proper evidence shall be guilty of a misdemeanor.

(o)] (I) Any entertainment promoter who willfully authorizes an entertainment vendor, to whom such promoter has either directly or indirectly rented, leased, granted a license to use or under any other arrangement made space available in order for such vendor to make taxable sales of tangible personal property at an entertainment event, without first requiring such vendor to obtain a certificate of authority or who willfully fails to obtain an entertainment promoter certificate as required under article twenty-eight of this chapter shall be guilty of a misdemeanor.

[(p)] (J) Any person described in subdivision (a) of section eleven hundred forty-two-A of this chapter who willfully fails to include all information required under such section on a ticket or other memorandum as described in such section shall be guilty of a misdemeanor.

[(q)] (K) Any owner of a place of business selling cigarettes at retail who shall willfully and knowingly have in such owner's custody or possession or under such owner's control any cigarettes on which (1) the prepaid tax imposed by section eleven hundred three of this chapter has not been assumed or paid by an agent licensed as such under article twenty of this chapter or (2) the prepaid tax imposed by section eleven hundred three of this chapter was required to have been passed through to such owner and has not been included in the cost of such cigarettes

to such owner shall, in either case, be guilty of a misdemeanor. Provided, however, if the amount of cigarettes is twenty thousand or more, such owner shall be guilty of a class E felony. For purposes of this subdivision, such owner shall willfully and knowingly have in such owner's custody or possession or under such owner's control any cigarettes on which such tax has not been assumed or paid by an agent licensed as such under such article twenty where such owner has knowledge of the requirement that such tax be assumed or paid and where, to such owner's knowledge, such tax has not been assumed or paid by such an agent on such cigarettes. Such owner shall willfully and knowingly have in such owner's custody or possession or under such owner's control cigarettes on which such tax is required to have been passed through to such owner and has not been included in the cost to such owner where such owner has knowledge of the requirement that such tax be passed through and where to such owner's knowledge such tax has not been so included.

[(r)] (L) Any person who falsely or fraudulently makes, alters or counterfeits any stamp prescribed by the commissioner under the provisions of article twenty-eight or pursuant to the authority of article twenty-nine of this chapter, or causes or procures to be falsely or fraudulently made, altered or counterfeited any such stamp, or knowingly and willfully utters, purchases, passes or tenders as true any such false, altered or counterfeited stamp, or knowingly and willfully possesses any cigarettes in packages bearing any such false, altered or counterfeited stamp, and any person who knowingly and willfully makes, causes to be made, purchases or receives any device for forging or counterfeiting any stamp prescribed by the commissioner under the provisions of article twenty-eight or pursuant to the authority of article twenty-nine of this chapter, or who knowingly and willfully possesses any such device, shall be guilty of a class E felony. For the purposes of this subdivision, the words "stamp prescribed by the commissioner" shall include a stamp, impression or imprint made by a metering machine, the design of which has been approved by the commissioner.

[(s)] (M) All of the provisions of this section shall apply for purposes of any taxes administered by the commissioner and imposed pursuant to the authority of article twenty-nine of this chapter and for the purposes of any taxes imposed by article twenty-eight-A of this chapter. References in subdivisions [(i), (l), (q) and (r)] (F), (K), AND (L) of this section to taxes imposed by or pursuant to the authority of article twenty-eight or twenty-nine of this chapter include the taxes required to be prepaid pursuant to section eleven hundred two or eleven hundred three of this chapter.

[(t)] (N) (1) Every person engaged in the retail sale of motor fuel and/or diesel motor fuel or a distributor of such fuels, as defined in article twelve-A of this chapter, shall comply with the provisions of section three hundred ninety-two-i of the general business law by reducing the prices charged for motor fuel and diesel motor fuel in an amount equal to any reduction in taxes prepaid by the distributor or imposed on retail customers resulting from computing sales and compensating use taxes at a cents per gallon rate pursuant to the provisions of paragraph two of subdivision (e) and subdivision (m) of section one thousand one hundred eleven of this chapter.

(2) The commissioner, in cooperation with the state consumer protection board, shall monitor the prices charged by persons engaged in the retail sale or distribution of motor fuel and diesel motor fuel.

(3) Upon a finding by the commissioner that a person engaged in the retail sale of motor fuel and/or diesel motor fuel or in the distribution of such fuels has violated the provisions of section three hundred ninety-two-i of the general business law, the commissioner shall provide notice of such violation to such person and hold a hearing on such violation, with an opportunity for the accused to be heard, not less than ten days after notice is provided. A violation of section three hundred ninety-two-i of the general business law shall subject the person violating such section to a civil penalty of up to five thousand dollars for each day such violation occurs.

S 31. Section 1818 of the tax law, as added by chapter 65 of the laws of 1985, is amended to read as follows:

S 1818. Real estate transfer tax.--Any willful act or omission, by any person which constitutes a violation of any provision of article thirty-one of this chapter [or any willful attempt to evade or defeat the tax imposed by such article] shall constitute a misdemeanor.

S 32. Section 1820 of the tax law, as added by chapter 833 of the laws of 1987, is amended to read as follows:

S 1820. Boxing and wrestling exhibitions tax. Any willful act or omission by any person which constitutes a violation of any provision of article nineteen of this chapter [or any willful attempt to evade or defeat the tax imposed by such article] shall constitute a misdemeanor.

S 33. The tax law is amended by adding three new sections 1831, 1832 and 1833 to read as follows:

S 1831. FAILURE TO OBEY SUBPOENAS. ANY PERSON WHO IS DULY SUBPOENAED, PURSUANT TO SECTION ONE HUNDRED SEVENTY-FOUR OF THIS CHAPTER OR THE PROVISIONS OF THE CIVIL PRACTICE LAW AND RULES, IN CONNECTION WITH ANY MATTER ARISING UNDER THIS CHAPTER, OR ANY RELATED INCOME OR EARNINGS TAX STATUTE, TO ATTEND AS A WITNESS OR TO PRODUCE BOOKS, ACCOUNTS, RECORDS, MEMORANDA, DOCUMENTS OR OTHER PAPERS, AND WHO (1) FAILS OR REFUSES TO ATTEND WITHOUT LAWFUL EXCUSE, (2) REFUSES TO BE SWORN, (3) WITHOUT ASSERTING A VALID LEGAL PRIVILEGE REFUSES TO ANSWER ANY MATERIAL AND PROPER QUESTION, OR (4) WITHOUT ASSERTING A VALID LEGAL PRIVILEGE REFUSES, AFTER REASONABLE NOTICE, TO PRODUCE BOOKS, ACCOUNTS, RECORDS, MEMORANDA, DOCUMENTS OR OTHER PAPERS THAT CONSTITUTE MATERIAL AND PROPER EVIDENCE IN HIS OR HER POSSESSION OR UNDER HIS OR HER CONTROL, SHALL BE GUILTY OF A MISDEMEANOR.

S 1832. NON-PREEMPTION; PENAL LAW ANTICIPATORY OFFENSES AND ACCESSORIAL LIABILITY APPLY. (A) UNLESS EXPRESSLY STATED OTHERWISE, THE PENALTIES PROVIDED IN THIS CHAPTER SHALL NOT PRECLUDE PROSECUTION FOR ANY OFFENSE UNDER THE PENAL LAW OR ANY OTHER CRIMINAL STATUTE.

(B) THE OFFENSES SPECIFIED IN TITLE G OF THE PENAL LAW AND THE PROVISIONS OF ARTICLE TWENTY OF THE PENAL LAW ARE APPLICABLE TO ALL OFFENSES DEFINED IN THIS CHAPTER.

S 1833. TAX PREPARER REGISTRATION. A COMMERCIAL TAX RETURN PREPARER, AS DEFINED BY PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION THIRTY-TWO OF THIS CHAPTER, WHO WILLFULLY AND WITH THE INTENT TO EVADE THE REQUIREMENTS OF SECTION THIRTY-TWO OF THIS CHAPTER, FAILS TO SIGN HIS OR HER NAME TO ANY TAX RETURN THAT REQUIRES A SIGNATURE OR FAILS TO REGISTER AS REQUIRED BY SUCH SECTION THIRTY-TWO, WILL BE GUILTY OF A CLASS A MISDEMEANOR.

S 34. This act shall take effect immediately and apply to offenses committed on and after such effective date.

SUBPART J

Section 1. Paragraph (d) of subdivision 1 of section 289-b of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

(d) If the failure to pay any tax within the time required by or pursuant to this article is due to fraud, in lieu of the penalties and interest provided for in paragraphs (a) and (b) of this subdivision, there shall be added to the tax (i) a penalty of [fifty per centum of] TWO TIMES the amount of tax due, plus (ii) interest on such unpaid tax at the underpayment rate set by the commissioner of taxation and finance pursuant to subdivision twenty-sixth of section one hundred seventy-one of this chapter for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to any extension of time for paying) and ending on the day on which such tax is paid[, plus (iii) for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to any extension of time for paying) and ending on the day the amount of tax due is finally determined or, if earlier, on the day on which such tax is paid, an amount equal to fifty per centum of the interest payable under subparagraph (ii) of this paragraph on that portion of the unpaid tax which is attributable to fraud].

S 2. Subdivision 1 of section 289-b of the tax law is amended by adding a new paragraph (e-1) to read as follows:

(E-1) IN ADDITION TO ANY OTHER PENALTIES THAT MAY BE IMPOSED BY LAW, ANY OF THE FOLLOWING PENALTIES MAY BE IMPOSED.

(I) ANY PERSON WHO FAILS TO FILE AN INFORMATIONAL RETURN UNDER THIS ARTICLE ON OR BEFORE THE PRESCRIBED DATE, MUST PAY A PENALTY OF FIFTEEN HUNDRED DOLLARS FOR THE FIRST VIOLATION AND A PENALTY OF THREE THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION, UNLESS IT CAN BE SHOWN THAT SUCH FAILURE IS DUE TO REASONABLE CAUSE AND NOT WILLFUL NEGLECT.

(II) ANY PERSON WHO FAILS TO FILE AN INFORMATIONAL RETURN WITHIN SIXTY DAYS OF THE DATE PRESCRIBED FOR FILING MUST PAY A PENALTY OF TWO THOUSAND DOLLARS FOR THE FIRST VIOLATION AND A PENALTY OF FOUR THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION, UNLESS IT CAN BE SHOWN THAT SUCH FAILURE IS DUE TO REASONABLE CAUSE AND NOT WILLFUL NEGLECT.

(III) ANY PERSON WHO FAILS TO FILE A COMPLETE INFORMATIONAL RETURN MUST PAY A PENALTY OF FIFTEEN HUNDRED DOLLARS FOR THE FIRST VIOLATION AND A PENALTY OF THREE THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION, UNLESS IT CAN BE SHOWN THAT SUCH FAILURE IS DUE TO REASONABLE CAUSE AND NOT WILLFUL NEGLECT.

(IV) IF ANY PERSON MAKES A STATEMENT ON AN INFORMATIONAL RETURN AND, AS OF THE TIME OF THE STATEMENT, THERE WAS NO REASONABLE BASIS FOR THAT STATEMENT, THAT PERSON MUST PAY A PENALTY OF TWO THOUSAND DOLLARS FOR THE FIRST VIOLATION AND A PENALTY OF FOUR THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION.

S 3. Paragraph (d) of subdivision 1 of section 433 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

(d) If the failure to pay any tax within the time required by or pursuant to this article is due to fraud, in lieu of the penalties and interest provided for in paragraphs (a) and (b) of this subdivision, there shall be added to the tax (i) a penalty of [fifty per centum of] TWO TIMES the amount of tax due, plus (ii) interest on such unpaid tax at the underpayment rate set by the commissioner of taxation and finance pursuant to subdivision twenty-sixth of section one hundred seventy-one of this chapter for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to

any extension of time for paying) and ending on the day on which such tax is paid[, plus (iii) for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to any extension of time for paying) and ending on the day the amount of tax due is finally determined or, if earlier, on the day on which such tax is paid, an amount equal to fifty per centum of the interest payable under subparagraph (ii) of this paragraph on that portion of the unpaid tax which is attributable to fraud].

S 4. Subparagraph (iv) of paragraph (a) of subdivision 1 of section 481 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

(iv) If the failure to pay any tax within the time required by or pursuant to this article is due to fraud, in lieu of the penalties and interest provided for in subparagraphs (i) and (ii) of this paragraph, there shall be added to the tax (A) a penalty of [fifty per centum of] TWO TIMES the amount of tax due, plus (B) interest on such unpaid tax at the underpayment rate set by the commissioner of taxation and finance pursuant to subdivision twenty-sixth of section one hundred seventy-one of this chapter for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to any extension of time for paying) and ending on the day on which such tax is paid[, plus (C) for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to any extension of time for paying) and ending on the day the amount of tax due is finally determined or, if earlier, on the day on which such tax is paid, an amount equal to fifty per centum of the interest payable under clause (B) of this subparagraph on that portion of the unpaid tax which is attributable to fraud].

S 5. Paragraph (d) of subdivision 1 of section 512 of the tax law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

(d) If the failure to pay any tax within the time required by or pursuant to this article is due to fraud, in lieu of the penalties and interest provided for in paragraphs (a) and (b) of this subdivision, there shall be added to the tax (i) a penalty of [fifty per centum of] TWO TIMES the amount of tax due, plus (ii) interest on such unpaid tax at the underpayment rate set by the commissioner of taxation and finance pursuant to subdivision twenty-sixth of section one hundred seventy-one of this chapter for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to any extension of time for paying) and ending on the day on which such tax is paid[, plus (iii) for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to any extension of time for paying) and ending on the day the amount of tax due is finally determined or, if earlier, on the day on which such tax is paid, an amount equal to fifty per centum of the interest payable under subparagraph (ii) of this paragraph on that portion of the unpaid tax which is attributable to fraud].

S 6. Subdivision (d) of section 527 of the tax law, as added by chapter 170 of the laws of 1994, is amended to read as follows:

(d) Fraud. If the failure to pay any tax within the time required by or pursuant to this article is due to fraud, in lieu of the penalties provided for in subdivision (b) of this section, there shall be added to the tax (1) a penalty of [fifty percent of] TWO TIMES the amount of tax due[, plus (2) for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to

any extension of time for paying) and ending on the day the amount of tax due is finally determined or, if earlier, on the day on which such tax is paid, an interest penalty equal to fifty percent of the interest payable under subdivision (a) of this section on that portion of the unpaid tax which is attributable to fraud].

S 7. Paragraph 1 of subsection (e) of section 685 of the tax law, as amended by chapter 65 of the laws of 1985, is amended to read as follows:

(1) If any part of a deficiency is due to fraud, there shall be added to the tax an amount equal to [fifty percent of] TWO TIMES the deficiency.

S 8. Paragraph 2 of subsection (e) of section 685 of the tax law is REPEALED and paragraphs 3 and 4 are renumbered paragraphs 2 and 3.

S 9. Subsection (q) of section 685 of the tax law, as added by chapter 65 of the laws of 1985, is amended to read as follows:

(q) Frivolous tax returns AND SPECIFIED FRIVOLOUS SUBMISSIONS.-- (1) If any individual files what purports to be a return of any tax imposed by this article but which does not contain information on which the substantial correctness of the self-assessment may be judged, or contains information that on its face indicates that the self-assessment is substantially incorrect; and such conduct is due to a position which is frivolous, INCLUDING A POSITION IDENTIFIED AS FRIVOLOUS UNDER PARAGRAPH THREE OF THIS SUBSECTION, or an intent [(which appears on the purported return)] to delay or impede the administration of this article, then such individual shall pay a penalty not exceeding five [hundred] THOUSAND dollars. This penalty shall be in addition to any other penalty provided by law.

(2) PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS. (A) ANY PERSON WHO SUBMITS A SPECIFIED FRIVOLOUS SUBMISSION SHALL PAY A PENALTY OF FIVE THOUSAND DOLLARS. THIS PENALTY SHALL BE IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW.

(B) THE TERM "SPECIFIED FRIVOLOUS SUBMISSION" MEANS A SPECIFIED SUBMISSION IF ANY PORTION OF THAT SUBMISSION (I) IS BASED ON A POSITION THAT THE COMMISSIONER HAS IDENTIFIED AS FRIVOLOUS UNDER PARAGRAPH THREE OF THIS SUBDIVISION, OR (II) REFLECTS A DESIRE TO DELAY OR IMPEDE THE ADMINISTRATION OF THIS CHAPTER.

(C) THE TERM "SPECIFIED SUBMISSION" MEANS A REQUEST FOR CONCILIATION CONFERENCE, A PETITION TO THE DIVISION OF TAX APPEALS, AN APPLICATION FOR AN INSTALLMENT PAYMENT AGREEMENT, OR AN OFFER IN COMPROMISE.

(D) IF THE COMMISSIONER PROVIDES AN INDIVIDUAL WITH NOTICE THAT A SUBMISSION IS A SPECIFIED FRIVOLOUS SUBMISSION AND THAT PERSON WITHDRAWS THE SUBMISSION WITHIN THIRTY DAYS AFTER SUCH NOTICE, THE PENALTY IMPOSED UNDER THIS PARAGRAPH WILL NOT APPLY WITH RESPECT TO THAT SUBMISSION.

(3) LISTING OF FRIVOLOUS POSITIONS. THE COMMISSIONER WILL PRESCRIBE (AND PERIODICALLY REVISE) A LIST OF POSITIONS THAT THE COMMISSIONER HAS IDENTIFIED AS FRIVOLOUS FOR PURPOSES OF THIS SUBSECTION.

(4) REDUCTION OF PENALTY. THE COMMISSIONER MAY REDUCE THE AMOUNT OF ANY PENALTY IMPOSED UNDER THIS SECTION IF THE COMMISSIONER DETERMINES THAT SUCH A REDUCTION WOULD PROMOTE COMPLIANCE WITH AND ADMINISTRATION OF THIS CHAPTER.

S 10. Section 685 of the tax law is amended by adding a new subsection (cc) to read as follows:

(CC) FALSE OR FRAUDULENT DOCUMENT PENALTY. ANY TAXPAYER THAT SUBMITS A FALSE OR FRAUDULENT DOCUMENT TO THE DEPARTMENT WILL BE SUBJECT TO A PENALTY OF ONE HUNDRED DOLLARS PER DOCUMENT SUBMITTED, OR FIVE HUNDRED

DOLLARS PER TAX RETURN SUBMITTED. THIS PENALTY WILL BE IN ADDITION TO ANY OTHER PENALTY OR ADDITION PROVIDED BY LAW.

S 11. Paragraph 1 of subsection (f) of section 1085 of the tax law, as amended by chapter 65 of the laws of 1985, is amended to read as follows:

(1) If any part of a deficiency is due to fraud, there shall be added to the tax an amount equal to [fifty percent of] TWO TIMES the deficiency.

S 12. Paragraph 2 of subsection (f) of section 1085 of the tax law is REPEALED and paragraph 3 is renumbered paragraph 2.

S 13. Section 1085 of the tax law is amended by adding a new subsection (u) to read as follows:

(U) FALSE OR FRAUDULENT DOCUMENT PENALTY. ANY TAXPAYER THAT SUBMITS A FALSE OR FRAUDULENT DOCUMENT TO THE DEPARTMENT WILL BE SUBJECT TO A PENALTY OF ONE HUNDRED DOLLARS PER DOCUMENT SUBMITTED, OR FIVE HUNDRED DOLLARS PER TAX RETURN SUBMITTED. THIS PENALTY WILL BE IN ADDITION TO ANY OTHER PENALTY OR ADDITION PROVIDED BY LAW.

S 14. Paragraph 2 of subdivision (a) of section 1145 of the tax law, as amended by section 12 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(2) If the failure to pay or pay over any tax to the commissioner within the time required by this article is due to fraud, in lieu of the penalties and interest provided for in subparagraphs (i) and (ii) of paragraph one of this subdivision, there shall be added to the tax (i) a penalty of [fifty percent of] TWO TIMES the amount of the tax due, plus (ii) interest on such unpaid tax at the rate of fourteen percent per annum or the underpayment rate of interest set by the commissioner pursuant to section eleven hundred forty-two OF THIS PART, whichever is greater, for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to any extension of time for paying) and ending on the day on which such tax is paid[, plus (iii) for the period beginning on the last day prescribed by this article for the payment of such tax (determined without regard to any extension of time for paying) and ending on the day the amount of tax due is finally determined or, if earlier, on the day on which such tax is paid, an amount equal to fifty percent of the interest payable under subparagraph (ii) of this paragraph, on that portion of the unpaid tax which is attributable to fraud].

S 15. Section 1145 of the tax law is amended by adding two new subdivisions (i) and (j) to read as follows:

(I) AIDING OR ASSISTING IN THE GIVING OF FRAUDULENT RETURNS, REPORTS, STATEMENTS OR OTHER DOCUMENTS. ANY PERSON WHO, WITH THE INTENT THAT TAX BE EVADED, FOR A FEE OR OTHER COMPENSATION OR AS AN INCIDENT TO THE PERFORMANCE OF OTHER SERVICES FOR WHICH THAT PERSON RECEIVES COMPENSATION, AIDS OR ASSISTS IN, OR PROCURES, COUNSELS, OR ADVISES THE PREPARATION OR PRESENTATION UNDER THIS ARTICLE, OR IN CONNECTION WITH ANY MATTER ARISING UNDER THIS ARTICLE, OF ANY RETURN, REPORT, DECLARATION, STATEMENT OR OTHER DOCUMENT THAT IS FRAUDULENT OR FALSE AS TO ANY MATERIAL MATTER, OR SUPPLIES ANY FALSE OR FRAUDULENT INFORMATION, WHETHER OR NOT SUCH FALSITY OR FRAUD IS WITH THE KNOWLEDGE OR CONSENT OF THE PERSON AUTHORIZED OR REQUIRED TO PRESENT THAT RETURN, REPORT, DECLARATION, STATEMENT OR OTHER DOCUMENT, WILL PAY A PENALTY NOT EXCEEDING FIVE THOUSAND DOLLARS. THE DEFINITIONS IN SUBSECTION (L) OF SECTION TEN HUNDRED EIGHTY-FIVE OF THIS CHAPTER APPLY FOR THE PURPOSES OF THIS PENALTY.

(J) FALSE OR FRAUDULENT DOCUMENT PENALTY. ANY TAXPAYER THAT SUBMITS A FALSE OR FRAUDULENT DOCUMENT TO THE DEPARTMENT WILL BE SUBJECT TO A

PENALTY OF ONE HUNDRED DOLLARS PER DOCUMENT SUBMITTED, OR FIVE HUNDRED DOLLARS PER TAX RETURN SUBMITTED. THIS PENALTY WILL BE IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW.

S 16. Subdivision (iii) of section 12 of part N of chapter 61 of the laws of 2005 amending the tax law relating to certain transactions and related information, as amended by section 1 of part DD-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(iii) provided, further, that the provisions of this act, EXCEPT SECTION FIVE OF THIS ACT, shall expire and be deemed repealed July 1, 2011. The commissioner of taxation and finance shall cause to be prepared a written report on the tax shelter law. Notwithstanding any other provision of law to the contrary, such report shall include, but not be limited to, statistical information regarding the listed and reportable transactions and avoidance transactions under this act. A copy of such report shall be delivered to the governor, the temporary president of the senate, and the speaker of the assembly no later than April 1, 2007; provided, that, such expiration and repeal shall not affect any requirement imposed pursuant to this act.

S 17. This act shall take effect immediately and apply to returns and other documents filed or required to be filed and actions taken and omissions occurring on or after the date this act becomes a law; provided however, that sections seven through thirteen of this act shall apply to taxable years beginning on or after January 1, 2009.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Subparts A through J of this act shall be as specifically set forth in the last section of such Subparts.

PART W-1

Section 1. Subsection (f) of section 615 of the tax law, as added by chapter 28 of the laws of 1987, is amended to read as follows:

(f) The New York itemized deduction otherwise allowable under this section shall be reduced by the sum of the amounts determined under paragraphs one [and], two AND THREE of this subsection.

(1) An amount equal to the New York itemized deduction otherwise allowable under subsection (a) of this section, multiplied by a percentage, such percentage to be determined by multiplying, for taxable years beginning in nineteen hundred eighty-eight, ten percent, and for taxable years beginning after nineteen hundred eighty-eight, twenty-five percent, by a fraction,

(A) in the case of an unmarried individual or married individual filing a separate return, the numerator of which is the lesser of fifty thousand dollars or the excess of such individual's New York adjusted gross income over one hundred thousand dollars and the denominator of which is fifty thousand dollars;

(B) in the case of a married individual filing a joint return or a surviving spouse, the numerator of which is the lesser of fifty thousand

dollars or the excess of such individual's New York adjusted gross income over two hundred thousand dollars and the denominator of which is fifty thousand dollars;

(C) in the case of a head of household, the numerator of which is the lesser of fifty thousand dollars or the excess of such individual's New York adjusted gross income over one hundred fifty thousand dollars and the denominator of which is fifty thousand dollars.

(2) An amount equal to the New York itemized deduction of an individual otherwise allowable under subsection (a) of this section, multiplied by a percentage, such percentage to be determined by multiplying, for taxable years beginning in nineteen hundred eighty-eight, ten percent, and for taxable years beginning after nineteen hundred eighty-eight, twenty-five percent, by a fraction, the numerator of which is the lesser of fifty thousand dollars or the excess of such individual's New York adjusted gross income over four hundred seventy-five thousand dollars and the denominator of which is fifty thousand dollars.

(3) WITH RESPECT TO AN INDIVIDUAL WHOSE NEW YORK ADJUSTED GROSS INCOME IS OVER ONE MILLION DOLLARS, AN AMOUNT EQUAL TO THE NEW YORK ITEMIZED DEDUCTION OF AN INDIVIDUAL OTHERWISE ALLOWABLE UNDER SUBSECTION (A) OF THIS SECTION, EXCEPT THE PORTION OF THE DEDUCTION ATTRIBUTABLE TO ANY CHARITABLE CONTRIBUTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE, MULTIPLIED BY FIFTY PERCENT, FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT.

S 2. Clause (ii) of subparagraph (B) of paragraph 3 of subsection (c) of section 685 of the tax law, as amended by section 2 of part Y3 of chapter 62 of the laws of 2003, is amended to read as follows:

(ii) one hundred percent of the tax shown on the return of the individual for the preceding taxable year. Provided, however, the tax shown on such return for taxable years beginning in two thousand two shall be the tax calculated as if such years began in two thousand three. PROVIDED FURTHER, HOWEVER, THAT THE TAX SHOWN ON SUCH RETURN FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND EIGHT SHALL BE CALCULATED AS IF PARAGRAPH THREE OF SUBSECTION (F) OF SECTION SIX HUNDRED FIFTEEN OF THIS ARTICLE HAS BEEN IN EFFECT FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND EIGHT.

S 3. Subdivision (f) of section 11-1715 of the administrative code of the city of New York, as added by chapter 333 of the laws of 1987, is amended to read as follows:

(f) The city itemized deduction otherwise allowable under this section shall be reduced by the sum of the amounts determined under paragraphs one [and], two AND THREE of this subdivision.

(1) An amount equal to the city itemized deduction otherwise allowable under subdivision (a) of this section, multiplied by a percentage, such percentage to be determined by multiplying, for taxable years beginning in nineteen hundred eighty-eight, ten percent, and for taxable years beginning after nineteen hundred eighty-eight, twenty-five percent, by a fraction,

(A) in the case of an unmarried individual or married individual filing a separate return, the numerator of which is the lesser of fifty thousand dollars or the excess of such individual's city adjusted gross income over one hundred thousand dollars and the denominator of which is fifty thousand dollars;

(B) in the case of a married individual filing a joint return or a surviving spouse, the numerator of which is the lesser of fifty thousand dollars or the excess of such individual's city adjusted gross income

over two hundred thousand dollars and the denominator of which is fifty thousand dollars;

(C) in the case of a head of household, the numerator of which is the lesser of fifty thousand dollars or the excess of such individual's city adjusted gross income over one hundred fifty thousand dollars and the denominator of which is fifty thousand dollars.

(2) An amount equal to the city itemized deduction of an individual otherwise allowable under subdivision (a) of this section, multiplied by a percentage, such percentage to be determined by multiplying, for taxable years beginning in nineteen hundred eighty-eight, ten percent, and for taxable years beginning after nineteen hundred eighty-eight, twenty-five percent, by a fraction, the numerator of which is the lesser of fifty thousand dollars or the excess of such individual's city adjusted gross income over four hundred seventy-five thousand dollars and the denominator of which is fifty thousand dollars.

(3) WITH RESPECT TO AN INDIVIDUAL WHOSE CITY ADJUSTED GROSS INCOME IS OVER ONE MILLION DOLLARS, AN AMOUNT EQUAL TO THE CITY ITEMIZED DEDUCTION OF AN INDIVIDUAL OTHERWISE ALLOWABLE UNDER SUBDIVISION (A) OF THIS SECTION, EXCEPT THE PORTION OF THE DEDUCTION ATTRIBUTABLE TO ANY CHARITABLE CONTRIBUTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY OF THE INTERNAL REVENUE CODE, MULTIPLIED BY FIFTY PERCENT, FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT.

S 4. Clause (ii) of subparagraph (B) of paragraph 3 of subdivision (c) of section 11-1785 of the administrative code of the city of New York, as amended by chapter 55 of the laws of 1992, is amended to read as follows:

(ii) one hundred percent of the tax shown on the return of the individual for the preceding taxable year. PROVIDED, HOWEVER, THAT THE TAX SHOWN ON SUCH RETURN FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND EIGHT SHALL BE CALCULATED AS IF PARAGRAPH THREE OF SUBDIVISION (F) OF SECTION 11-1715 OF THIS CHAPTER WAS IN EFFECT FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND EIGHT.

S 5. Notwithstanding the provisions of subsection (c) of section 685 of the tax law or subdivision (c) of section 11-1785 of the administrative code of the city of New York, no addition to tax as a result of an underpayment of estimated tax that is attributable to the amendments made by sections one, two and three of this act shall be imposed with respect to any installment the due date for the payment of which is prior to 45 days after the date this act shall have become a law.

S 6. Notwithstanding any provision of law to the contrary, the commissioner of taxation and finance is authorized to prescribe by regulations the method of determining the amount to be deducted and withheld from wages on account of taxes imposed by or pursuant to the authority of article 22 of the tax law in taxable years beginning in 2009 in connection with the implementation of section one of this act. The commissioner of taxation and finance may adjust the withholding tables in regard to taxable years beginning in 2009 to account for the provisions of this act. In prescribing any such regulations, the commissioner of taxation and finance may adopt rules on an emergency basis notwithstanding anything to the contrary in section 202 of the state administrative procedure act. In carrying out his duties and responsibilities under this section, the commissioner of taxation and finance may accompany any such rule making procedure with a similar procedure with respect to the taxes required to be deducted and withheld by local laws imposing taxes pursuant to the authority of articles 30, 30-A and 30-B of the tax law that take effect and become applicable in taxable

years beginning in 2009, the provisions of any other law in relation to such a procedure to the contrary notwithstanding.

S 7. This act shall take effect immediately.

PART X-1

Section 1. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section 424 of the tax law, paragraph (a) as amended by section 1 of part V of chapter 63 of the laws of 2000, paragraph (b) as amended by chapter 490 of the laws of 1993 and paragraphs (c) and (d) as amended by chapter 170 of the laws of 1994, are amended to read as follows:

(a) [Eleven] FOURTEEN cents per gallon upon beers;

(b) [Eighteen and ninety-three hundredths] THIRTY cents per gallon upon still wines, except cider containing more than three and two-tenths per centum of alcohol by volume, upon which the tax shall be three and seventy-nine hundredths cents per gallon;

(c) [Eighteen and ninety-three hundredths] THIRTY cents per gallon upon artificially carbonated sparkling wines, except artificially carbonated sparkling cider containing more than three and two-tenths per centum of alcohol by volume, upon which the tax shall be three and seventy-nine hundredths cents per gallon;

(d) [Eighteen and ninety-three hundredths] THIRTY cents per gallon upon natural sparkling wines, except natural sparkling cider containing more than three and two-tenths per centum of alcohol by volume, upon which the tax shall be three and seventy-nine hundredths cents per gallon;

S 2. (a) If a contract for the sale of beer and wines was entered into prior to May 1, 2009 and delivery under that contract is made within the state on or after May 1, 2009, the beer and wines sold under that contract will be subject to tax under article 18 of the tax law, as amended by this act, at the time of delivery.

(b) In order to subject beer and wines in this state on May 1, 2009 to the increased taxes imposed by section one of this act, a special floor tax is imposed on each wholesaler or retailer (as defined in the alcoholic beverage control law) or other sellers of beer and wine, other than those registered as distributors under article 18 of the tax law, at the rates shown below with respect to all beer and wines in the possession or under the control on May 1, 2009 of those wholesalers, retailers and other sellers of beer and wines for purposes of sale in the state. Additionally, any person who is a distributor or manufacturer under article 18 of the tax law is subject to this special floor tax on any beer and wines in his or her possession or under his or her control on which the tax under article 18 of the tax law was already imposed. The rate of the floor tax will be:

(1) On beer, thirteen cents per gallon; and

(2) On wines, thirty-two and seven hundredths cents per gallon.

This floor tax will be due and payable to the commissioner of taxation and finance on or before July 20, 2009.

(c) Except as provided in this section, all the provisions of articles 18 and 37 of the tax law will apply to floor taxes imposed by this section.

(d) The commissioner of taxation and finance is authorized to prescribe any terms and conditions the commissioner deems advisable and require any reports the commissioner deems necessary to effectuate the provisions of this section.

(e) The commissioner of taxation and finance may request from the state liquor authority, and the state liquor authority is authorized and directed to provide, any cooperation and assistance, including data, that will enable the commissioner to carry out the imposition and implementation of the floor tax.

S 3. This act shall take effect May 1, 2009.

PART Y-1

Section 1. Paragraph 2 of subdivision (a) of section 24 of the tax law, as amended by section 1 of part WW-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of thirty percent and the qualified production costs paid or incurred in the production of a qualified film, provided that the qualified production costs (excluding post production costs) paid or incurred which are attributable to the use of tangible property or the performance of services at a qualified film production facility in the production of such qualified film equal or exceed seventy-five percent of the production costs (excluding post production costs) paid or incurred which are attributable to the use of tangible property or the performance of services at any film production facility within and without the state in the production of such qualified film. However, if the qualified production costs (excluding post production costs) which are attributable to the use of tangible property or the performance of services at a qualified film production facility in the production of such qualified film is less than three million dollars, then the portion of the qualified production costs attributable to the use of tangible property or the performance of services in the production of such qualified film outside of a qualified film production facility shall be allowed only if the shooting days spent in New York outside of a film production facility in the production of such qualified film equal or exceed seventy-five percent of the total shooting days spent within and without New York outside of a film production facility in the production of such qualified film. The credit shall be allowed for the taxable year in which the production of such qualified film is completed. IF THE AMOUNT OF THE CREDIT IS AT LEAST ONE MILLION DOLLARS BUT LESS THAN FIVE MILLION DOLLARS, THE CREDIT SHALL BE CLAIMED OVER A TWO YEAR PERIOD BEGINNING IN THE TAXABLE YEAR IN WHICH THE PRODUCTION OF THE QUALIFIED FILM IS COMPLETED AND IN THE NEXT SUCCEEDING TAXABLE YEAR, WITH ONE-HALF OF THE AMOUNT OF CREDIT ALLOWED BEING CLAIMED IN EACH YEAR. IF THE AMOUNT OF THE CREDIT IS AT LEAST FIVE MILLION DOLLARS, THE CREDIT SHALL BE CLAIMED OVER A THREE YEAR PERIOD BEGINNING IN THE TAXABLE YEAR IN WHICH THE PRODUCTION OF THE QUALIFIED FILM IS COMPLETED AND IN THE NEXT TWO SUCCEEDING TAXABLE YEARS, WITH ONE-THIRD OF THE AMOUNT OF THE CREDIT ALLOWED BEING CLAIMED IN EACH YEAR.

S 2. Section 7 of part P of chapter 60 of the laws of 2004, amending the tax law relating to the empire state film production credit, is amended by adding a new subdivision (d) to read as follows:

(D) THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED IN SUBDIVISION (A) OF THIS SECTION SHALL BE INCREASED BY AN ADDITIONAL $350 MILLION IN 2009. THIS ADDITIONAL AMOUNT SHALL BE ALLOCATED BY THE GOVERNOR'S OFFICE FOR MOTION PICTURE AND TELEVISION DEVELOPMENT AMONG TAXPAYERS IN ACCORDANCE WITH SUBDIVISION (A) OF THIS SECTION.

S 3. The governor's office of motion picture and television development shall file a report on a quarterly basis with the director of the division of the budget and the chairmen of the assembly ways and means committee and senate finance committee. The report shall be filed within fifteen days after the close of the calendar quarter. The first report shall cover the calendar quarter that begins April 1, 2009. The report must contain the following information for the calendar quarter:

(1) the total dollar amount of credits allocated during each month of the calendar quarter, broken down by month;

(2) the number of film projects which have been allocated tax credits of less than $1 million per project and the total dollar amount of credits allocated to those projects;

(3) the number of film projects which have been allocated tax credits of $1 million or more but less than $5 million per project and the total dollar amount of credits allocated to those projects;

(4) the number of film projects which have been allocated tax credits of $5 million or more per project and the total dollar amount of credits allocated to those projects; and

(5) a list of each film project which has been allocated a tax credit and for each of those projects (a) the estimated number of employees associated with the project, (b) the estimated qualified costs for the project, and (c) the estimated total costs of the project.

S 4. This act shall take effect immediately; provided however, that:

(a) sections one and two of this act shall apply to taxable years beginning on or after January 1, 2009;

(b) any film that started production prior to such effective date but had not received an allocation of tax credit from the governor's office of motion picture and television development prior to that date shall be ineligible for the empire state film production credit;

(c) the amendments to section 24 of the tax law made by section one of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith; and

(d) the amendments to section 7 of part P of chapter 60 of the laws of 2004 made by section two of this act shall not affect the repeal of such part and shall be deemed repealed therewith.

PART Z-1

Section 1. Subsections (a), (b) and (c) of section 601 of the tax law, as amended by section 1 of part Y3 of chapter 62 of the laws of 2003, are amended to read as follows:

(a) Resident married individuals filing joint returns and resident surviving spouses. There is hereby imposed for each taxable year on the New York taxable income of every resident married individual who makes a single return jointly with his spouse under subsection (b) of section six hundred fifty-one and on the New York taxable income of every resident surviving spouse a tax determined in accordance with the following tables:

(1) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT AND BEFORE TWO THOUSAND TWELVE:

IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $16,000	4% OF THE NEW YORK TAXABLE INCOME
OVER $16,000 BUT NOT OVER $22,000	$640 PLUS 4.5% OF EXCESS OVER

	$16,000
OVER $22,000 BUT NOT OVER $26,000	$910 PLUS 5.25% OF EXCESS OVER $22,000
OVER $26,000 BUT NOT OVER $40,000	$1,120 PLUS 5.9% OF EXCESS OVER $26,000
OVER $40,000 BUT NOT OVER $300,000	$1,946 PLUS 6.85% OF EXCESS OVER $40,000
OVER $300,000 BUT NOT OVER $500,000	$19,756 PLUS 7.85% OF EXCESS OVER $300,000
OVER $500,000	$35,456 PLUS 8.97% OF EXCESS OVER $500,000

[(1)] (2) For taxable years beginning after two thousand five AND BEFORE TWO THOUSAND NINE AND AFTER TWO THOUSAND ELEVEN:

If the New York taxable income is:	The tax is:
Not over $16,000	4% of the New York taxable income
Over $16,000 but not over $22,000	$640 plus 4.5% of excess over $16,000
Over $22,000 but not over $26,000	$910 plus 5.25% of excess over $22,000
Over $26,000 but not over $40,000	$1,120 plus 5.9% of excess over $26,000
Over $40,000	$1,946 plus 6.85% of excess over $40,000

[(2)] (3) For taxable years beginning in two thousand five:

If the New York taxable income is:	The tax is:
Not over $16,000	4% of the New York taxable income
Over $16,000 but not over $22,000	$640 plus 4.5% of excess over $16,000
Over $22,000 but not over $26,000	$910 plus 5.25% of excess over $22,000
Over $26,000 but not over $40,000	$1,120 plus 5.9% of excess over $26,000
Over $40,000 but not over $150,000	$1,946 plus 6.85% of excess over $40,000
Over $150,000 but not over $500,000	$9,481 plus 7.25% of excess over $150,000
Over $500,000	$34,856 plus 7.7% of excess over $500,000

[(3)] (4) For taxable years beginning in two thousand four:

If the New York taxable income is:	The tax is:
Not over $16,000	4% of the New York taxable income
Over $16,000 but not over $22,000	$640 plus 4.5% of excess over $16,000
Over $22,000 but not over $26,000	$910 plus 5.25% of excess over $22,000
Over $26,000 but not over $40,000	$1,120 plus 5.9% of excess over

	$26,000
Over $40,000 but not over $150,000	$1,946 plus 6.85% of excess over $40,000
Over $150,000 but not over $500,000	$9,481 plus 7.375% of excess over $150,000
Over $500,000	$35,294 plus 7.7% of excess over $500,000

[(4)] (5) For taxable years beginning in two thousand three:

If the New York taxable income is:	The tax is:
Not over $16,000	4% of the New York taxable income
Over $16,000 but not over $22,000	$640 plus 4.5% of excess over $16,000
Over $22,000 but not over $26,000	$910 plus 5.25% of excess over $22,000
Over $26,000 but not over $40,000	$1,120 plus 5.9% of excess over $26,000
Over $40,000 but not over $150,000	$1,946 plus 6.85% of excess over $40,000
Over $150,000 but not over $500,000	$9,481 plus 7.5% of excess over $150,000
Over $500,000	$35,731 plus 7.7% of excess over $500,000

[(5)] (6) For taxable years beginning after nineteen hundred ninety-six and before two thousand three:

If the New York taxable income is:	The tax is:
Not over $16,000	4% of the New York taxable income
Over $16,000 but not over $22,000	$640 plus 4.5% of excess over $16,000
Over $22,000 but not over $26,000	$910 plus 5.25% of excess over $22,000
Over $26,000 but not over $40,000	$1,120 plus 5.9% of excess over $26,000
Over $40,000	$1,946 plus 6.85% of excess over $40,000

[(6)] (7) For taxable years beginning in nineteen hundred ninety-six:

If the New York taxable income is:	The tax is:
Not over $11,000	4% of the New York taxable income
Over $11,000 but not over $16,000	$440 plus 5% of excess over $11,000
Over $16,000 but not over $22,000	$690 plus 6% of excess over $16,000
Over $22,000	$1,050 plus 7% of excess over $22,000

[(7)] (8) For taxable years beginning in nineteen hundred ninety-five:

If the New York taxable income is:	The tax is:
Not over $13,000	4.55% of the New York taxable

	income
Over $13,000 but not over $19,000	$592 plus 5.55% of excess over $13,000
Over $19,000 but not over $25,000	$925 plus 6.55% of excess over $19,000
Over $25,000	$1,318 plus 7.5% of excess over $25,000

[(8)] (9) For taxable years beginning after nineteen hundred eighty-nine and before nineteen hundred ninety-five:

If the New York taxable income is:	The tax is:
Not over $11,000	4% of the New York taxable income
Over $11,000 but not over $16,000	$440 plus 5% of excess over $11,000
Over $16,000 but not over $22,000	$690 plus 6% of excess over $16,000
Over $22,000 but not over $26,000	$1,050 plus 7% of excess over $22,000
Over $26,000	$1,330 plus 7.875% of excess over $26,000

(b) Resident heads of households. There is hereby imposed for each taxable year on the New York taxable income of every resident head of a household a tax determined in accordance with the following tables:

(1) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT AND BEFORE TWO THOUSAND TWELVE:

IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $11,000	4% OF THE NEW YORK TAXABLE INCOME
OVER $11,000 BUT NOT OVER $15,000	$440 PLUS 4.5% OF EXCESS OVER $11,000
OVER $15,000 BUT NOT OVER $17,000	$620 PLUS 5.25% OF EXCESS OVER $15,000
OVER $17,000 BUT NOT OVER $30,000	$725 PLUS 5.9% OF EXCESS OVER $17,000
OVER $30,000 BUT NOT OVER $250,000	$1,492 PLUS 6.85% OF EXCESS OVER $30,000
OVER $250,000 BUT NOT OVER $500,000	$16,562 PLUS 7.85% OF EXCESS OVER $250,000
OVER $500,000	$36,187 PLUS 8.97% OF EXCESS OVER $500,000

[(1)] (2) For taxable years beginning after two thousand five AND BEFORE TWO THOUSAND NINE AND AFTER TWO THOUSAND ELEVEN:

If the New York taxable income is:	The tax is:
Not over $11,000	4% of the New York taxable income
Over $11,000 but not over $15,000	$440 plus 4.5% of excess over $11,000
Over $15,000 but not over $17,000	$620 plus 5.25% of excess over $15,000
Over $17,000 but not over $30,000	$725 plus 5.9% of excess over

	$17,000
Over $30,000	$1,492 plus 6.85% of excess over $30,000

[(2)] (3) For taxable years beginning in two thousand five:

If the New York taxable income is:	The tax is:
Not over $11,000	4% of the New York taxable income
Over $11,000 but not over $15,000	$440 plus 4.5% of excess over $11,000
Over $15,000 but not over $17,000	$620 plus 5.25% of excess over $15,000
Over $17,000 but not over $30,000	$725 plus 5.9% of excess over $17,000
Over $30,000 but not over $125,000	$1,492 plus 6.85% of excess over $30,000
Over $125,000 but not over $500,000	$8,000 plus 7.25% of excess over $125,000
Over $500,000	$35,187 plus 7.7% of excess over $500,000

[(3)] (4) For taxable years beginning in two thousand four:

If the New York taxable income is:	The tax is:
Not over $11,000	4% of the New York taxable income
Over $11,000 but not over $15,000	$440 plus 4.5% of excess over $11,000
Over $15,000 but not over $17,000	$620 plus 5.25% of excess over $15,000
Over $17,000 but not over $30,000	$725 plus 5.9% of excess over $17,000
Over $30,000 but not over $125,000	$1,492 plus 6.85% of excess over $30,000
Over $125,000 but not over $500,000	$8,000 plus 7.375% of excess over $125,000
Over $500,000	$35,656 plus 7.7% of excess over $500,000

[(4)] (5) For taxable years beginning in two thousand three:

If the New York taxable income is:	The tax is:
Not over $11,000	4% of the New York taxable income
Over $11,000 but not over $15,000	$440 plus 4.5% of excess over $11,000
Over $15,000 but not over $17,000	$620 plus 5.25% of excess over $15,000
Over $17,000 but not over $30,000	$725 plus 5.9% of excess over $17,000
Over $30,000 but not over $125,000	$1,492 plus 6.85% of excess over $30,000
Over $125,000 but not over $500,000	$8,000 plus 7.5% of excess over $125,000
Over $500,000	$36,125 plus 7.7% of excess over

	$500,000

[(5)] (6) For taxable years beginning after nineteen hundred ninety-six and before two thousand three:

If the New York taxable income is:	The tax is:
Not over $11,000	4% of the New York taxable income
Over $11,000 but not over $15,000	$440 plus 4.5% of excess over $11,000
Over $15,000 but not over $17,000	$620 plus 5.25% of excess over $15,000
Over $17,000 but not over $30,000	$725 plus 5.9% of excess over $17,000
Over $30,000	$1,492 plus 6.85% of excess over $30,000

[(6)] (7) For taxable years beginning in nineteen hundred ninety-six:

If the New York taxable income is:	The tax is:
Not over $7,500	4% of the New York taxable income
Over $7,500 but not over $11,000	$300 plus 5% of excess over $7,500
Over $11,000 but not over $15,000	$475 plus 6% of excess over $11,000
Over $15,000	$ 715 plus 7% of excess over $15,000

[(7)] (8) For taxable years beginning in nineteen hundred ninety-five:

If the New York taxable income is:	The tax is:
Not over $9,000	4.55% of the New York taxable income
Over $9,000 but not over $14,000	$410 plus 5.55% of excess over $9,000
Over $14,000 but not over $19,000	$687 plus 6.55% of excess over $14,000
Over $19,000	$1,015 plus 7.5% of excess over $19,000

[(8)] (9) For taxable years beginning after nineteen hundred eighty-nine and before nineteen hundred ninety-five:

If the New York taxable income is:	The tax is:
Not over $7,500	4% of the New York taxable income
Over $7,500 but not over $11,000	$300 plus 5% of excess over $7,500
Over $11,000 but not over $15,000	$475 plus 6% of excess over $11,000
Over $15,000 but not over $17,000	$715 plus 7% of excess over $15,000
Over $17,000	$855 plus 7.875% of excess over $17,000

(c) Resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. There is hereby imposed for each taxable year on the New York taxable income of every resident individual who is not a married individual who makes a single return jointly with his spouse under subsection (b) of section six hundred fifty-one or a resident head of a household or a resident surviving spouse, and on the New York taxable income of every resident estate and trust a tax determined in accordance with the following tables:

(1) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT AND BEFORE TWO THOUSAND TWELVE:

IF THE NEW YORK TAXABLE INCOME IS:	THE TAX IS:
NOT OVER $8,000	4% OF THE NEW YORK TAXABLE INCOME
OVER $8,000 BUT NOT OVER $11,000	$320 PLUS 4.5% OF EXCESS OVER $8,000
OVER $11,000 BUT NOT OVER $13,000	$455 PLUS 5.25% OF EXCESS OVER $11,000
OVER $13,000 BUT NOT OVER $20,000	$560 PLUS 5.9% OF EXCESS OVER $13,000
OVER $20,000 BUT NOT OVER $200,000	$973 PLUS 6.85% OF EXCESS OVER $20,000
OVER $200,000 BUT NOT OVER $500,000	$13,303 PLUS 7.85% OF EXCESS OVER $200,000
OVER $500,000	$36,853 PLUS 8.97% OF EXCESS OVER $500,000

[(1)] (2) For taxable years beginning after two thousand five AND BEFORE TWO THOUSAND NINE AND AFTER TWO THOUSAND ELEVEN:

If the New York taxable income is:	The tax is:
Not over $8,000	4% of the New York taxable income
Over $8,000 but not over $11,000	$320 plus 4.5% of excess over $8,000
Over $11,000 but not over $13,000	$455 plus 5.25% of excess over $11,000
Over $13,000 but not over $20,000	$560 plus 5.9% of excess over $13,000
Over $20,000	$973 plus 6.85% of excess over $20,000

[(2)] (3) For taxable years beginning in two thousand five:

If the New York taxable income is:	The tax is:
Not over $8,000	4% of the New York taxable income
Over $8,000 but not over $11,000	$320 plus 4.5% of excess over $8,000
Over $11,000 but not over $13,000	$455 plus 5.25% of excess over $11,000
Over $13,000 but not over $20,000	$560 plus 5.9% of excess over $13,000
Over $20,000 but not over $100,000	$973 plus 6.85% of excess over

	$20,000
Over $100,000 but not over $500,000	$6,453 plus 7.25% of excess over $100,000
Over $500,000	$35,453 plus 7.7% of excess over $500,000

[(3)] (4) For taxable years beginning in two thousand four:

If the New York taxable income is:	The tax is:
Not over $8,000	4% of the New York taxable income
Over $8,000 but not over $11,000	$320 plus 4.5% of excess over $8,000
Over $11,000 but not over $13,000	$455 plus 5.25% of excess over $11,000
Over $13,000 but not over $20,000	$560 plus 5.9% of excess over $13,000
Over $20,000 but not over $100,000	$973 plus 6.85% of excess over $20,000
Over $100,000 but not over $500,000	$6,453 plus 7.375% of excess over $100,000
Over $500,000	$35,953 plus 7.7% of excess over $500,000

[(4)] (5) For taxable years beginning in two thousand three:

If the New York taxable income is:	The tax is:
Not over $8,000	4% of the New York taxable income
Over $8,000 but not over $11,000	$320 plus 4.5% of excess over $8,000
Over $11,000 but not over $13,000	$455 plus 5.25% of excess over $11,000
Over $13,000 but not over $20,000	$560 plus 5.9% of excess over $13,000
Over $20,000 but not over $100,000	$973 plus 6.85% of excess over $20,000
Over $100,000 but not over $500,000	$6,453 plus 7.5% of excess over $100,000
Over $500,000	$36,453 plus 7.7% of excess over $500,000

[(5)] (6) For taxable years beginning after nineteen hundred ninety-six and before two thousand three:

If the New York taxable income is:	The tax is:
Not over $8,000	4% of the New York taxable income
Over $8,000 but not over $11,000	$320 plus 4.5% of excess over $8,000
Over $11,000 but not over $13,000	$455 plus 5.25% of excess over $11,000
Over $13,000 but not over $20,000	$560 plus 5.9% of excess over $13,000
Over $20,000	$973 plus 6.85% of excess over

	$20,000

[(6)] (7) For taxable years beginning in nineteen hundred ninety-six:

If the New York taxable income is:	The tax is:
Not over $5,500	4% of the New York taxable income
Over $5,500 but not over $8,000	$220 plus 5% of excess over $5,500
Over $8,000 but not over $11,000	$345 plus 6% of excess over $8,000
Over $11,000	$525 plus 7% of excess over $11,000

[(7)] (8) For taxable years beginning in nineteen hundred ninety-five:

If the New York taxable income is:	The tax is:
Not over $6,500	4.55% of the New York taxable income
Over $6,500 but not over $9,500	$296 plus 5.55% of excess over $6,500
Over $9,500 but not over $12,500	$462 plus 6.55% of excess over $9,500
Over $12,500	$659 plus 7.5% of excess over $12,500

[(8)] (9) For taxable years beginning after nineteen hundred eighty-nine and before nineteen hundred ninety-five:

If the New York taxable income is:	The tax is:
Not over $5,500	4% of the New York taxable income
Over $5,500 but not over $8,000	$220 plus 5% of excess over $5,500
Over $8,000 but not over $11,000	$345 plus 6% of excess over $8,000
Over $11,000 but not over $13,000	$525 plus 7% of excess over $11,000
Over $13,000	$665 plus 7.875% of excess over $13,000

S 2. Subparagraphs (B) and (C) of paragraph 2 of subsection (d) of section 601 of the tax law, as amended by section 1 of part R of chapter 63 of the laws of 2003, are amended to read as follows:

(B) [The] FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND TWO AND BEFORE TWO THOUSAND SIX, THE fraction is computed as follows: the numerator is the lesser of fifty thousand dollars or the excess of New York adjusted gross income for the taxable year over one hundred fifty thousand dollars and the denominator is fifty thousand dollars. FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT AND BEFORE TWO THOUSAND TWELVE, THE FRACTION IS COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER THREE HUNDRED THOUSAND DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS.

(C) This paragraph shall only apply to taxable years beginning after two thousand two and before two thousand six AND AFTER TWO THOUSAND EIGHT AND BEFORE TWO THOUSAND TWELVE.

S 3. Subparagraphs (B) and (C) of paragraph 3 of subsection (d) of section 601 of the tax law, as amended by section 1 of part R of chapter 63 of the laws of 2003, subparagraph (B) as separately amended by section 2 of part R of chapter 63 of the laws of 2003, are amended to read as follows:

(B) For such taxpayers with adjusted gross income over five hundred thousand dollars, FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT AND BEFORE TWO THOUSAND TWELVE, the fraction is [one] COMPUTED AS FOLLOWS: THE NUMERATOR IS THE LESSER OF FIFTY THOUSAND DOLLARS OR THE EXCESS OF NEW YORK ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR OVER FIVE HUNDRED THOUSAND DOLLARS AND THE DENOMINATOR IS FIFTY THOUSAND DOLLARS. Provided, however, that the total tax prior to the application of any tax credits shall not exceed the highest rate of tax set forth in the tax table in subsection (a) of this section multiplied by the taxpayer's taxable income.

(C) This paragraph shall only apply to taxable years beginning after two thousand two and before two thousand six AND AFTER TWO THOUSAND EIGHT AND BEFORE TWO THOUSAND TWELVE.

S 4. Clause (ii) of subparagraph (B) of paragraph 3 of subsection (c) of section 685 of the tax law, as amended by section 2 of part Y3 of chapter 62 of the laws of 2003, is amended to read as follows:

(ii) one hundred percent of the tax shown on the return of the individual for the preceding taxable year. Provided, however, the tax shown on such return for taxable years beginning in two thousand two shall be the tax calculated as if such years began in two thousand three. FURTHER PROVIDED THAT THE TAX SHOWN ON SUCH RETURN FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND EIGHT SHALL BE THE TAX CALCULATED AS IF SUCH YEARS BEGAN IN TWO THOUSAND NINE.

S 5. Notwithstanding any provision of law to the contrary, the method of determining the amount to be deducted and withheld from wages on account of taxes imposed by or pursuant to the authority of article 22 of the tax law in connection with the implementation of the provisions of this act shall be prescribed by regulations of the commissioner of taxation and finance with due consideration to the effect such withholding tables and methods would have on the receipt and amount of revenue. The commissioner of taxation and finance shall adjust such withholding tables and methods in regard to taxable years beginning in 2009 and after in such manner as to result, so far as practicable, in withholding from an employee's wages an amount substantially equivalent to the tax reasonably estimated to be due for such taxable years as a result of the provisions of this act. Provided, however, for tax year 2009 the withholding tables shall reflect as accurately as practicable the full amount of tax year 2009 liability so that such amount is withheld by December 31, 2009. Any such regulations to implement a change in withholding tables and methods for tax year 2009 shall be adopted and effective as soon as practicable and the commissioner of taxation and finance may adopt such regulations on an emergency basis notwithstanding anything to the contrary in section 202 of the state administrative procedure act. In carrying out his or her duties and responsibilities under this section, the commissioner of taxation and finance may accompany such a rule making procedure with a similar procedure with respect to the taxes required to be deducted and withheld by local laws imposing taxes pursuant to the authority of articles 30, 30-A and 30-B of the tax

law, the provisions of any other law in relation to such a procedure to the contrary notwithstanding.

S 6. 1. Notwithstanding any provision of law to the contrary, no addition to tax required shall be imposed for failure to pay the estimated tax in subsection (c) of section 685 of the tax law with respect to any underpayment of a required installment due prior to, or within thirty days of, the effective date of this act to the extent that such underpayment was created or increased by the amendments made by this act provided, however, that the taxpayer remits the amount of the underpayment with his or her next quarterly estimated tax payment.

2. The commissioner of taxation and finance shall take steps to publicize the necessary adjustments to estimated tax and, to the extent reasonably possible, to inform the taxpayer of the tax liability changes made by this act.

S 7. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2009.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through Z-1 of this act shall be as specifically set forth in the last section of such Parts.